

By the Committee on Children, Families and Seniors and
Senators Brown-Waite, Hargrett, Cowin, Latvala and Crist

300-1721A-98

1 A bill to be entitled
2 An act relating to the privatization of foster
3 care and related services; amending s.
4 409.1671, F.S.; providing legislative intent;
5 defining the terms "privatize" and "related
6 services"; requiring the Department of Children
7 and Family Services to develop a plan to
8 accomplish statewide privatization within a
9 specified time period and to submit the plan to
10 the Governor and to designated legislative
11 officials by a specified date; requiring the
12 department to state whether and why
13 privatization cannot be accomplished in a
14 particular district or portion of a district
15 and how the department will address the
16 obstacles to privatization; providing
17 requirements for and restrictions upon funding
18 for privatization; providing that
19 community-based agencies that provide foster
20 care and related services are agents of the
21 state for specified purposes; providing for
22 indemnification of the state; creating s.
23 415.5071, F.S.; providing for a model program
24 to be initiated in a specified district;
25 requiring the department to contract with the
26 sheriffs in that district for the provision of
27 protective investigative services; providing
28 for funding; providing for an evaluation and
29 report to the Governor and designated
30 legislative leaders; providing an effective
31 date.

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

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

5 409.1671 Foster care and related services;

6 privatization.--

7 (1) It is the intent of the Legislature that to
8 ~~encourage~~ the Department of Children and Family Services
9 privatize the provision of to contract with competent
10 ~~community-based agencies to provide~~ foster care and related
11 services statewide. As used in this section, the term
12 "privatize" means to contract with competent, community-based
13 agencies. The department shall submit a plan to accomplish
14 privatization statewide, through a competitive process
15 phased-in over a 3-year period beginning January 1, 2000. This
16 plan is to be submitted by July 1, 1999, to the President of
17 the Senate, the Speaker of the House of Representatives, the
18 Governor, and the Minority leaders of both houses. This plan
19 must be developed with local community participation,
20 including input from community-based providers that are
21 currently under contract with the department to furnish
22 community-based foster care and related services, and must
23 include a methodology for determining and transferring all
24 available funds, including federal funds that the provider is
25 eligible for and agrees to earn and that portion of general
26 revenue funds which is currently associated with the services
27 that are being furnished under contract. The methodology must
28 provide for the transfer of funds appropriated and budgeted
29 for all services and programs that have been incorporated into
30 the project, including all management, capital (including
31 current furniture and equipment), and administrative funds to

1 accomplish the transfer of these programs. This methodology
2 must address expected workload and at least the 3 previous
3 years' experience in expenses and workload. With respect to
4 any district or portion of a district in which privatization
5 cannot be accomplished within the 3 years' timeframe, the
6 department must clearly state in its plan the reasons the
7 timeframe cannot be met and the efforts that should be made to
8 remediate the obstacles, which may include alternatives to
9 total privatization, such as public/private partnerships.~~By~~
10 ~~privatizing these services, the support and commitment of~~
11 ~~communities to the reunification of families and care of~~
12 ~~children and their families will be strengthened, and~~
13 ~~efficiencies as well as increased accountability will be~~
14 ~~gained.~~As used in this section, the term "related These
15 services" means ~~may include~~ family preservation, independent
16 living, emergency shelter, residential group care, foster
17 care, therapeutic foster care, intensive residential
18 treatment, ~~postadjudication legal services,~~ foster care
19 supervision, ~~postadjudication case management,~~ postplacement
20 supervision, permanent foster care, family reunification, the
21 filing of a petition for the termination of parental rights,
22 and adoption. Beginning in fiscal year 1999-2000, either the
23 state attorney or the Attorney General shall provide
24 preadjudication and postadjudication legal services. When a
25 private, nonprofit agency has received case management
26 responsibilities, transferred from the state under this
27 section, for a child who is sheltered or found to be dependent
28 and is assigned to the care of the privatization project, the
29 agency may act as the child's guardian for the purpose of
30 registering the child in school if a parent or guardian of the
31 child is unavailable and his or her whereabouts cannot

1 reasonably be ascertained. The private nonprofit agency may
2 also seek emergency medical attention for such a child, but
3 only if a parent or guardian of the child is unavailable, his
4 or her whereabouts cannot reasonably be ascertained, and a
5 court order for such emergency medical services cannot be
6 obtained because of the severity of the emergency or because
7 it is after normal working hours. However, the provider may
8 not consent to sterilization, abortion, or termination of life
9 support. If a child's parents' rights have been terminated,
10 the nonprofit agency shall act as guardian of the child in all
11 circumstances.

