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Bill No. HB 3217

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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The Committee on Family Law & Children offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; privatization.--

(1) It is the intent of the Legislature that to ~~encourage~~ the Department of Children and Family Services shall ~~privatize the provision of to contract with competent~~ ~~community-based agencies to provide~~ foster care and related services statewide. As used in this section, the term "privatize" means to contract with competent, community-based agencies. The department shall submit a plan to accomplish privatization statewide, through a competitive process, phased in over a 3-year period beginning January 1, 2000. This plan is to be submitted by July 1, 1999, to the President of the

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1 Senate, the Speaker of the House of Representatives, the  
2 Governor, and the minority leaders of both houses. This plan  
3 must be developed with local community participation,  
4 including, but not limited to, input from community-based  
5 providers that are currently under contract with the  
6 department to furnish community-based foster care and related  
7 services, and must include a methodology for determining and  
8 transferring all available funds, including federal funds that  
9 the provider is eligible for and agrees to earn and that  
10 portion of general revenue funds which is currently associated  
11 with the services that are being furnished under contract. The  
12 methodology must provide for the transfer of funds  
13 appropriated and budgeted for all services and programs that  
14 have been incorporated into the project, including all  
15 management, capital (including current furniture and  
16 equipment), and administrative funds to accomplish the  
17 transfer of these programs. This methodology must address  
18 expected workload and at least the 3 previous years'  
19 experience in expenses and workload. With respect to any  
20 district or portion of a district in which privatization  
21 cannot be accomplished within the 3 years' timeframe, the  
22 department must clearly state in its plan the reasons the  
23 timeframe cannot be met and the efforts that should be made to  
24 remediate the obstacles, which may include alternatives to  
25 total privatization, such as public private partnerships. As  
26 used in this section, the term "related services" means ~~By~~  
27 ~~privatizing these services, the support and commitment of~~  
28 ~~communities to the reunification of families and care of~~  
29 ~~children and their families will be strengthened, and~~  
30 ~~efficiencies as well as increased accountability will be~~  
31 ~~gained. These services may include family preservation,~~

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1 independent living, emergency shelter, residential group care,  
2 foster care, therapeutic foster care, intensive residential  
3 treatment, ~~postadjudication legal services~~, foster care  
4 supervision, ~~postadjudication case management~~, postplacement  
5 supervision, permanent foster care, family reunification, the  
6 filing of a petition for the termination of parental rights,  
7 and adoption. Unless otherwise provided for, beginning in  
8 fiscal year 1999 - 2000, either the State Attorney or the  
9 Office of the Attorney General shall provide child welfare  
10 legal services, pursuant to Chapter 39, and other relevant  
11 provisions, in Sarasota, Pinellas, Pasco, and Manatee  
12 Counties. Such legal services shall commence upon and be  
13 effective, as soon as determined reasonably feasible by the  
14 respective State Attorney or the Office of the Attorney  
15 General, after the privatization of associated programs and  
16 child protective investigations has occurred. When a private  
17 nonprofit agency has received case management  
18 responsibilities, transferred from the state under this  
19 section, for a child who is sheltered or found to be dependent  
20 and who is assigned to the care of the privatization project,  
21 the agency may act as the child's guardian for the purpose of  
22 registering the child in school if a parent or guardian of the  
23 child is unavailable and his or her whereabouts cannot  
24 reasonably be ascertained. The private nonprofit agency may  
25 also seek emergency medical attention for such a child, but  
26 only if a parent or guardian of the child is unavailable, his  
27 or her whereabouts cannot reasonably be ascertained, and a  
28 court order for such emergency medical services cannot be  
29 obtained because of the severity of the emergency or because  
30 it is after normal working hours. However, the provider may  
31 not consent to sterilization, abortion, or termination of life

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1 support. If a child's parents' rights have been terminated,  
 2 the nonprofit agency shall act as guardian of the child in all  
 3 circumstances.

4 (2) The department may contract for the delivery,  
 5 administration, or management of protective services, the  
 6 services specified in subsection (1) relating to foster care,  
 7 and other related services or programs, as appropriate. The  
 8 department shall retain responsibility for the quality of  
 9 contracted services and programs and shall ensure that  
 10 services are delivered in accordance with applicable federal  
 11 and state statutes and regulations.

