

By the Committee on Governmental Reform and Oversight

302-665A-98

1                                   A bill to be entitled  
2           An act relating to program administration by  
3           the Department of Children and Family Services;  
4           amending s. 20.19, F.S.; providing additional  
5           duties for the department's Office of Standards  
6           and Evaluation with respect to measuring  
7           standards of performance and to reports due to  
8           the Legislature; providing duties of program  
9           offices; requiring an evaluation and a report  
10          from the Assistant Secretary for  
11          Administration; revising requirements for the  
12          department in procuring contracts for client  
13          services and in establishing standards for the  
14          delivery of those services; requiring the  
15          department to procure certain services  
16          competitively; authorizing deferral of the  
17          competitive contracting process under certain  
18          circumstances; limiting the duration of such  
19          deferrals; authorizing the department to adopt  
20          rules relating to an alternative competitive  
21          procurement process; providing intent that the  
22          department enter multi-year contracts;  
23          providing for procuring services from multiple  
24          sources; requiring that the department adopt  
25          rules for imposing penalties against a provider  
26          that fails to comply with a requirement for  
27          corrective action; requiring notice; requiring  
28          that the department develop, and incorporate  
29          into the department's Employee Handbook,  
30          standards of conduct and a range of  
31          disciplinary actions relating to certain staff

1 functions; requiring the department to assure  
2 the accountability of each provider of client  
3 services; providing duties of the Auditor  
4 General and the Office of Program Policy  
5 Analysis and Government Accountability;  
6 providing for cancellation of contracts under  
7 specified circumstances; providing for  
8 department liens against certain property  
9 constructed or renovated using state funds;  
10 authorizing the department to competitively  
11 procure any contract under certain  
12 circumstances; providing for department  
13 contracts to include certain incentives;  
14 requiring reports to the Legislature by the  
15 department; requiring the department to provide  
16 training for staff in negotiating contracts;  
17 requiring the department to ensure certain  
18 assistance to staff who are negotiating a  
19 contract; requiring the department to create  
20 contract management units at the district  
21 level; providing specifications for these  
22 units; specifying the date by which the  
23 contract management units must be in operation;  
24 requiring the department to evaluate  
25 contracting functions in the service districts;  
26 authorizing the department to exercise budget  
27 and personnel flexibility; authorizing the  
28 department to transfer specified funds from  
29 certain budget entities in order to create  
30 certain staff positions; requiring a report;  
31 providing an effective date.

1  
2 WHEREAS, it is the intent of the Legislature that the  
3 Department of Children and Family Services achieve and  
4 maintain accountability from all providers of client services  
5 in order to assure a high level of quality and effectiveness  
6 of those services, and

7 WHEREAS, it is further the intent of the Legislature  
8 that the Office of Standards and Evaluation, in conjunction  
9 with the program offices at the headquarters of the  
10 department, play a central role in assuring that this  
11 accountability is achieved and maintained, NOW, THEREFORE,

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Subsections (3), (4), and (5) of section  
16 20.19, Florida Statutes, are amended, present subsections  
17 (16), (17), (18), (19), and (20) are redesignated as  
18 subsections (17), (18), (19), (20), and (21), respectively,  
19 and a new subsection (16) is added to that section, to read:

20 20.19 Department of Children and Family

21 Services.--There is created a Department of Children and  
22 Family Services.

23 (3) OFFICE OF STANDARDS AND EVALUATION.--There is  
24 created under the secretary the Office of Standards and  
25 Evaluation which has the following responsibilities:

26 (a) ~~With the assistance of the assistant secretaries,~~  
27 ~~district administrators, and health and human services boards,~~  
28 Establishing systems and strategies to evaluate performance in  
29 achieving outcome measures and performance and productivity  
30 standards related to service delivery, program and financial  
31 administration, and support, with the assistance of the

1 assistant secretaries, district administrators, and health and  
2 human services boards ~~and procedures.~~

3 (b) Directing the development of monitoring and  
4 quality assurance systems for statewide and district services  
5 that will routinely assess the efficiency and effectiveness of  
6 departmental and provider staff and services.

7 (c) Validating the monitoring and quality assurance  
8 activities of statewide and district service providers and  
9 staff to ensure that these activities are being conducted  
10 routinely and that corrective action is being taken to  
11 eliminate deficiencies detected by these activities.

