

JOURNAL OF THE FLORIDA SENATE

Monday, April 28, 1975

The Senate was called to order by the President at 2:00 p.m.
A quorum present—39:

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Holloway	Poston	Tobiassen
Childers, W. D.	Johnston	Renick	Trask
Deeb	Lane, D.	Saunders	Vogt
Dunn	Lane, J.	Sayler	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Excused: Senator Henderson

Prayer written by Senator Myers and delivered by the Senate Chaplain:

Almighty God, father of us all, help us: To be too large for worry, too noble for anger, too strong for fear, and too happy to permit the presence of trouble.

Remind us: To give so much time to the improvement of ourselves and our community that we have no time to criticize others. To forget the mistakes of the past and press on to the greater achievements of the future. To be just as enthusiastic about the success of others as we are about our own, and to think only of the best, to work only for the best and expect only the best. Amen.

The Senate pledged allegiance to the flag of the United States of America.

REPORTS OF COMMITTEES

The Committee on Transportation recommends the following pass: HB 459 with 1 amendment

The Committee on Transportation recommends the following pass:

SB 615 with 1 amendment HB 458
SB 620 with 2 amendments

The bills contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Natural Resources and Conservation recommends the following pass: SB 544 with 2 amendments

The bill was referred to the Committee on Commerce under the original reference.

The Committee on Natural Resources and Conservation recommends the following pass: SB 406 with 4 amendments

The bill was referred to the Committee on Judiciary-Criminal under the original reference.

The Committee on Commerce recommends the following pass: HB 1267 with 2 amendments

The Committee on Transportation recommends the following pass: SB 662 with 1 amendment

The Committee on Natural Resources and Conservation recommends the following pass:

HB 10 with 1 amendment SB 563 SB 568

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Judiciary-Civil recommends the following not pass: SJR 73

The bill was laid on the table.

The Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Monday, April 28, 1975:

HB 1267	SB 337	SB 24	SB 459
SJR 219	SB 118	SB 387	SB 426
SB 166	SB 127	SB 379	SB 352

*Respectfully submitted,
Lew Brantley, Chairman*

ENROLLING REPORT

SCR 654 has been enrolled, signed by the required Constitutional Officers and filed with the Secretary of State on April 28, 1975.

Joe Brown, Secretary

BILLS REFERRED TO SUBCOMMITTEE OR SELECT COMMITTEE

The following have been referred to the Subcommittee on Legislation Relating to Juveniles (10 days to report): SB 449, SB 677

SUBCOMMITTEE REPORT TO STANDING COMMITTEE

The Select Subcommittee on Retirement, Claims and Ratio Study Reviews of the Ways and Means Committee recommends favorably: SB 372 with 1 amendment

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Sayler, by two-thirds vote HB 27 was withdrawn from the Committee on Health and Rehabilitative Services and placed on the calendar.

On motion by Senator Graham, by two-thirds vote SB 318 was withdrawn from the Committee on Education and placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

The Committee on Transportation requests an extension of 15 days for the consideration of the following:

SB 220 by Senator Gallen	SB 261 by Transportation
SB 253 by Senator Peterson	Committee
	SB 360 by Senator Zinkil

The Committee on Commerce requests an extension of 10 days for consideration of the following:

SB 59 by Senator Holloway	SB 152 by Senator Gallen
SB 146 by Governmental	Operations Committee

The Committee on Governmental Operations requests an extension of 15 days for the consideration of the following:

SB 336 by Senator Hair	SB 308 by Senator Lane, J.
SB 338 by Senator McClain	SB 374 by Senator Peterson
SB 341 by Senator Childers,	SB 386 by Senator Zinkil
W. D.	SB 400 by Senator Lane, D.
SB 344 by Senator Thomas, J.	SB 410 by Senator Hair
SB 349 by Senator Gallen	SB 411 by Senator Thomas, P.
SB 353 by Senator Brantley	SB 416 by Senator Thomas, J.
SB 354 by Senator Brantley	SB 422 by Senator Hair
SB 359 by Senator Sayler	SB 431 by Senator Hair
SB 361 by Senator Poston	SB 432 by Senator Holloway
SB 367 by Senator MacKay	SB 433 by Senator Holloway
SB 188 by Senator Holloway	SB 434 by Senator Vogt

The Committee on Education requests an extension of 10 days for the consideration of the following:

SB 340 by Senator Sims	SB 428 by Senator Saylor
SB 395 by Senator Gordon	SB 442 by Senator Graham
SB 419 by Senator Gordon	

The Committee on Rules and Calendar requests an extension of 15 days for the consideration of the following:

SJR 298 by Senator Sims	SM 403 by Senator Sims
SJR 300 by Senator Sims	SB 404 by Senator Vogt
SJR 334 by Senator Hair	SB 423 by Senator Deeb
SJR 355 by Senator Brantley	SB 427 by Senator Deeb
SJR 385 by Senator Stolzenburg	SM 435 by Senator Winn
	SM 436 by Senator Sims
SB 402 by Senator Wilson	SCR 443 by Senator Henderson

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

By direction of the President, the following communication and certificate were read:

Honorable Joe Brown
Secretary of the Senate
The Capitol

April 25, 1975

Dear Mr. Brown:

Pursuant to the provisions of Section 112.071 (1), (b), Florida Statutes, we are enclosing a certificate listing the names of persons for whom commissions have been prepared and which are subject to confirmation by the Senate.

With kind regards, I remain

Cordially,
DOROTHY W. GLISSON
Director, Division of Elections

I, Bruce A. Smathers Secretary of State of the State of Florida, do hereby certify that pursuant to the provisions of Section 112.071 (1), (b), Florida Statutes, commissions which are subject to Confirmation by the Senate have been prepared for the following:

George Roger Williams, Sr., DeLand; Member, Board of Trustees, Daytona Beach Community College, for term ending May 31, 1977

Benjamin Watkin Lacy, Jr., Bunnell; Member, Board of Trustees, Daytona Beach Community College, for term ending May 31, 1977

Vasco Peeples, Punta Gorda; Member, Peace River Basin Water Management Board of the Southwest Florida Water Management District, for term ending June 30, 1976

[Referred to Select Committee on Executive Suspensions, April 11, 1975, S. J. p. 52]



Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the Twenty-fifth day of April A. D. 1975

BRUCE A. SMATHERS
Secretary of State

—which were referred to the Select Committee on Executive Suspensions.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Dempsey J. Barron, President April 24, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 169 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Health and Rehabilitative Services and Senator Barron and others—

CS for SB 169—A bill to be entitled An act relating to correctional reorganization; creating s.20.315, Florida Statutes, to create a Department of Corrections; providing for the internal structure of the department; providing for adult corrections district advisory councils; transferring the Division of Corrections, the Vocational Training Advisory Council of the Department of Health and Rehabilitative Services and the functions of the Parole and Probation Commission relating to the supervision of parolees and probationers to the new department; amending s.20.32(1), Florida Statutes, providing powers of the commission; providing for adoption by the commission of rules for the supervision of parolees and probationers and the violation of parole and probation; providing for enforcement; providing for suspension and removal or discharge from employment for willful violation of such rules by officers and employees; adding s.110.051(2)(n), Florida Statutes, to exempt specified positions from the career service; providing duties of the Department of Administration; providing certain duties of the Department of Corrections; providing for discharges from commitments; providing for commitments; providing duties of the Department of Health and Rehabilitative Services; providing for continuing effectiveness of specified rules; providing severability; adding s.921.231(4), Florida Statutes, 1974 Supplement; providing requirements for nonconfidential portion of presentence investigation reports; amending s.944.024(1), Florida Statutes, 1974 Supplement; providing a procedure for the performance of pretrial investigations; amending s.945.10(4), Florida Statutes, 1974 Supplement; providing for cooperation of the Department of Corrections, the Department of Health and Rehabilitative Services, and the Parole and Probation Commission; amending s.945.025(3), Florida Statutes, 1974 Supplement, providing that no correctional facility shall be established by changing the use and purpose of any mental health facility or institution under the jurisdiction of any state agency or department without prior approval of the legislature; providing for information on released felons by the Parole Commission; repealing s.947.081, Florida Statutes, relating to the Department of Community Services of the Parole and Probation Commission; providing an effective date.

Amendment (1)—Strike everything after the enacting clause and insert the following:

Section 1. Legislative intent.—It is the intent of the Legislature in creating the Department of Offender Rehabilitation to clearly locate accountability and responsibility for all state offender rehabilitation activities within one executive agency. Further, it is the intent of the Legislature that the Department of Offender Rehabilitation shall be responsive to the needs of the citizens of this state by decentralizing its operations into sub-state regions. In addition, the Legislature finds that the protection of the public and maximum impact from public funds require an integrated youth and adult criminal justice system which has the capability of differential treatment of offenders. A fundamental concern of the Legislature is the effective and efficient operation of the state's offender rehabilitation system. To this end the Legislature intends that the responsibility for youth and adult corrections and community field services be located in a single department capable of a comprehensive outlook towards the rehabilitation of all offenders.

Section 2. Section 20.315, Florida Statutes, is created to read:

20.315 Department of Offender Rehabilitation.—There is created a Department of Offender Rehabilitation.

(1) PURPOSE.—The purpose of the Department of Offender Rehabilitation is to integrate the delivery of all youth and adult offender incarceration and rehabilitation services that are deemed necessary for the rehabilitation of offenders. The goals of the department shall be:

(a) To protect society by supplementing corrective treatment with methods of training and treatment which correct and rehabilitate citizens who violate laws.

(b) To provide an environment for incarcerated persons in which rehabilitation is possible. This should include the protection of the offender from victimization within the institution, the development of a system of due process and internal legality in institutions through the human rights advocacy process, and the planned phase-out of large institutions.

(c) To provide meaningful community supervision for offenders on parole and probation and to develop community alternatives to traditional incarceration which could be safely used.

(d) To provide rehabilitative programs, both educational and therapeutic, to incarcerated offenders and offenders being supervised in the community.

(e) To provide judges with effective evaluative tools and information for use in the sentencing decision.

(f) To provide the necessary level of security in institutions.

(g) To protect society by providing incarceration as an appropriate deterrent to the commission of crime.

(2) Within the context of the goals identified in paragraphs (a) through (f) of subsection (1), it is not the intent of the Legislature that the treatment and rehabilitation of children be secondary to their incarceration. In fact, the Legislature intends that no child shall ever be placed in an environment where rehabilitation and normalization of the child's life are not the primary objectives and that intake and residential programs of the department be separate and distinct for children and adults.

(3) It is the intent of the Legislature that recognition be given to the inescapable interrelationship between the various needs of departmental clients. Therefore, the Legislature intends that the newly reorganized department focus its attention on the total spectrum of needs of the offender. To this end, the Legislature reaffirms its commitment to a "whole person" approach to rehabilitation and problem solving.

(4) **REGIONS.**—The department shall be organized to deliver services on a regional basis. The department shall develop and promulgate, in accordance with the provisions of chapter 120, Florida Statutes, no more than 5 regions within the state, which shall be coterminous with the judicial circuits of the state.

(5) **DIVISION OF CORRECTIONS; TRANSFER.**—All powers, duties and functions of the Division of Corrections of the Department of Health and Rehabilitative Services created under s.20.19(2)(b), and its proportionate share of administrative support services and facilities, are hereby transferred by a type four transfer pursuant to s.20.06(4) to the Department of Offender Rehabilitation.

(6) **DIVISION OF YOUTH SERVICES; TRANSFER.**—All powers, duties, and functions of the Division of Youth Services of the Department of Health and Rehabilitative Services created under s.20.19(2)(c), which powers, duties and functions relate to delinquent children under chapters 39 and 959, and the attendant proportionate share of administrative support services and facilities, are hereby transferred by a type four transfer pursuant to s.20.06(4) to the Department of Offender Rehabilitation. All powers, duties, and functions of the Division of Youth Services of the Department of Health and Rehabilitative Services which pertain to children in need of supervision shall be retained by the Department of Health and Rehabilitative Services.

(7) **PAROLE AND PROBATION COMMISSION; TRANSFER.**—All powers, duties and functions of the Parole and Probation Commission, except those relating to the exercise of its quasi-judicial duties and functions, as provided by law, are hereby transferred by a type four transfer pursuant to s.20.06(4) to the Department of Offender Rehabilitation. This transfer shall include all court-related investigations, all supervision of parolees and probationers, administrative support services, data collection and information systems, field offices and other programs, and services and resources of the commission which are not necessary for the immediate support of the commissioners. The Department of Offender Rehabilitation shall perform statistical analysis, research, and program evaluation for the Parole and Probation Commission. There shall be only one offender-based information or records system maintained by the Department of Offender Rehabilitation for the joint use of the Department of Offender Rehabilitation and the Parole and Probation Commission. The Parole and Probation Commission and the Department of Offender Rehabilitation shall jointly develop such offender based information system designed to serve the needs of both agencies. The Department shall notify the Commission of all violations of parole and the circumstances thereof.

(8) The Department of Administration shall supervise and direct the various transfers authorized by this section.

(9) **SECRETARY OF OFFENDER REHABILITATION; DEPUTY SECRETARY.**—

(a) The head of the Department of Offender Rehabilitation is the Secretary of Offender Rehabilitation. The secretary shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is the chief administrative officer of the department and shall have the authority and responsibility to plan, direct, coordinate, and execute the powers, duties, and responsibilities assigned to the department. He shall have final decision-making authority for the operation of the department subject only to the Governor and laws of Florida. The secretary is the permanent chairman of the advisory council and his responsibilities shall include, but not be limited to:

1. Setting departmental priorities.
2. Appointing program directors, regional directors, and superintendents of major institutions.
3. Directing the department's management, planning and budgeting processes.
4. Acting as the chief liaison officer between the department and local, state, and federal agencies.
5. Supervising and directing all program offices.
6. Supervising and directing regional directors and regional operations.
7. Supervising and directing all departmental planning, monitoring and evaluation activities.
8. Supervising and directing the promulgation of all departmental rules.

(b) The secretary shall appoint a deputy secretary who shall act in the absence of the secretary. The deputy secretary shall be directly responsible to the secretary, shall perform those duties that are assigned to him by the secretary, and shall be fully authorized to act on behalf of the secretary in all matters affecting the department. The deputy secretary shall serve at the pleasure of the secretary.

(10) **PROGRAM OFFICES.**—

(a) Program offices shall be designed to operate in a staff capacity to the secretary. Each program office shall be headed by a program office director who is appointed by the secretary to serve at his pleasure and who reports directly to the secretary or his designee. Each program office director shall serve on the advisory council. Program officials shall not have any line authority over regional operation. In no case shall the total professional staff of all of the program offices combined exceed 200 persons. Program offices shall have, but are not limited to, the following responsibilities:

1. Aiding in the identification of client needs.
2. Developing intra-program policies.
3. Setting, monitoring, and controlling the quality of intra-program standards.
4. Developing intra-program staff development, training, and technical assistance programs.
5. Advising the secretary and others within the department on issues within their areas of substantive expertise, i.e., state-wide contracts, federal legislation, etc.
6. Acting as liaison to other governmental agencies and the public on programmatic issues.
7. Developing state program plans, implementing directives, and rules and procedures for the secretary.
8. Recommending candidates for regional program advisor to regional director.
9. Developing resource forecasts and working within the state on community resource development.
10. Quality control.
11. Other duties as assigned by the secretary.

(b) The following program offices are established:

1. **Adult Services Program Office.** The responsibilities of this office shall relate directly to present programs operated by the Division of Corrections except in the areas of health and education and rehabilitative services. In addition, responsibility for adult community supervision, intake, investigation, and classification for offenders shall be located in this office.

2. **Youth Services Program Office.** The responsibilities of this office relate directly to the present programs operated by the Division of Youth Services except in the areas of health, and education and rehabilitative services. The responsibility for community supervision, intake, investigation, and classification for youths shall be located in this office.

3. **Health Services Program Office.** The responsibilities of this office shall relate specifically to the development of an effective and efficient departmentwide health delivery system. In addition, the office shall coordinate and review all health services purchased by or provided within the department, as well as insuring an acceptable level of quality.

4. **Education and Rehabilitation Program Office.** The responsibilities of this office shall relate specifically to the development of an effective and efficient departmentwide education and rehabilitation program. The office shall make available a continuing program of inter-denominational religious counseling.

(c) Each program office director may appoint an advisory council for the purpose of acting as an advisory body to the office. Members shall serve staggered terms not to exceed 4 years, although they may be appointed to one subsequent term. Members shall receive no compensation but shall be reimbursed for per diem and travel expenses in accordance with the provisions of s.112.061.

(11) ADVISORY COUNCIL.—

(a) There is created within the department a Advisory Council. The Advisory Council shall consist of 13 members, including the secretary of the department, who shall serve as the chairman of the Advisory Council.

(b) The membership of the Advisory Council shall also include:

1. The four program office directors.
2. One representative of the judges of this state, to be appointed by the Governor.
3. One representative of the public defenders of this state, to be appointed by the Governor.
4. One representative of the state attorneys of this state, to be appointed by the Governor.
5. One representative of the law enforcement officials of this state, to be appointed by the Governor.
6. Four citizens of this state, to be appointed by the Governor, including one county commissioner.

(c) All appointed Advisory Council members shall serve terms of 4 years, except that at the time of the first appointment, two members shall serve for 1 year, two members shall serve for 2 years, two members shall serve for 3 years, and two members shall serve for 4 years.

(d) The Governor shall fill all appointive vacancies on the Advisory Council for the balance of the unexpired term.

(e) Members of the Advisory Council shall receive no compensation but shall be reimbursed for per diem and travel expenses by the department in accordance with the provisions of s.112.061.

(f) The purpose, objectives, and responsibilities of the Advisory Council shall include, but not be limited to:

1. Coordinating all inter-program policy development, planning, and service delivery programs.
2. Recommending statewide departmental policy and priorities.
3. Developing and monitoring all service integration activities.

4. Encouraging citizen input to the department.

5. Recommending budget priorities to the secretary.

6. Alerting the department to new problems and developments throughout the state and nation.

(12) **HUMAN RIGHTS ADVOCACY COMMITTEE.**—There is hereby created within the Department of Offender Rehabilitation a Human Rights Advocacy Committee, consisting of the four citizen members of the Advisory Council. The members of the committee shall elect a chairman who shall serve as the vice-chairman of the Advisory Council. The Human Rights Advocacy Committee shall develop policies and procedures for receiving, investigating, and resolving complaints received from regional human rights advocacy committees. The purpose, objectives, and responsibilities of the Human Rights Advocacy Committee shall include, but not be limited to:

(a) Serving as a third-party mechanism for protecting the health, safety, and welfare, and the civil and human rights of offenders.

(b) Discovering, investigating, determining, and reporting the existence of abuse within any program or facility operated, funded, or regulated by the department when a case is referred to them by a regional human rights advocacy committee. Any investigation of abuse or abusive situations conducted by the committee shall have as its objective the identification of causes and the development of specific recommendations for the prevention of the reoccurrence of abuse and for the alleviation of suffering of any individual resulting from such abuse.

(c) Reviewing and making recommendations with respect to any research project directly or indirectly affecting the lives of offenders insofar as their human rights may be concerned.

(d) Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of offenders are affected.

(e) Reviewing and making recommendations on medical policy prior to its implementation by the department. However, the Human Rights Advocacy Committee shall conduct its review within 30 days.

(f) Submitting an annual report to the Legislature, no later than November 30 of each calendar year, concerning activities, recommendations and complaints reviewed or developed by the committee during the year.

(g) Conducting meetings at least 4 times a year, or at the call of the Governor, or by written request of two committee members.

(13) OFFICE OF MANAGEMENT AND BUDGET.—

(a) There is created within the department an Office of Management and Budget. The Director of the Office of Management and Budget shall be appointed by the secretary and serve at his pleasure. The Director of the Office of Management and Budget shall report directly to the secretary or his designee. All management, planning and evaluation and administrative functions heretofore carried out by the various line divisions of the department are assigned to the Office of Management and Budget.

