

Bill No. CS for SB 156

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Rossin moved the following amendment:

**Senate Amendment (with title amendment)**

On page 17, between lines 24 and 25,

insert:

Section 4. Paragraph (c) of subsection (1) of section 20.316, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

20.316 Department of Juvenile Justice.--There is created a Department of Juvenile Justice.

(1) SECRETARY OF JUVENILE JUSTICE.--

(c) The Secretary of Juvenile Justice shall:

1. Ensure that juvenile justice continuum programs and services are implemented according to legislative intent; state and federal laws, rules, and regulations; statewide program standards; and performance objectives by reviewing and monitoring regional and district program operations and providing technical assistance to those programs.

2. Identify the need for and recommend the funding and implementation of an appropriate mix of programs and services

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1 within the juvenile justice continuum, including prevention,  
2 diversion, nonresidential and residential commitment programs,  
3 training schools, and reentry and aftercare programs and  
4 services, with an overlay of educational, vocational, alcohol,  
5 drug abuse, and mental health services where appropriate.

6 3. Provide for program research, development, and  
7 planning.

8 4. Develop staffing and workload standards and  
9 coordinate staff development and training.

10 5. Develop budget and resource allocation  
11 methodologies and strategies.

12 6. Establish program policies and rules and ensure  
13 that those policies and rules encourage cooperation,  
14 collaboration, and information sharing with community partners  
15 in the juvenile justice system to the extent authorized by  
16 law.

17 7. Develop funding sources external to state  
18 government.

19 8. Obtain, approve, monitor, and coordinate research  
20 and program development grants.

21 9. Enter into performance-based contracts that are, to  
22 the maximum extent possible, procured competitively.

23 (7) CONTRACTING AND PERFORMANCE STANDARDS.--

24 (a) The Department of Juvenile Justice will establish  
25 performance standards for all contracted client services.

26 Notwithstanding s. 287.057(3)(f), the department must

27 competitively procure any contract for client services when  
28 any of the following occurs:

29 1. The provider fails to meet appropriate performance  
30 standards established by the department after the provider has  
31 been given a reasonable opportunity to achieve the established

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1 standards.

2 2. A new program or service has been authorized and  
3 funded by the Legislature, and the annual value of the  
4 contract for such program or service is \$300,000 or more.

5 3. The department has concluded, after reviewing  
6 market prices and available treatment options, that there is  
7 evidence that the department can improve the performance  
8 outcomes produced by its contract resources. At a minimum, the  
9 department shall review market prices and available treatment  
10 options biennially. The department shall compile the results  
11 of the biennial review and include the results in its annual  
12 performance report to the Legislature pursuant to chapter  
13 94-249, Laws of Florida. The department shall provide notice  
14 and an opportunity for public comment on its review of market  
15 prices and available treatment options.

16 (b) The competitive requirements of paragraph (a) must  
17 be initiated for each contract that meets the criteria of this  
18 subsection, unless the secretary makes a written determination  
19 that particular facts and circumstances require deferral of  
20 the competitive process. Facts and circumstances must be  
21 specifically described for each individual contract proposed  
22 for deferral and must include one or more of the following:

23 1. An immediate threat to the health, safety, or  
24 welfare of the department's clients.

25 2. A threat to appropriate use or disposition of  
26 facilities that have been financed in whole, or in substantial  
27 part, through contracts or agreements with a state agency.

28 3. A threat to the service infrastructure of a  
29 community which could endanger the well-being of the  
30 department's clients.

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1 Competitive procurement of client services contracts that meet  
2 the criteria in paragraph (a) may not be deferred for longer  
3 than 1 year.

4 (c) The department may adopt rules providing  
5 procedures for the competitive procurement of contracted  
6 client services which represent an alternative to the  
7 request-for-proposal or the invitation-to-bid process. The  
8 alternative competitive procedures shall permit the department  
9 to solicit professional qualifications from prospective  
10 providers and to evaluate such statements of qualification  
11 before requesting service proposals. The department may limit  
12 the firms invited to submit service proposals to only those  
13 firms that have demonstrated the highest level of professional  
14 capability to provide the services under consideration, but  
15 may not invite fewer than three firms to submit service  
16 proposals, unless fewer than three firms submitted  
17 satisfactory statements of qualification. The alternative  
18 procedures must, at a minimum, allow the department to  
19 evaluate competing proposals and select the proposal that  
20 provides the greatest benefit to the state while considering  
21 the quality of the services, dependability and integrity of  
22 the provider, dependability of the provider's services, the  
23 experience of the provider in serving target populations or  
24 client groups substantially identical to members of the target  
25 population for the contract in question, and the ability of  
26 the provider to secure local funds to support the delivery of  
27 services, including, but not limited to, funds derived from  
28 local governments. These alternative procedures need not  
29 conform to the requirements of s. 287.057(1) or (2) or s.  
30 287.042.

