

By the Committee on Children, Families, and Elder Affairs; and  
Senator Garcia

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1                   A bill to be entitled  
2           An act relating to community-based child welfare  
3           agencies; amending s. 409.987, F.S.; revising  
4           requirements for contracts the Department of Children  
5           and Families has with community-based care lead  
6           agencies; revising requirements for an entity to serve  
7           as a lead agency; requiring lead agencies to ensure  
8           that board members participate in certain annual  
9           training; revising the definition of the term  
10          "conflict of interest"; defining the term "related  
11          party"; requiring the lead agency's board of directors  
12          to disclose any known, actual, or potential conflicts  
13          of interest; prohibiting a lead agency from entering  
14          into a contract or being a party to a transaction that  
15          creates a conflict of interest; requiring a lead  
16          agency to competitively procure certain contracts;  
17          imposing civil penalties on lead agencies for  
18          undisclosed conflicts of interest; providing  
19          applicability; amending s. 409.988, F.S.; revising  
20          community-based care lead agency duties; amending s.  
21          409.991, F.S.; revising the definition of the term  
22          "core services funds"; deleting definitions; requiring  
23          that the allocation of core services funds be based on  
24          a three-tiered payment model; providing specifications  
25          for the payment model; requiring that reports be  
26          submitted annually to the Governor and the Legislature  
27          by a specific date; requiring that all funding for  
28          core services be based on the statutory methodology;  
29          amending s. 409.992, F.S.; revising requirements for

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30 lead agency practices in the procurement of  
31 commodities and contractual services; requiring the  
32 department to impose certain penalties for a lead  
33 agency's noncompliance with applicable procurement  
34 law; requiring lead agencies to comply with  
35 established purchasing practices for the procurement  
36 of real property and professional services; requiring  
37 the department to retain all rights to and ownership  
38 of real property procured upon termination of  
39 contracts; requiring that certain funds be returned to  
40 the department; providing applicability of certain  
41 limitations on the salaries of community-based care  
42 lead agency administrative employees; amending s.  
43 409.994, F.S.; revising the conditions under which the  
44 department may petition a court for the appointment of  
45 a receiver for a community-based care lead agency;  
46 amending s. 409.996, F.S.; revising requirements for  
47 contracts between the department and lead agencies;  
48 revising the actions the department may take upon  
49 certain circumstances; making a technical change;  
50 providing duties to the department; providing an  
51 effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Subsections (3) and (4) and paragraphs (a) and  
56 (b) of subsection (7) of section 409.987, Florida Statutes, are  
57 amended to read:

58 409.987 Lead agency procurement; boards; conflicts of

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59 interest.—

60 (3) Notwithstanding s. 287.057, the department shall use 5-  
61 year contracts with lead agencies. The 5-year contract must be  
62 reprocured at the end of each 5-year contract term. The contract  
63 may be extended at the discretion of the department for up to 1  
64 year, based on department needs.

65 (4) In order to serve as a lead agency, an entity must:

66 (a) Be organized as a Florida corporation or a governmental  
67 entity.

68 (b) Be governed by a board of directors or a board  
69 committee composed of board members. Board members shall provide  
70 oversight and ensure accountability and transparency for the  
71 system of care. The board of directors shall provide fiduciary  
72 oversight to prevent conflicts of interest, promote  
73 accountability and transparency, and protect state and federal  
74 funding from misuse. The lead agency shall ensure that board  
75 members participate in annual training, as approved by the  
76 department, related to their responsibilities. The membership of  
77 the board of directors or board committee must be described in  
78 the bylaws or articles of incorporation of each lead agency,  
79 which must provide that at least 75 percent of the membership of  
80 the board of directors or board committee must be composed  
81 ~~consist~~ of persons residing in this state, and at least 51  
82 percent of the state residents on the board of directors must  
83 reside within the service area of the lead agency. However, for  
84 procurements of lead agency contracts initiated on or after July  
85 1, 2014:

86 1. At least 75 percent of the membership of the board of  
87 directors must be composed ~~consist~~ of persons residing in this

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88 state, and at least 51 percent of the membership of the board of  
89 directors must be composed ~~consist~~ of persons residing within  
90 the service area of the lead agency. If a board committee  
91 governs the lead agency, 100 percent of its membership must be  
92 composed ~~consist~~ of persons residing within the service area of  
93 the lead agency.