(b) The Office of Management and Budget shall be responsible for all departmentwide functions in the areas of management services, financial services, management analysis and comprehensive planning. Further responsibilities shall include, but not be limited to:

1. Inter-program comprehensive planning and evaluation.
2. Budget preparation and aggregation.
3. Grants management and disbursement.
4. Accounting.
5. Internal audit.
6. Facilities management, including design, construction, and leases.
7. Personnel.
8. Information systems development.
9. Legal services.

10. Purchasing.

(c) The Office of Management and Budget shall also be responsible for the development of uniform implementation and monitoring procedures for all administrative support services at the regional level as well as reviewing the effectiveness and efficiency of these support services. At the regional levels, particular emphasis shall be placed on comparative management analyses on the effectiveness and efficiency between the various similar regional support service programs and the comparative effectiveness and efficiency between the various similar regional program managers.

(14) REGIONAL OPERATIONS.—

(a) The Legislature finds and declares that the decentralization of departmental programs and services will permit greater responsiveness to community needs and improve the integration of programs. It is therefore the intent of the Legislature that the management, administration, and delivery of departmental services take place in the regions. However, the secretary, upon a showing of clear economic benefit and savings, may locate certain highly specialized activities within his office. Further, it is the intent of the Legislature that regional operations shall be in a direct line of authority to the secretary of the department.

(b) In this context, the Legislature intends that the secretary provide greater independence and increased decision-making authority to the regions within the parameters of departmental policy. Further, it is consistent with legislative intent that regional operations be properly staffed with the necessary decentralized administrative support personnel to conduct an efficient and effective operation.

(15) REGIONAL DIRECTORS.—

(a) The chief administrative officer of each region is the regional director. The regional director shall be appointed by and serve at the pleasure of the secretary. In addition to those duties and responsibilities assigned by law, the regional director shall carry out the responsibilities delegated to him by the secretary. The regional director shall report directly to the secretary, shall represent the secretary in the region, and shall assure that all departmental programs and services are integrated and provided on a timely basis. The position of regional director shall be classified at a level equal to a division director. The regional director shall serve as the chairman of the regional advisory council.

(b) The duties and responsibilities of the regional director shall include, but not be limited to:

1. Administration and coordination of all planning, evaluation, administrative support and direct program operation functions within the region.
2. Implementation, through the administration of local and institutional programs, of all policies and priorities developed by either the state program offices or the state policy council and approved by the secretary.
3. Appointment of the program advisors from a list of 3 nominees recommended by the respective state program directors.
4. Appointment of local supervisors.
5. Appointment of the citizen members and representatives of the criminal justice system to the regional advisory council.
6. Approval of all other personnel appointments in the region.
7. Notwithstanding the provisions of ss.216.292 and 216.351, authority to transfer up to 10 percent of the total regional budget, subject to the approval of the secretary, to maximize effective program operations.
8. Meet regularly with other regional directors to make recommendations for modifications in program policies to state program directors and to the secretary.
9. Provide direction to the regional office of management and budget, regional program advisors and regional advisory council.
10. Provide line supervision to superintendents of all institutions within the region and all local program supervisors.

(16) REGIONAL PROGRAM ADVISORS.—In each region, there shall be a program advisor for each of the following program areas: youth services, adult services, health services, and educational and rehabilitative services. The regional program advisors shall have, but are not limited to, the following duties:

- (a) Serving as primary advisor to the regional director in their respective program area.
- (b) Recommending changes in programs.
- (c) Identifying and developing community resources.
- (d) Determining the needs of the region through needs assessment.
- (e) Serving as program spokesman in educating the region as to the nature of programs in the Department of Offender Rehabilitation and the needs of offenders.
- (f) Serving as primary staff development advisor.

(17) REGIONAL ADVISORY COUNCILS.—

(a) In each region there shall be a regional advisory council. The council shall be composed of:

1. The regional director.
2. Each program advisor.
3. One representative of the judges in the region.
4. One representative of the state attorneys in the region.
5. One representative of the public defenders in the region.
6. One representative of the law enforcement agencies in the region.
7. Four citizen representatives from the region, including one county commissioner.

(b) The council shall be advisory in nature. It shall communicate the ideas of the community and the local criminal justice system to the regional administration of the Department of Offender Rehabilitation. The duties and responsibilities of the regional advisory council shall include, but not be limited to:

1. Recommending to the regional director modifications in state program policy.
2. Providing a forum for receiving citizen complaints and holding hearings on general problems relating to the department.
3. Providing advice on program coordination within the region.
4. Aiding in the establishment of human rights advocacy committees in the region.
5. Responding to the request of regional human rights advocacy committees in facilitating solutions to problems.

(c) The citizen members and representatives of the criminal justice system shall be appointed by the regional director. All appointed members of the regional advisory council shall serve for terms of 4 years, except that at the time of the first appointment, two members shall serve for 1 year, two members shall serve for 2 years, two members shall serve for 3 years, and two members shall serve for 4 years.

(d) The regional director shall fill all appointive vacancies on the regional advisory council for the balance of the unexpired term.

(e) Members of the regional advisory council shall receive no compensation but shall be reimbursed for per diem and travel expenses by the department in accordance with the provisions of s.112.061.

(18) REGIONAL HUMAN RIGHTS ADVOCACY COMMITTEES.—A human rights advocacy committee shall be created in each region composed of the four citizen representatives of the regional advisory council. The duties of each regional human rights advocacy committee shall be to receive, investigate, hold hearings and recommend action on, individual client complaints. All reports on investigations by a regional

human rights advocacy committee shall be made to the regional director. A regional human rights advocacy committee may request the regional advisory council to review any complaint and make further recommendations to the regional director as to its disposition. Appeals from a regional human rights advocacy committee shall be made to the state Human Rights Advocacy Committee. The duties of a human rights advocacy committee shall include but are not limited to:

(a) Serving as a third-party mechanism for protecting the health, safety, and welfare, and the civil and human rights of clients of the department.

(b) Discovering, investigating, determining, and reporting the existence of abuse within any program or facility operated, funded, or regulated by the department within each committee's respective region.

(c) Investigating any complaint brought by a client, or a person serving in the client's interest, that an administrative action by the department resulted in unreasonable, unfair, discriminatory or inappropriate treatment of the client.

(d) Submitting an annual report by September 30 to the state Human Rights Advocacy Committee concerning activities, recommendations and complaints reviewed or developed by the committee during the year.

(e) Conducting meetings at least 4 times a year, or at the call of the Governor or by written request of two members.

(19) REGIONAL OFFICE OF MANAGEMENT AND BUDGET.—

(a) There shall be an office of management and budget in each region which shall provide the following administrative support functions to the regional office:

1. Program evaluation and monitoring.
2. Regional comprehensive planning.
3. Accounting.
4. Grants management and disbursement.
5. Personnel.
6. Legal services for program support.
7. Purchasing.
8. Facilities management.
9. Preparation of the regional budget request and administration of the approved operating budget.
10. Other responsibilities as assigned by the regional director.

(b) The director of the regional office of management and budget shall be appointed by the regional director from a list of 3 names provided by the director of the state Office of Management and Budget. The regional office of management and budget shall carry out its duties and responsibilities in accordance with policy set by the secretary and regional director.

(20) PROGRAM OPERATIONS.—

(a) The regional office shall provide direct management and supervision of departmental programs within the region. All superintendents of major correctional institutions for adults and training schools for youths shall report to the regional director. All supervisors of program operations in the region shall report to the regional director.

(b) In each region, in accordance with state program policy, there shall be developed a regional correctional program which shall include at least the following components:

1. Major correctional institutions in regions where they are located.
2. Training schools in regions where they are located.
3. Intake program for adults.
4. Intake program for youths.
5. Community residential programs for adults.
6. Community residential programs for youths.

7. Field services which shall include, at least, parole and probation supervision, classification and investigation. Classification, investigation, and parole and probation supervision may be organized in such a fashion so as to permit the separation of juveniles and adults. The department may deploy its counselors in juvenile and adult specialties; however, there shall be a single administrative and supervisory structure.

(c) All intake and field service programs shall be organized in accordance with boundaries of judicial circuits.

(d) All institutions and program operations, working with the regional office of management and budget, shall purchase specialized services when available and appropriate rather than develop a service capability within the institution or program. If the required service is not readily available in the region, the institution or program may develop such service component, upon approval of the regional director.

(e) In order to efficiently direct departmental programs in the region, the regional director may appoint local program supervisors. The program supervisor shall have the following duties:

1. Direct all local program operations, under their supervision, in accordance with the policy guidelines and program direction provided by state program offices.

2. Supervise all program staff and participate in staff evaluations and performance measurements developed by the state program offices.

3. Make recommendations on budget priorities and resource allocations to the regional director.

4. Assist the regional director in evaluation of performance on purchase of service contracts.

(21) DEPARTMENTAL BUDGETS.—

(a) The secretary shall develop and submit annually to the Legislature a comprehensive departmental summary budget document which shall array regional budget requests along program lines. This summary document shall, for the purpose of legislative appropriation, consist of 3 distinct budget entities:

1. Office of the secretary and office of management and budget.
2. Program offices.
3. Regional services.

(b) To fulfill this responsibility, the secretary shall have the authority to review, amend and approve the annual budget requests of all departmental activities. Recommendations on departmental budget priorities shall be furnished to the secretary by the policy council and the state Office of Management and Budget. In addition, the secretary, notwithstanding the provisions of ss.216.292 and 216.351, may, whenever deemed necessary by reason of significantly changed conditions, transfer funds between the approved operating budgets of the regions. The total of such transfers may not exceed 5 percent of the operating budget of an individual region during any fiscal year.

(c) It is the responsibility of the Office of Management and Budget to promulgate the necessary budget timetables, formats and data requirements for all departmental budget requests. This shall be done in accordance with statewide budget requirements of the Department of Administration.

(d) It is the responsibility of the regional director to develop an annual budget request to be reviewed, amended and approved by the secretary. Upon appropriation of an approved regional budget, the regional director shall be responsible for the execution of the operating budget during the fiscal year. Notwithstanding the provisions of ss.216.292 and 216.351, whenever deemed necessary by significantly changed conditions, the regional director may, subject to approval of the secretary, transfer funds between the various programs in the region. The total of such transfers may not exceed 10 percent of the approved operating budget of a region during any fiscal year.

(22) INFORMATION SYSTEMS.—

(a) The secretary shall implement a priority program aimed at the design, testing, and integration of automated information systems necessary for effective and efficient management of the department. These systems shall contain, as a minimum,

management data, offender data and program data deemed essential for the ongoing administration of programs, as well as for the purpose of management decisions. It is the intent of the Legislature that these systems be developed with the idea of providing maximum administrative support to program operations. It is also essential that these systems comply with federal program requirements and insure confidentiality of client information.

(b) For the purpose of funding this effort, the department shall include in its annual budget request a comprehensive summary of costs involved, as well as manpower saved, in the establishment of these automated systems. This budget request shall also include a complete inventory of current staff, equipment and facility resources available for completion of the desired systems. The department shall review all forms for duplicative content and, to the maximum extent possible, reduce, consolidate, and eliminate such duplication to provide for a uniform and concise information collection system.

(23) **POWERS OF THE SECRETARY.**—For the purpose of organizing the Department of Offender Rehabilitation and notwithstanding the provisions of ss.216.262, 216.292 and 216.351, the Secretary of Offender Rehabilitation is authorized to transfer appropriations between categories of appropriations and between budget entities. However, unless expressly provided by law, the total of the Department of Offender Rehabilitation's approved budget shall not exceed the total appropriation therefor, as provided by the appropriation act. In addition, the Secretary of Offender Rehabilitation is hereby authorized to add, delete, or transfer authorized positions within the state agency, and to establish new classifications of authorized positions, when such changes, in the secretary's opinion, would enable the agency to administer more effectively its authorized and approved programs. The secretary may exercise the authorities granted in this section without the approval of the Department of Administration until July 1, 1976. The department's budget request for fiscal year 1976-77 shall reflect all transfers of funds and positions for all reorganization activities within the department for final authorization by the Legislature. These powers shall be in addition to those granted in subsections (21) and (24).

(24) **TRANSFER OF AUTHORITY.**—Effective January 1, 1976, the functions of the Division of Corrections, the Division of Youth Services, and the Parole and Probation Commission assigned to the Department of Offender Rehabilitation which functions relate to the daily operation of the department's service programs are assigned to the regional directors, and the functions of said divisions and commission which relate to the development of policies, procedures and guidelines for providing services are assigned to the appropriate program office. All statutory functions of the Department of Offender Rehabilitation not otherwise herein assigned to a specific unit of the department are assigned generally to the department and may be allocated and reallocated by the secretary to an authorized unit of the department.

(25) **PROGRAM EVALUATION.**—A comprehensive program evaluation system shall be established which shall encompass all major programs of the department. The department shall establish measurable program objectives and performance criteria for each program it operates. The system of evaluation to be established shall require all programs to develop quantifiable goals and to estimate the cost of attaining the goals in advance. Studies of the relative cost and effectiveness of departmental and alternative programs shall be conducted. The department shall develop a program evaluation schedule and shall evaluate at least 10 percent of its programs annually. The department shall submit these evaluation schedules and reports to the appropriate substantive committees of both houses of the Legislature for review. Where possible, the departmental management information system shall provide the basic information for program evaluation studies.

(26) **RULES.**—All rules of the Division of Corrections, Division of Youth Services, and the Parole and Probation Commission in effect or filed with the Department of State prior to the effective date of this act and transferred in accordance with the provisions of this act are repealed October 1, 1976, and the department shall publish new rules in accordance with chapter 120.

(27) **ADVISORY COUNCILS.**—All advisory councils to the Division of Corrections, Division of Youth Services or related to the field staff function of the Parole and Probation Commission in existence prior to the effective date of this act

are abolished and their duties and responsibilities are transferred to the advisory councils of the program offices created by this act.

Section 3. No legal or administrative proceeding pending as of the effective date of this act shall be abated because of any assignment made in this act, but the unit of the Department of Offender Rehabilitation to which the function relating to the pending proceeding is reassigned shall be substituted as a party in interest in such proceeding.

Section 4. The department shall submit to the President of the Senate and Speaker of the House of Representatives, on a quarterly basis until April 1, 1976, for review and analysis by the substantive committees of each house of the Legislature, a written report detailing the department's progress with respect to internal reorganization, and the plan for the subsequent quarters for implementing the provisions of this act. The first report shall be submitted by October 1, 1975.

Section 5. Subsection (7) is added to section 20.04, Florida Statutes, to read:

20.04 Structure of executive branch.—The executive branch of state government is structured as follows:

(7) *Within the Department of Health and Rehabilitative Services and the Department of Offender Rehabilitation the principal policy and program development unit of the department is the "office." Each "office" shall be headed by a director.*

Section 6. The substantive committees of each house of the Legislature shall prepare bills, for introduction into the House of Representatives and the Senate at the next subsequent session of the Legislature, to further clarify the statutes so as to reflect the changes made by this act.

Section 7. The Department of Offender Rehabilitation shall accomplish the provisions of this act within the existing resources of the programs, and attendant support costs, transferred into it from the Division of Corrections, Division of Youth Services and the Florida Parole and Probation Commission.

Section 8. If any agency, program, activity or function assigned herein is changed in name or substance by another act of the Legislature during the 1975 regular session, the agency, program, activity or function, as amended, is assigned in a manner consistent with the intent expressed by this act.

Section 9. If any section of this act, or any part thereof, is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

Section 10. This act shall take effect July 1, 1975. The department shall complete reorganizing by July 1, 1976.

Amendment (2)—Strike the entire title and insert the following:

A bill to be entitled

An act relating to the Department of Offender Rehabilitation; providing legislative intent; creating s.20.315, Florida Statutes; providing for the creation of a Department of Offender Rehabilitation to provide a mechanism for the treatment of juvenile and adult criminal offenders along specified lines; providing that the department be organized on a regional basis; transferring all powers, duties and functions of the Division of Corrections and all powers, duties and functions of the Division of Youth Services related to delinquent children to the department; transferring certain powers, duties and functions of the Parole and Probation Commission to the department; providing for the appointment of a secretary and deputy secretary for the department and providing for their duties and responsibilities; providing for the creation of program offices and for the appointment and responsibilities of program directors; providing for the creation of advisory councils appointed by program office directors; providing for the creation, membership, compensation, powers and duties of an advisory council within the department; providing for the creation, membership, duties and responsibilities of the Human Rights Advocacy Committee; creating an Office of Management and Budget and providing for the appointment of a director; providing for the powers, duties and responsibilities of the office; providing for regional directors and their duties and responsibilities; providing for program advisors in speci-

fied program areas and for their duties; providing for regional advisory councils and their membership, responsibilities, duties and compensation; providing for regional human rights advocacy committees and their duties and responsibilities; providing for regional offices of management and budget along specified lines; providing for the responsibilities of such offices and for the appointment of a regional director; providing a plan of program operation for regional correction with respect to regional offices; providing a procedure for departmental budgeting; providing for an information system; authorizing the secretary to transfer appropriations among units of the department so long as the total appropriation is not exceeded; requiring the approval of the Department of Administration after July 1, 1976; requiring the Department of Offender Rehabilitation to establish program evaluation procedures; requiring reports to be submitted to the Legislature; adding subsection (7) to s.20.04, Florida Statutes, providing that the principal policy and program development unit of the department is the office, headed by a director; providing an effective date.

On motions by Senator Gordon, the Senate refused to concur in House amendments 1 and 2 to CS for SB 169, and the House was requested to recede therefrom, and in the event the House refused to recede, a conference committee was requested to adjust the differences between the House and Senate. The action, with the bill and amendments, was certified to the House.

The Honorable Dempsey J. Barron, President April 25, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Health and Rehabilitative Services and Senator Barron and others—

CS for SB 165—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s.20.04(3), Florida Statutes, and s.20.19, Florida Statutes, 1974 Supplement; reorganizing the structure of the department; providing for district advisory councils; adding s. 110.051(2)(n), Florida Statutes, 1974 Supplement; exempting specified positions from the career service; providing additional powers and duties of the department; providing for automatic repeal of existing rules and regulations as of a specified date; establishing the location of department headquarters; repealing s.381.021, Florida Statutes, relating to the headquarters of the Division of Health; providing that nothing in this act shall affect the powers of the counties over county public health facilities; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment (1)—Strike everything after the enacting clause and insert the following:

Section 1. Legislative intent.—

(1) It is the intent of the Legislature in reorganizing the Department of Health and Rehabilitative Services, hereinafter referred to as "the department," to insure the maximum integration of all client services, thereby improving the effectiveness of departmental programs. Further, the Legislature intends that program identity be maintained in order that sound program development may take place. In addition, it is the intent of the Legislature that the management and budget capabilities of the department be improved with a view toward increasing the efficiency and effectiveness of departmental operations.

(2) A fundamental concern of the Legislature relates to the need for the elimination of duplicated services offered by the various divisions of the department while insuring that maximum effort is applied to the reduction of service gaps between programs. It is the intent of the Legislature, therefore, to pinpoint responsibility for program operations and policy development at the office of the Secretary of Health and Rehabilitative Services and at the regional level. In order to maintain and increase the progress made by the department, the Legislature seeks to increase departmental responsiveness to the needs of citizens of this state and of their local communities by virtue of state supervised, locally administered operations. In addition, the Legislature seeks to improve the depart-

ment's accessibility to clients and subsequent mobility within the various service programs offered by the department.

(3) It is the intent of the Legislature that recognition be given to the inescapable interrelationship between the various needs of departmental clients. Therefore, the Legislature intends that the newly reorganized department focus its attention on the total spectrum of needs of the client and the client's family. To this end, the Legislature reaffirms its commitment to a "whole person" approach to service delivery and problem solving.

