

By the Committees on Ways and Means; Children, Families and Seniors; and Senators Brown-Waite, Hargrett, Cowin, Latvala and Crist

301-2171A-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," "related
6 services," and "eligible lead community-based
7 provider"; requiring the Department of Children
8 and Family Services to develop a plan to
9 accomplish statewide privatization within a
10 specified time period and to submit the plan to
11 the Governor and to designated legislative
12 officials by a specified date; providing plan
13 requirements; requiring the department to state
14 whether and why privatization cannot be
15 accomplished in a particular district or
16 portion of a district and how the department
17 will address the obstacles to privatization;
18 providing for legal services; requiring that
19 child welfare legal services be provided by
20 specified providers; providing for case
21 management responsibilities; providing for
22 quality assurance; providing requirements for
23 and restrictions upon funding for
24 privatization; creating s. 415.5071, F.S.;
25 providing for a model program for child
26 protective investigative services, to be
27 initiated in a specified district; requiring
28 the department to contract with the sheriffs in
29 that district; providing responsibilities of
30 the department; requiring a report; providing
31 for funding; providing for the creation of a

1 specified committee which shall submit a
2 required report; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 409.1671, Florida Statutes, is
7 amended to read:

8 409.1671 Foster care and related services;
9 privatization.--

10 (1)(a) It is the intent of the Legislature that to
11 ~~encourage~~ the Department of Children and Family Services shall
12 privatize the provision of to contract with competent
13 ~~community-based agencies to provide~~ foster care and related
14 services statewide. As used in this section, the term
15 "privatize" means to contract with competent, community-based
16 agencies. The department shall submit a plan to accomplish
17 privatization statewide, through a competitive process, phased
18 in over a 3-year period beginning January 1, 2000. This plan
19 is to be submitted by July 1, 1999, to the President of the
20 Senate, the Speaker of the House of Representatives, the
21 Governor, and the minority leaders of both houses. This plan
22 must be developed with local community participation,
23 including, but not limited to, input from community-based
24 providers that are currently under contract with the
25 department to furnish community-based foster care and related
26 services, and must include a methodology for determining and
27 transferring all available funds, including federal funds that
28 the provider is eligible for and agrees to earn and that
29 portion of general revenue funds which is currently associated
30 with the services that are being furnished under contract. The
31 methodology must provide for the transfer of funds

1 appropriated and budgeted for all services and programs that
2 have been incorporated into the project, including all
3 management, capital (including current furniture and
4 equipment), and administrative funds to accomplish the
5 transfer of these programs. This methodology must address
6 expected workload and at least the 3 previous years'
7 experience in expenses and workload. With respect to any
8 district or portion of a district in which privatization
9 cannot be accomplished within the 3 years' timeframe, the
10 department must clearly state in its plan the reasons the
11 timeframe cannot be met and the efforts that should be made to
12 remediate the obstacles, which may include alternatives to
13 total privatization, such as public private partnerships. As
14 used in this section, the term "related services" means ~~By~~
15 ~~privatizing these services, the support and commitment of~~
16 ~~communities to the reunification of families and care of~~
17 ~~children and their families will be strengthened, and~~
18 ~~efficiencies as well as increased accountability will be~~
19 ~~gained. These services may include family preservation,~~
20 ~~independent living, emergency shelter, residential group care,~~
21 ~~foster care, therapeutic foster care, intensive residential~~
22 ~~treatment, postadjudication legal services, foster care~~
23 ~~supervision, postadjudication case management, postplacement~~
24 ~~supervision, permanent foster care, and family reunification,~~
25 ~~the filing of a petition for the termination of parental~~
26 ~~rights, and adoption. Unless otherwise provided for, beginning~~
27 ~~in fiscal year 1999-2000, either the State Attorney or the~~
28 ~~Office of the Attorney General shall provide child welfare~~
29 ~~legal services, pursuant to chapter 39, and other relevant~~
30 ~~provisions, in Sarasota, Pinellas, Pasco, and Manatee~~
31 ~~Counties. Such legal services shall commence upon and be~~

