

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

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

1 circumstances; requiring that the department
2 develop, and incorporate into the department's
3 Employee Handbook, standards of conduct and a
4 range of disciplinary actions relating to
5 certain staff functions; requiring the
6 department to assure the accountability of each
7 provider of client services; 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; requiring the Department of
13 Children and Family Services to provide
14 training for staff in negotiating contracts;
15 requiring the Department of Children and Family
16 Services to ensure certain assistance to staff
17 who are negotiating a contract; requiring the
18 Department of Children and Family Services to
19 create contract management units at the
20 district level; providing specifications for
21 these units; specifying the date by which the
22 contract management units must be in operation;
23 requiring an evaluation of contracting
24 functions in the service districts; authorizing
25 the exercise of budget and personnel
26 flexibility; authorizing the Department of
27 Children and Family Services to transfer
28 specified funds from certain budget entities in
29 order to create certain staff positions;
30 requiring a report; providing an effective
31 date.

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

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

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

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

21 20.19 Department of Children and Family

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

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

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

1 administration, and support, with the assistance of the
2 assistant secretaries, district administrators, and health and
3 human services boards ~~and procedures.~~

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

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

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

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

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

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

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.--

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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

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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 may
8 take the information received from those funding entities into
9 account in the selection process. If a local government
10 contributes match to support the system of treatment or
11 contracted service and if the match constitutes at least 25
12 percent of the value of the contract, the department shall
13 afford the governmental match contributor an opportunity to
14 name an employee to the selection team required by s.
15 287.057(15). Any employee so named shall qualify as one of the
16 employees required by s. 287.057(15). The selection team shall
17 include the named employee unless the department sets forth in
18 writing the reason such inclusion would be contrary to the
19 best interests of the state. No governmental entity or unit of
20 special purpose government may name an employee to the
21 selection team if it, or any of its political subdivisions,
22 executive agencies, or special districts, intends to compete
23 for the contract to be awarded. The governmental funding
24 entity or match contributor shall comply with any deadlines
25 and procurement procedures established by the department. The
26 department may also involve nongovernmental funding entities
27 in the procurement process when appropriate.

28 (f) The department may contract for or provide
29 assessment and case-management services independently of
30 treatment services.

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1 (g) The department shall adopt, by rule, provisions
2 for including in its contracts incremental penalties to be
3 imposed by its contract managers on a service provider due to
4 the provider's failure to comply with a requirement for
5 corrective action. Any financial penalty that is imposed upon
6 a provider may not be paid from funds being used to provide
7 services to clients, and the provider may not reduce the
8 amount of services being delivered to clients as a method for
9 offsetting the impact of the penalty. If a financial penalty
10 is imposed upon a provider that is a corporation, the
11 department shall notify, at a minimum, the board of directors
12 of the corporation. The department may notify, at its
13 discretion, any additional parties that the department
14 believes may be helpful in obtaining the corrective action
15 that is being sought. Further, the rules adopted by the
16 department must include provisions that permit the department
17 to deduct the financial penalties from funds that would
18 otherwise be due to the provider, not to exceed 10 percent of
19 the amount that otherwise would be due to the provider for the
20 period of noncompliance. If the department imposes a financial
21 penalty, it shall advise the provider in writing of the cause
22 for the penalty. A failure to include such deductions in a
23 request for payment constitutes a ground for the department to
24 reject that request for payment. The additional remedies
25 identified in this paragraph do not limit or restrict the
26 department's application of any other remedy available to it
27 in the contract or under law. The additional remedies
28 described in this paragraph may be cumulative and may be
29 assessed upon each separate failure to comply with
30 instructions from the department to complete corrective
31 action.

1 (h) The department shall develop standards of conduct
2 and a range of disciplinary actions for its employees which
3 are specifically related to carrying out contracting
4 responsibilities, and shall incorporate the standards and
5 disciplinary actions in its Employee Handbook by December 31,
6 1998.