(4) The Legislature recognizes that, if effective and improved services are to be delivered to clients, a system of planning and evaluation of such services is required. Therefore, the Legislature intends that specific and measurable objectives be developed for services provided and that programs be continuously evaluated in relation to these objectives.

Section 2. Section 20.19, Florida Statutes, 1974 Supplement, is amended to read:

(Substantial rewording of section. See s.20.19 F.S., 1974 Supplement, for present text.)

20.19 Department of Health and Rehabilitative Services.—There is created a Department of Health and Rehabilitative Services.

(1) **PURPOSE.**—The purpose of the reorganization of the Department of Health and Rehabilitative Services is to integrate the delivery of all health, social, and rehabilitative services offered by the state to those citizens in need of assistance, herein referred to as "clients," and to:

(a) Provide such assistance as is authorized to all eligible clients in order that they might achieve or maintain economic self-support and self-sufficiency to prevent, reduce, or eliminate dependency.

(b) Prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests.

(c) Aid in the preservation, rehabilitation, and reuniting of families.

(d) Prevent or reduce inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.

(e) Secure referral or admission for institutional care when other forms of care are not appropriate, or to provide services to individuals in institutions when necessary.

(f) Prevent the occurrence and spread of communicable diseases; and other physical and mental diseases and disabilities to the maximum degree possible.

(g) Promote the maintenance and improvement of health and mental health.

(h) Disseminate health information to the public with recommendations for self-help aimed at the prevention of disease; and the maintenance and improvement of the health of all residents and visitors in Florida.

(2)(a) **REGIONS.**—The department shall be organized to deliver services on a regional basis and all divisions of the department as identified in subsection (2) of s.20.19, Florida Statutes, 1974 Supplement, are hereby abolished. However, the Division of Corrections and that portion of the Division of Youth Services which relates to delinquent children shall be transferred by a type four transfer to the Department of Offender Rehabilitation.

(b) The department shall establish, in accordance with the provisions of chapter 120, no more than 12 regions. Such regions shall be used for the administration of health, social, and rehabilitative services.

(c) Regions established by the department shall be used for service delivery and planning purposes. To the maximum extent possible, the department shall insure that these regions are coterminous with other planning and service regions now in existence or hereafter created.

(3) **SECRETARY OF HEALTH AND REHABILITATIVE SERVICES; DEPUTY SECRETARY.**—

(a) The head of the Department of Health and Rehabilitative Services is the Secretary of Health and Rehabilitative Services. The secretary shall be appointed by the Governor, subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor. The secretary is the chief administrative officer of the department and shall have the authority and responsibility to plan, direct, coordinate, and execute the powers, duties, and responsibilities assigned to the department. The secretary shall have final decision-making authority regarding the operation of the department, subject only to the Governor and laws of Florida. The secretary shall be the permanent chairman of the Advisory Council, created in subsection (5), and shall have the following responsibilities, which shall include, but not be limited to:

1. Setting departmental priorities.
2. Appointing program and regional directors.
3. Directing the department's management, planning, and budgeting processes.
4. Acting as the chief liaison officer between the department and local, state, and federal agencies.
5. Supervising and directing all program officers.
6. Supervising and directing regional directors and regional operations.
7. Supervising and directing all departmental planning, monitoring, and evaluation activities.
8. Supervising and directing the promulgation of all departmental rules.

(b) The secretary shall appoint a deputy secretary who shall act in the absence of the secretary. The deputy secretary shall serve at the pleasure of the secretary, shall be directly responsible to the secretary, and shall perform those duties that are assigned to him by the secretary. The deputy secretary is fully authorized to act on behalf of the secretary in all matters affecting the department.

(4) PROGRAM OFFICES.—

(a) Program offices shall be designed to operate in a staff capacity to the secretary. Each program office shall be headed by a program office director who shall be appointed by the secretary and shall report directly to the secretary or his designee. Program office directors shall serve at the pleasure of the secretary. Each program office director shall serve on the Advisory Council. Program offices shall supervise the administration of the service programs on a statewide basis but shall not have any line authority over regional directors or field staff. In no case shall the total professional staff of all of the program offices combined exceed 450 persons. Program offices shall have the following responsibilities, which shall include, but not be limited to:

1. Identification of client needs.
2. Intra-program policy development.
3. Short-term and long-term intra-program planning.
4. Intra-program standards settings, monitoring, and quality control.
5. Intra-program staff development, training, and technical assistance programs.
6. Advising the secretary and others within the department on issues within their areas of substantive expertise.
7. Acting as liaison to other governmental agencies and the public on programmatic issues.
8. Developing state program plans which implement directives, rules, and procedures on behalf of the secretary.
9. Recommending candidates for regional program supervisor to regional director.
10. Developing resource forecasts and working within the state on community resource development.
11. Quality control.
12. Any other duties assigned by the secretary.

(b) The following program offices are established:

1. Children's Medical Services Program Office. The responsibilities of this office shall relate directly to all children's medical services' programs operated by the department.

2. Social and Economic Services Program Office. The responsibilities of this office shall relate directly to all income support and related social services programs within the department such as aid to families with dependent children (AFDC), food stamps, supplemental security income (SSI) supplemental payments, AFDC child support enforcement, food distribution, and medicaid.

3. Health Program Office. The responsibilities of this office shall relate directly to all health programs operated by the department, including county health departments, including the review and coordination of health services, as well as the insurance of an accepted level of quality. In addition, the responsibilities of this office shall include, but not be limited to, comprehensive health planning, Hill-Burton programs, certificate of need determinations, as well as those functions authorized by law in conformance with Public Law 93-641. The secretary may assign other responsibilities to this office in keeping with the intent of this act. The functions of this office relating to Public Law 93-641 shall not be decentralized to the regions.

4. Retardation program Office. The responsibilities of this office shall relate directly to all retardation programs operated by the department. In addition, responsibility for all developmental disabilities shall be located here.

5. Vocational Rehabilitation Program Office. The responsibilities of this office shall relate directly to all vocational rehabilitation programs operated by the department.

6. Aging and Adult Services Program Office. The responsibilities of this office shall relate directly to all aging and adult programs operated by the department. In addition, all responsibilities for the adult services programs located in the Division of Family Services prior to the effective date of this act shall be transferred to this office.

7. Children's Services Program Office.—Responsibility for the following programs shall be located in this office:

a. Protective services and all dependency programs located in the Division of Family Services prior to the effective date of this act.

b. Adoptions.

c. Child care.

d. Children in need of supervision and all programs located in the Division of Youth Services, as provided in chapters 39 and 959.

e. Foster care programs, including those located in the Division of Family Services and the Division of Youth Services prior to the effective date of this act, in proportionate relationship to the responsibilities for children in need of supervision.

8. Mental Health Program Office.—The responsibilities of this office shall relate directly to all mental health programs operated by the department. In addition, the responsibility for forensic programs shall be located here.

(c) The Governor may appoint an advisory council for the purpose of acting as an advisory body to each office. Members shall serve staggered terms not to exceed four years although they may be appointed to one subsequent term. Members shall receive no compensation, but shall be reimbursed for per diem and travel expenses, in accordance with the provisions of s.112.061.

(5) ADVISORY COUNCIL.—

(a) There is created within the department an Advisory Council. The Advisory Council shall consist of 17 members, including the secretary, who shall serve as the chairman of the Advisory Council.

(b) Membership of the Council shall also include the eight program office directors and eight citizens who broadly represent the interests of the public and the clients of the department, to be appointed by the Governor. The eight citizen members shall be representative of four groups of citizens as

follows: Two elected public officials, including one county commissioner; two representatives of agencies or civic groups which are not designated as "federal" or "state"; Two representatives from the health and rehabilitative services consumer groups which are currently receiving, or have received, services from the department within the past 2 years; and two residents of the state who do not represent any of the above groups or the department.

(c) All citizen members of the Advisory Council shall serve terms of 4 years, except that at the time of the first appointment, two members shall serve for 1 year, two members shall serve for 2 years, two members shall serve for 3 years, and two members shall serve for 4 years.

(d) The Governor shall fill all citizen vacancies on the Advisory Council for the balance of the unexpired term.

(e) Members of the Advisory Council shall receive no compensation but shall be reimbursed for per diem and travel expenses by the department, in accordance with the provisions of s.112.061.

(f) The purpose, objectives, and responsibilities of the Advisory Council shall include, but not be limited to:

1. Coordinating all inter-program policy development, planning, and service delivery programs.
2. Recommending statewide departmental policy and priorities.
3. Coordinating and monitoring all service integration activities.
4. Encouraging citizen input to the department.
5. Recommending budget priorities to the secretary.
6. Alerting the department to new problems and developments throughout the state and nation.

(6) HUMAN RIGHTS ADVOCACY COMMITTEE.—There is hereby created within the department a Human Rights Advocacy Committee, consisting of the eight citizen members of the Advisory Council. The members of the Human Rights Advocacy Committee shall elect a chairman who shall serve as the vice-chairman of the Advisory Council. The term of the chairman shall be for one year and no chairman shall serve as chairman for more than two consecutive terms. The responsibilities of the committee shall include but not be limited to:

(a) Serving as a third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded or regulated by the department.

(b) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the Human Rights Advocacy Committee by a regional human rights advocacy committee.

(c) Prior to implementation reviewing and making recommendations with respect to the involvement of departmental clients as subjects for research projects insofar as their human rights may be affected.

(d) Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of clients are affected.

(e) Submitting an annual report to the Legislature, no later than November 30 of each calendar year, concerning activities, recommendations and complaints reviewed or developed by the committee during the year.

(f) Conducting meetings at least six times a year, or at the call of the chairperson, or at the call of the Governor, or by written request of four members of the committee.

(g) Developing policies and procedures to carry out the purposes of this subsection including procedures for appeal.

An appeal to the state committee is made by a regional human rights advocacy committee when a valid complaint is not resolved at the regional level. The statewide committee may appeal an unresolved complaint to the advisory council or the secretary. If, after exhausting all remedies, the statewide committee is not satisfied that resolution of the complaint can be resolved within the department, the appeal may be referred to the Governor.

(7) OFFICE OF MANAGEMENT AND BUDGET.—

(a) There is created within the department an Office of Management and Budget. The Director of the Office of Management and Budget shall be appointed by the secretary and shall serve at his pleasure. The director of the Office of Management and Budget shall report directly to the secretary or his designee. All management, planning and evaluation, and administrative functions, heretofore carried out by the various line divisions of the department, are assigned to the Office of Management and Budget.

(b) All prior functions of the Division of Administrative Services of the Department of Health and Rehabilitative Services are assigned to the Office of Management and Budget.

(c) All prior functions of the Division of Planning and Evaluation of the Department of Health and Rehabilitative Services are assigned to the Office of Management and Budget.

(d) The Office of Management and Budget shall be responsible for all departmentwide functions in the areas of management services, financial services, management analysis, and comprehensive planning. Further responsibilities shall include but are not limited to:

1. Inter-program comprehensive planning and evaluation.
2. Budget preparation and aggregation.
3. Grants management and disbursement.
4. Accounting.
5. Internal audit.
6. Facilities management, including design, construction, and leases.
7. Personnel.
8. Information systems development.
9. Legal services.
10. Purchasing.

(e) The Office of Management and Budget shall also be responsible for the development of uniform implementation and monitoring procedures for all administrative support services at the regional level as well as reviewing the effectiveness and efficiency of these support services. At the regional levels, particular emphasis shall be placed on comparative management analyses on the effectiveness and efficiency between the various similar regional support service programs and the comparative effectiveness and efficiency between the various similar regional program managers.

(8) REGIONAL OPERATIONS.—

(a) The Legislature finds and declares that the decentralization of departmental programs and services will permit greater responsiveness to community needs and improve the integration of programs for the benefit of the citizens; therefore, it is the intent of the Legislature that the management, administration, and delivery of departmental services take place in the regions. However, the secretary, upon a showing of clear economic benefit and savings, may locate certain highly specialized activities within the state office. Further, it is the intent of the Legislature that regional operations shall be in a direct line of authority to the secretary of the department.

(b) In this context, the Legislature intends that the secretary provide greater independence and increased decision-making authority to the regions within the parameters of departmental policy. Further, it is consistent with legislative intent that regional operations be properly staffed with the necessary decentralized administrative support personnel to conduct an efficient and effective operation.

(c) The Legislature intends that the regional director may establish a human rights advocacy committee in each programmatic area of responsibility; however, if the needs should so dictate, the regional director may combine programmatic areas of responsibility into fewer committees.

(9) REGIONAL DIRECTORS.—

(a) The chief administrative office of the region is the regional director. The regional director is appointed by and

serves at the pleasure of the secretary. The regional director reports directly to the secretary and has direct line authority over all departmental programs assigned to the region. In addition to those responsibilities assigned by law, the regional director shall carry out those duties delegated to him by the secretary. The salary of this position shall be at the classification level of a division director. The regional director shall serve as the chairman of the regional advisory council.

(b) The duties of the regional director include, but are not limited to:

1. Insuring that the administration of all service programs is carried out in conformity with statewide service plans.

2. Administration and direction of all planning, evaluation, administrative support, and client and specialty service functions within the region.

3. Implementation of a consolidated intake, diagnosis and evaluation, and case management mechanism for the delivery of services in the region.

4. Implementation of program policy, as developed by the state program offices and the policy council and approved by the secretary.

5. Appointment of regional program supervisors.

6. Appointment of the local office supervisors.

7. Appointment of the citizen members of the regional advisory council as specified in paragraph (a) of subsection (11).

8. Appointment of the superintendents of the regional institutions from a list of three nominees recommended by the state program director who develops the policy for that institution.

9. Approval of all other personnel appointments in the region.

10. The provisions of ss.216.292 and 216.351 notwithstanding, authority to transfer up to 10 percent of the total regional budget with the approval of the secretary to maximize effective program delivery.

(10) REGIONAL PROGRAM SUPERVISORS.—

(a) There shall be program supervisors in each region who shall serve in a line capacity to the regional director. Program supervisors shall be appointed by the regional director from a list of three nominees recommended by the appropriate program office director. The program supervisors shall supervise the administration of regional service programs in conformity with the statewide service plan. There may be a program supervisor for each of the following program areas:

1. Aging
2. Children's medical services.
3. Children's services
4. Health.
5. Income maintenance.
6. Mental health.
7. Retardation.
8. Vocational Rehabilitation

(b) The regional director may combine one or more program areas under a single program supervisor with the approval of the secretary. The program supervisor may be employed either on a full-time, part-time, or fee-for-service contractual basis. The duties of the program supervisor shall include, but not be limited to, the following:

1. Serving as program supervisor for the regional director in the respective program area.
2. Recommending changes in regional program policy.
3. Identifying and developing community resources.
4. Identifying regional needs.

5. Serving as program spokesman in educating the regions as to the availability of programs and the needs of clients.

6. Serving as primary staff development advisor in assessing the needs of staff and developing training and staff development programs.

(11) REGIONAL ADVISORY COUNCILS.—

(a) In each region there shall be a regional advisory council which is advisory in nature and affords citizen input into department policy development. The regional advisory council shall not exceed 17 members. Membership on the council is composed of the program supervisors and eight citizens representatives. The council is chaired by the regional director. The citizen members of the council shall be appointed by the regional director from a list of persons who live in the region and have expressed written interest to the regional director in serving on the council. The selection of the eight citizen council members by the regional director shall be made as follows: two members shall be elected public officials; two members shall be representatives from agencies or civic groups which would not be designated as "state" or "federal"; two members shall be representatives from health and rehabilitative services consumer groups which are currently receiving or have received services from the department within the previous two years; and two members shall be representatives of the regional human rights advocacy committees. All citizen members shall serve terms of four years, except that, at the time of the first appointment, two shall be appointed for one year, two for two years, two for three years, and two for four years. In the case of a vacancy, the regional director shall appoint a representative to serve the remainder of the unexpired term. A citizen member may serve two terms. A citizen member shall be eligible for reimbursement for per diem and travel expenses in accordance with s.112.061.

(b) The responsibilities of the council shall include but are not limited to:

1. Developing recommendations for the regional director on adapting state policy to meet regional needs.

2. Providing a forum for receiving citizen complaints on general problems relating to the department.

3. Advising on the coordination of service delivery within the region.

4. Responding to the requests of the regional human rights advocacy committees in facilitating solution to problems.

5. Preparing an annual report for submission to the state advisory council.

(12) REGIONAL HUMAN RIGHTS ADVOCACY COMMITTEE.—At least one regional human rights advocacy committee is created in each region. The number and areas of responsibility of the regional human rights advocacy committees shall be determined by the regional director except that any existing human rights advocacy committee created by administrative agreement or legislative mandate may continue functioning if the committee so determines. Each regional human rights advocacy committee shall have no more than 11 members who shall include at least two consumers, two providers and two representatives of professional organizations. If the area of responsibility of the regional human rights advocacy committee includes medical policies or procedures, one member shall be a medical or osteopathic physician as defined in Chapters 458 and 459, F.S. Each member shall serve a term of four years except that, at the time of the first appointment, two shall be appointed for one year, two for two years, two for three years, and two for four years. In the case of a vacancy, the regional director shall appoint a representative to serve the remainder of the unexpired term. A member may serve two terms. The regional director shall appoint the first four members of the committee and these four members shall select the remaining seven members. Each committee shall elect a chairman for a term of one year. No person shall serve as chairman for more than two consecutive terms. A member of a regional committee shall receive no compensation but shall be reimbursed for travel expenses outside the county of residence as provided for in accordance with the provisions of s.112.061, F.S.

Each regional human rights advocacy committee shall establish its own operating procedures. Procedures for appeal to the state human rights advocacy committee shall be established by the state committee. The duties of both new and existing regional human rights advocacy committees shall conform to the pro-

visions of this act. The duties of the regional human rights advocacy committee shall include but are not limited to:

(a) Serving as third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded or regulated by the department.

(b) Receiving, investigating and resolving reports of abuse of deprivation of constitutional and human rights within each committee's respective program area(s) and region.

(c) Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of clients are affected.

(d) Appealing to the state committee any complaint unresolved at the regional level.

(e) Submitting an annual report by September 30 to the statewide Human Rights Advocacy Committee concerning activities, recommendations, and complaints reviewed or developed by the committee during the year.

(f) Conducting meetings at least six times a year or at the call of the chairperson, or at the call of the Governor, or by written request of four members.

(13) REGIONAL OFFICE OF MANAGEMENT AND BUDGET.—

(a) There shall be an office of management and budget in each region which shall provide the following administrative support functions to the region:

1. Program evaluation and monitoring.
2. Regional planning.
3. Accounting.
4. Grants management and disbursement.
5. Personnel.
6. Legal services for program support.
7. Purchasing.
8. Facilities management.
9. Preparation of the regional budget request and administration of the approved operating budget.
10. Other duties as assigned by the regional director.

(b) The director of the regional office of management and budget shall be appointed by the regional director from a list of three names submitted by the director of the state Office of Management and Budget. The regional office of management and budget shall carry out its duties and responsibilities in accordance with policy set by the secretary and the regional director.

(14) PROGRAM OPERATIONS.—

(a) The regional director may divide the region, for service delivery purposes, into local offices. The local office shall be headed by a supervisor who shall be appointed by, and shall report directly to, the regional director. The local office supervisor shall be responsible for:

1. Implementing program directives, regulations, and procedures.
2. Directing, monitoring, and coordinating all local program operations.
3. Supervising client services.
4. Providing local input into regional budget preparation.
5. Coordinating with the specialty services which serve the clients of more than one local office.

(b) There shall be at least one local office in each county. Intake and referral, general diagnosis and evaluation, and case management shall be collocated to the maximum extent feasible in the local office. Where feasible other services to clients within the county shall be collocated with the local office. In determining the need for a separate location for a specialized service, accessibility and clients' needs will be given primary

consideration. In counties in which the client population requires more than one local office, the regional director may determine whether there will be one central local office with subordinate branch offices or two or more local offices covering geographical areas of approximately equal population.