1 effective, as soon as determined reasonably feasible by the
2 respective State Attorney or the Office of the Attorney
3 General, after the privatization of associated programs and
4 child protective investigations has occurred. When a private
5 nonprofit agency has received case management
6 responsibilities, transferred from the state under this
7 section, for a child who is sheltered or found to be dependent
8 and who is assigned to the care of the privatization project,
9 the agency may act as the child's guardian for the purpose of
10 registering the child in school if a parent or guardian of the
11 child is unavailable and his or her whereabouts cannot
12 reasonably be ascertained. The private nonprofit agency may
13 also seek emergency medical attention for such a child, but
14 only if a parent or guardian of the child is unavailable, his
15 or her whereabouts cannot reasonably be ascertained, and a
16 court order for such emergency medical services cannot be
17 obtained because of the severity of the emergency or because
18 it is after normal working hours. However, the provider may
19 not consent to sterilization, abortion, or termination of life
20 support. If a child's parents' rights have been terminated,
21 the nonprofit agency shall act as guardian of the child in all
22 circumstances.

23 (b) As used in this section, the term "eligible lead
24 community-based provider" means a single agency with which the
25 department shall contract for the provision of child
26 protective services in a community that is no smaller than a
27 county. To compete for a privatization project, such agency
28 must have:

29 1. The ability to coordinate, integrate, and manage
30 all child protective services in the designated community in
31 cooperation with child protective investigations.

1 2. The ability to ensure continuity of care from entry
2 to exit for all children referred from the protective
3 investigation and court systems.

4 3. The ability to provide directly, or contract for
5 through a local network of providers, all necessary child
6 protective services.

7 4. The willingness to accept accountability for
8 meeting the outcomes and performance standards related to
9 child protective services established by the Legislature and
10 the Federal Government.

11 5. The capability and the willingness to serve all
12 children referred to it from the protective investigation and
13 court systems, regardless of the level of funding allocated to
14 the community by the state, provided all related funding is
15 transferred.

16 6. The willingness to ensure that each individual who
17 provides child protective services must complete the training
18 required of child protective service workers by the Department
19 of Children and Family Services.

20 (2) The department may contract for the delivery,
21 administration, or management of protective services, the
22 services specified in subsection (1) relating to foster care,
23 and other related services or programs, as appropriate. The
24 department shall retain responsibility for the quality of
25 contracted services and programs and shall ensure that
26 services are delivered in accordance with applicable federal
27 and state statutes and regulations.

28 (3)(a) The department shall establish a quality
29 assurance program for privatized ~~the privatization of~~
30 services. The quality assurance program may be performed by a
31 national accrediting organization such as the Council on

1 Accreditation of Services for Families and Children, Inc.
2 (COA) or the Council on Accreditation of Rehabilitation
3 Facilities (CARF). The department shall develop a request for
4 proposal for such oversight. This program must be developed
5 and administered at a statewide level. The Legislature intends
6 that the department be permitted to have limited flexibility
7 to use funds for improving quality assurance. To this end,
8 effective January 1, 2000, the department may transfer up to
9 0.125 percent of the total funds from categories used to pay
10 for these contractually provided services, but the total
11 amount of such transferred funds may not exceed \$300,000 in
12 any fiscal year. When necessary, the department may establish,
13 in accordance with s. 216.177, additional positions that will
14 be exclusively devoted to these functions. Any positions
15 required under this paragraph may be established,
16 notwithstanding ss. 216.262(1)(a) and 216.351.~~The quality~~
17 ~~assurance program must include standards for each specific~~
18 ~~component of these services.~~The department, in consultation
19 with the community-based agencies that are undertaking the
20 privatized projects, shall establish minimum thresholds for
21 each component of service, consistent with standards
22 established by the Legislature. Each program operated under
23 ~~pursuant to~~ contract with a community-based agency must be
24 evaluated annually by the department ~~or by an objective~~
25 ~~competent entity designated by the department under the~~
26 ~~provisions of the quality assurance program. The evaluation~~
27 ~~must be financed from cost savings associated with the~~
28 ~~privatization of services.~~The department shall submit an
29 annual report regarding quality performance, outcome measure
30 attainment, and cost efficiency to the President of the
31 Senate, the Speaker of the House of Representatives, the

1 minority leader of each house of the Legislature, and the
2 Governor no later than January 31 of each year for each
3 project in operation during the preceding fiscal year,
4 ~~beginning in 1998. The quality assurance program must be~~
5 ~~funded through administrative savings generated by this act.~~

6 (b) ~~The department shall establish and operate a~~
7 ~~comprehensive system to measure and report annually the~~
8 ~~outcomes and effectiveness of the services that have been~~
9 ~~privatized.~~The department shall use these findings in making
10 recommendations to the Governor and the Legislature for future
11 program and funding priorities in the child welfare system.

