

Bill No. CS for SB 156, 1st Eng.

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Rossin moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

16 and insert:

17 Section 1. Subsections (3), (4), and (5) of section

18 20.19, Florida Statutes, are amended, present subsections

19 (16), (17), (18), (19), and (20) are redesignated as

20 subsections (17), (18), (19), (20), and (21), respectively,

21 and a new subsection (16) is added to that section, to read:

22 20.19 Department of Children and Family

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

24 Family Services.

25 (3) OFFICE OF STANDARDS AND EVALUATION.--There is

26 created under the secretary the Office of Standards and

27 Evaluation which has the following responsibilities:

28 (a) ~~With the assistance of the assistant secretaries,~~

29 ~~district administrators, and health and human services boards,~~

30 Establishing systems and strategies to evaluate performance in

31 achieving outcome measures and performance and productivity

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1 standards related to service delivery, program and financial  
2 administration, and support, with the assistance of the  
3 assistant secretaries, district administrators, and health and  
4 human services boards and procedures.

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

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

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

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

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

31 (g) Developing the budget for the department's

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1 evaluation efforts and identifying future evaluation needs,  
2 including infrastructure needs to support the outcome  
3 evaluation function.

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

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

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

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

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

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

25 (4) PROGRAM OFFICES.--

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

30 1. Ensuring that family services programs are  
31 implemented according to legislative intent and as provided in

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

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

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

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

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

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

31           (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  
31 ensure the fiscal accountability of each provider of client

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1 services with whom the department contracts.

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

7 (16) CONTRACTING AND PERFORMANCE STANDARDS.--

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

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

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

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

31 (b) The competitive requirements of paragraph (a) must

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

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

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

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

15  
16 Competitive procurement of client services contracts that meet  
17 the criteria in paragraph (a) may not be deferred for longer  
18 than 1 year.

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



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

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

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

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

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

30 (g) The department shall adopt, by rule, provisions  
31 for including in its contracts incremental penalties to be

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

30 (h) The department shall develop standards of conduct  
31 and a range of disciplinary actions for its employees which

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1 are specifically related to carrying out contracting  
2 responsibilities, and shall incorporate the standards and  
3 disciplinary actions in its Employee Handbook by December 31,  
4 1998.

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

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

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1 reasonable period, not to exceed 6 months, for the provider to  
2 correct performance deficiencies. If the performance  
3 deficiencies are not resolved to the satisfaction of the  
4 department within 6 months, the department must cancel the  
5 contract with the adult substance abuse provider, unless there  
6 is no other qualified provider in the service area.

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

29 (l) The department shall develop and refine  
30 contracting and accountability methods that are  
31 administratively efficient and that provide for optimal

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1 provider performance.

2 (m) The department may competitively procure any  
3 contract when it deems it is in the best interest of the state  
4 to do so. The requirements described in paragraph (a) do not,  
5 and may not be construed to, limit in any way the department's  
6 ability to competitively procure any contract it executes, and  
7 the absence of any or all of the criteria described in  
8 paragraph (a) may not be used as the basis for an  
9 administrative or judicial protest of the department's  
10 determination to conduct competition, make an award, or  
11 execute any contract.

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

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

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1 well represented.

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

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

24 Section 3. (1) It is critical that the Department of  
25 Children and Family Services have an adequate number and  
26 quality of staff to ensure the effective negotiation and  
27 management of contracts for client services. The Legislature  
28 intends that the department be permitted to have limited  
29 flexibility to use funds for improving contract negotiation,  
30 contract management, oversight, quality assurance, training,  
31 and other related activities. To this end, effective October

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1 1, 1998, the department may transfer up to .025 percent of the  
2 total funds from operating appropriations categories of any  
3 budget entity within the department. Such transfer may not  
4 exceed a total of \$3 million in any fiscal year. Any and all  
5 savings which result from the procurement procedures required  
6 pursuant to this section shall remain in those categories used  
7 to pay for contractually provided client services of any  
8 budget entity within the department. When necessary, the  
9 department may establish, in accordance with s. 216.177,  
10 Florida Statutes, additional positions that will be  
11 exclusively devoted to these functions. Any positions required  
12 under this section may be established notwithstanding ss.  
13 216.262(1)(a) and 216.351, Florida Statutes.

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

20 Section 4. This act shall take effect October 1 of the  
21 year in which enacted.

22  
23

24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27

28 and insert:

29 A bill to be entitled  
30 An act relating to program administration by  
31 the Department of Children and Family Services;



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

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

29  
30           WHEREAS, it is the intent of the Legislature that the  
31   Department of Children and Family Services achieve and

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1 maintain accountability from all providers of client services  
2 in order to assure a high level of quality and effectiveness  
3 of those services, and

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

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