

STORAGE NAME: h3217a.hhs

DATE: April 2, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
HEALTH AND HUMAN SERVICES APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3217

RELATING TO: Privatization of foster care and related services.

SPONSOR(S): Representative Murman

COMPANION BILL(S): CS/SB 352

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Family Law and Children YEAS 8 NAYS 1
 - (2) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 11 NAYS 1
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Provides for the privatization of foster care and related services. Provides legislative intent. Defines the terms "privatize" and "related services." Requires the Department of Children and Family Services to develop a plan to accomplish statewide privatization by July 1, 2002, and to submit a specified plan by January 1, 1999. Requires the department to state the reasons for the lack of feasibility and the efforts the department will undertake to remediate the obstacles with respect to any district in which privatization is not feasible for economic or other reasons. Provides requirements for and restrictions upon funding. Provides for a model program in district 5. Requires the department to contract with the sheriffs in Pinellas and Pasco counties for the provision of all protective investigative services in district 5, and provides for funding. Effective July 1, 1998.

The strike everything amendment adopted by the Committee on Family Law and Children on March 25, 1998, and summarized on page 10, significantly amends the bill.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Privatization of Services - F.S. 409.1671 provides Legislative intent that encourages the Department of Children and Family Services to contract with competent community-based agencies to provide foster care and related services. It is the intent that by privatizing these services, the support and commitment of communities to the reunification of families and care of children and their families will be strengthened, and efficiencies as well as increased accountability will be gained.

Model Privatization Projects - F.S. 409.1671(5) requires the Department of Children and Family Services to establish a minimum of five model programs in fiscal year 1996-1997. These models must be established in districts 1, 4, 13, 8A, and a fifth district to be determined by the department; Palm Beach County has been identified as the fifth site. Providers of these model programs may be selected from a single source and must be established, community-based organizations within the district or subdistrict. Each district that participates in the model program effort must thoroughly analyze and report the complete costs of delivering these services, including the cost of monitoring and evaluating the contracted services.

The following pilot projects have been established as required by F.S. 409.1671:

- Homeward Bound Project in District 1 (Escambia and Santa Rosa counties). Serves children from birth to age 18 in substitute care for the first time, and children previously in the program who have returned due to placement disruption. A total of 142 children are being served. The contract is for 12 months. This program has been in effect since 1992, and the length of stay of children in Homeward Bound is 41% less than children in the department's care in District 1.
- Family Services Coalition in District 4 (Nassau, Duval, Clay, St. Johns, and Baker counties). Serves children in foster care aged 12 to 17, and youth over 18 who are in independent living. A total of 318 children are receiving services; the contract is for 9 months. The coalition is made up of the Baptist Home for Children, the Boys Home Association, the Children's Home Society and the Jacksonville Youth Sanctuary. The program was implemented in January of 1997.
- Sarasota County Coalition for Families and Children in District 8 (Sarasota County). The program serves all children in Sarasota county needing protective services, foster care, and adoption services. Legal services are provided by the department. A total of 376 children are receiving services. The contract is for 18 months. The Youth and Family Services arm of the local YMCA in Sarasota County serves as the administrative support/home to the Coalition. The program was implemented in January of 1997.
- Bridges Program in District 13 (Lake and Sumter counties). The program serves all children entering care for the first time through the department's shelter care system. Legal services are provided by the department. A total of 88 children are being served. The contract is for 2 and ½ years with a periodic renegotiation clause to address rate and services. The Program operates out of the Lake County Boys Ranch, and was implemented on January 1, 1997.

Other Privatization Projects - The Manatee County Sheriff and the department have been developing a model for child protective investigations since the onset of the Family Service Response System in 1993. In 1996, the department and the Manatee County Sheriff entered into an agreement to transfer the responsibility for child abuse investigations to the sheriff. The department retained the investigation of child neglect cases. The Manatee Sheriff's office hires and supplements training of child protective investigators who operate under the auspices of the Sheriff, though they are not sworn law enforcement officers. Many of the department's investigators were hired by the Sheriff's Office in the same capacity but augmented with access to law enforcement for criminal investigations.

Quality Assurance - F.S. 409.1671(3)(a) requires the department to establish a quality assurance program for the privatization of services. The quality assurance program must include standards for each specific component of these services. Each program operated must be evaluated annually by the department or by an objective competent entity designated by the department. The department is required to submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the Minority leader of each house, and the Governor no later than January 31 of each year, beginning in 1998. The quality assurance program must be funded through administrative cost savings generated by the act.

