

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 multiyear contracts; providing
23 for procuring services from multiple sources;
24 requiring that the department adopt rules for
25 imposing penalties against a provider that
26 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 the department to provide training
15 for staff in negotiating contracts; requiring
16 the department to ensure certain assistance to
17 staff who are negotiating a contract; requiring
18 the department to create contract management
19 units at the district level; providing
20 specifications for these units; specifying the
21 date by which the contract management units
22 must be in operation; requiring the department
23 to evaluate contracting functions in the
24 service districts; requiring reports to the
25 Legislature by the department; providing an
26 effective date.

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

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

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Subsections (3), (4), and (5) of section
12 20.19, Florida Statutes, are amended, present subsections
13 (16), (17), (18), (19), and (20) are redesignated as
14 subsections (17), (18), (19), (20), and (21), respectively,
15 and a new subsection (16) is added to that section, to read:

16 20.19 Department of Children and Family
17 Services.--There is created a Department of Children and
18 Family Services.

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

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

30 (b) Directing the development of monitoring and
31 quality assurance systems for statewide and district services

1 that will routinely assess the efficiency and effectiveness of
2 departmental and provider staff and services.

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

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

19 (e) Consulting with the inspector general to ensure
20 the integrity of the monitoring and evaluation process and the
21 validity of the data derived from these activities.

22 (f) Developing procedures for the competitive
23 procurement of external evaluations, including detailed
24 specifications for all evaluation contracts.

25 (g) Developing the budget for the department's
26 evaluation efforts and identifying future evaluation needs,
27 including infrastructure needs to support the outcome
28 evaluation function.

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

1 1. The effectiveness of the department's performance
2 contracting system in accomplishing program outcomes and in
3 continuously improving performance.

4 2. The adequacy of resources and internal controls
5 used by each program and service district to ensure
6 effectiveness and quality of client services provided through
7 standard contracts and other agreements.

8 3. The effectiveness and quality of contracted
9 services for each client target group, as determined by annual
10 performance reporting and results of quality assurance
11 monitoring.

12 4. The status of the department's progress in
13 complying with the provisions of this act, including the work
14 of the contract evaluation teams established pursuant to
15 paragraph (9)(g).

16 ~~(i)(h)~~ Such other duties relating to evaluation as may
17 be assigned to the Office of Standards and Evaluation by the
18 secretary.

19 (4) PROGRAM OFFICES.--

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

24 1. Ensuring that family services programs are
25 implemented according to legislative intent and as provided in
26 state and federal laws, rules, and regulations.

27 2. Establishing program standards and performance
28 objectives.

29 3. Reviewing, monitoring, and ensuring compliance with
30 statewide standards and performance measures ~~objectives~~.

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1 4. Providing general statewide supervision of the
2 administration of service programs, including, but not limited
3 to:

4 a. Developing and coordinating training for service
5 programs.

6 b. Coordinating program research.

7 c. Identifying statewide program needs and
8 recommending solutions and priorities.

9 d. Providing technical assistance for the
10 administrators and staff of the service districts.

11 e. Assisting district administrators in staff
12 development and training.

13 f. Monitoring service programs to ensure program
14 quality among service districts.

15 ~~4. Conducting outcome evaluations and ensuring program~~
16 ~~effectiveness.~~

17 5. Developing workload and productivity standards.

18 6. Developing resource allocation methodologies.

19 7. Compiling reports, analyses, and assessment of
20 client needs on a statewide basis.

21 8. Ensuring the continued interagency collaboration
22 with the Department of Education for the development and
23 integration of effective programs to serve children and their
24 families.

25 9. Other duties as are assigned by the secretary.

26 (b) The following program offices are established and
27 may be consolidated, restructured, or rearranged by the
28 secretary; provided any such consolidation, restructuring, or
29 rearranging is for the purpose of encouraging service
30 integration through more effective and efficient performance
31 of the program offices or parts thereof:

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

7 2. Developmental Services Program Office.--The
8 responsibilities of this office encompass programs operated by
9 the department for developmentally disabled persons.
10 Developmental disabilities include any disability defined in
11 s. 393.063.

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

22 4. Alcohol, Drug Abuse, and Mental Health Program
23 Office.--The responsibilities of this office encompass all
24 alcohol, drug abuse, and mental health programs operated by
25 the department.

26 (5) ASSISTANT SECRETARY FOR ADMINISTRATION.--

27 (a) The secretary shall appoint an Assistant Secretary
28 for Administration who serves at the pleasure of the
29 secretary. The Assistant Secretary for Administration is
30 responsible for:

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1 1. Supervising all of the budget management activities
2 of the department and serving as the chief budget officer of
3 the department.

4 2. Providing administrative and management support
5 services above the district level.

6 3. Monitoring administrative and management support
7 services in the districts.

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

16 5. Performing such other administrative duties as are
17 assigned by the secretary.

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

24 (c) The Assistant Secretary for Administration shall
25 evaluate and report to the Legislature by July 1, 1999, and
26 annually thereafter, on the methods used by each program to
27 ensure the fiscal accountability of each provider of client
28 services with whom the department contracts.

29 (d) The Assistant Secretary for Administration shall
30 evaluate the administrative operations of the districts, and
31 may require that districts develop and submit corrective

1 action plans in those areas that do not conform to the
2 department's uniform operating procedures.