94 2. The powers of the board of directors or board committee  
95 include, but are not limited to, approving the lead agency's  
96 budget and setting the lead agency's operational policy and  
97 procedures. A board of directors must additionally have the  
98 power to hire the lead agency's executive director, unless a  
99 board committee governs the lead agency, in which case the board  
100 committee must have the power to confirm the selection of the  
101 lead agency's executive director.

102 (c) Demonstrate financial responsibility through an  
103 organized plan for regular fiscal audits and the posting of a  
104 performance bond.

105 (7) (a) As used in this subsection, the term:

106 1. "Activity" includes, but is not limited to, a contract  
107 for goods and services, a contract for the purchase of any real  
108 or tangible property, or an agreement to engage with a lead  
109 agency for the benefit of a third party in exchange for an  
110 interest in real or tangible property, a monetary benefit, or an  
111 in-kind contribution.

112 2. "Conflict of interest" means when a board member, a  
113 director, or an officer, or a relative of a board member, a  
114 director, or an officer, of a lead agency does any of the  
115 following:

116 a. Enters into a contract or other transaction for goods or

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117 services with the lead agency.

118       b. Holds a direct or indirect interest in a corporation,  
119 limited liability corporation, partnership, limited liability  
120 partnership, or other business entity that conducts business  
121 with the lead agency or proposes to enter into a contract or  
122 other transaction with the lead agency. For purposes of this  
123 paragraph, the term "indirect interest" has the same meaning as  
124 in s. 112.312.

125       c. Knowingly obtains a direct or indirect personal,  
126 financial, professional, or other benefit as a result of the  
127 relationship of such board member, director, or officer, or  
128 relative of the board member, director, or officer, with the  
129 lead agency. For purposes of this paragraph, the term "benefit"  
130 does not include per diem and travel expenses paid or reimbursed  
131 to board members or officers of the lead agency in connection  
132 with their service on the board.

133       3. "Related party" means any entity of which a director or  
134 an executive of the entity is also directly or indirectly  
135 related to, or has a direct or indirect financial or other  
136 material interest in, the lead agency. The term also includes  
137 any subsidiary, parent entity, associate firm, or joint venture,  
138 or any entity that is controlled, influenced, or managed by  
139 another entity or an individual related to such entity,  
140 including an individual who is, or was within the immediately  
141 preceding 3 years, an executive officer or a board member of the  
142 entity.

143       ~~4.3-~~ "Relative" means a relative within the third degree of  
144 consanguinity by blood or marriage.

145       (b)1. For any activity that is presented to the board of a

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146 lead agency for its initial consideration and approval ~~after~~  
147 ~~July 1, 2021,~~ or any activity that involves a contract that is  
148 being considered for renewal ~~on or after July 1, 2021, but~~  
149 ~~before January 1, 2022,~~ a board member, a director, or an  
150 officer of a lead agency shall disclose to the board any  
151 activity that may reasonably be construed to be a conflict of  
152 interest before such activity is initially considered and  
153 approved or a contract is renewed by the board. A rebuttable  
154 presumption of a conflict of interest exists if the activity was  
155 acted on by the board without prior notice as required under  
156 paragraph (c). The board shall disclose any known, actual, or  
157 potential conflicts to the department.

158 2. A lead agency may not enter into a contract or be a  
159 party to any transaction that creates a conflict of interest,  
160 including with related parties for the provision of management  
161 or administrative services or oversight. The lead agency shall  
162 competitively procure all contracts with related parties in  
163 excess of \$35,000 ~~For contracts with a lead agency which are in~~  
164 ~~existence on July 1, 2021, and are not subject to renewal before~~  
165 ~~January 1, 2022, a board member or an officer of the lead agency~~  
166 ~~shall disclose to the board any activity that may reasonably be~~  
167 ~~construed to be a conflict of interest under this section by~~  
168 ~~December 31, 2021.~~

169 (g)1. Civil penalties in the amount of \$5,000 per  
170 occurrence shall be imposed for each known and potential  
171 conflict of interest, as described in paragraph (b), which is  
172 not disclosed to the department.

173 2. If a contract is procured for which a conflict of  
174 interest was not disclosed to the department before execution of

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175 the contract, the following penalties apply:

176 a. A civil penalty in the amount of \$50,000 for a first  
177 offense.