(c) Services provided by the region shall be identified in the following two categories:

1. Client services shall include intake and referral, diagnosis and evaluation, and case management. The service delivery system shall be integrated through client services. The case manager shall be responsible for general diagnosis and evaluation, service plan development, referral, purchase of service, and service plan follow-up and monitoring. The case manager shall assess the client's need and upon mutual agreement with the client, or the client's guardian, may provide the service needed or refer the client to one or more specialty services.

2. Specialty services shall include any services which cannot be provided directly by client services, including financial payments. A specialty service may be provided directly by the department or through a purchase of service agreement with a public or private provider. Before developing a service component within the department, the regional office of management and budget shall develop cost data to show that such a course of action will result in savings to the state. Whenever possible, the department shall, in accordance with the established program objectives and performance criteria, contract for the provision of services by counties, municipalities, nonprofit corporations, and other entities capable of providing needed services, if services so provided are more cost efficient than those provided by the department.

(d) All institutions in each region are responsible to the regional director or his designee. The regional director shall have line responsibility and authority over the superintendent of the institutions. The institutions shall purchase specialty services whenever feasible. If a required service is not readily available in the region, upon approval of the regional director, the institution may develop the service component within the institution.

(15) DEPARTMENTAL BUDGETS.—

(a) The secretary shall develop and submit annually to the legislature a comprehensive departmental summary budget document which shall array regional budget requests along program lines. This summary document shall, for the purpose of legislative appropriation, consist of three distinct budget entities:

1. Office of the secretary and Office of Management and Budget.
2. Program offices.
3. Regional services.

(b) To fulfill this responsibility, the secretary shall have the authority to review, amend, and approve the annual budget request of all departmental activities. Recommendations on departmental budget priorities shall be furnished to the secretary by the Advisory Council and the Office of Management and Budget. In addition, and the provisions of ss.216.22 and 216.351 notwithstanding, the secretary, whenever deemed necessary by reason of significantly changed conditions, may transfer funds between the approved operating budgets of the regions. The total of such transfers may not exceed 5 percent of the operating budget of an individual region during any fiscal year.

(c) It is the responsibility of the Office of Management and Budget to promulgate the necessary budget timetables, formats, and data requirements for all departmental budget requests. This shall be done in accordance with the statewide budget requirements of the Department of Administration.

(d) It is the responsibility of the regional director to develop an annual budget request to be reviewed, amended, and approved by the secretary. Upon appropriation of an approved regional budget, the regional director shall be responsible for the execution of this operating budget during the fiscal year. The provisions of ss.216.292 and 216.351 notwithstanding, whenever deemed necessary by significantly changed conditions, the regional director may transfer funds between the various programs in the region, with approval of the secretary. The

total of such transfer may not exceed 10 percent of the approved operating budget of a region during any fiscal year.

(16) INFORMATION SYSTEMS.—

(a) The secretary shall implement a priority program aimed at the design, testing, and integration of automated information systems necessary for effective and efficient management of the department. These systems shall contain, minimally, management data, client data, and program data deemed essential for the ongoing administration of service delivery, as well as for the purpose of management decisions. It is the intent of the Legislature that these systems be developed with the idea of providing maximum administrative support to service delivery. It is also essential that these systems comply with federal program requirements and insure confidentiality of client information.

(b) For the purpose of funding this effort, the department shall include in its annual budget request a comprehensive summary of costs involved, as well as manpower saved, in the establishment of these automated systems. Such budget request shall also include a complete inventory of current staff, equipment, and facility resources available for completion of the desired systems. The department shall review all forms for duplicative content and, to the maximum extent possible, reduce, consolidate, and eliminate such duplication to provide for a uniform and concise information collection system.

(17) POWERS OF THE SECRETARY.—For the purpose of reorganizing the Department of Health and Rehabilitative Services, the provisions of ss.216.262, 216.292, and 216.351 notwithstanding, the Secretary of Health and Rehabilitative Services is authorized to transfer appropriations between categories of appropriations and between budget entities. However, unless expressly provided by law, the total Department of Health and Rehabilitative Services' approved budget shall not exceed the total appropriation therefor, as provided by the appropriations act. The department's budget request for fiscal year 1976-77 shall reflect all transfers of funds and positions for all reorganization activities within the department for final authorization by the Legislature.

(18) GENERAL TRANSFERS.—No later than April 1, 1976, the functions of the Division of Family Services, the Division of Aging, the Division of Health, the Division of Children's Medical Services, the Division of Mental Health, the Division of Retardation, Division of Vocational Rehabilitation, and the Division of Youth Services, of the Department of Health and Rehabilitative Services, which relate to the daily operation of the department's service programs are assigned to the regional offices, and the functions of said divisions which relate to the development of policies, procedures, and guidelines for providing services are assigned to the appropriate program office. All statutory functions of the Department of Health and Rehabilitative Services, not otherwise herein assigned to a specific unit of the department, are assigned generally to the department and may be allocated and reallocated by the secretary to an authorized unit of the department. The secretary of the Department of Health and Rehabilitative Services is authorized during fiscal year 1975-76 to make such internal organizational adjustments as are certified to in writing by the secretary of the Department of Health, Education, and Welfare as being necessary to meet the statutory provisions and intent of federal legislation relating to requirements for the supervision of the administration of service programs.

(19) PROGRAM EVALUATION.—A comprehensive program evaluation system shall be established which shall encompass all major programs of the department. The department shall establish measurable program objectives and performance criteria for each program it operates. Such system of evaluation shall require all programs to develop quantifiable goals and to estimate the cost of attaining such goals in advance. Studies of the relative cost and effectiveness of departmental and alternative programs shall be conducted. The department shall develop a program evaluation schedule and shall evaluate at least 10 percent of its programs annually. The department shall submit these evaluation schedules and reports to the appropriate substantive committees of both houses for review. Where possible, the department's management information system shall provide the basic information for program evaluation studies.

(20) RULES.—All rules of the Department of Health and Rehabilitative Services in effect, or filed with the Department of State prior to the effective date of this act, are repealed effective October 1, 1976, unless sooner repealed and the department shall publish new rules, in accordance with the provisions of chapter 120.

(21) HEADQUARTERS.—After June 30, 1976, the Department of Health and Rehabilitative Services shall establish its headquarters in Tallahassee. Thereafter, the department shall maintain all program offices above the regional office level in Tallahassee. For the purposes of implementing this act during fiscal year 1975-76, the current number of departmental positions located in Jacksonville shall not be reduced by more than 100 in order to carry out the provisions of this act. Employees whose positions are abolished or transferred to another location shall, when otherwise qualified, be given priority consideration for any new positions created under this reorganization or for any other positions vacant in state government.

(22) ADVISORY COUNCILS TO THE DEPARTMENT; TRANSFER.—All advisory councils to the Department of Health and Rehabilitative Services in existence prior to the effective date of this act are hereby abolished and the duties and responsibilities thereof are transferred to the advisory councils to the program offices created by subsection (4).

(23) ELIGIBILITY REQUIREMENTS.—The department shall review the eligibility requirements of its various programs and, to the maximum extent possible, consolidate them into a single eligibility system.

Section 3. Subsection (7) is added to section 20.04, Florida Statutes, to read:

20.04 Structure of executive branch.—The executive branch of state government is structured as follows:

(7) *Within the Department of Health and Rehabilitative Services and the Department of Offender Rehabilitation the principal policy and program development unit of the department is the "office." Each "office" shall be headed by a director.*

Section 4. Sections 154.01, 154.02, 154.03, 154.04, 154.05, and 154.06, Florida Statutes, are amended to read:

154.01 Health units authorized.—The several counties of the state, and cities therein, may cooperate with the ~~division of health~~ of the department of health and rehabilitative services in the establishment and maintenance of full-time local health units in such counties for the control and eradication of preventable diseases, and inculcate modern scientific methods of hygiene, sanitation, and the prevention of communicable diseases. *In addition, there shall be clinic care and health care delivery programs where there is a demonstrated need for such services.*

154.02 Tax; disposition of proceeds; reports.—To enable such counties to execute the purposes of this chapter, every county in the state with a population exceeding 100,000, according to the last state census, may levy an annual tax of not exceeding one-half mill, and every county in the state with a population exceeding 40,000 according to the last state census, and not exceeding 100,000, may levy an annual tax of not exceeding 1 mill, and every county in the state with a population not exceeding 40,000 according to the last state census, may levy an annual tax not exceeding 2 mills, on the dollar on all taxable property in such county, the proceeds of which, when collected, shall be paid to ~~the division of health~~ of the Department of Health and Rehabilitative Services for deposit with the State Treasurer. However, the Board of County Commissioners may elect to pay in 12 equal monthly installments. Such funds in the hands of the State Treasurer shall be known as the full-time local health unit trust funds of the county by which such funds were raised; and said funds shall be expended by the ~~division of health~~ department solely for the purpose of carrying out the intent and object of this chapter in such county. The ~~division of health~~ department shall render to the county commissioners of any such county providing such funds a semi-annual financial statement for the disbursement thereof, so long as said moneys shall continue to be disbursed by and under the direction of the ~~division of health~~ department.

154.03 Cooperation with ~~division of health~~ Department of Health and Rehabilitative Services and United States Government.—The county commissioners of every county may agree with the ~~division of health~~ of the Department of Health and

Rehabilitative Services upon the expenditure by the ~~division of health department~~ in such counties of any funds allotted for that purpose by the ~~division of health department~~ or received by it for such purposes from private contributions or other sources, and such funds shall be paid to the State Treasurer and shall form a part of the full-time local health unit trust fund of such county, and shall be expended by the ~~division of health department~~ solely for the purposes of this chapter. The ~~division of health department~~ is further authorized to arrange and agree with the United States Government through its duly authorized officials for the allocation and expenditure by the United States of funds of the United States in the study of causes of disease and prevention thereof in such full-time local health units when and where established by the ~~division of health department~~ under this chapter.

154.04 Personnel of health units; duties; compensation, etc.—The personnel of the minimum full-time local health unit shall consist of a director, a public health nurse, a sanitarian, and a clerk. The director shall be either a doctor of medicine or a doctor of osteopathy. All of the members of such personnel shall be selected from those especially trained in public health administration and practice, so far as the same shall relate to the duties of their respective positions. They shall be employed by the Board of County Commissioners; provided, however, that no such personnel shall be employed by the Board of County Commissioners unless ~~such~~ said personnel shall be approved by the ~~division of health~~ of the Department of Health and Rehabilitative Services. When a vacancy occurs in the position of director of the local health unit, eligible candidates shall be presented to the Board of County Commissioners and, if no appointment is made within 6 months from the time of this presentation, then the ~~director of the division of health~~ Secretary of Health and Rehabilitative Services shall make the appointment. The duties of said personnel shall be fixed and determined by the ~~division of health department~~, upon the approval by the Board of County Commissioners. The compensation of said personnel shall be determined under the rules and regulations of the Division of Personnel of the Department of Administration. Such employees shall engage in the prevention of disease and the promotion of health, in cooperation with and under the supervision of the ~~division of health department~~.

154.05 Cooperation and agreements between counties.—Two or more counties may combine in the establishment and maintenance of a single full-time local health unit for the counties which combine for that purpose, and pursuant to such combination or agreement such counties may cooperate with one another and the ~~division of health~~ of the Department of Health and Rehabilitative Services and contribute to a joint fund in carrying out the purpose and intent of this chapter. The duration and nature of such agreement shall be evidenced by resolutions of the Board of County Commissioners of such counties and shall be submitted to and approved by the ~~division of health department~~. In the event of any such agreement, a full-time local health unit shall be established and maintained by the ~~division of health department~~ in, and for the benefit of, the counties which have entered into such an agreement; and, in such case, the funds raised by taxation pursuant to this chapter by each such county shall be paid to the State Treasurer for the account of the ~~division of health department~~ and shall be known as the full-time local health unit trust fund of the counties so cooperating. Such trust funds shall be used and expended by the ~~division of health department~~ for the purposes specified in this chapter in the counties which have entered into such agreement. In case such an agreement is entered into between two or more counties, the work contemplated by this chapter shall be done by a single full-time local health unit in the counties so cooperating, and the nature, extent and location of such work shall be under the control and direction of the ~~division of health department~~.

154.06 Fees and services rendered; authority.—Each local health unit may collect reasonable fees for services rendered, provided a schedule of such fees is established by the Board of County Commissioners, or an equivalent municipal body, and filed with the ~~division of health~~ of the Department of Health and Rehabilitative Services. All funds collected hereunder shall be expended solely for the purpose of providing health services and facilities within the area served by the local health unit. The Board of County Commissioners, or its equivalent municipal body, may provide for the transmittal of funds collected under the provisions of this chapter to the State Treasury for credit to the local health unit trust fund.

Section 5. Section 381.021, Florida Statutes, is hereby repealed.

Section 6. Subsection (7) is added to section 394.66, Florida Statutes, to read:

394.66 Legislative intent.—It is the intent of the Legislature to:

(7) *Insure that, to the maximum degree feasible, the regions of the Department of Health and Rehabilitative Services are the focal point of all district board activities including budget submissions, grant applications, contracts, and other arrangements that can be effected at the regional level.*

Section 7. The Department of Health and Rehabilitative Services shall accomplish the reorganization directed by this act within its existing resources and appropriations.

Section 8. The Bureau of Blind Services of the Division of Vocational Rehabilitation is transferred by a type three transfer as defined in section 20.06(3), Florida Statutes, to the Department of Education effective April 1, 1976.

Section 9. No legal or administrative proceeding pending as of the effective date of this act shall be abated because of any assignment made in this act, but the unit of the Department of Health and Rehabilitative Services to which the function relating to the pending proceeding is reassigned shall be substituted as a party in interest in such proceeding.

Section 10. The Department of Health and Rehabilitative Services shall submit to the President of the Senate and to the Speaker of the House of Representatives, on a quarterly basis until April 1, 1976, a written report, for review and analysis by the substantive committees of each house, detailing the department's progress with respect to internal reorganization, and the plan for subsequent quarters for implementing the provisions of this act. The first such report shall be submitted by October 1, 1975. After April 1, 1976, the Department of Health and Rehabilitative Services shall make an annual report to the governor and the Legislature, reflecting its activities and making recommendations for improvement of the services to be performed by the department. Such report shall be on the basis of a fiscal year. Notwithstanding the provisions of other statutes, such report shall be the only annual report required by law to be submitted by the department.

Section 11. The substantive committees of each house shall prepare bills, for introduction in the House of Representatives and the Senate at the 1976 and subsequent sessions of the Legislature, to further clarify the statutes so as to reflect the changes made by this act.

Section 12. If any agency, program, activity, or function assigned herein is changed in name or substance by another act of the Legislature during the 1975 regular session, the agency, program, activity, or function, as amended, is assigned in a manner consistent with the intent expressed by this act.

Section 13. Subsections (4), (5), (18), (22), (23), (25), (27) and (28) of section 39.01, Florida Statutes, 1974 Supplement, are amended and paragraphs (h) and (i) are added to subsection (10) of said section to read:

39.01 Definitions.—When used in this chapter:

(4) "Authorized agent of the Division of Youth Services" means a person assigned by the division to perform duties prescribed in statutes relating to the provision of services to children who are alleged to be, or adjudicated, delinquent ~~or in need of supervision~~.

(5) "Authorized agent of the Department of Health and Rehabilitative Services" means a person assigned by the department to perform duties prescribed in statutes relating to the provision of services to children alleged to be, or adjudicated, delinquent ~~or~~, dependent, ~~or in need of supervision~~.

(10) "Dependent child" means a child who:

(h) *Has persistently run away from his parents or legal guardian.*

(i) *Being subject to compulsory school attendance, is habitually truant from school.*

(18) "Detention home" means a facility to be used only for the temporary care of children alleged to be, or adjudicated, delinquent children ~~or children in need of supervision~~ pending

court disposition or execution of court order. A detention home may provide secure or non-secure custody.

(22) "Intake officer" means the authorized agent of the Division of Youth Services performing the intake function for a child alleged to be delinquent ~~or in need of supervision~~ or the authorized agent of the Division of Family Services performing the intake function for a child alleged to be dependent.

(23) "Probation" means a legal status created by court order in cases involving a delinquent child ~~or a child in need of supervision~~, which permits the child to remain in his own home or other placement designated by the court, under the supervision of an agent of the Division of Youth Services, subject to being returned to the court for violation of any general or special condition imposed by the court.

(25) "Detention hearing" means a hearing at which the court determines whether it is necessary that the child be held in detention care, shelter care, some other placement outside his own home, or in his own home under court-imposed restrictions, pending a hearing to adjudicate delinquency ~~or, dependency, or need of supervision~~.

(27) "Adjudicatory hearing" means a hearing at which the court makes its finding of fact and enters an appropriate order dismissing the case, withholding adjudication, or adjudicating the child to be ~~a child in need of supervision~~, a delinquent child, or a dependent child.

(28) "Disposition hearing" means the hearing at which the court determines the action to be taken with regard to a child who has previously been adjudicated to be ~~a child in need of supervision~~, a delinquent child, or a dependent child.

Section 14. Subsections (1) and (4) of section 39.02, Florida Statutes, 1974 Supplement, are amended to read:

39.02 Jurisdiction.—

(1) The circuit court shall have exclusive original jurisdiction of proceedings in which a child is alleged to be dependent ~~or, delinquent, or in need of supervision~~. The circuit court shall have jurisdiction in cases involving juvenile traffic offenses only if the court having jurisdiction over traffic offenses waives jurisdiction and certifies the case to the circuit court. In such cases a petition shall be filed in the circuit court, and the case shall be heard de novo as a delinquency proceeding.

(4) Notwithstanding the provisions of s.743.07, when the jurisdiction of any delinquent child shall have been obtained, the court shall retain jurisdiction, unless relinquished by order, until the child reaches 21 years of age, with the same power over the child that the court had prior to the child's becoming an adult. When the jurisdiction of any ~~child in need of supervision~~ ~~or~~ dependent child shall have been obtained, the court shall retain jurisdiction, unless relinquished by order, until the child reaches 18 years of age. This shall not prevent the exercise of jurisdiction of any other court having jurisdiction in case the child, after becoming an adult, commits a violation of law.

Section 15. Paragraph (d) of subsection (1), paragraph (b) of subsection (2), and paragraphs (a) and (b) of subsection (3) of section 39.03, Florida Statutes, are amended to read:

39.03 Taking a child into custody; detention.—

(1) A child may be taken into custody:

(d) By a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian *for the purpose of delivering the child without unreasonable delay to the child's parents or legal guardians or to an authorized agent of the Division of Family Services.*

(2) If the child should not be detained or placed in shelter care pursuant to paragraph (c) of subsection (3), or unless otherwise ordered by the judge, the person taking the child into custody shall release the child to a parent, a responsible adult relative, or an adult approved by the court, upon agreement of the person to whom the child is released to produce the child in court at such time as the court may direct. The person taking the child into custody shall, within 3 days, make a full written report to the appropriate intake officer, stating the facts by reason of which the child was taken into custody. The report shall:

(b) Contain sufficient information to establish the jurisdiction of the court and to support a finding by the court that the child is delinquent ~~or, dependent, or in need of supervision~~.

(3)(a) If the person taking the child into custody determines, pursuant to paragraph (c), that the child should be detained or placed in shelter care, he shall immediately notify the parents or legal custodians of the child and shall, without unreasonable delay, deliver the child to the appropriate intake officer or, if the judge has so ordered, to a detention home or shelter, and shall, upon delivery of the child, report in writing to the appropriate intake officer. The report shall:

1. Identify the child and, if known, his parents and legal custodians.

2. Show that the child was legally taken into custody pursuant to subsection (1).

Within 3 days of the time the child is taken into custody, a supplemental report containing sufficient information to establish the jurisdiction of the court and to support a finding by the court that the child is delinquent ~~or, dependent, or in need of supervision~~ shall be submitted to the appropriate intake officer.