3 (16) CONTRACTING AND PERFORMANCE STANDARDS.--

4 (a) The department shall establish performance
5 standards for all contracted client services. Notwithstanding
6 s. 287.057(3)(f), the department must competitively procure
7 any contract for client services when any of the following
8 occurs:

9 1. The provider fails to meet appropriate performance
10 standards established by the department after the provider has
11 been given a reasonable opportunity to achieve the established
12 standards.

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

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

27 (b) The competitive requirements of paragraph (a) must
28 be initiated for each contract that meets the criteria of this
29 subsection, unless the secretary makes a written determination
30 that particular facts and circumstances require deferral of
31 the competitive process. Facts and circumstances must be

1 specifically described for each individual contract proposed
2 for deferral and must include one or more of the following:

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

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

8 3. A threat to the service infrastructure of a
9 community which could endanger the well-being of the
10 department's clients.

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

15 (c) The Legislature intends for the department to
16 obtain services in the manner that is most cost-effective for
17 the state, in the manner that provides the greatest long-term
18 benefits to the clients receiving services, and in the manner
19 that minimizes the disruption of client services. In order to
20 meet these legislative goals, the department may adopt rules
21 providing procedures for the competitive procurement of
22 contracted client services which represent an alternative to
23 the request-for-proposal or the invitation-to-bid process. The
24 alternative competitive procedures shall permit the department
25 to solicit professional qualifications from prospective
26 providers and to evaluate such statements of qualification
27 before requesting service proposals. The department may limit
28 the firms invited to submit service proposals to only those
29 firms that have demonstrated the highest level of professional
30 capability to provide the services under consideration, but
31 may not invite fewer than three firms to submit service

1 proposals, unless fewer than three firms submitted
 2 satisfactory statements of qualification. The alternative
 3 procedures must, at a minimum, allow the department to
 4 evaluate competing proposals and select the proposal that
 5 provides the greatest benefit to the state while considering
 6 the quality of the services, dependability and integrity of
 7 the provider, dependability of the provider's services, the
 8 experience of the provider in serving target populations or
 9 client groups substantially identical to members of the target
 10 population for the contract in question, and the ability of
 11 the provider to secure local funds to support the delivery of
 12 services, including, but not limited to, funds derived from
 13 local governments. These alternative procedures need not
 14 conform to the requirements of s. 287.057(1) or (2) or s.
 15 287.042.

16 (d) The department shall review the period for which
 17 it executes contracts and, to the greatest extent practicable,
 18 shall execute multiyear contracts to make the most efficient
 19 use of the resources devoted to contract processing and
 20 execution.

21 (e) When it is in the best interest of a defined
 22 segment of its consumer population, the department may
 23 competitively procure and contract for systems of treatment or
 24 service that involve multiple providers, rather than procuring
 25 and contracting for treatment or services separately from each
 26 participating provider. The department must ensure that all
 27 providers that participate in the treatment or service system
 28 meet all applicable statutory, regulatory, service-quality,
 29 and cost-control requirements. If other governmental entities
 30 or units of special purpose government contribute matching
 31 funds to the support of a given system of treatment or

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

23 (f) The department may contract for or provide
 24 assessment and case-management services independently from
 25 treatment services.

26 (g) The department shall adopt, by rule, provisions
 27 for including in its contracts incremental penalties to be
 28 imposed by its contract managers on a service provider due to
 29 the provider's failure to comply with a requirement for
 30 corrective action. Any financial penalty that is imposed upon
 31 a provider may not be paid from funds being used to provide

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

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

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

14 (j) If a provider fails to meet the performance
 15 standards established in the contract, the department may
 16 allow a reasonable period for the provider to correct
 17 performance deficiencies. If performance deficiencies are not
 18 resolved to the satisfaction of the department within the
 19 prescribed time, and if no extenuating circumstances can be
 20 documented by the provider to the department's satisfaction,
 21 the department must cancel the contract with the provider. The
 22 department may not enter into a new contract with that same
 23 provider for the services for which the contract was
 24 previously canceled for a period of at least 24 months after
 25 the date of cancellation. If an adult substance abuse
 26 services provider fails to meet the performance standards
 27 established in the contract, the department may allow a
 28 reasonable period, not to exceed 6 months, for the provider to
 29 correct performance deficiencies. If the performance
 30 deficiencies are not resolved to the satisfaction of the
 31 department within 6 months, the department must cancel the

1 contract with the adult substance abuse provider, unless there
2 is no other qualified provider in the service area.

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

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

29 (m) The department may competitively procure any
30 contract when it deems it is in the best interest of the state
31 to do so. The requirements described in paragraph (a) do not,

1 and may not be construed to, limit in any way the department's
2 ability to competitively procure any contract it executes, and
3 the absence of any or all of the criteria described in
4 paragraph (a) may not be used as the basis for an
5 administrative or judicial protest of the department's
6 determination to conduct competition, make an award, or
7 execute any contract.

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

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

29 (2) The department shall create contract management
30 units at the district level which must be staffed by
31 individuals who are specifically trained to perform the

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

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

20 Section 3. This act shall take effect October 1 of the
21 year in which enacted.
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