31 (d) The department shall review the period for which

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1 it executes contracts and, to the greatest extent practicable,  
2 shall execute multi-year contracts.

3 (e) If other governmental entities or units of special  
4 purpose government contribute matching funds to the support of  
5 a given system of treatment or service, the department shall  
6 formally request information from those funding entities in  
7 the procurement process and shall take the information  
8 received from those funding entities into account in the  
9 selection process. The department may also involve  
10 nongovernmental funding entities in the procurement process  
11 when appropriate.

12 (f) The department shall adopt, by rule, provisions  
13 for including in its contracts incremental penalties to be  
14 imposed by its contract managers on a service provider due to  
15 the provider's failure to comply with a requirement for  
16 corrective action. Any financial penalty that is imposed upon  
17 a provider may not be paid from funds being used to provide  
18 services to clients, and the provider may not reduce the  
19 amount of services being delivered to clients as a method for  
20 offsetting the impact of the penalty. If a financial penalty  
21 is imposed upon a provider that is a corporation, the  
22 department shall notify, at a minimum, the board of directors  
23 of the corporation. The department may notify, at its  
24 discretion, any additional parties that the department  
25 believes may be helpful in obtaining the corrective action  
26 that is being sought. Further, the rules adopted by the  
27 department must include provisions that permit the department  
28 to deduct the financial penalties from funds that would  
29 otherwise be due to the provider, not to exceed 10 percent of  
30 the amount that otherwise would be due to the provider for the  
31 period of noncompliance. If the department imposes a financial

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1 penalty, it shall advise the provider in writing of the cause  
2 for the penalty. A failure to include such deductions in a  
3 request for payment constitutes a ground for the department to  
4 reject that request for payment. The additional remedies  
5 described in this paragraph may be cumulative and may be  
6 assessed upon each separate failure to comply with  
7 instructions from the department to complete corrective  
8 action.

9 (g) If a provider fails to meet the performance  
10 standards established in the contract, the department may  
11 allow a reasonable period for the provider to correct  
12 performance deficiencies. If performance deficiencies are not  
13 resolved to the satisfaction of the department within the  
14 prescribed time, and if no extenuating circumstances can be  
15 documented by the provider to the department's satisfaction,  
16 the department must cancel the contract with the provider. The  
17 department may not enter into a new contract with that same  
18 provider for the services for which the contract was  
19 previously canceled for a period of at least 24 months after  
20 the date of cancellation.

21 (h) The department shall develop standards of conduct  
22 and a range of disciplinary actions for its employees which  
23 are specifically related to carrying out contracting  
24 responsibilities, and shall incorporate the standards and  
25 disciplinary actions in its Employee Handbook by December 31,  
26 1998.

27 (i) The department shall include in its standard  
28 contract document a requirement that it file a lien against  
29 the property where facilities are located which have been  
30 constructed or substantially renovated, in whole or in part,  
31 through the use of state funds. However, the department is not

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1 required to file a lien if the amount of state funds does not  
2 exceed \$25,000 or 10 percent of the contract amount, whichever  
3 amount is less. The lien must be recorded in the county where  
4 the property is located upon the execution of the contract  
5 authorizing such construction or renovation. The lien must  
6 specify that the department has a financial interest in the  
7 property equal to the pro rata portion of the state's original  
8 investment of the then-fair-market value for renovations, or  
9 the proportionate share of the cost of the construction. The  
10 lien must also specify that the department's interest is  
11 proportionately reduced and subsequently vacated over a  
12 20-year period of depreciation. The contract must include a  
13 provision that, as a condition of receipt of state funding for  
14 this purpose, the provider agrees that, if it disposes of the  
15 property before the department's interest is vacated, the  
16 provider will refund the proportionate share of the state's  
17 initial investment, as adjusted by depreciation.