(b) The intake officer shall review the facts and make such further inquiry as necessary to determine the need for detention or shelter care of the child. Unless detention or shelter care is required under paragraph (c), the child is to be released by the intake officer in accordance with subsection (2). If the child cannot be released, the intake officer shall authorize:

1. Detention care for any child alleged to be delinquent ~~or in need of supervision~~.

2. Shelter care for any child alleged to be dependent.

If the child is alleged to be both dependent and delinquent ~~or in need of supervision~~, the intake officer may authorize either detention care or shelter care. Under no circumstances shall the intake officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, except when a child is charged with a felony in the first degree, a life felony, or a capital felony. However, no child shall be placed in the same cell with any other adult or child alleged to have committed, or who has been adjudged to have committed, a crime.

Section 16. Subsection (1) of section 39.04, Florida Statutes, is amended to read:

39.04 Intake.—

(1) Intake shall be performed by the Department of Health and Rehabilitative Services. Any complaint that a child is dependent ~~or, delinquent, or in need of supervision~~ shall be made to the intake office operating in the county in which the child is found or in which the case arose. Any person or agency having knowledge of the facts may make a complaint. He shall furnish the intake office facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child is delinquent ~~or, dependent, or in need of supervision~~. The intake officer shall make a preliminary determination as to whether the facts presented by the complainant are legally sufficient to file a petition, consulting with the state attorney or assistant state attorney where necessary.

(a) If the intake officer determines that the facts are legally sufficient to file a delinquency petition, he may request the state attorney to file the petition. If the intake officer determines the facts are legally sufficient to file a dependency ~~or need of supervision~~ petition, he may file it.

(b) If the intake officer determines that the facts are legally sufficient to file a petition, but in his judgment the interest of the child and the public will be served best by providing the child care or other treatment voluntarily accepted by the child and his parents or legal custodians, he may refer the child for such care and treatment.

(c) If the intake officer refuses to request that a delinquency petition be filed, the complainant and victim shall be informed of the refusal and of the reasons therefor and shall be advised that they may submit the complaint to the state attorney for review. The state attorney, upon receiving a request for a review, shall consider the facts presented by the complainant, consult with the intake officer who made the ini-

tial decision, and then make the final decision as to whether the petition shall or shall not be filed.

(d) Upon the refusal of the intake officer to file a dependency ~~or need of supervision~~ petition, the complainant shall be advised of his right to file a petition pursuant to s.39.05(2).

(e) In all cases in which the act charged would constitute a crime if committed by an adult, the intake officer shall submit a written notice to the state attorney, including the original complaint or a copy thereof, within 15 days of the time the child is delivered to, or report to, the intake office. Such notice shall recommend:

1. That a petition be filed, or
2. That no petition be filed.

(f) The state attorney shall in all cases, after consultation with the intake officer, have the right to file petitions regardless of the action or lack of action of the intake office.

Section 17. Subsections (2), (4), (5) and (7) of section 39.05, Florida Statutes, are amended to read:

39.05 Petition.—

(2) All proceedings seeking an adjudication that a child is dependent ~~or in need of supervision~~ shall be initiated by the filing of a petition by the state attorney, ~~an authorized agent of the division of youth services~~, an authorized agent of the Division of Family Services, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(4) The state attorney shall represent the state in all proceedings in which the petition alleges delinquency and shall represent the state in any proceeding in which the petition alleges dependency ~~or need of supervision~~ when a party denies the allegations of the petition and contests the adjudication.

(5) When a petition has been filed and the child or his counsel, if the petition alleges delinquency ~~or need of supervision~~, or the parents or custodian, if the petition alleges dependency, has advised the intake office that the truth of the allegations is acknowledged and that no contest is to be made of the adjudication, the intake officer may set the case before the court for an adjudicatory hearing. Neither the state attorney nor an assistant state attorney shall be required to be present. Should there be a change in the plea at this hearing the court shall continue the hearing to permit the state attorney to present the case for the state.

(7) On motions by or in behalf of a child, a petition alleging delinquency ~~or need of supervision~~ shall be dismissed with prejudice if, it was not filed within 30 days from the date the complaint was referred to the intake office.

Section 18. Subsection (2) and paragraph (a) of subsection (4) of section 39.06, Florida Statutes, are amended to read:

39.06 Process and service.—

(2) Upon the filing of a petition containing allegations of facts which, if true, would constitute the child therein named a dependent child ~~or a~~ delinquent child, ~~or a child in need of supervision~~, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(4) The summons shall be directed to, and shall be served upon, the following persons:

(a) The child, in the same manner as if he were an adult, when the petition alleges delinquency ~~or need of supervision~~;

Section 19. Section 39.08, Florida Statutes, is amended to read:

39.08 Medical, psychiatric, and psychological examination and treatment.—After a petition has been filed, the judge may order the child named in the petition to be examined by a physician, psychiatrist, or psychologist willing to do so. After a child has been adjudicated to be a dependent or delinquent child ~~or a child in need of supervision~~, or before such adjudication with the consent of any parent or legal custodian of the child, the judge may order the child to be treated by a physician, psychiatrist, or psychologist willing to do so. For the purpose of either examination or treatment, the judge may

order the child to be placed in a suitable place. When any child is detained pending a hearing, the person in charge of the detention facility or his designated representative may provide or cause to be provided such medical or surgical services as may be deemed necessary by a physician. A physician shall be immediately called if there are indications of injury or illness, or the child shall be taken to the nearest available hospital for emergency care. After a hearing, the court may order the parents, guardian, or custodian, if found able to do so, to reimburse the county for the expense involved in such emergency medical or surgical treatment. Nothing in this section shall be deemed to eliminate the right of the parents or the child to consent to examination or treatment for the child, except that consent of a parent shall not be required if the physician determines there is a serious injury or illness requiring immediate treatment and the child consents to such treatment or an ex parte court order is obtained authorizing said treatment.

Section 20. Paragraph (b) of subsection (1) and subsection (3) of section 39.09, Florida Statutes, are amended to read:

39.09 Hearings.—

(1) ADJUDICATORY HEARING.—

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is ~~a child in need of supervision or that the child is delinquent~~, the evidence must establish the status of the child beyond a reasonable doubt. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. All hearings, except as hereinafter provided, shall be open to the public, and no person shall be excluded therefrom except on special order of the judge, who, in his discretion, may close any hearing to the public when the public interest or the welfare of the child, in his opinion, is best served by so doing. All hearings involving unwed mothers, custody, or placement of illegitimate children shall remain confidential and closed to the public. Hearings involving more than one child may be held simultaneously where the several children involved are related to each other or were involved in the same transactions. The child and the parents or legal custodians of the child may be examined separately and apart from each other.

(3) DISPOSITION HEARING.—At the disposition hearing, the court shall receive and consider a predisposition study, which shall be in writing and be presented by an authorized agent of the Division of Youth Services in delinquency ~~and need of supervision~~ cases and by an authorized agent of the Division of Family Services in dependency cases. This study shall not be made prior to the adjudication of delinquency ~~or dependency, or need of supervision~~ unless the parents or custodians of the child consent thereto. Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child, and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing.

Section 21. Section 39.10, Florida Statutes, is amended to read:

39.10 Adjudication.—

(1) If the judge finds that the child named in a petition is not a ~~child in need of supervision~~, a dependent child, or a delinquent child, he shall enter an order so finding and dismissing the case.

(2) If the judge finds that the child named in the petition is ~~a child in need of supervision, a dependent child, or a delinquent child~~, but finds that no action other than supervision in his own home is required, he may, in his discretion, enter an order briefly stating the facts upon which his finding is based but withholding adjudication and placing the child on probation under the Division of Youth Services ~~or placing the child's home under supervision under the division of family services~~. He may also, as a condition of probation, revoke or suspend the child's driver's license. Should the court later find that the child does not comply with the conditions of his probation, ~~or the custodians of the child with the conditions of the supervision imposed on their home~~, the court may, after a hearing

to establish the lack of compliance, but without further evidence of the state of a need of supervision, delinquency, or dependency, adjudicate the child, and shall thereafter have full jurisdiction to deal with the child as adjudicated.

(3) If the judge finds that the child named in the petition is a dependent child, but finds that no action other than supervision in his own home is required, he may, in his discretion, enter an order briefly stating the facts upon which his finding is based but withholding adjudication and placing the child's home under supervision under the Division of Family Services. Should the court later find that the custodians of the child do not comply with the conditions of supervision imposed on their home, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of dependency, adjudicate the child, and shall thereafter have full jurisdiction to deal with the child as adjudicated.

(4)(3) If the judge finds that the child named in a petition is a dependent or delinquent child or a child in need of supervision, but shall elect not to proceed under subsections (2) or (3) above, he shall incorporate that finding in an order entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full jurisdiction to deal with the child as adjudicated.

(5)(4) An adjudication by a court that a child is a dependent or delinquent child or a child in need of supervision shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

(6)(5) In all cases in which one or both of the parents of a child is unable or unfit to be awarded custody and in which the child has a close relative who is fit, ready, able, and willing to be awarded such custody, the court shall award the custody of the child to such close relative and not to any foster home or agency of the state.

Section 22. Subsection (1) and paragraph (d) of subsection (2) of section 39.11, Florida Statutes, 1974 Supplement, are amended to read:

39.11 Powers with reference to a dependent or delinquent child or child in need of supervision.—

(1)(a) When any child shall be adjudicated for the first time by the court to be a child in need of supervision, the court having jurisdiction of the child shall have power by order to make any disposition authorized for a delinquent child except commitment to the Division of Youth Services.

(b) For any subsequent adjudications as a child in need of supervision, the court shall have power, by order, to make any disposition authorized for a delinquent child.

(c) The jurisdiction of the court and any commitment made pursuant to this (subsection) shall be continued until terminated by the court or until the child is discharged by the division or reaches the age of 18.

(1)(2) When any child shall be adjudicated by a court to be a dependent child, the court having jurisdiction of the child shall have the power, by order, to:

(d) Permanently commit the child to the Division of Family Services or a licensed child-placing agency willing to receive the child for subsequent adoption if the court finds that the child has been abandoned by the natural parent or parents, and legal guardian, if any, of the child; or that the parent or parents, and legal guardian, if any, have substantially and continuously or repeatedly refused, or though financially able have neglected, to give the child parental care and protection; or that the parent or parents, and legal guardian, if any, are unfit by reason of their conduct or condition which is seriously detrimental to the child's welfare; or if the parent or parents have voluntarily executed a written surrender of the child for subsequent adoption in the form required by paragraph (c) of subsection (6); and if the court finds that it is manifestly to the best interest of the child to do so. *The disposition provided by this paragraph is unavailable for any dependent child as defined in s.39.01(10)(h) and (i).*

Section 23. Subsection (2) of section 232.09, Florida Statutes, is amended to read:

232.09 Parents responsible for attendance of children.—Each parent of a child within the compulsory attendance age shall be responsible for such child's school attendance as required by law. The absence of a child from school shall be prima facie evidence of a violation of this section; provided, that no parent of a child shall be held responsible for such child's nonattendance at school under any of the following conditions:

(2) WITHOUT KNOWLEDGE OR UNABLE TO CONTROL.—The absence was without the parent's knowledge, consent, or connivance; or that he or she has made a bona fide and diligent effort to control and keep the child in school and that he or she is unable to do so; in which cases the child shall be dealt with as a dependent child delinquent; or

Section 24. Subsection (3) and paragraph (b) of subsection (6) of section 232.19, Florida Statutes, are amended to read:

232.19 Court procedure and penalties.—The court procedure and penalties for the enforcement of the provisions of this chapter, relating to compulsory school attendance, shall be as follows:

(3) HABITUAL TRUANCY CASES.—In case a child becomes a habitual truant the attendance assistant shall file with the Circuit Court a complaint alleging the facts and the child shall be dealt with as a dependent child according to the provisions of chapter 39.

(6) PENALTIES.—Penalties for refusing or failing to comply with the provisions of this chapter shall be as follows:

(b) The child.—The child who, because of irregular attendance, habitual truancy, or persistent misconduct, has become incorrigible and a menace to the school he attends or should attend shall be dealt with by the circuit court of the county, as if he were a child in need of supervision.

Section 25. Subsection (11) of section 39.01, Florida Statutes, as amended by chapter 74-368, Laws of Florida, is hereby repealed.

Section 26. All persons 18 years old or older who are committed to or under the supervision of the Division of Youth Services for an offense defined in s.39.01(11), Florida Statutes, on the effective date of this act, shall be discharged, and all children 17 years old and younger who are committed to or under the supervision of the Division of Youth Services for an offense defined in s.39.01(11), Florida Statutes, on the effective date of this act, shall be transferred in an orderly manner to the child serving agency within the Department of Health and Rehabilitative Services.

Section 27. If any section of this act, or any part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of such section or any other section or part thereof.

Section 28. This act shall take effect July 1, 1975 except that section 6 of this act shall take effect June 30, 1976. The department shall complete reorganizing in accordance with the provisions of this act by July 1, 1976.

Amendment (2)—Strike the entire title and insert the following:

A bill to be entitled

An act relating to the Department of Health and Rehabilitative Services; providing legislative intent; amending s.20.19, Florida Statutes, 1974 Supplement; providing for the reorganization of the department; providing legislative goals; organizing the department on a regional service basis and abolishing all present divisions; providing duties of the Secretary of Health and Rehabilitative Services and the deputy secretary; establishing program offices designed to operate in a staff capacity to the secretary; transferring present functions of divisions to program offices; providing duties and directors thereof; providing for advisory councils thereto; establishing an Advisory Council; providing membership, duties, and objectives thereof; establishing a Human Rights Advocacy Committee; providing membership and responsibilities thereof; establishing an Office of Management and Budget; assigning present functions of the Division of Administrative Services and the Division of Planning and Evaluation thereto and providing further responsibilities; providing for regional directors,

under the authority of the secretary; providing powers, duties, and salary level thereof; providing for appointment of regional program supervisors in specified subject areas by regional directors; providing function and duties thereof; establishing regional advisory councils; providing membership and responsibilities thereof; establishing regional human rights advocacy committees, providing membership, duties and responsibilities thereof; establishing regional offices of management and budget; providing administrative functions thereof; authorizing the regional director to divide regions, for service delivery purposes, into local offices; providing responsibilities of local office supervisors; providing that services shall be categorized as client services or specialty services and providing definitions thereof; providing that institutions in each region shall be responsible to the regional director; providing procedures for the development of departmental budgets; authorizing the transfer of funds, appropriations, and positions within the department, within certain limitations; providing for the creation of a comprehensive information system; assigning the functions of certain divisions within the department to appropriate regional or program offices; providing for program evaluation; providing that rules of the department filed prior to the effective date of the act are repealed as of October 1, 1976; providing for the location of department headquarters; abolishing certain advisory councils and transferring the functions thereof; requiring the department to review eligibility requirements; adding subsection (7) to s.20.04, Florida Statutes, providing that the principal unit of the department is the office, headed by a director; amending ss.154.01-154.06, Florida Statutes, to conform to this act; repealing s.381.021, Florida Statutes, relating to the headquarters of the Division of Health; adding subsection (7) to s.394.66, Florida Statutes, providing that certain legislative intent provisions will govern with regard to community mental health services; requiring the department to reorganize within existing fiscal appropriations and resources; providing that the act shall not effect any legal proceeding pending; requiring quarterly reports on reorganization; requiring an annual report; providing for clarifying legislation at subsequent sessions; amending s.39-1(4), (5), (18), (22), (23), (25), (27) and (28), Florida Statutes, 1974 Supplement, and adding paragraphs to subsection (10) thereof, removing reference to the term "child in need of supervision" from definitions and including runaway children and children who are habitually truant within the definition of "dependent child"; amending s.39.02(1) and (4), F.S., 1974 Supplement, and ss.39.04(1), 39.05(2), (4), (5), and (7), 39.06(2) and (4)(a), 39.08, and 39.09(1)(b) and (3), F.S., to remove reference to the term "a child in need of supervision" in said sections and to delete agents of the Division of Youth Services from the list of persons authorized to file a petition seeking an adjudication that a child is dependent; amending s.39.03(1)(d), (2)(b) and (3)(a) and (b), F.S., removing reference to the term "child in need of supervision"; providing that a law enforcement officer may take a runaway child into custody for the purpose of delivering the child to the child's parents or guardians or to an authorized agent of the Division of Family Services without unreasonable delay; amending s.39.10, F.S., providing a procedure for withholding adjudication of a dependent child who needs supervision in his own home; removing reference to the term "child in need of supervision"; amending s.39.11(1) and (2)(d), F.S., 1974 Supplement, removing the procedure with reference to the adjudication that a child is a "child in need of supervision"; amending s.232.09(2), F.S., providing that when a child is absent from school without the knowledge of his parents or guardians or is beyond their control with regard to school attendance, the child shall be dealt with as a dependent child; amending s.232.19(3) and (6)(b), F.S., providing that a child who is habitually truant shall be dealt with as a dependent child; removing provisions which provide for the treatment of incorrigible children for purposes of school attendance and misconduct in school as children in need of supervision; repealing s.39.01(11), F.S., to delete the definitions of "child in need of supervision" from chapter 39, F.S.; providing for the discharge of persons 18 or older who are presently being treated as children in need of supervision under the Division of Youth Services, and for the transfer of children 17 and younger who are presently being so treated to the child caring agency of the Department of Health and Rehabilitative Services; providing an effective date.

On motions by Senator Gordon, the Senate refused to concur in House amendments 1 and 2 to CS for SB 165, and the House was requested to recede therefrom, and in the event the House refused to recede, a conference committee was requested to adjust the differences between the House and

Senate. The action, with the bill and amendments, was certified to the House.

Communications

IN THE SUPREME COURT OF FLORIDA
JANUARY TERM, A. D., 1975
FRIDAY, APRIL 25, 1975

IN RE: AMENDMENT ONE TO CERTIFICATE FILED
APRIL 7, 1975.

CERTIFICATION OF JUDICIAL Case No. 47,180
MANPOWER AS REQUIRED BY SECTION
9, ARTICLE V, CONSTITUTION OF
FLORIDA, AS REVISED MARCH 14, 1972.

PER CURIAM.

This Court, on April 7, 1975, published its Certificate setting forth recommendations on the number of additional judges needed during fiscal 1975-1976 for the District Courts of Appeal, the Circuit Courts and the County Courts. Additional information having been received and the previous recommendations having been reviewed accordingly, the Certificate is revised and amended to read as follows:

District Courts

First District	2
Second District	2
Fourth District	2
	<u>6</u> District Court Judges

Circuit Courts

Sixth Circuit	5
Ninth Circuit	1
Eleventh Circuit	4
Twelfth Circuit	1
Fifteenth Circuit	2
Sixteenth Circuit	1
Seventeenth Circuit	1
Nineteenth Circuit	1
Twentieth Circuit	2
	<u>18</u> Circuit Judges*

County Courts

Volusia	1
Alachua	2
Dade	2
Broward	3
Lee	1
	<u>9</u> County Judges*

*The changes from the initial Certificate are the addition of a Circuit Judge for the Ninth, Seventeenth and Sixteenth Circuits; deletion of the County Judges recommended for Orange County, Monroe County and Polk County.

The Court certifies these judicial offices are necessary and recommends they be made permanent by law and funded by the State.

A TRUE COPY

Attest:

SID J. WHITE, Clerk
Supreme Court of Florida

SPECIAL ORDER

HB 1267—A bill to be entitled An act relating to claims arising out of the rendering of medical care or services; creating s.627.353, Florida Statutes, requiring that all licensed hospitals, physicians, physician's assistants, osteopaths, and podiatrists obtain and maintain medical malpractice insurance or self-insurance within certain limits and provide financial support for a fund to pay claims exceeding the limits prior to practicing; limiting liability of such person when covered by the required insurance and by the fund; providing for creation of said fund and for administration and defense of the fund by the Department of Insurance; providing that expenses of the department in administering and defending the fund are to be paid out of the fund; providing for the investment of money

held in the fund; requiring an adequate defense of claims by insurers or self-insurers; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendment which was moved by Senator W. D. Childers:

Amendment 1—On pages 1-5, strike everything after the enacting clause and insert:

Section 1. The short title of this act shall be "The Medical Malpractice Reform Act of 1975".