7 (i) The department must implement systems and controls
8 to ensure financial integrity and service-provision quality in
9 the developmental services Medicaid waiver service system no
10 later than December 31, 1998. The Auditor General shall
11 include specific reference to systems and controls related to
12 financial integrity in the developmental services Medicaid
13 waiver service system in his audit of the department for the
14 1998-1999 fiscal year, and for all subsequent fiscal years.
15 The Office of Program Policy Analysis and Government
16 Accountability shall review the department's systems and
17 controls related to service-provision quality in the
18 developmental services Medicaid waiver service system and
19 submit a report to the Legislature by December 31, 1999.

20 (j) If a provider fails to meet the performance
21 standards established in the contract, the department may
22 allow a reasonable period for the provider to correct
23 performance deficiencies. If performance deficiencies are not
24 resolved to the satisfaction of the department within the
25 prescribed time, and if no extenuating circumstances can be
26 documented by the provider to the department's satisfaction,
27 the department must cancel the contract with the provider. The
28 department may not enter into a new contract with that same
29 provider for the services for which the contract was
30 previously canceled for a period of at least 24 months after
31 the date of cancellation.

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

23 (l) The department shall develop and refine
24 contracting and accountability methods that are
25 administratively efficient and that provide for optimal
26 provider performance.

27 (m) The department may competitively procure any
28 contract when it deems it is in the best interest of the state
29 to do so. The requirements described in paragraph (a) do not,
30 and may not be construed to, limit in any way the department's
31 ability to competitively procure any contract it executes, and

1 the absence of any or all of the criteria described in
2 paragraph (a) may not be used as the basis for an
3 administrative or judicial protest of the department's
4 determination to conduct competition, make an award, or
5 execute any contract.

6 (n) A contract may include cost-neutral,
7 performance-based incentives that may vary according to the
8 extent a provider achieves or surpasses the performance
9 standards set forth in the contract. Such incentives may be
10 weighted proportionally to reflect the extent to which the
11 provider has demonstrated that it has consistently met or
12 exceeded the contractual requirements and the department's
13 performance standards.

14 Section 2. (1) The Department of Children and Family
15 Services shall take steps to ensure that department contracts
16 are negotiated in a manner that assures that the state's
17 interests are well represented. In order to make this
18 assurance, the department must request voluntary assistance
19 from outside entities, including, but not limited to, other
20 state agencies, to provide training for departmental employees
21 who negotiate contracts. Further, employees who negotiate
22 contracts must have available to them other department
23 employees who have expertise in legal and fiscal matters and
24 employees who are especially skilled in conducting contract
25 negotiations to ensure that the interests of the state are
26 well represented.

27 (2) The department shall create contract management
28 units at the district level which must be staffed by
29 individuals who are specifically trained to perform the
30 functions related to contract management. The contract
31 management units are responsible for monitoring the

1 programmatic and administrative performance of the
2 department's contracts for client services and shall report to
3 the appropriate district administrator. To the greatest extent
4 possible, the members of the contract management units shall
5 be career service employees who are assigned to the same pay
6 grade. The contract management units shall be in operation
7 throughout the state no later than March 1, 1999.

8 (3) The department shall evaluate the effectiveness
9 and efficiency of contracting functions in each service
10 district and report to the Legislature by December 15, 1999.
11 For districts where contracting functions have been
12 centralized for at least 12 months, the department shall
13 report on the effectiveness of such centralization. For
14 districts that elected not to centralize contracting
15 functions, the report must include the reasons for that
16 decision and the steps a district has taken to improve
17 contracting within the district.

18 Section 3. (1) It is critical that the Department of
19 Children and Family Services have an adequate number and
20 quality of staff to ensure the effective negotiation and
21 management of contracts for client services. The Legislature
22 intends that the department be permitted to have limited
23 flexibility to use funds for improving contract negotiation,
24 contract management, oversight, quality assurance, training,
25 and other related activities. To this end, effective October
26 1, 1998, the department may transfer up to 0.25 percent of the
27 total funds from categories used to pay for contractually
28 provided client services of any budget entity within the
29 department. Such transfer may not exceed a total of \$3 million
30 in any fiscal year. When necessary, the department may
31 establish, in accordance with section 216.177, Florida

1 Statutes, additional positions that will be exclusively
2 devoted to these functions. Any positions required under this
3 section may be established notwithstanding sections
4 216.262(1)(a) and 216.351, Florida Statutes.