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

25 (b) ~~A community-based agency providing contractual~~
26 ~~services under this section may be issued a Medicaid provider~~
27 ~~number pursuant to s. 409.907 to enable the agency to maximize~~
28 ~~federal support for these services under the state's Medicaid~~
29 ~~plan. A community-based agency must also participate in and~~
30 ~~cooperate with any federal program that will assist in the~~

31

1 ~~maximization of federal support for those services, as~~
2 ~~directed by the department.~~

3 (5) Beginning January 1, 1999, and continuing at least
4 through December 31, 1999, the Department of Children and
5 Family Services shall privatize all foster care and related
6 services in district 5 while continuing to contract with the
7 current model programs in districts 1, 4, and 13, and in
8 subdistrict 8A, and shall expand the subdistrict 8A pilot
9 program to incorporate Manatee County. Planning for the
10 district 5 privatization shall be done by providers that are
11 currently under contract with the department for foster care
12 and related services and shall be done in consultation with
13 the department. A lead provider of the district 5 program
14 shall be competitively selected, must demonstrate the ability
15 to provide necessary comprehensive services through a local
16 network of providers, and must meet criteria established in
17 this section ~~Beginning in fiscal year 1996-1997, the~~
18 ~~Department of Children and Family Services shall establish a~~
19 ~~minimum of five model programs. These models must be~~
20 ~~established in the department's districts 1, 4, and 13; in~~
21 ~~subdistrict 8A; and in a fifth district to be determined by~~
22 ~~the department, with the concurrence of the appropriate~~
23 ~~district health and human services board. For comparison of~~
24 ~~privatization savings, the fifth model program must be~~
25 ~~contracted with a competent for-profit corporation. Providers~~
26 ~~of these model programs may be selected from a single source~~
27 ~~pursuant to s. 287.057(3)(c) and must be established,~~
28 ~~community-based organizations within the district or~~
29 ~~subdistrict. Contracts with organizations responsible for the~~
30 ~~model programs~~ must shall include the management and
31 administration of all privatized services specified in

1 subsection (1), ~~except for funds necessary to manage the~~
2 ~~contract.~~ However, the department may use funds for contract
3 management only after obtaining written approval from the
4 Executive Office of the Governor. The request for such
5 approval must include, but is not limited to, a statement of
6 the proposed amount of such funds and a description of the
7 manner in which such funds will be used. If the
8 community-based organization selected for a model program
9 under this subsection is not a Medicaid provider, the
10 organization shall be issued a Medicaid provider number
11 pursuant to s. 409.907 for the provision of services currently
12 authorized under the state Medicaid plan to those children
13 encompassed in this model and in a manner not to exceed the
14 current level of state expenditure.

15 (6) Each district and subdistrict that participates in
16 the model program effort or any future privatization effort as
17 described in this section must thoroughly analyze and report
18 the complete direct and indirect costs of delivering these
19 services through the department and the full cost of
20 privatization, including the cost of monitoring and evaluating
21 the contracted services.

22 Section 2. Section 415.5071, Florida Statutes, is
23 created to read:

24 415.5071 Sheriffs of Pasco, Manatee, and Pinellas
25 Counties to provide child protective investigative services;
26 procedures; funding.--

27 (1) As described in this section, the Department of
28 Children and Family Services shall, by the end of fiscal year
29 1999-2000, transfer all responsibility for child protective
30 investigations for Pinellas County, Manatee County, and Pasco
31 County to the sheriff of that county in which the child abuse,

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

7 (2) During fiscal year 1998-1999, the Department of
8 Children and Family Services and each sheriff's office shall
9 enter into a contract for the provision of these services.
10 Funding for the services will be appropriated to the
11 Department of Children and Family Services, and the department
12 shall transfer to the respective sheriffs for the duration of
13 fiscal year 1998-1999, funding for the investigative
14 responsibilities assumed by the sheriffs, including federal
15 funds that the provider is eligible for and agrees to earn and
16 that portion of general revenue funds which is currently
17 associated with the services that are being furnished under
18 contract, and including, but not limited to, funding for all
19 investigative, supervisory, and clerical positions; training;
20 all associated equipment; furnishings; and other fixed capital
21 items. The contract must specify whether the department will
22 continue to perform part or none of the child protective
23 investigations during the initial year. The sheriffs may
24 either conduct the investigations themselves or may, in turn,
25 subcontract with law enforcement officials or with properly
26 trained employees of private agencies to conduct
27 investigations related to neglect cases only. If such a
28 subcontract is awarded, the sheriff must take full
29 responsibility for any safety decision made by the
30 subcontractor and must immediately respond with law
31 enforcement staff to any situation that requires removal of a