Section 2. Section 627.352, Florida Statutes, is created to read:

§27.352 Medical Liability Insurance Commission.—

(1) The Florida Medical Liability Insurance Commission is hereby created, consisting of the following members: the insurance commissioner, the secretary of the Department of Health and Rehabilitative Services, and nine members to be appointed. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint 3 members to the commission. Each shall appoint a member of the legal profession, a provider of health services, and a representative from the insurance industry.

(2) The insurance commissioner shall be the chairman of the commission and shall provide records management for the commission. A majority of the commission members shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission. The affirmative vote by a majority of the quorum present at a duly called and noticed meeting shall be required to exercise any power or function of the commission. Each member shall be entitled to one vote on all matters which may come before the commission. The commission may delegate to one or more of its members such duties as it deems proper.

(3) The insurance commissioner and the secretary of the Department of Health and Rehabilitative Services may designate a representative from his agency to exercise his power and perform his duties, including the right to vote on the commission.

(4) Members of the commission serving as representatives of the general public shall receive mileage and \$20 per diem for attending meetings of the commission. Each member of the commission shall be allowed the necessary and actual expenses which he shall incur in the performance of his duties under this article.

(5) On or before January 1, 1976, the commission, in cooperation and consultation with appropriate state and federal agencies, the medical and legal professions, the insurance industry and representatives of the general public, shall prepare and submit to the Governor and the legislature its report and recommendations.

(a) The goal of the plan shall be to recommend a medical liability insurance system which can be operated at reasonable cost for the purpose of providing prompt, equitable compensation to those sustaining medical injury.

(b) Primary consideration shall be given, but not limited to, establishing an insurance system which can be underwritten by private insurers on a self-supporting basis using actuarially sound rates.

(c) If the commission finds that no insurance system meeting the goal of the plan can be underwritten by private insurers on a self-supporting basis using actuarially sound rates, it shall specify the needed changes in the statutes to create a viable market for medical liability insurance, or self-insurance.

(d) The comprehensive report shall include recommendations to the legislature for reducing the incidence of medical injuries, including establishing standards of care and procedures for peer review; reducing the cost of prosecuting and defending claims and administering the insurance mechanism, changes in existing law governing the eligibility of injured persons for compensation and the amount of compensation, including limitations on the time within which claims may be brought and the elements of loss for which compensation may be recovered and any other matters or procedures which the

commission considers relevant to the medical liability insurance problem.

(e) The commission is authorized and encouraged to make interim reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives concerning specific legislative proposals, which need immediate consideration.

Section 3. Subsection (1) of section 627.355, Florida Statutes, is amended to read:

627.355 Medical malpractice insurance; purchase.—

(1) A group or association of physicians or health care facilities, composed of any number of members, organized for purposes other than the purchase of medical malpractice insurance, which has been in continuing existence for a period of at least 2 years, is authorized partially to self-insure against claims of medical malpractice upon obtaining approval from the Department of Insurance and upon complying with the following conditions:

(a) Establishment of a medical malpractice risk management trust fund to provide coverage against professional medical malpractice liability.

(b) Employment of a professional staff and consultants for loss prevention and claims management coordination under a risk management program.

Section 4. Section 768.132, Florida Statutes, is created to read:

768.132 Medical liability mediation panel.—

(1) The chief judge of each judicial circuit shall prepare a list of persons to serve on medical liability mediation panels, whose purpose shall be to hear and to facilitate the disposition of all medical malpractice actions arising within the jurisdiction of the circuit. The number of persons on the list shall be determined by the chief judge but shall be in sufficient numbers to efficiently carry out the intent of this section. All hearings, as hereinafter provided for, shall be before a three-member panel composed as follows: a judicial referee who shall be the presiding member of the hearing panel, a licensed physician and an attorney. The judicial referee shall be a circuit judge. Such appointments shall be made by a "blind" system. The other panel members shall be selected in accordance with the following procedure:

(a) A list of physicians licensed to practice under chapters 458 or 459 shall be prepared by the chief judge. In making the list, the chief judge may accept the recommendations of recognized professional medical societies. The list shall be divided into lists of physicians according to the particular specialty of each if possible.

(b) A list of qualified attorneys shall be prepared by the presiding judge. In making the list the chief judge may accept the recommendations of recognized professional legal societies.

(c) Names of physicians and attorneys may be added to or taken off the panel list at any time by the chief judge at his discretion, provided, however, that all names added to the list shall be placed at the bottom of the list.

(d) A physician or attorney selected to be on the hearing panel for a particular case may disqualify himself or be challenged for cause.

(e) A filing fee not to exceed \$25 shall be established by the presiding judge in each circuit and shall be paid to the clerk of the circuit court. The filing fee shall be used to meet such incidental expenses as the panel may incur.

(2) Any person or his representative claiming damages by reason of injury, death or monetary loss on account of the alleged malpractice by any medical or osteopathic physician, hospital, or health maintenance organization and against whom he believes there is a reasonable basis for a claim shall submit such claim to the appropriate panel before that claim may be filed in any court of this state. Claims shall be made on forms provided by the circuit court and shall be filed initially with the clerk of that court, with copies mailed to the person against whom the claim is made and to the administrative board licensing such professional. Service of process shall be effected as provided by law. Constructive service of process may be effected as provided by law. All parties named as defendants

in the claim shall file an answer to such claim within 20 days of the date of service. No other pleadings shall be allowed. If no answer is filed within such time limit, the jurisdiction of the mediation panel over the subject matter shall terminate, and the parties may proceed in accordance with law. Within 30 days after service of process, the parties shall file with the clerk a document designating the type of medical specialist who should hear the claim. In the event the parties do not agree on the specialist, the judicial referee shall make the determination. In no event shall more than one medical practitioner serve on a mediation panel.

(3) If both parties agree upon a doctor and an attorney to serve on the hearing panel, they may so stipulate. In the event that no agreement is reached within ten days after determination of the specialty of medical practice involved, the clerk shall mail to the parties and the panel members hereinafter described the names selected at random of five attorneys who are members of the hearing panel and the names selected at random of five physicians of the designated specialty who are members of the hearing panel, or if it is impractical to designate the physicians by specialty, the names selected at random of five physicians without regard to specialty. Thereafter, the panel members so selected shall have 10 days within which to disqualify themselves and the parties shall have the same time in which to challenge panel members for cause. A decision on challenges for cause shall be made by agreement or by the judicial referee. If there are disqualifications or challenges for cause, the clerk shall appoint additional panel members as required. Thereafter, from the list of five attorneys and five physicians, the parties shall agree on one attorney and one physician to serve on the hearing panel. If the parties are unable to agree, each side shall then strike names alternately from the attorneys' list and from the physicians' list separately, with the claimant striking first, until each side has stricken two names from each list. The remaining attorney and physician shall serve on the hearing panel.

(4) The clerk shall, with the advice and cooperation of the parties and their counsel, fix a date, time and place for a hearing on the claim before the hearing panel, provided, however, that the hearing shall be held within 120 days of the date the claim is filed with the clerk, unless for good cause shown upon order of the judicial referee, such time is extended. Such extension shall not exceed 6 months from the date the claim is filed. If no hearing is held on the merits within 10 months of the date the claim is filed, the jurisdiction of the mediation panel on the subject matter shall terminate and the parties may proceed in accordance with law.

(5) The filing of the claim shall toll any applicable statute of limitations, and such statute of limitations shall remain tolled until the hearing panel issues its written decision, or the jurisdiction of the panel is otherwise terminated. In any event, a party shall have 60 days from the date the decision of the hearing panel is mailed to the parties or the date on which the jurisdiction of the panel is otherwise terminated in which to file a complaint in circuit court.

(6) All parties shall be allowed to utilize any discovery procedure provided for by the Florida Rules of Civil Procedure. Any motion for relief arising out of the use of such discovery procedures shall be decided by the judicial referee. The judicial referee may in his discretion make reasonable limitations on the extent of discovery.

(7) The claim shall be submitted to the hearing panel under such procedural rules as may be established by the Supreme Court, provided that strict adherence to the rules of procedure and evidence applicable in civil cases shall not be required. Witnesses may be called, all testimony shall be under oath, testimony may be taken either orally before the panel or by deposition, copies of records; x-rays and other documents may be produced and considered by the panel and the right to subpoena witnesses and evidence shall obtain as in all other proceedings in the circuit court. The right of cross-examination shall obtain as to all witnesses who testify in person. Both parties shall be entitled, individually and through counsel, to make opening and closing statements. No transcript or record of the proceedings shall be required, but any party may have the proceedings transcribed or recorded. The judge presiding at the hearing shall not preside at any trial arising out of the claim or hear any application in the case not connected with the hearing itself. No other hearing panel member shall participate in a trial arising out of the claim either as counsel or witness.

(8) Within 30 days after the completion of any hearing, the hearing panel shall file a written decision with the clerk of the court who shall thereupon mail copies to all parties concerned and their counsel. The panel shall decide the issue of liability and shall state its conclusion in substantially the following language: We find the defendant was negligent in his care and/or treatment of the patient and we, therefore, find for the plaintiff; or We find the defendant was not negligent in his care and/or treatment of the patient and we, therefore, find for the defendant. The decision shall be signed by all members of the hearing panel; however, any member of the panel may file a written concurring or dissenting opinion.

(9) After a finding of liability, if the adverse parties agree, the panel may continue mediation for the purpose of assisting the parties in reaching a settlement. In such event, the panel shall also make a recommendation as to a reasonable range of damages, if any, which should be awarded in the case. The recommendation as to damages shall include in simple, concise terms some breakdown as to which portion of the damages recommended are attributable to past and estimated future health or custodial care expenses attributable to the alleged malpractice or any of the other elements of damage enumerated in chapter 768.21, Florida Statutes, for wrongful death or recognized by the Florida Standard Jury Instructions as elements of damages in injuries due to negligence. However, the panel shall not have the right to determine punitive damages. Any findings of damages shall not be admissible in evidence in a subsequent trial.

(10) In the event any party rejects the decision of the hearing panel, the claimant may institute litigation based upon the claim in the appropriate court. If the final determination by the trier of fact as to damages results in an award equal to or less than the findings of the hearing panel as to damages, then, in the court's discretion, the court may fix and determine the attorney fees to be awarded to the plaintiff's attorney. In such event, the attorney shall not collect any additional attorney fees from the client. Furthermore, in any civil medical malpractice action, the trial on the merits shall be conducted without any reference to insurance, insurance coverage or joinder in the suit of the insurer as a co-defendant.

(11) The conclusion of the hearing panel on the issue of liability may be admitted into evidence in any subsequent trial. However, no specific findings of fact shall be admitted into evidence at trial. Parties may, in the opening statement or argument to the court or jury, comment on the panel's conclusion in the same manner as any other evidence introduced at trial. If there is a dissenting opinion, the numerical vote of the panel shall also be admissible. Panel members may not be called to testify as to the merits of the case. The jury shall be instructed that the conclusion of the hearing panel shall not be binding but shall be accorded such weight as they choose to ascribe to it.

(12) No member of the hearing panel shall be liable in damages for libel, slander or defamation of character of any party to the mediation proceedings for any action taken or recommendation made by such member acting within his official capacity as a member of the hearing panel.

Section 5. The provisions of section 4 of this act shall not be applicable to any case in which formal suit has been instituted prior to the effective date of this act.

Section 6. Section 95.11, Florida Statutes, 1974 Supplement, is amended to read as follows:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(4) WITHIN TWO YEARS.

(a) An action for professional malpractice, other than medical malpractice, whether founded on contract or tort; provided that the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence; provided, however, that the limitation of actions herein for professional malpractice shall be limited to persons in privity with the professional.

(b) An action for medical malpractice shall be commenced within two years from the time the incident occurred giving rise to the action, or within two years from the time the incident is discovered, or should have been discovered with the exercise of due diligence, provided, however, that in no event shall the action be commenced later than four years from the date of the incident or occurrence out of which the cause of

action accrued. An action for medical malpractice is defined as a claim in tort or in contract for damages because of the death, injury, or monetary loss to any person arising out of any medical, dental, or surgical diagnosis, treatment, or care by any provider of health care. The limitation of actions within this subsection shall be limited to the health care provider and persons in privity with the provider of health care. In those actions covered by this paragraph where it can be shown that fraudulent concealment or intentional misrepresentation of fact prevented the discovery of the injury within the four-year period, the period of limitations is extended forward two years from the time that the injury is discovered or should have been discovered with the exercise of due diligence, but in no event to exceed seven years from the date the incident giving rise to the injury occurred.

(b)(c) An action to recover wages or overtime or damages or penalties concerning payment of wages or overtime.

(e)(d) An action for wrongful death.

Section 7. Section 768.042, Florida Statutes, is created to read:

768.042 Damages.—In any action brought in the circuit court to recover damages for personal injury or wrongful death, the amount of general damages shall not be stated in the complaint, but the amount of special damages, if any, may be specifically pleaded and the requisite jurisdictional amount established for filing in any court of competent jurisdiction.

Section 8. The provisions of section 7 of this act shall not apply to any complaint prior to the effective date of this act.

Section 9. Section 725.01, Florida Statutes, is amended to read:

725.01 Promise to pay another's debt, etc.—No action shall be brought whereby to charge any executor or administrator upon any special promise to answer or pay any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person or to charge any person upon any agreement made upon consideration of marriage, or upon contract for the sale of lands, tenements or hereditaments, or of any uncertain interest in or concerning them, or for any lease thereof for a period longer than 1 year, or upon any agreement that is not to be performed within the space of 1 year from the making thereof, or whereby to charge any health care provider upon any guarantee, warranty or assurance as to the results of any medical, surgical or diagnostic procedure, performed by any physician licensed under chapter 458, Florida Statutes, osteopath licensed under chapter 459, Florida Statutes, chiropractor licensed under chapter 460, Florida Statutes, podiatrist licensed under chapter 461, Florida Statutes, or dentist licensed under chapter 466, Florida Statutes, unless the agreement or promise upon which such action shall be brought, or some note or memorandum thereof shall be in writing and signed by the party to be charged therewith or by some other person by him thereunto lawfully authorized.

Section 10. Section 768.132, Florida Statutes, is created to read:

768.132 Florida medical consent law.—

(1) This section shall be known and cited as the "Florida Medical Consent Law".

(2) In any medical treatment activity not covered by s.768.13, Florida Statutes, entitled "the Good Samaritan Act", this act shall govern.

(3) No recovery shall be allowed in any court in this state against any physician licensed under chapter 458, Florida Statutes, osteopath licensed under chapter 459, Florida Statutes, chiropractor licensed under chapter 460, Florida Statutes, podiatrist licensed under chapter 461, Florida Statutes, or dentist licensed under chapter 466, Florida Statutes, in an action brought for treating, examining, or operating on a patient without his informed consent where:

(a) The action of the physician, osteopath, podiatrist, or dentist in obtaining the consent of the patient or another person authorized to give consent for the patient was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community; and

(b) A reasonable individual from the information provided by the physician, osteopath, podiatrist, or dentist under the circumstances, would have a general understanding of the procedure and medically acceptable alternative procedures or treatments and substantial risks and hazards inherent in the proposed treatment or procedures which are recognized among other physicians, osteopaths, podiatrists, or dentists in the same or similar community who perform similar treatments or procedures; or

(c) The patient would reasonably, under all the surrounding circumstances, have undergone such treatment or procedure had he been advised by the physician, osteopath, podiatrist, or dentist in accordance with the provisions of paragraphs (a) and (b) of this section.

(4)(a) A consent which is evidenced in writing and meets the requirements of subsection (3), shall, if validly signed by the patient or another authorized person, be conclusively presumed to be valid consent. This presumption may be rebutted if there was a fraudulent misrepresentation of a material fact in obtaining the signature.

(b) A valid signature is one which is given by a person who under all the surrounding circumstances is mentally and physically competent to give consent.

Section 11. Subsection (5) of s.458.1201, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to said section; paragraph (m) of subsection (1) of said section is amended and paragraphs (o) and (p) are added to said subsection; paragraphs (c) and (d) are added to subsection (2) of said section; paragraph (a) of subsection (3) of said section is amended to read:

458.1201. Denial, suspension, revocation of license; disciplinary powers.—

(1) The board shall have authority to deny an application for a license or to discipline a physician licensed under this chapter or any antecedent law who, after hearing has been adjudged unqualified or guilty of any of the following:

(m) Being guilty of immoral or unprofessional conduct, *incompetence, negligence, or willful misconduct*. Unprofessional conduct shall include any departure from, or the failure to conform to, the ~~minimal~~ standards of acceptable and prevailing medical practice in his area of expertise as determined by the board, in which proceeding actual injury to a patient need not be established; ~~or the committing by a physician of any act contrary to honesty, justice, or good morals, when whether~~ the same is committed in the course of his practice or otherwise, and whether committed within or without this state;

(o) Being found liable by a court of competent jurisdiction for medical malpractice or any medical injury resulting from an act or omission committed or omitted by a person in his capacity as a physician licensed pursuant to this chapter.

(p) Being removed or suspended or having disciplinary action taken by his peers within any professional medical association, society, professional standards review organization established pursuant to section 249F of Public Law 92-603, or similarly constituted professional body, whether or not such association, society, organization, or body is local, regional, state, national, or international in scope, or by being disciplined by a licensed hospital or medical staff of said hospital for immoral or unprofessional conduct or willful misconduct or negligence by a person in his capacity as a physician licensed pursuant to this chapter. Any body taking action as set forth in this paragraph shall report such action to the board within 30 days of its occurrence or be subject to a fine assessed by the board in an amount not exceeding five hundred dollars.

(2)(c) In any proceeding under subsection (1) of this section the board may appoint one or more licensed physicians to act for the board in investigating the conduct or competence of a physician.

(d) There shall be no liability on the part of, and no cause of action of any nature shall arise against the board, its agents, its employees, or any organization or its members identified in paragraph (p) of subsection (1) of this section, for any statements made by them in any reports or communications concerning an investigation of the conduct or competence of a physician.

(3)(a) When the board finds any person unqualified or guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following:

1. Deny his application for a license;
2. Permanently withhold issuance of a license;
3. Administer a public or private reprimand;
4. Suspend or limit or restrict his license to practice medicine for a period of up to 5 years;
5. Revoke his license to practice medicine;
6. Require him to submit to the care, counseling, or treatment of physicians designated by the board;

7. Require him to participate in a program of continuing education prescribed by the board;

8. Require him to practice under the direction of a physician in a public institution, public or private health care program, or private practice for a period of time specified by the board.

(5) The board shall report to the President of the Senate, and the Speaker of the House of Representatives, on February 1 and November 1, the status of the actions taken by the board in carrying out its responsibilities assigned to it under this section.

(6) ~~(5)~~ The provisions of this section are enacted in the public welfare and shall be liberally construed so as to advance the remedy.

Section 12. Subsection (8) of s.627.351, Florida Statutes, is created to read:

627.351 Insurance risk apportionment plan.—

(3)(a) The Department of Insurance shall, after consultation with insurers as set forth in paragraph (b), adopt a temporary joint underwriting plan as set forth in paragraph (c).

(b) Entities licensed to issue casualty insurance as defined in s.624.605(1)(b)(j)(p), Florida Statutes, and self-insurers authorized to issue medical malpractice insurance under s.627.355, Florida Statutes, shall participate in the plan and shall be members of the Temporary Joint Underwriting Association.