12 (2) The department may contract for the delivery,
13 administration, or management of protective services, the
14 services specified in subsection (1) relating to foster care,
15 and other related services or programs, as appropriate. The
16 department shall retain responsibility for the quality of
17 contracted services and programs and shall ensure that
18 services are delivered in accordance with applicable federal
19 and state statutes and regulations.

20 (3)(a) The department shall establish a quality
21 assurance program for privatized ~~the privatization of~~
22 services. The quality assurance program may be performed by a
23 national accrediting organization such as the Council on
24 Accreditation of Services for Families and Children, Inc.
25 (COA) or the Council on Accreditation of Rehabilitation
26 Facilities (CARF). The department shall develop a request for
27 proposal for such oversight. This program must be developed
28 and administered at a statewide level. The Legislature intends
29 that the department be permitted to have limited flexibility
30 to use funds for improving quality assurance. To this end,
31 effective January 1, 2000, the department may transfer up to

1 0.125 percent of the total funds from categories used to pay
2 for these contractually provided services, but the total
3 amount of such transferred funds may not exceed \$300,000 in
4 any fiscal year. When necessary, the department may establish,
5 in accordance with s. 216.177, additional positions that will
6 be exclusively devoted to these functions. Any positions
7 required under this paragraph may be established,
8 notwithstanding ss. 216.262(1)(a) and 216.351.~~The quality~~
9 ~~assurance program must include standards for each specific~~
10 ~~component of these services.~~The department, in consultation
11 with the community-based agencies that are undertaking the
12 privatized projects, shall establish minimum thresholds for
13 each component of service consistent with standards
14 established by the Legislature. Each program operated under
15 ~~pursuant to~~ contract with a community-based agency must be
16 evaluated annually by the department ~~or by an objective~~
17 ~~competent entity designated by the department under the~~
18 ~~provisions of the quality assurance program. The evaluation~~
19 ~~must be financed from cost savings associated with the~~
20 ~~privatization of services.~~The department shall submit an
21 annual report regarding quality performance, outcome measure
22 attainment, and cost efficiency to the President of the
23 Senate, the Speaker of the House of Representatives, the
24 Minority leader of each house of the Legislature, and the
25 Governor no later than January 31 of each year for each
26 project in operation during the preceding fiscal year,
27 ~~beginning in 1998. The quality assurance program must be~~
28 ~~funded through administrative savings generated by this act.~~
29 (b) ~~The department shall establish and operate a~~
30 ~~comprehensive system to measure and report annually the~~
31 ~~outcomes and effectiveness of the services that have been~~

1 ~~privatized.~~The department shall use these findings in making
2 recommendations to the Governor and the Legislature for future
3 program and funding priorities in the child welfare system.

4 (4)~~(a)~~ The community-based agency must comply with
5 statutory requirements and agency regulations in the provision
6 of contractual services. Each foster home, therapeutic foster
7 home, emergency shelter, or other placement facility operated
8 by the community-based agency or agencies must be licensed by
9 the Department of Children and Family Services under chapter
10 402 or this chapter. Each community-based agency must be
11 licensed as a child-caring or child-placing agency by the
12 department under this chapter. The department, in order to
13 eliminate or reduce the number of duplicate inspections by
14 various program offices, shall coordinate inspections required
15 pursuant to licensure of agencies under this section.