178 b. A civil penalty in the amount of \$100,000 for a second  
179 or subsequent offense.

180 3. The civil penalties for failure to disclose a conflict  
181 of interest under subparagraphs 1. and 2. apply to any contract  
182 entered into, regardless of the method of procurement,  
183 including, but not limited to, formal procurement, single-source  
184 contracts, and contracts that do not meet the minimum threshold  
185 for formal procurement.

186 4. A contract procured for which a conflict of interest was  
187 not disclosed to the department before execution of the contract  
188 must be reprocured.

189 5. The department may, at its sole discretion, prohibit  
190 execution of a contract for which a conflict of interest exists,  
191 or will exist after execution.

192 Section 2. Paragraphs (c), (i), (j), (k), and (l) of  
193 subsection (1) of section 409.988, Florida Statutes, are amended  
194 to read:

195 409.988 Community-based care lead agency duties; general  
196 provisions.—

197 (1) DUTIES.—A lead agency:

198 (c) Shall follow the financial guidelines developed by the  
199 department and shall comply with regular, independent auditing  
200 of its financial activities, including any requests for records  
201 associated with such financial audits within the timeframe  
202 established by the department or its contracted vendors provide  
203 ~~for a regular independent auditing of its financial activities.~~

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204 The results of the financial audit must ~~Such financial~~  
205 ~~information shall~~ be provided to the community alliance  
206 established under s. 20.19(5).

207 (i) Shall comply with federal and state statutory  
208 requirements and agency rules in the provision of contractual  
209 services. Any subcontract in excess of \$250,000 must comply with  
210 the competitive procurement process.

211 (j) May subcontract for the provision of services,  
212 excluding administrative and management functions, required by  
213 the contract with the lead agency and the department; however,  
214 the subcontracts must specify how the provider will contribute  
215 to the lead agency meeting the performance standards established  
216 pursuant to the child welfare results-oriented accountability  
217 system required by s. 409.997. The lead agency shall directly  
218 provide no more than 35 percent of all child welfare services  
219 provided unless it can demonstrate a need, within the lead  
220 agency's geographic service area where there is a lack of viable  
221 providers available to perform the necessary services. The  
222 approval period to exceed the threshold must be limited to 2  
223 years. The lead agency shall reprocure for these services before  
224 the end of the 2-year period, ~~to exceed this threshold.~~ The  
225 local community alliance in the geographic service area in which  
226 the lead agency is seeking to exceed the threshold shall review  
227 the lead agency's justification for need and recommend to the  
228 department whether the department should approve or deny the  
229 lead agency's request for an exemption from the services  
230 threshold. If there is not a community alliance operating in the  
231 geographic service area in which the lead agency is seeking to  
232 exceed the threshold, such review and approval or denial of the

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233 lead agency's request for an exemption from the services  
234 threshold must ~~recommendation shall be made by the department.~~  
235 ~~by representatives of local stakeholders, including at least one~~  
236 ~~representative from each of the following:~~

- 237 ~~1. The department.~~
- 238 ~~2. The county government.~~
- 239 ~~3. The school district.~~
- 240 ~~4. The county United Way.~~
- 241 ~~5. The county sheriff's office.~~
- 242 ~~6. The circuit court corresponding to the county.~~
- 243 ~~7. The county children's board, if one exists.~~

244 (k) Shall publish on its website by the 15th day of each  
245 month at a minimum the data specified in subparagraphs 1.-9. ~~1.-~~  
246 ~~5.~~, calculated using a standard methodology determined by the  
247 department, for the preceding calendar month regarding its case  
248 management services. The following information must ~~shall~~ be  
249 reported by each individual subcontracted case management  
250 provider, by the lead agency, if the lead agency provides case  
251 management services, and in total for all case management  
252 services subcontracted or directly provided by the lead agency:

- 253 1. The average caseload of case managers, including only  
254 filled positions;
- 255 2. The total number and percentage of case managers who  
256 have 25 or more cases on their caseloads;
- 257 3. The turnover rate for case managers and case management  
258 supervisors for the previous 12 months;
- 259 4. The percentage of required home visits completed; ~~and~~
- 260 5. Performance on outcome measures required pursuant to s.  
261 409.997 for the previous 12 months; ~~;~~

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262       6. The number of unlicensed placements for the previous  
263 month;

264       7. The percentage and trends for foster parent and group  
265 home recruitment and licensure for the previous month;

266       8. The percentage of families being served through family  
267 support, in-home, and out-of-home services for the previous  
268 month; and

269       9. The percentage of cases that converted from nonjudicial  
270 to judicial for the previous month.