12 (d) Conducting evaluations, directly or by contract,  
13 of programs and services provided by the department to  
14 determine whether improvement in the condition of individuals,  
15 families, and communities has occurred as a result of these  
16 programs and services. The evaluations must include an  
17 assessment of the short-term effects on individuals and  
18 families and the long-term effects on communities and the  
19 state. Outcome evaluation studies shall be conducted in  
20 response to priorities determined by the department and the  
21 Legislature and to the extent that funding is provided by the  
22 Legislature.

23 (e) Consulting with the inspector general to ensure  
24 the integrity of the monitoring and evaluation process and the  
25 validity of the data derived from these activities.

26 (f) Developing procedures for the competitive  
27 procurement of external evaluations, including detailed  
28 specifications for all evaluation contracts.

29 (g) Developing the budget for the department's  
30 evaluation efforts and identifying future evaluation needs,  
31

1 including infrastructure needs to support the outcome  
2 evaluation function.

3 (h) Evaluating and reporting to the Legislature,  
4 beginning December 31, 1999, and by October 31 of each  
5 subsequent year, on the following issues:

6 1. The effectiveness of the department's performance  
7 contracting system in accomplishing program outcomes and in  
8 continuously improving performance.

9 2. The adequacy of resources and internal controls  
10 used by each program and service district to ensure  
11 effectiveness and quality of client services provided through  
12 standard contracts and other agreements.

13 3. The effectiveness and quality of contracted  
14 services for each client target group, as determined by annual  
15 performance reporting and results of quality assurance  
16 monitoring.

17 4. The status of the department's progress in  
18 complying with the provisions of this act, including the work  
19 of the contract evaluation teams established pursuant to  
20 paragraph (9)(g).

21 (i)(h) Such other duties relating to evaluation as may  
22 be assigned to the Office of Standards and Evaluation by the  
23 secretary.

24 (4) PROGRAM OFFICES.--

25 (a) There are created program offices, each of which  
26 shall be headed by an assistant secretary who shall be  
27 appointed by and serve at the pleasure of the secretary. Each  
28 program office shall have the following responsibilities:

29 1. Ensuring that family services programs are  
30 implemented according to legislative intent and as provided in  
31 state and federal laws, rules, and regulations.

- 1           2. Establishing program standards and performance  
2 objectives.
- 3           3. Reviewing, monitoring, and ensuring compliance with  
4 statewide standards and performance measures ~~objectives~~.
- 5           4. Providing general statewide supervision of the  
6 administration of service programs, including, but not limited  
7 to:
- 8           a. Developing and coordinating training for service  
9 programs.
- 10           b. Coordinating program research.
- 11           c. Identifying statewide program needs and  
12 recommending solutions and priorities.
- 13           d. Providing technical assistance for the  
14 administrators and staff of the service districts.
- 15           e. Assisting district administrators in staff  
16 development and training.
- 17           f. Monitoring service programs to ensure program  
18 quality among service districts.
- 19           ~~4. Conducting outcome evaluations and ensuring program~~  
20 ~~effectiveness.~~
- 21           5. Developing workload and productivity standards.
- 22           6. Developing resource allocation methodologies.
- 23           7. Compiling reports, analyses, and assessment of  
24 client needs on a statewide basis.
- 25           8. Ensuring the continued interagency collaboration  
26 with the Department of Education for the development and  
27 integration of effective programs to serve children and their  
28 families.
- 29           9. Other duties as are assigned by the secretary.
- 30           (b) The following program offices are established and  
31 may be consolidated, restructured, or rearranged by the

1 secretary; provided any such consolidation, restructuring, or  
2 rearranging is for the purpose of encouraging service  
3 integration through more effective and efficient performance  
4 of the program offices or parts thereof:

5 1. Economic Self-Sufficiency Program Office.--The  
6 responsibilities of this office encompass income support  
7 programs within the department, such as temporary assistance  
8 to families with dependent children, food stamps, welfare  
9 reform, and state supplementation of the supplemental security  
10 income (SSI) program.

11 2. Developmental Services Program Office.--The  
12 responsibilities of this office encompass programs operated by  
13 the department for developmentally disabled persons.  
14 Developmental disabilities include any disability defined in  
15 s. 393.063.