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

24 (5) Beginning January 1, 1999, and continuing at least
25 through December 31, 1999, the Department of Children and
26 Family Services shall privatize all foster care and related
27 services in district 5 while continuing to contract with the
28 current model programs in districts 1, 4, and 13, and in
29 subdistrict 8A, and shall expand the subdistrict 8A pilot
30 program to incorporate Manatee County. Planning for the
31 district 5 privatization shall be done by providers that are

1 currently under contract with the department for foster care
2 and related services and shall be done in consultation with
3 the department.~~Beginning in fiscal year 1996-1997, the~~
4 ~~Department of Children and Family Services shall establish a~~
5 ~~minimum of five model programs. These models must be~~
6 ~~established in the department's districts 1, 4, and 13; in~~
7 ~~subdistrict 8A; and in a fifth district to be determined by~~
8 ~~the department, with the concurrence of the appropriate~~
9 ~~district health and human services board. For comparison of~~
10 ~~privatization savings, the fifth model program must be~~
11 ~~contracted with a competent for-profit corporation.~~The
12 provider or group of providers of the district 5 these model
13 programs shall may be competitively selected from a single
14 source pursuant to s. 287.057(3)(c) and must be established,
15 community-based organizations within the district or
16 subdistrict. Contracts with organizations responsible for the
17 model programs must shall include the management and
18 administration of all privatized services specified in
19 subsection (1), except for funds necessary to manage the
20 contract. However, the department may use funds for contract
21 management only after obtaining written approval from the
22 Executive Office of the Governor. The request for such
23 approval must include, but is not limited to, a statement of
24 the proposed amount of such funds and a description of the
25 manner in which such funds will be used.~~If the~~
26 ~~community-based organization selected for a model program~~
27 ~~under this subsection is not a Medicaid provider, the~~
28 ~~organization shall be issued a Medicaid provider number~~
29 ~~pursuant to s. 409.907 for the provision of services currently~~
30 ~~authorized under the state Medicaid plan to those children~~
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1 encompassed in this model and in a manner not to exceed the
2 current level of state expenditure.

3 (6) Each district and subdistrict that participates in
4 the model program effort or any future privatization effort as
5 described in this section must thoroughly analyze and report
6 the complete direct and indirect costs of delivering these
7 services through the department and the full cost of
8 privatization, including the cost of monitoring and evaluating
9 the contracted services.

10 (7)(a) Community-based agencies, or any of their
11 employees or agents, that have contractually agreed to act on
12 behalf of the state as agents of the Department of Children
13 and Family Services to provide foster care and related
14 services under this section are, solely with respect to such
15 services, agents of the state for purposes of this section
16 while acting within the scope of and pursuant to guidelines
17 established in the contract or by rule. A contract must
18 provide for the indemnification of the state by the agent for
19 any liabilities incurred up to the limits set out in chapter
20 768.

21 (b) This subsection does not designate a person who
22 provides foster care and related services as an employee or
23 agent of the state for purposes of chapter 440.

24 Section 2. Section 415.5071, Florida Statutes, is
25 created to read:

26 415.5071 Sheriffs of Pasco and Pinellas Counties to
27 provide child protective investigative services; procedures;
28 funding.--

29 (1) As described in this section, the Department of
30 Children and Family Services shall, by the end of fiscal year
31 1999-2000, transfer all responsibility for child protective

1 investigations for Pinellas County and Pasco County to the
2 sheriff of that county in which the child abuse, neglect, or
3 exploitation is alleged to have occurred. Each sheriff is
4 responsible for the provision of all child protective
5 investigations in his or her county. Each individual who
6 provides these services must complete the training provided to
7 and required of protective investigators employed by the
8 Department of Children and Family Services.

9 (2) During fiscal year 1998-1999, the Department of
10 Children and Family Services and each sheriff's office shall
11 enter into a contract for the provision of these services.
12 Funding for the services will be appropriated to the
13 Department of Children and Family Services, and the department
14 shall transfer to the respective sheriffs for the duration of
15 fiscal year 1998-1999, funding for the investigative
16 responsibilities assumed by the sheriffs, including federal
17 funds that the provider is eligible for and agrees to earn and
18 that portion of general revenue funds which is currently
19 associated with the services that are being furnished under
20 contract, and including, but not limited to, funding for all
21 investigative, supervisory, and clerical positions; training;
22 all associated equipment; furnishings; and other fixed capital
23 items. The contract must specify whether the department will
24 continue to perform part or none of the child protective
25 investigations during the initial year. The sheriffs may
26 either conduct the investigations themselves or may, in turn,
27 subcontract with municipal officials or private agencies to
28 have those officials or agencies conduct the investigations.
29 The contract must specify whether the services are to be
30 performed by departmental employees or by an agency or persons
31 determined by the sheriff. During this initial year, the