271       Section 3. Section 409.991, Florida Statutes, is amended to  
272 read:

273       409.991 Allocation of funds for community-based care lead  
274 agencies.—

275       (1) As used in this section, the term—

276       ~~(a)~~ “core services funds” means all funds allocated to  
277 ~~community-based care~~ lead agencies operating under contract with  
278 the department pursuant to s. 409.987. The term does not include  
279 any of, with the following ~~exceptions~~:

280       (a)1. Funds appropriated for independent living services;

281       (b)2. Funds appropriated for maintenance adoption  
282 subsidies;

283       (c)3. Funds allocated by the department for child  
284 protective investigation service ~~investigations~~ training;

285       (d)4. Nonrecurring funds;

286       (e)5. Designated mental health wrap-around service ~~services~~  
287 funds;

288       (f)6. Funds for special projects for a designated  
289 ~~community-based care~~ lead agency; and

290       (g)7. Funds appropriated for the Guardianship Assistance

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291 Program under s. 39.6225.

292 ~~(b) "Equity allocation model" means an allocation model~~  
293 ~~that uses the following factors:~~

- 294 ~~1. Proportion of the child population;~~  
295 ~~2. Proportion of child abuse hotline workload; and~~  
296 ~~3. Proportion of children in care.~~

297 ~~(c) "Proportion of child population" means the proportion~~  
298 ~~of children up to 18 years of age during the previous calendar~~  
299 ~~year in the geographic area served by the community-based care~~  
300 ~~lead agency.~~

301 ~~(d) "Proportion of child abuse hotline workload" means the~~  
302 ~~weighted average of the following subcomponents:~~

303 ~~1. The average number of initial and additional child abuse~~  
304 ~~reports received during the month for the most recent 12 months~~  
305 ~~based on child protective investigations trend reports as~~  
306 ~~determined by the department. This subcomponent shall be~~  
307 ~~weighted as 20 percent of the factor.~~

308 ~~2. The average count of children in investigations in the~~  
309 ~~most recent 12 months based on child protective investigations~~  
310 ~~trend reports as determined by the department. This subcomponent~~  
311 ~~shall be weighted as 40 percent of the factor.~~

312 ~~3. The average count of children in investigations with a~~  
313 ~~most serious finding of verified abuse in the most recent 12~~  
314 ~~months based on child protective investigations trend reports as~~  
315 ~~determined by the department. This subcomponent shall be~~  
316 ~~weighted as 40 percent of the factor.~~

317 ~~(e) "Proportion of children in care" means the proportion~~  
318 ~~of the number of children in care receiving in-home services~~  
319 ~~over the most recent 12-month period, the number of children~~

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320 ~~whose families are receiving family support services over the~~  
321 ~~most recent 12-month period, and the number of children who have~~  
322 ~~entered into out-of-home care with a case management overlay~~  
323 ~~during the most recent 24-month period. This subcomponent shall~~  
324 ~~be weighted as follows:~~

325 ~~1. Fifteen percent shall be based on children whose~~  
326 ~~families are receiving family support services.~~

327 ~~2. Fifty-five percent shall be based on children in out-of-~~  
328 ~~home care.~~

329 ~~3. Thirty percent shall be based on children in in-home~~  
330 ~~care.~~

331 (2) Effective July 1, 2025, allocation of core services  
332 funds must be based on an actuarially sound, tiered payment  
333 model. The tiered model's purpose is to achieve the overarching  
334 goals of a stable payment model that adjusts to workload and  
335 incentivizes prevention, family preservation, and permanency.