16 3. Children and Families Program Office.--The  
17 responsibilities of this program office encompass early  
18 intervention services for children and families at risk;  
19 intake services for protective investigation of abandoned,  
20 abused, and neglected children; interstate compact on the  
21 placement of children programs; adoption; child care;  
22 out-of-home care programs and other specialized services to  
23 families; and child protection and sexual abuse treatment  
24 teams created under chapter 415, excluding medical direction  
25 functions.

26 4. Alcohol, Drug Abuse, and Mental Health Program  
27 Office.--The responsibilities of this office encompass all  
28 alcohol, drug abuse, and mental health programs operated by  
29 the department.

30 (5) ASSISTANT SECRETARY FOR ADMINISTRATION.--

31

1           (a) The secretary shall appoint an Assistant Secretary  
2 for Administration who serves at the pleasure of the  
3 secretary. The Assistant Secretary for Administration is  
4 responsible for:

5           1. Supervising all of the budget management activities  
6 of the department and serving as the chief budget officer of  
7 the department.

8           2. Providing administrative and management support  
9 services above the district level.

10          3. Monitoring administrative and management support  
11 services in the districts.

12          4. Developing and implementing uniform policies,  
13 procedures, and guidelines with respect to personnel  
14 administration, finance and accounting, budget, grants  
15 management and disbursement, contract administration,  
16 procurement, information and communications systems,  
17 management evaluation and improvement, and general services,  
18 including housekeeping, maintenance, and leasing of  
19 facilities.

20          5. Performing such other administrative duties as are  
21 assigned by the secretary.

22          (b) If reductions in a district's operating budget  
23 become necessary during any fiscal year, the department shall  
24 develop a formula to be used in its recommendations to the  
25 Governor and Legislature which does not disproportionately  
26 reduce a district's operating budget because of voluntary  
27 county appropriations to department programs.

28          (c) The Assistant Secretary for Administration shall  
29 evaluate and report to the Legislature by July 1, 1999, and  
30 annually thereafter, on the methods used by each program to  
31



1 ensure the fiscal accountability of each provider of client  
2 services with whom the department contracts.

3 (d) The Assistant Secretary for Administration shall  
4 evaluate the administrative operations of the districts, and  
5 may require that districts develop and submit corrective  
6 action plans in those areas that do not conform to the  
7 department's uniform operating procedures.

8 (16) CONTRACTING AND PERFORMANCE STANDARDS.--

9 (a) The department will establish performance  
10 standards for all contracted client services. Notwithstanding  
11 s. 287.057(3)(f), the department must competitively procure  
12 any contract for client services when any of the following  
13 occurs:

14 1. The provider fails to meet appropriate performance  
15 standards established by the department after the provider has  
16 been given a reasonable opportunity to achieve the established  
17 standards.

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

21 3. The department has concluded, after reviewing  
22 market prices and available treatment options, that there is  
23 evidence that the department can improve the performance  
24 outcomes produced by its contract resources. At a minimum, the  
25 department shall review market prices and available treatment  
26 options biennially. The department shall compile the results  
27 of the biennial review and include the results in its annual  
28 performance report to the Legislature pursuant to chapter  
29 94-249, Laws of Florida. The department shall provide notice  
30 and an opportunity for public comment on its review of market  
31 prices and available treatment options.

1           (b) The competitive requirements of paragraph (a) must  
2 be initiated for each contract that meets the criteria of this  
3 subsection, unless the secretary makes a written determination  
4 that particular facts and circumstances require deferral of  
5 the competitive process. Facts and circumstances must be  
6 specifically described for each individual contract proposed  
7 for deferral and must include one or more of the following:

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

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

13           3. A threat to the service infrastructure of a  
14 community which could endanger the well-being of the  
15 department's clients.

16  
17 Competitive procurement of client services contracts that meet  
18 the criteria in paragraph (a) may not be deferred for longer  
19 than 1 year.