(c) The temporary joint underwriting plan shall function for a period not exceeding three years from the date of its adoption by the Department of Insurance and if still in existence at the end of such three-year period, it shall automatically terminate. The plan shall provide professional liability or malpractice coverage in a standard policy form for all hospitals licensed under chapter 395, Florida Statutes, physicians licensed under chapter 458, Florida Statutes, osteopaths licensed under chapter 459, Florida Statutes, podiatrists licensed under chapter 461, Florida Statutes, dentists licensed under chapter 466, Florida Statutes, nurses licensed under chapter 464, Florida Statutes, and nursing homes licensed under chapter 400, Florida Statutes. The plan shall include but not be limited to the following:

(1) Rules for the classification of risks and rates which reflect past and prospective loss and expense experience in different areas of practice and in different geographical areas.

(2) A rating plan which reasonably recognizes the prior claims experience of insureds.

(3) Provisions as to rates for insureds who are retired, semi-retired, the estate of a deceased insured, or part-time professionals.

(4) Protection in an amount to be determined by the insurance commissioner.

(5) Rules to implement the orderly dissolution of the plan at its termination.

(d) Premium contingency assessment.

(1) In the event an underwriting deficit exists at the end of any year the plan is in effect, each policyholder shall pay to the association a premium contingency assessment not to exceed one-third of the annual premium payment paid by such policyholder to the association. The association shall cancel the policy of any policyholder who fails to pay the premium contingency assessment.

(2) Any deficit sustained under the plan shall first be recovered through the premium contingency assessment. Concurrently, the rates for insureds shall be adjusted for the next year so as to be actuarially sound.

(3) If there be any remaining deficit under the plan after maximum collection of the premium contingency assessment, such deficit shall be recovered from the companies participating in the plan in the proportion that the net direct premiums of each such member written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association. Premiums as used herein shall mean premiums for the lines of insurance defined in s.624.605(1)(b) and (j), Florida Statutes, including premiums for such coverage issued under package policies.

(e) The plan shall provide for one or more insurers able and willing to provide policy service through licensed resident agents and claims service on behalf of all other insurers participating in the plan.

(f) The Department of Insurance, prior to termination of the plan, shall determine whether a need reasonably exists for continuing coverage for those who have been insured by the plan, as to claims solely for incidents which occurred during the existence of the plan. If such need is found, the Department of Insurance shall establish a plan for the purchase of such coverage for a reasonable time, prior to termination of the plan.

Section 13. Section 627.353, Florida Statutes, is created to read:

627.353 Limitation of liability and patient's compensation fund.—

(1) All hospitals licensed under chapter 395, Florida Statutes, physicians and physician's assistants licensed under chapter 458, Florida Statutes, osteopaths licensed under chapter 459, Florida Statutes, and podiatrists licensed under chapter 461, Florida Statutes, may obtain and maintain medical malpractice insurance providing coverage in an amount of \$100,000 or more and pay the yearly assessment into the patient's compensation fund pursuant to subsection (2) of this section prior to practicing during any year.

(2) A licensed hospital, physician, physician's assistants, osteopath, or podiatrist shall not be liable for an amount in excess of \$100,000 to any person under a single occurrence for claims arising out of the rendering of medical care or services in this state if at the time the incident occurred giving rise to the cause of the claim the hospital, physician, osteopath, or podiatrist:

(a) had posted bond in the amount of \$100,000 or proved financial responsibility in the amount of \$100,000 to the satisfaction of the insurance commissioner, or

(b) had obtained medical malpractice insurance or self-insurance as provided in s.627.355, Florida Statutes, providing coverage in an amount of \$100,000 or more, and

(c) had paid for the year in which the incident occurred for which the claim was filed the fee assessed by the insurance commissioner pursuant to subsection (4) of this section.

(3) A licensed hospital, physician, physician's assistant, osteopath, or podiatrist who does not meet the provisions of subsection (2) of this section shall be subject to liability under law without regard to the provisions of this section.

(4)(a) There is created a "patient's compensation fund" hereinafter referred to as the "fund". Annually each licensed hospital, physician, physician's assistant, osteopath, or podiatrist covered under the fund shall pay a fee to the insurance commissioner for deposit into the fund. The amount of the fee shall be \$1,000 for any individual and \$100 per bed for any hospital until such time as the insurance commissioner adjusts the fee upward or downward as follows: If the fund exceeds \$25,000,000 at the end of any calendar year after payment of all claims and expenses for that year, the insurance commissioner shall adjust the fee to an appropriate amount to maintain the fund at the level of \$25,000,000. In no case shall the assessment exceed \$1,000 per individual or \$100 per bed in any calendar year. The fund may be used to meet the excess insurance requirements of section 627.355, Florida Statutes.

(b) Moneys shall be withdrawn from the fund only upon warrants of the state comptroller prepared in response to vouchers approved by the insurance commissioner.

(c) The fee for each year shall be due and payable by December 15 of the previous year and the Department of Insurance shall send each hospital, physician, physician's assistant, osteopath, or podiatrist covered by the fund a statement by November 1 explaining the provisions of this section and requesting payment of the fee. The Board of Medical Examiners shall supply the department with any information necessary to assist the department in administering the fund.

(d) The expenses of the Department of Insurance in administering the fund and collecting the fees shall be paid from the fund and reported annually to the joint legislative auditing committee.

(e) Claims filed against the fund pursuant to subsection (5) of this section shall be paid in the order received within 90 days after filing unless appealed by the fund. If the fund does not have enough funds to pay all of the claims, claims received after the funds are exhausted shall be immediately payable the following year in the order received.

(f) Any person may file an action for damages exceeding \$100,000 in amount arising out of the rendering of medical care or services against a person covered under the fund and said person shall name the fund as a defendant in the suit. The Department of Insurance shall appear and actively defend the fund. In defending the fund, the Department of Insurance shall pay out of the fund attorney's fees and expenses including court costs incurred in defending the fund. Any judgment against the fund may be appealed under the Florida Appellate Rules of Procedure as with any defendant.

(g) Money held in the fund shall be invested by the Department of Insurance as administrator of the fund in short-term investments in the same manner as such money would be invested if deposited in the general revenue fund.

(5) A person who has recovered a final judgment or a court approved settlement against a hospital, physician, physician's assistant, osteopath, or podiatrist who has complied with this statute may file a claim with the insurance commissioner to recover from the fund the amount of any judgment in excess of \$100,000.

(6) It shall be the responsibility of the insurer or self-insurer to provide an adequate defense on any claim filed against an insured or self-insured. The insurer or self-insurer shall act in a fiduciary relationship with respect to any claim affecting the fund. No settlement exceeding \$100,000 shall be agreed to by an insurer or self-insurer unless approved by the insurance commissioner.

(7) If a person has coverage in excess of \$100,000, he shall be liable for losses up to the amount of his coverage, and he shall receive an appropriate reduction of his assessment for the fund. Such reduction shall be granted only after that person has proven to the satisfaction of the Department of Insurance that he has such coverage.

Section 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 15. This act shall take effect upon becoming a law.

Senator W. D. Childers moved the following amendments to Amendment 1 which were adopted:

Amendment 1A—On page 10, line 14, strike "act" and insert: section, which shall be effective July 1, 1975

Amendment 1B—On page 11, line 14, strike "fraudulent concealment" and insert: fraud, concealment,

Amendment 1C—On page 16, line 18; after the word "revoke" insert: indefinitely

Amendment 1D—On page 18, line 12, strike the period and insert: and for those hospitals licensed under chapter 395, Florida Statutes, whose policies have been cancelled since April 1, 1975, that have not been able to otherwise secure coverage in the standard market shall provide continuous coverage at the limits available in the plan from the above date.

Amendment 1E—On page 20, line 12, after the words "malpractice insurance" insert: from a private insurer

Amendment 1F—On page 22, strike all of lines 1 and 2 and insert: said person shall notify the fund by certified mail of the suit. However, the plaintiff shall not name the fund as a party to the suit. The Department of Insurance may appear and actively defend

Senator Wilson moved the following amendment to Amendment 1 which failed:

Amendment 1G—On page 1, line 9, strike "nine" and insert: twelve

Senator Zinkil moved the following amendment to Amendment 1 which failed:

Amendment 1H—On page 2, line 2, strike "\$20" and insert: \$50.00 (Fifty dollars)

Senator Myers moved the following amendment to Amendment 1 which was adopted:

Amendment 1I—On page 3, between lines 13 and 14, insert: a new section 3 and renumber subsequent sections:

"Section 3. Section 395.18, Florida Statutes, is created to read:

395.18 Internal risk management program.—Every hospital licensed pursuant to this chapter, having in excess of 300 beds, as a part of its administrative functions, shall establish an internal risk management program which shall include the following components:

(1) The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents causing injury to patients; and

(2) The development of appropriate measures to minimize the risk of injuries and adverse incidents to patients through the cooperative efforts of all personnel; and

(3) The analysis of patient grievances which relate to patient care and the quality of medical services.

The risk management program shall be carried out either through a person on the administrative staff of a hospital, as part of his administrative duties; or by a committee of the hospital board of trustees or directors; or by the medical staff in a manner deemed appropriate.

Further consideration of HB 1267 was deferred.

SCR 219—A concurrent resolution commending the Florida District of Kiwanis International and recognizing their contribution in the fight against High Blood Pressure.

—was read the second time in full. On motion by Senator Firestone, SCR 219 was adopted and certified to the House. The vote on adoption was:

Yeas—35

Mr. President	Graham	Peterson	Stolzenburg
Brantley	Hair	Plante	Thomas, J.
Childers, D.	Holloway	Poston	Thomas, P.
Childers, W. D.	Johnston	Renick	Trask
Deeb	Lane, D.	Saunders	Vogt
Dunn	Lane, J.	Sayler	Wilson
Firestone	MacKay	Scarborough	Winn
Gallen	McClain	Sims	Zinkil
Glisson	Myers	Spicola	

Nays—None

On motion by Senator Firestone, the rules were waived and SCR 219 was ordered immediately certified to the House.

On motion by Senator Firestone, the President appointed Senators Glisson, J. Lane, Poston, Vogt, Renick, Saylor, Zinkil, Sims and Stolzenburg as a committee to escort Mr. Ralph Davis and Dr. Will Blechman to the rostrum. Mr. Davis, on behalf of Dr. L. A. Baker, District Governor of the Florida Kiwanis Clubs, spoke briefly to the Senate.

The Senate resumed—

HB 1267—A bill to be entitled An act relating to claims arising out of the rendering of medical care or services; creating s.627.353, Florida Statutes, requiring that all licensed hospitals, physicians, physician's assistants, osteopaths, and podiatrists obtain and maintain medical malpractice insurance or self-insurance within certain limits and provide financial support for a fund to pay claims exceeding the limits prior to practicing; limiting liability of such person when covered by the required insurance and by the fund; providing for creation of said fund and for administration and defense of the fund by the Department of Insurance; providing that expenses of the department in administering and defending the fund are to be paid out of the fund; providing for the investment of money held in the fund; requiring an adequate defense of claims by insurers or self-insurers; providing an effective date.

Senator McClain moved the following amendment to Amendment 1 which failed:

Amendment 1J—On page 4, line 15, after "judge" insert: or a retired appellate or circuit judge.

Senator Johnston moved the following amendment to Amendment 1 which failed:

Amendment 1K—On page 4, line 1, strike all of Section 4, and on page 10, line 12, strike all of Section 5

(Renumber subsequent sections)

Senator Graham moved the following amendment to Amendment 1 which was adopted:

Amendment 1L—On page 8, line 19, after the word "patient" insert: and we find the negligence was a proximate cause of the injury

Senator Graham moved the following amendment to Amendment 1:

Amendment 1M—On page 8, line 21, after the word "patient" insert: or, we find that the negligence was not a proximate cause of the patient's injury

Amendment 1M failed by the following vote:

Yeas—13

Dunn	Graham	MacKay	Stolzenburg
Firestone	Johnston	McClain	
Gallen	Lane, D.	Poston	
Glisson	Lane, J.	Renick	

Nays—24

Mr. President	Hair	Scarborough	Trask
Brantley	Holloway	Sims	Vogt
Childers, D.	Lewis	Spicola	Ware
Childers, W. D.	Peterson	Thomas, J.	Wilson
Deeb	Plante	Thomas, P.	Winn
Gordon	Saunders	Tobiassen	Zinkil

On motion by Senator W. D. Childers the Senate reconsidered the vote by which Amendment 1L was adopted. Senator Graham withdrew the amendment.

Senator Wilson moved the following amendment to Amendment 1 which failed:

Amendment 1N—On page 9, line 25, insert after "panel": and dissenting opinion, if any,

Senator McClain moved the following amendment to Amendment 1 which failed:

Amendment 1O—On page 10, line 12, insert a new Section 5 and renumber subsequent sections.

Section 5. Section 768.041, Florida Statutes, is created to read:

768.041 Expert testimony.—Expert testimony admissible on the issue of standard of skill and care in a medical malpractice action shall be limited to testimony given by and through a person licensed under the same statutory provisions as the defendant. The court may define the community, not to exceed the boundaries of the state, for the purposes of establishing such standard of skill and care.

Senator Plante moved that the Senate reconsider the vote by which Amendment 1G failed. The Senate reconsidered and the amendment was adopted.

Senators Wilson and Plante offered the following amendment to Amendment 1 which was moved by Senator Plante and adopted:

Amendment 1P—On page 1, line 13, after "services," insert: a lay citizen

Senators Wilson and Plante offered the following amendment to Amendment 1 which was moved by Senator Wilson and adopted:

Amendment 1Q—On page 1, line 12, strike "3" and insert: 4

Senators Gallen and Graham offered the following amendments to Amendment 1 which were moved by Senator Gallen and adopted:

Amendment 1R—On page 8, line 18, strike "negligent" and insert: actionably negligent

Amendment 1S—On page 8, line 21, strike "negligent" and insert: actionably negligent

Senator Spicola moved the following amendments to Amendment 1 which were adopted:

Amendment 1T—On page 13, line 17, after the "," and before the word "podiatrist" insert: chiropractor,

Amendment 1U—On page 13, lines 24 and 29, after the "," and before the word "podiatrist" insert: chiropractor, on line 24 and insert chiropractors on line 29

Amendment 1V—On page 14, line 3, after the word "osteopath," insert: chiropractor

Senator Dunn presiding

Senators Myers and Zinkil offered the following amendment to Amendment 1 which was moved by Senator Myers and adopted:

Amendment 1W—On page 15, strike all of lines 9 and 10 and insert: (o) Being found liable for medical malpractice or any personal injury re-

Senator Wilson moved the following amendment to Amendment 1 which failed:

Amendment 1X—On page 15, line 30, strike "one" and insert: two

The President presiding

Senator Spicola moved the following amendment to Amendment 1 which was adopted:

Amendment 1Y—On page 9, line 14, strike "If the final determination by the trier of fact as to damage results in an award equal to or less than the findings of the hearing panel as to damages, then, in the court's discretion, the court may fix and determine the attorney fees to be awarded to the plaintiff's attorney. In such event, the attorney shall not collect any additional attorney fees from the client." and insert: At any time more than ten days before the trial begins a party defending against a claim may serve an offer on the adverse party to allow judgment to be taken against him for the money or property or to the effect specified by the hearing panel with costs then accrued. If the adverse party serves written notice that the offer is accepted within ten days after service of it, either party may then file the offer and notice of ac-

ceptance with proof of service and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence of it is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the adverse party is not more favorable than the offer, he must pay the costs incurred after the making of the offer. However, in the event the final determination by the trier of fact as to damages results in an award greater than the findings of the hearing panel as to damages, then the defendant shall pay all costs associated with the prosecution of such claim, including but not limited to all expert witness fees and discovery costs.

Senator MacKay presiding

The President presiding

On motion by Senator Brantley, the rules were waived and time of adjournment was extended until final action on HB 1267.

Senator Zinkil moved the following amendment to Amendment 1 which was adopted:

Amendment 1Z—On page 16, line 29, after "November 1" insert: of each year beginning November 1, 1975,

Senator Gordon moved the following amendment to Amendment 1 which was adopted:

Amendment 1AA—On page 17, between lines 4 and 5 insert the following section and renumber subsequent sections

Section 11. Hospital disciplinary powers.—

(1) The medical staff of any hospital licensed pursuant to chapter 395, Florida Statutes, is authorized to suspend, deny, revoke or curtail the staff privileges of any staff member for good cause, which shall include, but not be limited to:

(a) Incompetence;

(b) Negligence;

(c) Being found an habitual user of intoxicants or drugs to the extent that the physician is deemed dangerous to himself or others; or

(d) Being found liable by a court of competent jurisdiction for medical malpractice.

Provided, however, that the procedures for such actions shall comply with the standards outlined by the Joint Commission of Accreditation of Hospitals and the Principles of Participation in the Federal Health Insurance Program for the Aged.

(2) There shall be no liability on the part of and no cause of action of any nature shall arise against any hospital, hospital medical staff or hospital disciplinary body, its agents or employees, for any action taken in good faith and without malice in carrying out the provisions of this act.

Senator MacKay moved the following amendment to Amendment 1 which failed:

Amendment 1BB—On page 19, line 21, strike "Limitation of liability and"

On motion by Senator Gordon, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Dempsey J. Barron, President April 28, 1975

I am directed to inform the Senate that the House of Representatives refused to recede from House Amendments 1 and 2 to CS for SB 169 and acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Kutun, Hector, Fortune, Dixon, and Hazelton; alternate—J. Robinson as the Conferees on the part of the House.

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President April 28, 1975

I am directed to inform the Senate that the House of Representatives refused to recede from House Amendments 1 and 2 to CS for SB 165 and acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Kutun, Hector, Fortune, Dixon, and Hazelton; alternate, J. Robinson as the Conferees on the part of the House.

Allen Morris, Clerk

Conference Committees on CS for SB 169 and CS for SB 165

The President announced the appointment of Senators Gordon, Plante, Myers, MacKay and D. Childers as conferees on the part of the Senate on CS for SB 169 and CS for SB 165.

The Honorable Dempsey J. Barron, President April 28, 1975

I am directed to inform the Senate that the House of Representatives has adopted SCR 219.

Allen Morris, Clerk

The bill contained in the above message was ordered enrolled.

SPECIAL ORDER, continued

The Senate resumed consideration of—

HB 1267—A bill to be entitled An act relating to claims arising out of the rendering of medical care or services; creating s.627.353, Florida Statutes, requiring that all licensed hospitals, physicians, physician's assistants, osteopaths, and podiatrists obtain and maintain medical malpractice insurance or self-insurance within certain limits and provide financial support for a fund to pay claims exceeding the limits prior to practicing; limiting liability of such person when covered by the required insurance and by the fund; providing for creation of said fund and for administration and defense of the fund by the Department of Insurance; providing that expenses of the department in administering and defending the fund are to be paid out of the fund; providing for the investment of money held in the fund; requiring an adequate defense of claims by insurers or self-insurers; providing an effective date.

Senators W. D. Childers and Brantley offered the following amendment to Amendment 1 which was moved by Senator Brantley:

Amendment 1CC—On page 19, line 19 strike all section 13 and renumber subsequent sections.

Senator Plante moved that the Senate adjourn and that HB 1267 be placed at the beginning of the Special Order Calendar for Wednesday, April 30, and the motion failed.

Point of Order

Senator Firestone: Mr. President, I would like to raise a point of order and ask for a ruling of the chair on the extent of latitude a conference committee has in considering the issues raised in this debate. I would request that the chair rule for purposes of establishing a precedent as to what matters are germane before a conference committee so that we can have one precedent on this point upon which we can rely.

Mr. President: The question is whether or not the conference committee can consider material which is now stricken from this amendment to the House Bill but remains in one or more of the Senate Bills which were combined to create this amendment to the House Bill.

First, Senate Rule 2.19 states that conference committees shall consider and report only the differences existing between the Senate and the House and no substance foreign to the bills before the conferees shall be included in the report of the conference by the Senate. The House rule is somewhat broader than that.