12 (3)(a) The department shall establish a quality  
 13 assurance program for privatized ~~the privatization of~~  
 14 services. The quality assurance program may be performed by a  
 15 national accrediting organization such as the Council on  
 16 Accreditation of Services for Families and Children, Inc.  
 17 (COA) or the Council on Accreditation of Rehabilitation  
 18 Facilities (CARF). The department shall develop a request for  
 19 proposal for such oversight. This program must be developed  
 20 and administered at a statewide level. The Legislature intends  
 21 that the department be permitted to have limited flexibility  
 22 to use funds for improving quality assurance. To this end,  
 23 effective January 1, 2000, the department may transfer up to  
 24 0.125 percent of the total funds from categories used to pay  
 25 for these contractually provided services, but the total  
 26 amount of such transferred funds may not exceed \$300,000 in  
 27 any fiscal year. When necessary, the department may establish,  
 28 in accordance with s. 216.177, additional positions that will  
 29 be exclusively devoted to these functions. Any positions  
 30 required under this paragraph may be established,  
 31 notwithstanding ss. 216.262(1)(a) and 216.351.~~The quality~~

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1 ~~assurance program must include standards for each specific~~  
2 ~~component of these services.~~The department, in consultation  
3 with the community-based agencies that are undertaking the  
4 privatized projects, shall establish minimum thresholds for  
5 each component of service, consistent with standards  
6 established by the Legislature. Each program operated under  
7 ~~pursuant to~~ contract with a community-based agency must be  
8 evaluated annually by the department ~~or by an objective~~  
9 ~~competent entity designated by the department under the~~  
10 ~~provisions of the quality assurance program.~~ The evaluation  
11 ~~must be financed from cost savings associated with the~~  
12 ~~privatization of services.~~The department shall submit an  
13 annual report regarding quality performance, outcome measure  
14 attainment, and cost efficiency to the President of the  
15 Senate, the Speaker of the House of Representatives, the  
16 minority leader of each house of the Legislature, and the  
17 Governor no later than January 31 of each year for each  
18 project in operation during the preceding fiscal year,  
19 ~~beginning in 1998.~~ ~~The quality assurance program must be~~  
20 ~~funded through administrative savings generated by this act.~~

21 (b) ~~The department shall establish and operate a~~  
22 ~~comprehensive system to measure and report annually the~~  
23 ~~outcomes and effectiveness of the services that have been~~  
24 ~~privatized.~~The department shall use these findings in making  
25 recommendations to the Governor and the Legislature for future  
26 program and funding priorities in the child welfare system.

27 (4)(a) The community-based agency must comply with  
28 statutory requirements and agency rules ~~regulations~~ in the  
29 provision of contractual services. Each foster home,  
30 therapeutic foster home, emergency shelter, or other placement  
31 facility operated by the community-based agency or agencies

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1 must be licensed by the Department of Children and Family  
 2 Services under chapter 402 or this chapter. Each  
 3 community-based agency must be licensed as a child-caring or  
 4 child-placing agency by the department under this chapter. The  
 5 department, in order to eliminate or reduce the number of  
 6 duplicate inspections by various program offices, shall  
 7 coordinate inspections required pursuant to licensure of  
 8 agencies under this section.

9       ~~(b) A community-based agency providing contractual~~  
 10 ~~services under this section may be issued a Medicaid provider~~  
 11 ~~number pursuant to s. 409.907 to enable the agency to maximize~~  
 12 ~~federal support for these services under the state's Medicaid~~  
 13 ~~plan. A community-based agency must also participate in and~~  
 14 ~~cooperate with any federal program that will assist in the~~  
 15 ~~maximization of federal support for those services, as~~  
 16 ~~directed by the department.~~

17       (5) Beginning January 1, 1999, and continuing at least  
 18 through December 31, 1999, the Department of Children and  
 19 Family Services shall privatize all foster care and related  
 20 services in district 5 while continuing to contract with the  
 21 current model programs in districts 1, 4, and 13, and in  
 22 subdistrict 8A, and shall expand the subdistrict 8A pilot  
 23 program to incorporate Manatee County. Planning for the  
 24 district 5 privatization shall be done by providers that are  
 25 currently under contract with the department for foster care  
 26 and related services and shall be done in consultation with  
 27 the department. A lead provider of the district 5 program  
 28 shall be competitively selected and must demonstrate the  
 29 ability to provide necessary comprehensive services through a  
 30 local network of providers ~~Beginning in fiscal year 1996-1997,~~  
 31 ~~the Department of Children and Family Services shall establish~~