1 child due to a condition that poses an immediate threat to the
2 child's life. The contract must specify whether the services
3 are to be performed by departmental employees or by persons
4 determined by the sheriff. During this initial year, the
5 department is responsible for quality assurance, and the
6 department retains the responsibility for the performance of
7 all child protective investigations. The department must
8 identify any barriers to transferring the entire
9 responsibility for child protective services to the sheriffs'
10 offices and must pursue avenues for removing any such barriers
11 by means including, but not limited to, applying for federal
12 waivers. By January 15, 1999, the department shall submit to
13 the President of the Senate, the Speaker of the House of
14 Representatives, and the chairs of the Senate and House
15 committees that oversee departmental activities a report that
16 describes any remaining barriers, including any that pertain
17 to funding and related administrative issues. Unless the
18 Legislature, on the basis of that report or other pertinent
19 information, acts to block a transfer of the entire
20 responsibility for child protective investigations to the
21 sheriffs' offices, the sheriffs of Pasco County, Manatee
22 County, and Pinellas County, beginning in fiscal year
23 1999-2000, shall assume the entire responsibility for such
24 services, as provided in subsection (3).

25 (3)(a) Beginning in fiscal year 1999-2000, the
26 sheriffs of Pasco County, Manatee County, and Pinellas County
27 have the responsibility to provide all child protective
28 investigations in their respective counties.

29 (b) The sheriffs of Pasco County, Manatee County, and
30 Pinellas County shall operate, at a minimum, in accordance
31 with the performance standards established by the Legislature

1 for protective investigations conducted by the Department of
2 Children and Family Services.

3 (c) Funds for providing child protective
4 investigations in Pasco County, Manatee County, and Pinellas
5 County must be identified in the annual appropriation made to
6 the Department of Children and Family Services, which shall
7 award grants for the full amount identified to the respective
8 sheriffs' offices. Funds for the child protective
9 investigations may not be integrated into the sheriffs'
10 regular budgets. Budgetary data and other data relating to the
11 performance of child protective investigations must be
12 maintained separately from all other records of the sheriffs'
13 offices.

14 (d) Program performance evaluation shall be based on
15 criteria mutually agreed upon by the respective sheriffs and a
16 committee of seven persons appointed by the Governor and
17 selected from those persons serving on the Department of
18 Children and Family Services District 5 Health and Human
19 Services Board and District 6 Health and Human Services Board.
20 Two of the Governor's appointees must be residents of Pasco
21 County, two of the Governor's appointees must be residents of
22 Manatee County, and two of the Governor's appointees must be
23 residents of Pinellas County. Such appointees shall serve at
24 the pleasure of the Governor. The individuals appointed must
25 have demonstrated experience in outcome evaluation, social
26 service areas of protective investigation, or child welfare
27 supervision. The committee shall submit an annual report
28 regarding quality performance, outcome-measure attainment and
29 cost efficiency, to the President of the Senate, the Speaker
30 of the House of Representatives, and to the Governor no later
31 than January 31 of each year the sheriffs are receiving

1 general appropriations to provide child protective
2 investigations.

3 Section 3. This act shall take effect July 1, 1998.

4

5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 CS for SB 352

8

8 Removes language which mandates either the state attorney or
9 Attorney General to provide pre-adjudication and
9 post-adjudication legal services.

10 Adds case management to the definition of foster care "related
11 services" as used in this section.

11 Clarifies language prescribing the provision of legal services
12 by state attorneys and the Attorney General, and specifies
13 that implementation of legal services shall occur after the
14 privatization of associated programs and child protective
14 investigations.

15 Deletes the subsection prescribing specific contract
16 arrangements between the department and the prospective
16 services provider.

17 Revises and clarifies language allowing for the selection of a
17 service provider through a competitive process.

18 Deletes language relating to indemnification of the state by
19 the contract provider for liabilities incurred.

20 Revises Section 2 of the bill to add Manatee to the list of
21 counties designated to transfer the protective investigation
21 function to the sheriff of each respective county.

22

23

24

25

26

27

28

29

30

31