18 (j) The department may competitively procure any  
19 contract when it deems it is in the best interest of the state  
20 to do so. The requirements described in paragraph (a) do not,  
21 and may not be construed to, limit in any way the department's  
22 ability to competitively procure any contract it executes, and  
23 the absence of any or all of the criteria described in  
24 paragraph (a) may not be used as the basis for an  
25 administrative or judicial protest of the department's  
26 determination to conduct competition, make an award, or  
27 execute any contract.

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29 (Redesignate subsequent sections.)

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 3, through page 3, line 11, delete  
4 those lines

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6 and insert:

7 the Department of Children and Family Services  
8 and the Department of Juvenile Justice;  
9 amending s. 20.19, F.S.; providing additional  
10 duties for the department's Office of Standards  
11 and Evaluation with respect to measuring  
12 standards of performance and to reports due to  
13 the Legislature; providing duties of program  
14 offices; requiring an evaluation and a report  
15 from the Assistant Secretary for  
16 Administration; revising requirements for the  
17 department in procuring contracts for client  
18 services and in establishing standards for the  
19 delivery of those services; requiring the  
20 department to procure certain services  
21 competitively; authorizing deferral of the  
22 competitive contracting process under certain  
23 circumstances; limiting the duration of such  
24 deferrals; authorizing the department to adopt  
25 rules relating to an alternative competitive  
26 procurement process; providing intent that the  
27 department enter multi-year contracts;  
28 providing for procuring services from multiple  
29 sources; requiring that the department adopt  
30 rules for imposing penalties against a provider  
31 that fails to comply with a requirement for



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1           corrective action; requiring notice; requiring  
2           that the department develop, and incorporate  
3           into the department's Employee Handbook,  
4           standards of conduct and a range of  
5           disciplinary actions relating to certain staff  
6           functions; requiring the department to assure  
7           the accountability of each provider of client  
8           services; providing duties of the Auditor  
9           General and the Office of Program Policy  
10          Analysis and Government Accountability;  
11          providing for cancellation of contracts under  
12          specified circumstances; providing for  
13          department liens against certain property  
14          constructed or renovated using state funds;  
15          authorizing the department to competitively  
16          procure any contract under certain  
17          circumstances; providing for department  
18          contracts to include certain incentives;  
19          amending s. 20.316, F.S.; revising requirements  
20          for the department in procuring contracts for  
21          client services and in establishing standards  
22          for the delivery of those services; requiring  
23          the department to procure certain services  
24          competitively; authorizing deferral of the  
25          competitive contracting process under certain  
26          circumstances; limiting the duration of such  
27          deferrals; authorizing the department to adopt  
28          rules relating to an alternative competitive  
29          procurement process; providing intent that the  
30          department enter multi-year contracts;  
31          requiring that the department adopt rules for

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1           imposing penalties against a provider that  
2           fails to comply with a requirement for  
3           corrective action; requiring notice; providing  
4           for cancellation of contracts under specified  
5           circumstances; requiring that the department  
6           develop, and incorporate into the department's  
7           Employee Handbook, standards of conduct and a  
8           range of disciplinary actions relating to  
9           certain staff functions; requiring the  
10          department to assure the accountability of each  
11          provider of client services; providing for  
12          department liens against certain property  
13          constructed or renovated using state funds;  
14          authorizing the department to competitively  
15          procure any contract under certain  
16          circumstances; requiring the Department of  
17          Children and Family Services to provide  
18          training for staff in negotiating contracts;  
19          requiring the Department of Children and Family  
20          Services to ensure certain assistance to staff  
21          who are negotiating a contract; requiring the  
22          Department of Children and Family Services to  
23          create contract management units at the  
24          district level; providing specifications for  
25          these units; specifying the date by which the  
26          contract management units must be in operation;  
27          requiring an evaluation of contracting  
28          functions in the service districts; authorizing  
29          the exercise of budget and personnel  
30          flexibility; authorizing the Department of  
31          Children and Family Services to transfer

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1           specified funds from certain budget entities in  
2           order to create certain staff positions;  
3           requiring a report; providing an effective  
4           date.

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6           WHEREAS, it is the intent of the Legislature that the  
7 Department of Children and Family Services and the Department  
8 of Juvenile Justice achieve and maintain accountability from  
9 all providers of client services in order to assure a high  
10 level of quality and effectiveness of those services, and

11           WHEREAS, it is further the intent of the Legislature  
12 that the Office of Standards and Evaluation of the Department  
13 of Children and Family Services, in conjunction with the  
14 program offices at the headquarters of that department, play a  
15 central role in assuring that this accountability is achieved  
16 and maintained, NOW, THEREFORE,

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