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1 ~~a minimum of five model programs. These models must be~~  
2 ~~established in the department's districts 1, 4, and 13; in~~  
3 ~~subdistrict 8A; and in a fifth district to be determined by~~  
4 ~~the department, with the concurrence of the appropriate~~  
5 ~~district health and human services board. For comparison of~~  
6 ~~privatization savings, the fifth model program must be~~  
7 ~~contracted with a competent for-profit corporation. Providers~~  
8 ~~of these model programs may be selected from a single source~~  
9 ~~pursuant to s. 287.057(3)(c) and must be established,~~  
10 ~~community-based organizations within the district or~~  
11 ~~subdistrict. Contracts with organizations responsible for the~~  
12 model programs must ~~shall~~ include the management and  
13 administration of all privatized services specified in  
14 subsection (1), ~~except for funds necessary to manage the~~  
15 ~~contract. However, the department may use funds for contract~~  
16 ~~management only after obtaining written approval from the~~  
17 Executive Office of the Governor. The request for such  
18 approval must include, but is not limited to, a statement of  
19 the proposed amount of such funds and a description of the  
20 manner in which such funds will be used.If the  
21 community-based organization selected for a model program  
22 under this subsection is not a Medicaid provider, the  
23 organization shall be issued a Medicaid provider number  
24 pursuant to s. 409.907 for the provision of services currently  
25 authorized under the state Medicaid plan to those children  
26 encompassed in this model and in a manner not to exceed the  
27 current level of state expenditure.

28 (6) Each district and subdistrict that participates in  
29 the model program effort or any future privatization effort as  
30 described in this section must thoroughly analyze and report  
31 the complete direct and indirect costs of delivering these

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1 services through the department and the full cost of  
2 privatization, including the cost of monitoring and evaluating  
3 the contracted services.

4 Section 2. Section 415.5071, Florida Statutes, is  
5 created to read:

6 415.5071 Sheriffs of Pasco and Pinellas Counties to  
7 provide child protective investigative services; procedures;  
8 funding.--

9 (1) As described in this section, the Department of  
10 Children and Family Services shall, by the end of fiscal year  
11 1999-2000, transfer all responsibility for child protective  
12 investigations for Pinellas County and Pasco County to the  
13 sheriff of that county in which the child abuse, neglect, or  
14 abandonment is alleged to have occurred. Each sheriff is  
15 responsible for the provision of all child protective  
16 investigations in his or her county. Each individual who  
17 provides these services must complete the training provided to  
18 and required of protective investigators employed by the  
19 Department of Children and Family Services.

20 (2) During fiscal year 1998-1999, the Department of  
21 Children and Family Services and each sheriff's office shall  
22 enter into a contract for the provision of these services.  
23 Funding for the services will be appropriated to the  
24 Department of Children and Family Services, and the department  
25 shall transfer to the respective sheriffs for the duration of  
26 fiscal year 1998-1999, funding for the investigative  
27 responsibilities assumed by the sheriffs, including federal  
28 funds that the provider is eligible for and agrees to earn and  
29 that portion of general revenue funds which is currently  
30 associated with the services that are being furnished under  
31 contract, and including, but not limited to, funding for all



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1 investigative, supervisory, and clerical positions; training;  
2 all associated equipment; furnishings; and other fixed capital  
3 items. The contract must specify whether the department will  
4 continue to perform part or none of the child protective  
5 investigations during the initial year. The sheriffs may  
6 either conduct the investigations themselves or may, in turn,  
7 subcontract with municipal officials or private agencies to  
8 have those officials or agencies conduct the investigations.  
9 The contract must specify whether the services are to be  
10 performed by departmental employees or by an agency or persons  
11 determined by the sheriff. During this initial year, the  
12 department is responsible for quality assurance, and the  
13 department retains the responsibility for the performance of  
14 all child protective investigations. The department must  
15 identify any barriers to transferring the entire  
16 responsibility for child protective services to the sheriffs'  
17 offices and must pursue avenues for removing any such barriers  
18 by means including, but not limited to, applying for federal  
19 waivers. By January 15, 1999, the department shall submit to  
20 the President of the Senate, the Speaker of the House of  
21 Representatives, and the chairs of the Senate and House  
22 committees that oversee departmental activities a report that  
23 describes any remaining barriers, including any that pertain  
24 to funding and related administrative issues. Unless the  
25 Legislature, on the basis of that report or other pertinent  
26 information, acts to block a transfer of the entire  
27 responsibility for child protective investigations to the  
28 sheriffs' offices, the sheriffs of Pasco County and Pinellas  
29 County, beginning in fiscal year 1999-2000, shall assume the  
30 entire responsibility for such services, as provided in  
31 subsection (3).