Interim Evaluation of the Child Welfare Privatization Projects - An implementation study report has been conducted for the Department of Children and Families by Brian Peacock, MSW/CPA, Management and Evaluation Consultant. The report, published in January, 1998, sets forth several recommendations:

- Give the current privatization projects sufficient time to demonstrate strengths/shortcomings before passing broader implementation of privatization.
- Privatization projects should strongly emphasize resource development.
- Department oversight for privatization projects is essential. The oversight function should be more of a quality assurance/improvement function than a traditional monitoring function.
- Ensure that adequate training is made available to staff of the privatization projects on an on-going basis.
- Ensure that a process is in place for continually updating/refining the outcomes.

B. EFFECT OF PROPOSED CHANGES:

Privatization of Services - HB 3217 amends subsection (1) of F.S. 409.1671 to delete language requiring the encouragement of privatization, and instead requires statewide privatization of foster care and related services. Defines "privatize" as contracting with competent, community-based agencies. Requires the Department of Children and Family Services to develop a strategic plan to accomplish privatization statewide over a 3-year period, beginning July 1, 1999. The plan is to be submitted by January 1, 1999, to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Minority leaders of both houses. Requires the department to state in its strategic plan the reasons for the lack of feasibility and the efforts the department will

take to remediate the obstacles with respect to any district in which privatization is not feasible for economic or other reasons.

Model Privatization Projects - HB 3217 amends F.S. 409.1671(5)(a) to delete language that established the five model programs. The bill requires the department to privatize all foster care and related services in district 5 (Pasco and Pinellas counties) in fiscal year 1998-1999. The provider of the program may be selected from a single source, and must be an established, community-based organization within the state. HB 3217 adds subsection (b) to section (5) to require the department to contract with the sheriffs of Pinellas and Pasco counties for the provision of all protective investigation services. Requires each individual who provides services under the contract to complete the training provided to and required of protective investigators employed by the department. Requires the sheriff's offices in Pinellas and Pasco counties to be responsible for the initial calls and for any subsequent investigations related to all child abuse reports in their respective counties. The department shall transfer all funding for the investigative responsibilities in each of those counties to the respective sheriff. The sheriff may require all employees to meet the employment standards of the sheriff's office. The state will continue to provide funding for the special child-abuse investigation units; county funding may not be used for the operation of the child-abuse investigation units, nor may any funds be integrated into the sheriffs' regular budgets.

Quality Assurance - HB 3217 prohibits the department from funding the quality assurance program from moneys that the department currently uses to fund these services. Requires the program to be developed at a statewide level; the program may not be replicated in each of the departmental districts. Requires the department to consult with the community-based agencies that are undertaking privatization, to establish minimum thresholds for each component. Deletes language that allowed evaluation by an objective entity designated by the department. Requires an annual report regarding each project in operation during the preceding fiscal year.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The sheriffs of Pasco and Pinellas counties would be responsible for the initial calls and any subsequent investigations relating to all child abuse reports in their respective counties.

Requires the Department of Children and Family Services to submit a strategic plan to accomplish privatization statewide over a 3-year period, beginning July 1, 1999. The plan is to be submitted by January 1, 1999.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

In Department of Children and Family Services district 5, the sheriffs of Pasco and Pinellas counties would take over the responsibility of the initial calls and any subsequent investigations related to all child abuse reports in their respective counties. All foster care and related services would be required to be privatized in fiscal year 1998-1999.

- (2) what is the cost of such responsibility at the new level/agency?

The Department of Children and Family Services would be required to transfer all funding for the investigative responsibilities in Pasco and Pinellas counties, including all investigative, supervisory, and clerical positions, to the respective sheriff. The state would still continue to provide funding for the special child-abuse investigation units. County funding would not be allowed to be used for the operation of the child-abuse investigation units, nor may any funds for the units be integrated into the sheriff's regular budgets.

- (3) how is the new agency accountable to the people governed?

The sheriffs of Pasco and Pinellas counties would be responsible to abide by the terms of the contract required by the bill. In general, sheriffs are constitutional officers, pursuant to Article VIII, section 1(d) of the Florida Constitution, and are accountable to the county voters.