336 (a) Tier 1 provides operational base and fixed costs, which  
337 do not vary based on the number of children and families served.  
338 Tier 1 payments may vary by geographic catchment area and cost  
339 of living differences. The department shall establish and  
340 annually update Tier 1 payment rates to maintain cost  
341 expectations that are aligned with the population served,  
342 services provided, and environment. Tier 1 expenses may include:

343 1. Administrative expenditures;

344 2. Lease payments;

345 3. Asset depreciation;

346 4. Utilities;

347 5. Select components of case management, including  
348 administrative elements;

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349 6. Mandated activities such as training, quality, and  
350 contract management; or

351 7. Activities performed for children and families which are  
352 nonjudicial and not candidates for Title IV-E funding, including  
353 true prevention and community-focused activities.

354 (b) Tier 2 is a per-child, per-month payment designed to  
355 provide funding for lead agencies' expenses that vary based on  
356 the number of children served for a particular month. The  
357 payment rate blends out-of-home rates and in-home rates specific  
358 to each lead agency to create a rate that provides a financial  
359 incentive to lead agencies to provide service in the least  
360 restrictive safe placement. The department shall establish and  
361 annually update Tier 2 payment rates to maintain cost  
362 expectations that are aligned with the population served,  
363 services provided, and environment. Tier 2 rates must be set  
364 annually.

365 (c) Tier 3 provides financial incentives that the  
366 department shall establish to reward lead agencies that achieve  
367 performance measures aligned with the department's goals of  
368 prevention, family preservation, and permanency. ~~The equity~~  
369 ~~allocation of core services funds shall be calculated based on~~  
370 ~~the following weights:~~

371 ~~(a) Proportion of the child population shall be weighted as~~  
372 ~~5 percent of the total.~~

373 ~~(b) Proportion of child abuse hotline workload shall be~~  
374 ~~weighted as 35 percent of the total.~~

375 ~~(c) Proportion of children in care shall be weighted as 60~~  
376 ~~percent of the total.~~

377 (3) By December 1 of each year, beginning in 2024, the

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378 department shall submit a report to the Governor, the President  
379 of the Senate, and the Speaker of the House of Representatives  
380 which includes each lead agency's actual performance in  
381 attaining the previous fiscal year's targets, recommendations  
382 for adjustments to lead agency funding, and adjustments to the  
383 tiered payment model, if necessary ~~Beginning in the 2015-2016~~  
384 ~~state fiscal year, 100 percent of the recurring core services~~  
385 ~~funding for each community-based care lead agency shall be based~~  
386 ~~on the prior year recurring base of core services funds.~~

387 (4) Effective July 1, 2025, unless otherwise specified in  
388 the General Appropriations Act, the department shall allocate  
389 all funding for core services based on the methodology  
390 established in this section ~~any new core services funds shall be~~  
391 ~~allocated based on the equity allocation model as follows:~~

392 (a) ~~Seventy percent of new funding shall be allocated among~~  
393 ~~all community-based care lead agencies.~~

394 (b) ~~Thirty percent of new funding shall be allocated among~~  
395 ~~community-based care lead agencies that are funded below their~~  
396 ~~equitable share. Funds allocated pursuant to this paragraph~~  
397 ~~shall be weighted based on each community-based care lead~~  
398 ~~agency's relative proportion of the total amount of funding~~  
399 ~~below the equitable share.~~

400 Section 4. Subsections (1) and (3) of section 409.992,  
401 Florida Statutes, are amended to read:

402 409.992 Lead agency expenditures.—

403 (1) The procurement of commodities or contractual services  
404 by lead agencies is ~~shall be~~ governed by the financial  
405 guidelines developed by the department and must comply with  
406 applicable state and federal law and follow good business

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407 practices. Pursuant to s. 11.45, the Auditor General may provide  
408 technical advice in the development of the financial guidelines.

409 (a) Lead agencies shall competitively procure all  
410 contracts, consistent with the simplified acquisition threshold  
411 as specified in 2 C.F.R. part 200. Financial penalties or  
412 sanctions, as established by the department and incorporated  
413 into the contract, shall be imposed by the department for  
414 noncompliance with applicable local, state, or federal law for  
415 the procurement of commodities or contractual services.

416 (b) Notwithstanding s. 402.73, for procurement of real  
417 property or professional services, lead agencies shall comply  
418 with established purchasing practices, including the provisions  
419 of s. 287.055, as required, for professional services, including  
420 engineering or construction design. Upon termination of the  
421 contract, the department shall immediately retain all rights to  
422 and ownership of real property procured. Any funds from the  
423 sale, transfer, or other dispossession of such property during  
424 the contract term shall be returned to the department.