1 department is responsible for quality assurance, and the
2 department retains the responsibility for the performance of
3 all child protective investigations. The department must
4 identify any barriers to transferring the entire
5 responsibility for child protective services to the sheriffs'
6 offices and must pursue avenues for removing any such barriers
7 by means including, but not limited to, applying for federal
8 waivers. By January 15, 1999, the department shall submit to
9 the President of the Senate, the Speaker of the House of
10 Representatives, and the chairs of the Senate and House
11 committees that oversee departmental activities a report that
12 describes any remaining barriers, including any that pertain
13 to funding and related administrative issues. Unless the
14 Legislature, on the basis of that report or other pertinent
15 information, acts to block a transfer of the entire
16 responsibility for child protective investigations to the
17 sheriffs' offices, the sheriffs of Pasco County and Pinellas
18 County, beginning in fiscal year 1999-2000, shall assume the
19 entire responsibility for such services, as provided in
20 subsection (3).

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

25 (b) The sheriffs of Pasco County and Pinellas County
26 shall operate, at a minimum, in accordance with the
27 performance standards established by the Legislature for
28 protective investigations conducted by the Department of
29 Children and Family Services.

30 (c) Funds for providing child protective
31 investigations in Pasco County and Pinellas County must be

1 appropriated directly to the respective sheriffs' offices.
2 County funding may not be used for operating the units that
3 conduct child protective investigations, nor may any funds for
4 the child protective investigations be integrated into the
5 sheriffs' regular budgets. Budgetary data and other data
6 relating to the performance of child protective investigations
7 must be maintained separately from all other records of the
8 sheriffs' offices.

9 (d) An evaluation of each county with responsibility
10 for providing child protective investigations shall be
11 performed by a single independent entity that is competitively
12 selected by the department. At a minimum, this evaluation must
13 address the following elements:

- 14 1. Quality of the child protective investigations.
- 15 2. Appropriateness of the interventions provided by
16 the investigator based on the needs of the child.
- 17 3. Timeliness of the investigations pursuant to
18 chapter 415.
- 19 4. Family and community-partner satisfaction with
20 services provided.

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22 A report on these evaluations shall be submitted to the
23 Governor, the President of the Senate, the Speaker of the
24 House of Representatives, and the Minority leaders of both
25 houses no later than October 1, 2001, and must include
26 findings and conclusions on each county project and must
27 provide recommendations about the continuation of the projects
28 in Pinellas, Pasco, and Manatee counties and any
29 recommendations for expanding the privatization of child
30 protective investigations to other counties. This evaluation
31 shall be considered in the Legislature's decision concerning

1 the continuation of the activities in Pinellas and Pasco
2 counties or the expansion into other counties.

3 Section 3. This act shall take effect July 1, 1998.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 352

- 4 - Changes the completion of statewide privatization of
5 foster care and related services from July 1, 2002 to
6 January 1, 2003.
- 7 - Provides for the privatization plan developed by the
8 Department of Children and Family Services to propose
9 alternatives to total privatization under specified
10 circumstances.
- 11 - Includes a methodology in the plan developed by the
12 department for determining and transferring all available
13 federal and general revenue funds for accomplishing
14 privatization statewide.
- 15 - Requires the state attorney or the Attorney General to
16 provide preadjudication and postadjudication legal
17 services beginning in FY 1999-2000.
- 18 - Allows the department to contract with a national
19 accrediting organization for the quality assurance
20 program.
- 21 - Expands one of the current privatization projects.
- 22 - Specifies that the provider or group of providers of the
23 District 5 privatization program be competitively
24 selected.
- 25 - Designates certain community-based agencies, their
26 employees or agents as agents of the state for certain
27 purposes.
- 28 - Requires that the Department of Children and Family
29 Services submit a report to the Legislature that
30 identifies barriers to transferring the entire
31 responsibility for child protective services to the
sheriffs and directs the department to pursue avenues for
removing those barriers.
- Requires that the funds for child protective
investigations be appropriated directly to the sheriffs
in Pasco County and Pinellas County beginning in FY
1999-2000 and eliminates the contract with the Department
of Children and Family Services.
- Requires an evaluation by an independent entity of each
county sheriff's office responsible for child protective
investigations.
- Authorizes a private, nonprofit agency to act as a
child's guardian for certain purposes.