Foster care and related services which are privatized would be monitored by contract with the Department of Children and Family Services.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

The bill requires privatization statewide over a 3-year period, beginning July 1, 1999.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

No.

- (2) service providers?

The bill requires the Department of Children and Family Services to contract with competent, community-based agencies for the privatization of foster care and related services. Service providers may have control of specific functions by contract.

- (3) government employees/agencies?

The bill requires the Department of Children and Family Services to contract with competent, community-based agencies for the privatization of foster care and related services. In Pasco and Pinellas counties, the sheriffs would have control of the initial calls and subsequent investigations related to all child abuse reports, through contract with the department.

D. STATUTE(S) AFFECTED:

HB 3217 amends F.S. 409.1671.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends F.S. 409.1671. States legislative intent to privatize the provision of foster care and related services statewide. Defines "privatize" as contracting with competent, community-based agencies. Requires the Department of Children and Family Services to develop a strategic plan to accomplish statewide privatization over a 3-year period, beginning July 1, 1999. The plan is to be submitted by January 1, 1999 to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Minority leaders of both houses. Defines "related services" as family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, postadjudication legal services, foster care supervision, postadjudication case management, postplacement supervision, permanent foster care, family reunification, the filing of a petition of parental rights, and adoption. Requires the department to clearly state the reasons for lack of feasibility and the efforts that the department will take to remediate the obstacles with respect to any district in which privatization is not feasible for economic or other reasons.

Amends section (3)(a) to restrict funding for quality assurance programs. Requires the quality assurance program to be developed at a statewide level and may not be replicated in each of the departmental districts. Requires the department to collaborate with community-based agencies that are undertaking privatization to establish minimum thresholds for each component.

Amends section (5) to require the department to privatize all foster care and related services in district 5 in fiscal year 1998-1999. Requires the department to contract with the sheriffs of Pinellas County and Pasco County for the provision of all protective investigative services. Requires individuals who provide these services under contract to complete the training provided to and required of protective investigators employed by the department. Requires the sheriff's offices of Pinellas and Pasco counties to be responsible for the initial calls and for any subsequent investigations related to all child abuse reports in their respective counties. The department is required to transfer all funding for the investigative responsibilities in each of those counties, including all investigative, supervisory, and clerical positions, to the respective sheriff. Each sheriff may require all employees who provide investigative services to meet the employment standards of the sheriff's office. The state will continue to provide funding for the special child-abuse investigation unit. Provides that the bookkeeping for these units be kept separate from the rest of the sheriff's budgets. County funding may not be used for the operation of the child-abuse investigation units, nor may any funds for the child-abuse investigation units be integrated into the sheriffs' regular budgets.

Section 2: Provides an effective date of July 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Once this bill is fully implemented, the Department of Children and Family Services reports that to conduct annual quality assurance reviews of each project in operation statewide, would require an additional 15 specialists which would cost \$1,050,237.

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Private entities that contract with the Department of Children and Family Services for the provision of foster care and related services may experience indeterminate costs.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

It is unknown whether this bill will create jobs or transfer positions from the public sector to the private sector.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

N/A.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 2, 1998, the Health and Human Services Committee adopted one amendment to the strike all amendment described below. It removes language that specifies that appropriations be made directly to sheriffs and instead provides that the Department of Children and Families contract with the sheriffs.

The Committee on Family Law and Children adopted a strike-everything amendment and three amendments to the strike-everything amendment on March 25, 1998.

The strike all amendment deletes current statutory language regarding privatization efforts and requires the department to privatize all foster care and related services statewide through a competitive process over a three-year period. The amendment defines "related

services" as family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, post placement supervision, permanent foster care, family reunification, the filing of a petition for the termination of parental rights, and adoption. Beginning in fiscal year 1999-2000, either the state attorney or the Attorney General shall provide preadjudication and postadjudication legal services in all districts. Beginning January 1, 1999, all foster care and related services in District 5 (Pasco and Pinellas Counties) are privatized. Sheriffs in Pasco, Pinellas and Manatee Counties will assume full responsibility for protective investigation services beginning in fiscal year 1999-2000.

Fiscal Comments

Federal funds constitute 84% of the money supporting the protective investigation function. The amendment appropriates funds directly to the Sheriffs, and it is assumed that this would include all federal funds. According to the department, in the absence of adequate procedures to ensure compliance, the department could be liable for any disallowances found in future federal audits. In Pasco and Pinellas Counties, federal funds amount to about \$3.4 million of the estimated \$4 million supporting this function.