425 (3) Notwithstanding any other provision of law, a  
426 community-based care lead agency administrative employee may not  
427 receive a salary, whether base pay or base pay combined with any  
428 bonus or incentive payments from the lead agency or any related  
429 party, in excess of 150 percent of the annual salary paid to the  
430 secretary of the Department of Children and Families from state-  
431 appropriated funds, including state-appropriated federal funds.  
432 This limitation applies regardless of the number of contracts a  
433 community-based care lead agency may execute with the  
434 department. This subsection does not prohibit any party from  
435 providing cash that is not from appropriated state funds to a

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436 community-based care lead agency administrative employee.

437 Section 5. Paragraphs (c) and (d) of subsection (1) of  
438 section 409.994, Florida Statutes, are amended to read:

439 409.994 Community-based care lead agencies; receivership.—

440 (1) The Department of Children and Families may petition a  
441 court of competent jurisdiction for the appointment of a  
442 receiver for a community-based care lead agency established  
443 pursuant to s. 409.987 if any of the following conditions exist:

444 (c) The department determines that conditions exist in the  
445 lead agency which present a ~~an imminent~~ danger to the health,  
446 safety, or welfare of the dependent children under that agency's  
447 care or supervision. Whenever possible, the department shall  
448 make a reasonable effort to facilitate the continued operation  
449 of the program.

450 (d) The lead agency cannot meet, or is unlikely to meet,  
451 its current financial obligations to its employees, contractors,  
452 or foster parents. Issuance of bad checks or the existence of  
453 delinquent obligations for payment of salaries, utilities, or  
454 invoices for essential services or commodities constitutes ~~shall~~  
455 ~~constitute~~ prima facie evidence that the lead agency lacks the  
456 financial ability to meet its financial obligations.

457 Section 6. Paragraph (d) of subsection (1) of section  
458 409.996, Florida Statutes, is amended to read:

459 409.996 Duties of the Department of Children and Families.—  
460 The department shall contract for the delivery, administration,  
461 or management of care for children in the child protection and  
462 child welfare system. In doing so, the department retains  
463 responsibility for the quality of contracted services and  
464 programs and shall ensure that, at a minimum, services are

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465 delivered in accordance with applicable federal and state  
466 statutes and regulations and the performance standards and  
467 metrics specified in the strategic plan created under s.  
468 20.19(1).

469 (1) The department shall enter into contracts with lead  
470 agencies for the performance of the duties by the lead agencies  
471 established in s. 409.988. At a minimum, the contracts must do  
472 all of the following:

473 (d) Provide for contractual actions ~~tiered interventions~~  
474 ~~and graduated penalties~~ for failure to comply with contract  
475 terms or in the event of performance deficiencies, as determined  
476 appropriate by the department.

477 1. Such contractual actions must ~~interventions and~~  
478 ~~penalties~~ shall include, but are not limited to:

479 1. ~~Enhanced monitoring and reporting.~~

480 a. ~~2.~~ Corrective action plans.

481 b. ~~3.~~ Requirements to accept technical assistance and  
482 consultation from the department under subsection (6).

483 c. ~~4.~~ Financial penalties, which shall require a lead agency  
484 to direct reallocate funds from administrative costs to the  
485 department. The department shall use the funds collected to  
486 support service delivery of quality improvement activities for  
487 children in the lead agency's care ~~to direct care for children.~~  
488 These penalties may be imposed for failure to provide timely,  
489 sufficient resolution of deficiencies resulting in a corrective  
490 action plan or other performance improvement plan issued by the  
491 department. Financial penalties may include liquidated damages.

492 d. ~~5.~~ Early termination of contracts, as provided in s.  
493 402.7305(3)(f) ~~s. 402.1705(3)(f).~~

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494       2. The department shall include in each lead agency  
495 contract executed a provision that requires payment to the  
496 department of sanctions or disincentives for failure to comply  
497 with contractual obligations. The department shall establish a  
498 schedule of daily monetary sanctions or disincentives for lead  
499 agencies, which must be incorporated by reference into the  
500 contract. The department is solely responsible for determining  
501 the monetary value of liquidated damages.

502       Section 7. This act shall take effect July 1, 2024.