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1           (3)(a) Beginning in fiscal year 1999-2000, the  
2 sheriffs of Pasco County and Pinellas County have the  
3 responsibility to provide all child protective investigations  
4 in their respective counties.

5           (b) The sheriffs of Pasco County and Pinellas County  
6 shall operate, at a minimum, in accordance with the  
7 performance standards established by the Legislature for  
8 protective investigations conducted by the Department of  
9 Children and Family Services.

10           (c) Funds for providing child protective  
11 investigations in Pasco County and Pinellas County must be  
12 appropriated directly to the respective sheriffs' offices.  
13 Funds for the child protective investigations may not be  
14 integrated into the sheriffs' regular budgets. Budgetary data  
15 and other data relating to the performance of child protective  
16 investigations must be maintained separately from all other  
17 records of the sheriffs' offices.

18           (d) Program performance evaluation shall be based on  
19 criteria mutually agreed upon by the respective Sheriffs and a  
20 committee of five persons appointed by the Governor and  
21 selected from those persons serving on the Department of  
22 Children and Family Services district 5 Health and Human  
23 Services Board. Two of the Governor's appointees must be  
24 residents of Pasco County and two of the Governor's appointees  
25 must be residents of Pinellas County. Such appointees shall  
26 serve at the pleasure of the Governor. The individuals  
27 appointed must have demonstrated experience in outcome  
28 evaluation, social service areas of protective investigation,  
29 or child welfare supervision. The committee shall submit an  
30 annual report regarding quality performance, outcome measure  
31 attainment and cost efficiency, to the President of the

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1 Senate, the Speaker of the House of Representatives, and to  
2 the Governor, no later than January 31 of each year the  
3 sheriffs are receiving general appropriations to provide child  
4 protective investigations.

5 Section 3. Subsection (2) of Section 768.28, Florida  
6 Statutes, is amended to read:

7 (2) As used in this act, "state agencies or  
8 subdivisions" include the executive departments, the  
9 Legislature, the judicial branch (including public defenders),  
10 and the independent establishments of the state; counties and  
11 municipalities; community-based agencies that have contracted  
12 with the Department of Children and Family Services pursuant  
13 to s. 409.1671 or s. 415.5071;and corporations primarily  
14 acting as instrumentalities or agencies of the state,  
15 counties, or municipalities, including the Spaceport Florida  
16 Authority.

17 Section 4. This act shall take effect July 1 of the  
18 year in which enacted.

19  
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21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 remove from the title of the bill: everything before the  
24 enacting clause

25

26 and insert in lieu thereof:

27 A bill to be entitled  
28 An act relating to the privatization of foster  
29 care and related services; amending s.  
30 409.1671, F.S.; providing legislative intent;  
31 defining the terms "privatize" and "related

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1 services"; requiring the Department of Children  
2 and Family Services to develop a plan to  
3 accomplish statewide privatization within a  
4 specified time period and to submit the plan to  
5 the Governor and to designated legislative  
6 officials by a specified date; providing plan  
7 requirements; requiring the department to state  
8 whether and why privatization cannot be  
9 accomplished in a particular district or  
10 portion of a district and how the department  
11 will address the obstacles to privatization;  
12 providing for legal services; requiring that  
13 child welfare legal services be provided by  
14 specified providers; providing for case  
15 management responsibilities; providing for  
16 quality assurance; providing requirements for  
17 and restrictions upon funding for  
18 privatization; creating s. 415.5071, F.S.;  
19 providing for a model program for child  
20 protective investigative services, to be  
21 initiated in a specified district; requiring  
22 the department to contract with the sheriffs in  
23 that district; providing responsibilities of  
24 the department; requiring a report; providing  
25 for funding; providing for the creation of a  
26 specified committee which shall submit a  
27 required report; amending s. 768.28, Florida  
28 Statutes; amending the definition of the term  
29 "state agencies or subdivisions" with respect  
30 to specified agencies; providing an effective  
31 date.