If protective investigation staff are terminated when these functions are transferred to the Sheriffs, those employees would be eligible for reimbursement of unused annual and sick leave. There are 101 Protective Investigators who would be potentially adversely affected. There are 201.5 additional staff associated with foster care and related services which is to be privatized in District 5. There is no way of knowing how many would be hired by the Sheriffs and have their leave transferred. Assuming all were terminated, total leave payments required would be \$2,000,000 according to the department.

Section by Section

Section 1: Amends F.S. 409.1671.

Subsection 409.1671(1) provides that it is the intent of the Legislature that the Department of Children and Family Services shall privatize the provision of foster care and related services statewide. Defines "privatize" and "related services." The Department is required to submit a plan to accomplish privatization phased in over a 3-year period beginning January 1, 2000. The plan is to be submitted by July 1, 1999, and must be developed with local community participation. The plan must include methodology for determining and transferring all available funds, including federal funds. For any district that cannot accomplish privatization within the 3-year time frame, the department must state in the plan the reasons and the efforts that should be made to remediate the obstacles. Beginning in fiscal year 1999-2000, either the Office of the State Attorney or the Attorney General shall provide child welfare legal services in Sarasota, Pinellas, Pasco, and Manatee counties. Allows agencies who have case management responsibilities to act as the child's guardian in specified circumstances.

Subsection 409.1671(3) is amended to allow quality assurance to be performed by a national accrediting organization. The department is required to develop and administer the quality assurance program on a statewide level, and may transfer no more than \$300,000 to pay for these contractually provided services. In consultation with the community-based

agencies that are undertaking privatization, the department is required to establish minimum thresholds for each component of service, consistent with standards established by the Legislature.

Subsection 409.1671(4) is amended to require community-based agencies to comply with statutory requirements and agency rules in the provision of contractual services. The department is required to coordinate inspections required pursuant to licensure of agencies under this section.

Subsection 409.1671(5) is amended to require privatization of all foster care and related services in district 5, beginning January 1, 1999. The model programs in districts 1, 4, 13, and 8A are to be continued, and the pilot in district 8A is to be expanded to incorporate Manatee County. Requires a lead provider to be competitively selected. The department may use funds for contract management only after obtaining written approval from the Executive Office of the Governor.

Section 2: Creates F.S. 415.5071.

Subsection 415.5071(1) requires the department to transfer all responsibility for child protective investigations for Pinellas and Pasco Counties to the sheriff of that county, by the end of fiscal year 1999-2000. Each individual who provides these services must complete the training required of protective investigators employed by the department.

Subsection 415.5071(2) requires the department to contract with the sheriffs of Pasco and Pinellas Counties during fiscal year 1998-1999. Funding for services will be appropriated to the department. The sheriffs may either conduct the investigations themselves or may subcontract with municipal officials or private agencies to conduct the investigations. During the initial year, the department is responsible for quality assurance, and the department retains the responsibility for the performance of all child protective investigations. The department must submit a report that describes any remaining barriers. Unless the Legislature acts to block a transfer of the entire responsibility for child protective investigations to the sheriff's offices, the sheriffs of Pasco and Pinellas Counties shall assume the entire responsibility for such services beginning in fiscal year 1999-2000.

Subsection 415.5071(3) requires the sheriffs of Pasco and Pinellas Counties to provide all child protective investigations beginning in fiscal year 1999-2000. The sheriffs are required to operate in accordance with performance standards established by the Legislature. Funding must be appropriated directly to the respective sheriffs' offices. Funds may not be integrated into the sheriff's regular budgets, and must be maintained separately from all other records of the sheriffs' offices. Program performance evaluation shall be based on criteria mutually agreed upon by the respective sheriffs and a committee of five persons appointed by the Governor and selected from those persons serving on the district 5 Health and Human Services board. The committee shall submit an annual report for each year the sheriffs are receiving general appropriations to provide child protective investigations.

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Section 3: Amends F.S. 768.28(2) to include community-based agencies that have contracted with the Department of Children and Family Services pursuant to s. 409.1671 or s. 415.5071 in the definition of "state agencies or subdivisions."

VII. SIGNATURES:

COMMITTEE ON Family Law and Children:

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Legislative Research Director:

Stephanie Olin

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AS REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES

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