20           (c) The Legislature intends for the department to  
21 obtain services in the manner that is most cost-effective for  
22 the state, in the manner that provides the greatest long-term  
23 benefits to the clients receiving services, and in the manner  
24 that minimizes the disruption of client services. In order to  
25 meet these legislative goals, the department may adopt rules  
26 providing procedures for the competitive procurement of  
27 contracted client services which represent an alternative to  
28 the request-for-proposal or the invitation-to-bid process. The  
29 alternative competitive procedures shall permit the department  
30 to solicit professional qualifications from prospective  
31 providers and to evaluate such statements of qualification

1 before requesting service proposals. The department may limit  
2 the firms invited to submit service proposals to only those  
3 firms that have demonstrated the highest level of professional  
4 capability to provide the services under consideration, but  
5 may not invite fewer than three firms to submit service  
6 proposals, unless fewer than three firms submitted  
7 satisfactory statements of qualification. The alternative  
8 procedures must, at a minimum, allow the department to  
9 evaluate competing proposals and select the proposal that  
10 provides the greatest benefit to the state while considering  
11 the quality of the services, dependability and integrity of  
12 the provider, dependability of the provider's services, the  
13 experience of the provider in serving target populations or  
14 client groups substantially identical to members of the target  
15 population for the contract in question, and the ability of  
16 the provider to secure local funds to support the delivery of  
17 services, including, but not limited to, funds derived from  
18 local governments. These alternative procedures need not  
19 conform to the requirements of s. 287.057(1) or (2) or s.  
20 287.042.

21 (d) The department shall review the period for which  
22 it executes contracts and, to the greatest extent practical,  
23 shall execute multi-year contracts to make the most efficient  
24 use of the resources devoted to contract processing and  
25 execution.

26 (e) When it is in the best interest of a defined  
27 segment of its consumer population, the department may  
28 competitively procure and contract for systems of treatment or  
29 service that involve multiple providers, rather than procuring  
30 and contracting for treatment or services separately from each  
31 participating provider. The department must ensure that all

1 providers that participate in the treatment or service system  
2 meet all applicable statutory, regulatory, service-quality,  
3 and cost-control requirements. If other governmental entities  
4 or units of special purpose government contribute matching  
5 funds to the support of a given system of treatment or  
6 service, the department shall formally request information  
7 from those funding entities in the procurement process and  
8 shall take the information received from those funding  
9 entities into account in the selection process. The department  
10 may also involve nongovernmental funding entities in the  
11 procurement process when appropriate.

12 (f) The department may contract for or provide  
13 assessment and case-management services independently of  
14 treatment services.

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

1 otherwise be due to the provider, not to exceed 10 percent of  
2 the amount that otherwise would be due to the provider for the  
3 period of noncompliance. If the department imposes a financial  
4 penalty, it shall advise the provider in writing of the cause  
5 for the penalty. A failure to include such deductions in a  
6 request for payment constitutes a ground for the department to  
7 reject that request for payment. The additional remedies  
8 identified in this paragraph do not limit or restrict the  
9 department's application of any other remedy available to it  
10 in the contract or under law. The additional remedies  
11 described in this paragraph may be cumulative and may be  
12 assessed upon each separate failure to comply with  
13 instructions from the department to complete corrective  
14 action.

15 (h) The department shall develop standards of conduct  
16 and a range of disciplinary actions for its employees which  
17 are specifically related to carrying out contracting  
18 responsibilities, and shall incorporate the standards and  
19 disciplinary actions in its Employee Handbook by December 31,  
20 1998.

21 (i) The department must implement systems and controls  
22 to ensure financial integrity and service-provision quality in  
23 the developmental services Medicaid waiver service system no  
24 later than December 31, 1998. The Auditor General shall  
25 include specific reference to systems and controls related to  
26 financial integrity in the developmental services Medicaid  
27 waiver service system in his audit of the department for the  
28 1998-1999 fiscal year, and for all subsequent fiscal years.  
29 The Office of Program Policy Analysis and Government  
30 Accountability shall review the department's systems and  
31 controls related to service-provision quality in the

1 developmental services Medicaid waiver service system and  
2 submit a report to the Legislature by December 31, 1999.

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

15 (k) The department shall include in its standard  
16 contract document a requirement that it file a lien against  
17 the property where facilities are located which have been  
18 constructed or substantially renovated, in whole or in part,  
19 through the use of state funds. However, the department is not  
20 required to file a lien if the amount of state funds does not  
21 exceed \$25,000 or 10 percent of the contract amount, whichever  
22 amount is less. The lien must be recorded in the county where  
23 the property is located upon the execution of the contract  
24 authorizing such construction or renovation. The lien must  
25 specify that the department has a financial interest in the  
26 property equal to the pro rata portion of the state's original  
27 investment of the then-fair-market value for renovations, or  
28 the proportionate share of the cost of the construction. The  
29 lien must also specify that the department's interest is  
30 proportionately reduced and subsequently vacated over a  
31 20-year period of depreciation. The contract must include a

1 provision that, as a condition of receipt of state funding for  
2 this purpose, the provider agrees that, if it disposes of the  
3 property before the department's interest is vacated, the  
4 provider will refund the proportionate share of the state's  
5 initial investment, as adjusted by depreciation.