5 (2) The department must report to the Legislature by
6 July 1, 2000, on the impact of this section. This report must,
7 at a minimum, include quantifiable evidence demonstrating that
8 the department is able to provide additional client services
9 within the same appropriation through improved ability to
10 negotiate and manage contracts.

11 Section 4. Paragraph (c) of subsection (1) of section
12 20.316, Florida Statutes, is amended, and subsection (7) is
13 added to that section, to read:

14 20.316 Department of Juvenile Justice.--There is
15 created a Department of Juvenile Justice.

16 (1) SECRETARY OF JUVENILE JUSTICE.--

17 (c) The Secretary of Juvenile Justice shall:

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

24 2. Identify the need for and recommend the funding and
25 implementation of an appropriate mix of programs and services
26 within the juvenile justice continuum, including prevention,
27 diversion, nonresidential and residential commitment programs,
28 training schools, and reentry and aftercare programs and
29 services, with an overlay of educational, vocational, alcohol,
30 drug abuse, and mental health services where appropriate.

31

- 1 3. Provide for program research, development, and
2 planning.
- 3 4. Develop staffing and workload standards and
4 coordinate staff development and training.
- 5 5. Develop budget and resource allocation
6 methodologies and strategies.
- 7 6. Establish program policies and rules and ensure
8 that those policies and rules encourage cooperation,
9 collaboration, and information sharing with community partners
10 in the juvenile justice system to the extent authorized by
11 law.
- 12 7. Develop funding sources external to state
13 government.
- 14 8. Obtain, approve, monitor, and coordinate research
15 and program development grants.
- 16 9. Enter into performance-based contracts that are, to
17 the maximum extent possible, procured competitively.
- 18 (7) CONTRACTING AND PERFORMANCE STANDARDS.--
19 (a) The Department of Juvenile Justice will establish
20 performance standards for all contracted client services.
21 Notwithstanding s. 287.057(3)(f), the department must
22 competitively procure any contract for client services when
23 any of the following occurs:
- 24 1. The provider fails to meet appropriate performance
25 standards established by the department after the provider has
26 been given a reasonable opportunity to achieve the established
27 standards.
- 28 2. A new program or service has been authorized and
29 funded by the Legislature, and the annual value of the
30 contract for such program or service is \$300,000 or more.
31

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

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

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

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

24 3. A threat to the service infrastructure of a
25 community which could endanger the well-being of the
26 department's clients.

27
28 Competitive procurement of client services contracts that meet
29 the criteria in paragraph (a) may not be deferred for longer
30 than 1 year.

31

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

28 (d) The department shall review the period for which
29 it executes contracts and, to the greatest extent practicable,
30 shall execute multi-year contracts.

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

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

1 request for payment constitutes a ground for the department to
2 reject that request for payment. The additional remedies
3 described in this paragraph may be cumulative and may be
4 assessed upon each separate failure to comply with
5 instructions from the department to complete corrective
6 action.

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

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

25 (i) The department shall include in its standard
26 contract document a requirement that it file a lien against
27 the property where facilities are located which have been
28 constructed or substantially renovated, in whole or in part,
29 through the use of state funds. However, the department is not
30 required to file a lien if the amount of state funds does not
31 exceed \$25,000 or 10 percent of the contract amount, whichever

1 amount is less. The lien must be recorded in the county where
2 the property is located upon the execution of the contract
3 authorizing such construction or renovation. The lien must
4 specify that the department has a financial interest in the
5 property equal to the pro rata portion of the state's original
6 investment of the then-fair-market value for renovations, or
7 the proportionate share of the cost of the construction. The
8 lien must also specify that the department's interest is
9 proportionately reduced and subsequently vacated over a
10 20-year period of depreciation. The contract must include a
11 provision that, as a condition of receipt of state funding for
12 this purpose, the provider agrees that, if it disposes of the
13 property before the department's interest is vacated, the
14 provider will refund the proportionate share of the state's
15 initial investment, as adjusted by depreciation.

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

26 Section 5. This act shall take effect October 1, 1998.
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