Secondly, the bill before us, HB 1267, has been amended to include in it, SB 616 by Senator W. D. Childers, CS for SB 276 by Senator Ware, SB 282 by Senator Myers, CS for SB 181 by Senator D. Lane, SB 199 by Senator Gallen, SB 176 by Senator

Gallen, and SB 202 by Senator Gallen, all addressing themselves broadly to the matter of malpractice insurance.

Thirdly, the amendment proposes to strike certain material from the amendment to the House Bill, which is as I stated, a combination of several Senate Bills.

So, we are in essence striking material from the Senate Bills which would remain in the House Bill presuming that the House will not accept the Senate amendment and a conference will be called for, the conferees may therefore consider and adjust the differences in this section.

The question recurred on the adoption of Amendment 1CC which was adopted.

Senator Plante moved the following amendment to Amendment 1 which was adopted:

Amendment 1DD—On page 16, line 29, strike everything after "February 1" and insert: *of each year beginning February 1, 1976, the status of the actions taken by*

Senator Gordon moved the following amendment to Amendment 1:

Amendment 1EE—On page 22, after line 30 insert the following sections and renumber subsequent sections:

Section 14. Section 768.31, Florida Statutes, is created to read:

768.31 Tort claims; attorneys' fees.—

(1) No attorney may charge, demand, receive, or collect, in any action for medical malpractice claims any fee in excess of the following percentage of any settlement or judgment:

- (a) 50% on the first \$1000 recovered;
- (b) 40% on the next \$2000 recovered;
- (c) 33 1/3% on the next \$47,000 recovered;
- (d) 20% on the next \$50,000 recovered;
- (e) 10% on any amount recovered over \$100,000; and

(f) 25% on the first \$50,000 if the recovery is a settlement without trial for an infant or incompetent.

(2) Nothing in this section shall prevent an attorney seeking court approval of a higher fee than the above schedule should the facts and circumstances warrant same.

Section 15. No physician licensed under Chapter 458, Florida Statutes, or osteopathic physician licensed under Chapter 459, Florida Statutes, shall increase the price charged for a professional service more than 10% above the price in effect for that service on the last day of the immediately preceding calendar year, nor shall any such physician or osteopathic physician increase his fees charged for professional services in the aggregate more than 6.2% above a level computed on a weighted basis using the previous calendar year's billings, unless such increase is approved by the State Board of Medical Examiners or the State Board of Osteopathic Medical Examiners as appropriate.

Amendment 1EE failed by the following vote:

Yeas—16

Childers, D.	MacKay	Saunders	Vogt
Childers, W. D.	Myers	Stolzenburg	Wilson
Dunn	Poston	Tobiassen	Winn
Gordon	Renick	Trask	Zinkil

Nays—22

Mr. President	Hair	McClain	Spicola
Brantley	Holloway	Peterson	Thomas, J.
Deeb	Johnston	Plante	Thomas, P.
Firestone	Lane, D.	Sayler	Ware
Glisson	Lane, J.	Scarborough	
Graham	Lewis	Sims	

By unanimous consent Senator Gallen was recorded as voting nay.

Senator MacKay presiding

Senator Vogt moved the following amendment to Amendment 1:

Amendment 1FF—On page 22, after line 30, insert: Section 14. Section 768.31, Florida Statutes, is created to read:

768.31 Tort claims; attorneys' fees.—

(1) No attorney may charge, demand, receive, or collect, in any action for medical malpractice claims any fee in excess of the following percentage of any settlement or judgment:

- (a) 50% on the first \$1000 recovered;
- (b) 40% on the next \$2000 recovered;
- (c) 33 1/3% on the next \$47,000 recovered;
- (d) 20% on the next \$50,000 recovered;
- (e) 10% on any amount recovered over \$100,000; and
- (f) 25% on the first \$50,000 if the recovery is a settlement without trial for an infant or incompetent.

(2) Nothing in this section shall prevent an attorney seeking court approval of a higher fee than the above schedule should the facts and circumstances warrant same.

(Renumber subsequent sections.)

By unanimous consent Senator Barron changed his vote on Amendment 1EE from nay to yea.

The President presiding

Senator P. Thomas moved that the Senate reconsider the vote by which Amendment 1EE failed and the motion failed.

By unanimous consent Senator P. Thomas changed his vote on Amendment 1EE from nay to yea.

Senator Plante moved that the Senate do now adjourn and the motion failed.

Senator Scarborough presiding

Senator Gordon moved that the Senate do now adjourn and the motion failed.

The question recurred on the adoption of Amendment 1FF and the amendment failed.

The President presiding

Amendment 1 as amended was adopted.

The Committee on Commerce offered the following amendment which was moved by Senator W. D. Childers:

Amendment 2—On page 1, strike the title and insert:

A bill to be entitled

An act relating to medical liability insurance and civil law revisions concerning medical malpractice actions; providing a short title; creating s.627.352, Florida Statutes, relating to the creation of a medical liability insurance study commission; amending subsection (1) of section 627.355, Florida Statutes, to allow total self-insurance by a group or association of physicians or health care facilities organized for any purpose; creating s.768.132, Florida Statutes, to provide for the appointment of medical liability mediation panels in each judicial circuit to initially hear medical malpractice actions; providing for duties and procedures of such panels; amending paragraph (a) of s.95.11(4), Florida Statutes, 1974 Supplement, to exclude medical malpractice; enacting paragraph (b) of s.95.11(4), Florida Statutes, to provide that actions for medical malpractice shall be commenced within two years from the time the incident occurred or the injury is discovered but not to exceed

four years from the date the incident occurred; providing exceptions for fraud and misrepresentation; creating s.768.042, Florida Statutes, to prohibit the stating of the amount of general damages in any complaint for recovery of damages for personal injury or wrongful death; amending s.725.01, Florida Statutes, to allow medical guarantees to be governed by the Statute of Frauds; creating s.768.132, Florida Statutes, entitled the "Florida Medical Consent Law"; covering consent in all cases not covered by s.768.13, Florida Statutes, entitled the Good Samaritan Act; setting standards for information necessary for consent; providing a presumption where a valid consent was given; amending s.458.1201(1)(m), Florida Statutes, and adding paragraphs (o) and (p) to said section; providing that the State Board of Medical Examiners determine standards of acceptable and prevailing medical practice; authorizing board action in court adjudicated medical malpractice cases and certain disciplinary cases; providing for a civil penalty; adding paragraphs (c) and (d) to s.458.1201 (2); providing for appointment of licensed physicians to act for the board; providing for immunity from liability for investigations conducted pursuant to this act; amending s.458.1201(3)(a), Florida Statutes; authorizing board to require physicians to participate in continuing education programs; authorizing board to require physicians to practice under the direction of a physician in certain locations; adding s.458.1201(5), Florida Statutes; requiring the board to report to the legislature; adding subsection (8) to s.627.351, Florida Statutes, to provide for a joint underwriting plan offering medical malpractice insurance coverage to be set up by the Department of Insurance and underwritten by insurers writing casualty insurance as defined in s.624.605(1)(b), (j), and (p), Florida Statutes, and self-insurers authorized under s.627.355, Florida Statutes; creating s.627.353, Florida Statutes, providing that all licensed hospitals, physicians, physician's assistants, osteopaths, and podiatrists may obtain and maintain medical malpractice insurance or self-insurance within certain limits and provide financial support for a fund to pay claims exceeding the limits prior to practicing; limiting liability of such person when covered by the required insurance and by the fund; providing for creation of said fund and for administration and defense of the fund by the Department of Insurance; providing an effective date.

WHEREAS, the cost of purchasing medical professional liability insurance for doctors and other health care providers has skyrocketed in the past few months; and

WHEREAS, it is not uncommon to find physicians in high-risk categories paying premiums in excess of \$20,000 annually; and

WHEREAS, the consumer ultimately must bear the financial burdens created by the high cost of insurance; and

WHEREAS, without some legislative relief, doctors will be forced to curtail their practices, retire, or practice defensive medicine at increased cost to the citizens of Florida; and

WHEREAS, the problem has reached crisis proportion in Florida, NOW THEREFORE,

Senator McClain moved the following title amendments to Amendment 2 which were adopted:

Amendment 2A—On page 1, line 18, insert between the words "panels;" and "amending": creating section 768.041, providing that expert testimony in medical malpractice actions be limited to the state of Florida;

Amendment 2B—On page 1, line 18, insert: between the words "panels;" and "amending" creating s.768.31, Florida Statutes, limiting the amount of contingent attorneys' fees in malpractice actions;

Senator Johnston moved the following title amendment to Amendment 2 which was adopted:

Amendment 2C—On page 1, lines 13-18, strike "creating s.768.132 Florida Statutes, to provide for the appointment of medical liability mediation panels in each judicial circuit to initially hear medical malpractice actions; providing for duties and procedures of such panels;"

Senator W. D. Childers moved the following title amendment to Amendment 2 which was adopted:

Amendment 2D—On page 3, line 23, after the semi-colon insert: providing severability;

Senator Brantley moved the following title amendments to Amendment 2 which were adopted:

Amendment 2E—On page 3, line 22, strike "and defense of the fund" on page 3, line 23, after the semi-colon, insert: prohibiting naming of the fund as a defendant; providing the department may defend the fund;

Amendment 2F—On page 2, line 17, strike "court adjudicated"

Amendment 2G—On page 3, line 3, after the semi-colon insert: providing for hospital disciplinary powers

Amendment 2H—On page 3, line 11, strike "creating", and on page 3, lines 12-22, strike all of lines 12-22, and on page 3, line 23, strike "ment of Insurance;"

Senator Myers moved the following title amendment to Amendment 2 which was adopted:

Amendment 2I—On page 1, line 9, after the semi-colon insert: creating s.395.18, Florida Statutes, authorizing certain hospitals to establish internal risk management programs;

Amendment 2 as amended was adopted.

On motion by Senator W. D. Childers, by two-thirds vote HB 1267 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Graham	Peterson	Thomas, P.
Brantley	Hair	Plante	Tobiassen
Childers, D.	Holloway	Poston	Trask
Childers, W. D.	Johnston	Renick	Vogt
Deeb	Lane, D.	Saunders	Ware
Dunn	Lane, J.	Sayler	Wilson
Firestone	Lewis	Scarborough	Winn
Gallen	MacKay	Sims	Zinkil
Glisson	McClain	Spicola	
Gordon	Myers	Thomas, J.	

Nays—1

Stolzenburg

On motion by Senator W. D. Childers, the rules were waived and HB 1267 was ordered immediately certified to the House. Senator Plante voted nay.

On motion by Senator Graham the rules were waived and the Committee on Education was authorized to meet at 1:00 p.m. in lieu of 2:00 p.m., Wednesday, April 30.

Senator Dunn announced that the Committee on Executive Suspensions would meet at 7:00 p.m. this day.

The Journal of April 25 was corrected and approved.

CO-INTRODUCERS

Senator Trask was recorded as a co-introducer of SJR 270 and SB 271, Senator Graham as a co-introducer of CS for SB 53 and SB 529, Senator D. Childers as co-introducer of Senate Bills 667 and 678 and Senator Zinkil as co-introducer of SB 309.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 6:45 p.m. to convene at 8:30 a.m., April 29 and 30, 1975 for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions and thereafter to reconvene at 10:00 a.m. April 30, 1975.

LOBBYIST REGISTRATIONS UNDER SENATE RULE NINE

APRIL 17, 1975 THROUGH APRIL 24, 1975

Name & Address; Entity Represented & Address if different; Legislation Involved; Association with Legislator if any

Adams, John L. 700 S. Adams St. Tallahassee 32304 Public Service Commission

Barksdale, M. T., D.V.M. 1601 Lee Road Winter Park 32789 Florida Board of Veterinary Medicine Professional and occupational regulation

Beare, Nikki 7220 SW 61 Ct. South Miami 33143 Fla. League of Conservation Voters PO Box 64 South Miami 33143 Natural Resources and Conservation

Borthwick, Jesse Owen Fla. Dept. of Pollution Control 2562 Executive Center Circle E. Tallahassee 32301 Fla. Dept. of Pollution Control, Noise Section Pollution control

Brown, Ronald D. 918A 15 Ave. NW Largo 33540 Self HB 1057

Bryant, Frederick Michael 125 S. Gadsden St. Tallahassee 32302 American Mutual Insurance Alliance 20 N. Wacker Dr. Chicago Ill. 60606 All matters pertaining to the insurance industry

Camenez, Jon D. 1030 E. Lafayette St. Suite 101 Tallahassee Fla. Special Agents Assn. PO Box 3773 Tallahassee All legislation pertaining to special agents

Chalmers, Jean 2740 SW 7 Pl. Gainesville 32607 Go-ERA ERA

Chiapetta, Sharron 1101 NW 39 Ave. Gainesville 33601 Committee for Quality Education Quality education

Clark, Sharon Murphy 2696 South Dr. Apt. A Clearwater 33519 National Organization for Women E.R.A. also Student Nurses Assoc. of Florida ERA Nurses Practice Act

Condit, J. Anthony, Fla. Parole & Probation Commission PO Box 3168 Tallahassee 32303 Fla. Parole & Probation Commission Parole and Probation Commission

Farley, Dan F. Elliott Building Tallahassee Board of Trustees of the I.I.T.F. Internal Improvement Trust Fund

Fisher, Steve 350 Sevilla Coral Gables 33134 Fla. Gamecock Breeders, Handlers & Sportsmans Association Roberts Bldg. 28 W. Flagler St. Miami CS/SB 21 & 38

Givens, B. J. Dept. of Banking & Finance Carlton Bldg. Tallahassee Dept. of Banking & Finance Div. of Finance Bureau of Local Govt. Finance Banking and finance

Golden, Wm. Cecil Dept. of Education Knott Building Tallahassee 32304 Dept. of Education Education

Goodman, Robert 731 NE 170 St. North Miami Beach 33162 Florida Council of Handicapped Organizations Aging Handicapped Disabled

Gustafson, Joel K. 2455 E. Sunrise Blvd. Ft. Lauderdale 33304 City of Fort Lauderdale Leg. regarding muni. also Assn. of Executive Recruiting Consultants Inc. New York New York HB 771 and related legislation

Hastings, John PO Box 697 Ocala 32670 Fla. Board of Building Codes & Standards Senate Bill 242

Hunter, Craig M. 120 - 108th Ave. Treasure Island 33706 City of Treasure Island Legislation affecting municipalities

Jenkins, Evon, Jr. Fla. A & M Univ. PO Box 600 Tallahassee 32307 Student Government Association Student interest

Jones, A. Ridgely 2324 Limerick Dr. Tallahassee 32303 AAA 1515 N. Westshore Tampa Motorists legislation

Kemp, Shelton Dept. of Commerce 510 Collins Bldg. Tallahassee 32304 Dept. of Commerce Commerce

Kennedy, Jay B. Fla. Public Service Commission 700 S. Adams St. Tallahassee 32304 Fla. Public Service Commission Public Service Commission

Kupiszewski, Stanley D., Jr. 2204 Woodlawn Dr. Tallahassee 32303 Auto-Train Inc., Washington D.C. All legislation - General

Name & Address; Entity Represented & Address if different; Legislation Involved; Association with Legislator if any

also Chicago Title Insurance Co. also Self General - all legislation

LaFace, Ronald C. 101 E. College Ave. PO Box 1752 Tallahassee Southeast Cons. Fin. Co. 1390 Brickell Ave. Miami Fin. leg.

Lange, Al 1379 NW 36 St. Miami 33142 Fla. Public Relations Assn. Inc. PO Box 781 Leesburg 32748 Public relations

Marmish, Diana 301 W. College Ave. Tallahassee 32301 Self General

Matherne, Toni 325 John Knox Rd. Suite L259 Tallahassee 32303 Leon Classroom Teachers Assn. Education

McRay, Jack L. Div. of Mental Health 1323 Winewood Blvd. Tallahassee 32304 Division of Mental Health Health and rehabilitative services

Middleton, Jana K. 1009 Pensacola Tallahassee 32303 Hillsborough County Democratic Executive Committee 909 Ashley Dr. Tampa Civil litigation

Miller, Kathleen E. Osceola Hall #109 500 Chapel Dr. Tallahassee 32304 FSU Student Government 321 FSU Union Tallahassee 32313 Higher education

Moffatt, Carolyn R. 1350 River Reach Dr. Ft. Lauderdale 33315 American Bankers Life Assurance of Fla. 600 Brickell Ave. Miami Insurance also Fla. State Pilots Assoc. PO Box 156 Boca Grande 33921 State pilots also Waste Mgt. Inc. 2300 W. Commercial Ft. Lauderdale Waste

Moffatt, William E. 1350 River Reach Dr. Ft. Lauderdale 33315 American Bankers Life Assurance of Fla. 600 Brickell Ave. Miami Insurance also Fla. State Pilots Assn. PO Box 156 Boca Grande 33921 State pilots also Waste Management Inc. 2300 W. Comm. Blvd. Ft. Lauderdale Waste management

Monaghan, Diana M. 501 Park Ave. N. Winter Park 32789 Scott Memorial Fund Washington, D. C. ERA

Morgan, Julie E. 301 W. College Tallahassee 32301 Her Store Inc. Human rights

Moses, Thomas M. PO Box 36 Lake Buena Vista 32780 Fla. Board of Codes and Standards 2571 Exec. Center Cir. E. Tallahassee SB 242 and general

Newsome, John C., Jr. 2908 West Oak Ridge Rd. Orlando 32809 WMFE-TV/Channel 24 Public broadcasting

Paulk, Joanne M. 1650 N. Banana River Dr. Merritt Island 32952 Fla. Action Comm. for Transit Public transportation also Fla. Assoc. of Purveyors & Suppliers 295 NW 72 St. Miami Uniform commercial code

Pena, Hloy 1419 NE 55 St. Ft. Lauderdale 33334 PTA - Broward County General

Rice, Robert Eric 2203 W. Pensacola #C-1 Tallahassee 32304 Self Student lobby

Rodolph, John D. 1515 N. Westshore Blvd. Tampa 33607 AAA Motoring and traffic safety

Safar, Michael Fla. A & M Univ. Tallahassee 32307 Fla. A & M Univ. Education

Sisser, Eric R. PO Box 10223 Tallahassee 32302 Pan American Land Development Corp. 2300 Coral Way Miami Land development

Slaughter, Viola Box 1213 Wildwood 32785 Concerned Citizen Stop ERA

Smith, Dr. Charles U. State Univ. System Fla. A & M Univ. Tallahassee 32307 Higher Education, State Univ. System Education

Stephens, Janet 325 John Knox Road Suite L259 Tallahassee 32303 Leon Classroom Teachers Assoc. Education

Stephens, Richard 325 John Knox Rd. Suite L259 Tallahassee 32303 Leon Classroom Teachers Assn. Education

Stetson, Chandler A., M.D., J. Hillis Miller Health Center Univ. of Fla. Gainesville 32601 J. Hillis Miller Health Center Health and rehabilitative services

Stevermer, Brian PO Box 296 Largo 33540 City of Largo Local bills

Thompson, William S. 7810 S. Dixie Hwy. West Palm Beach 33405 Lions Industries for the Blind Services/benefits for the blind

Tillis, Rosalyn Brantley 2812 Roscommon Dr. Tallahassee 32303 Florida Wildlife Federation Inc., 2731 Blairstone Tallahassee Environment—Education

Turk, James Donald PO Box 2402 Lakeland 33803 Fla. Municipal Utilities Assoc. Utilities

Turner, M. Stephen 131 N. Gadsden St. Tallahassee 32302 South Florida Conservancy Dist. and Other Lake Okeechobee Districts PO Box 1207 Clewiston Environmental (land use) bills pending also Florida Scrap Processors Assn. Jacksonville Processing of scrap metal

Weeks, William L. 700 S. Adams St. Tallahassee 32304 Fla. Public Service Commission Public Service Commission