6 (l) The department shall develop and refine  
7 contracting and accountability methods that are  
8 administratively efficient and that provide for optimal  
9 provider performance.

10 (m) The department may competitively procure any  
11 contract when it deems it is in the best interest of the state  
12 to do so. The requirements described in paragraph (a) do not,  
13 and may not be construed to, limit in any way the department's  
14 ability to competitively procure any contract it executes, and  
15 the absence of any or all of the criteria described in  
16 paragraph (a) may not be used as the basis for an  
17 administrative or judicial protest of the department's  
18 determination to conduct competition, make an award, or  
19 execute any contract.

20 (n) A contract may include cost-neutral,  
21 performance-based incentives that may vary according to the  
22 extent a provider achieves or surpasses the performance  
23 standards set forth in the contract. Such incentives may be  
24 weighted proportionally to reflect the extent to which the  
25 provider has demonstrated that it has consistently met or  
26 exceeded the contractual requirements and the department's  
27 performance standards.

28 Section 2. (1) The Department of Children and Family  
29 Services shall take steps to ensure that department contracts  
30 are negotiated in a manner that assures that the state's  
31 interests are well represented. In order to make this

1 assurance, the department must request voluntary assistance  
2 from outside entities, including, but not limited to, other  
3 state agencies, to provide training for departmental employees  
4 who negotiate contracts. Further, employees who negotiate  
5 contracts must have available to them other department  
6 employees who have expertise in legal and fiscal matters and  
7 employees who are especially skilled in conducting contract  
8 negotiations to ensure that the interests of the state are  
9 well represented.

10 (2) The department shall create contract management  
11 units at the district level which must be staffed by  
12 individuals who are specifically trained to perform the  
13 functions related to contract management. The contract  
14 management units are responsible for monitoring the  
15 programmatic and administrative performance of the  
16 department's contracts for client services and shall report to  
17 the appropriate district administrator. To the greatest extent  
18 possible, the members of the contract management units shall  
19 be career service employees who are assigned to the same pay  
20 grade. The contract management units shall be in operation  
21 throughout the state no later than March 1, 1999.

22 (3) The department shall evaluate the effectiveness  
23 and efficiency of contracting functions in each service  
24 district and report to the Legislature by December 15, 1999.  
25 For districts where contracting functions have been  
26 centralized for at least 12 months, the department shall  
27 report on the effectiveness of such centralization. For  
28 districts that elected not to centralize contracting  
29 functions, the report must include the reasons for that  
30 decision and the steps a district has taken to improve  
31 contracting within the district.



1           Section 3. (1) It is critical that the Department of  
2 Children and Family Services have an adequate number and  
3 quality of staff to ensure the effective negotiation and  
4 management of contracts for client services. The Legislature  
5 intends that the department be permitted to have limited  
6 flexibility to use funds for improving contract negotiation,  
7 contract management, oversight, quality assurance, training,  
8 and other related activities. To this end, effective October  
9 1, 1998, the department may transfer up to 0.25 percent of the  
10 total funds from categories used to pay for contractually  
11 provided client services of any budget entity within the  
12 department. Such transfer may not exceed a total of \$3 million  
13 in any fiscal year. When necessary, the department may  
14 establish, in accordance with section 216.177, Florida  
15 Statutes, additional positions that will be exclusively  
16 devoted to these functions. Any positions required under this  
17 section may be established notwithstanding sections  
18 216.262(1)(a) and 216.351, Florida Statutes.

19           (2) The department must report to the Legislature by  
20 July 1, 2000, on the impact of this section. This report must,  
21 at a minimum, include quantifiable evidence demonstrating that  
22 the department is able to provide additional client services  
23 within the same appropriation through improved ability to  
24 negotiate and manage contracts.

25           Section 4. This act shall take effect October 1, 1998.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 156

The Committee Substitute rephrases contract procurement requirements for the Department of Children and Family Services to require biennial review and annual reporting of market prices for contract providers and deletes the upper dollar threshold for required contract procurement. Also deleted from the bill are specific contract procurement guidelines for mental health providers.