

By Senator Diaz-Balart

37-1413B-99

1 A bill to be entitled

2 An act relating to the privatization of foster

3 care and related services; amending s. 216.136,

4 F.S.; requiring the Child Welfare System

5 Estimating Conference to include forecasts of

6 child welfare caseloads within the information

7 it generates; providing for inclusion of

8 additional classes of children in need of care

9 among estimates; amending s. 409.1671, F.S.;

10 providing for transfer of federal moneys that

11 exceed the amount contracted for to a

12 community-based agency for child welfare

13 services; providing for hiring preference for

14 state employees; prescribing requirements for

15 preschool foster homes; changing the date for

16 privatization of foster care and related

17 services in district 5; amending s. 409.912,

18 F.S.; authorizing the Agency for Health Care

19 Administration to contract with certain

20 community-based agencies providing behavioral

21 health care; requiring such agencies to obtain

22 a waiver; authorizing the agency to establish a

23 targeted case management program; providing an

24 effective date.

25

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

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28 Section 1. Subsection (8) of section 216.136, Florida

29 Statutes, 1998 Supplement, is amended to read:

30 216.136 Consensus estimating conferences; duties and

31 principals.--

1 (8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.--
2 (a) Duties.--The Child Welfare System Estimating
3 Conference shall develop such official ~~the following~~
4 information relating to the child welfare system of the state,
5 including forecasts of child welfare caseloads, as the
6 conference determines is needed for the state planning and
7 budgeting system. Such official information may include, but
8 is not limited to:
9 1. Estimates and projections of the number of initial
10 and additional reports of child abuse, abandonment, or neglect
11 ~~made to the central abuse hotline maintained by the Department~~
12 ~~of Children and Family Services as established in s.~~
13 ~~39.201(4).~~
14 2. Estimates and projections of the number of children
15 who are alleged to be victims of child abuse, abandonment, or
16 neglect and are in need of emergency shelter, foster care,
17 residential group care, adoptive services, or other
18 appropriate care placement in a shelter.
19
20 In addition, the conference shall develop other official
21 information relating to the child welfare system of the state
22 which the conference determines is needed for the state
23 planning and budgeting system. The Department of Children and
24 Family Services shall provide information on the child welfare
25 system requested by the Child Welfare System Estimating
26 Conference, or individual conference principals, in a timely
27 manner.
28 (b) Principals.--The Executive Office of the Governor,
29 the coordinator of the Office of Economic and Demographic
30 Research, and professional staff who have forecasting
31 expertise from the Department of Health and Rehabilitative

1 Services, the Senate, and the House of Representatives, or
2 their designees, are the principals of the Child Welfare
3 System Estimating Conference. The principal representing the
4 Executive Office of the Governor shall preside over sessions
5 of the conference.

6 Section 2. Section 409.1671, Florida Statutes, 1998
7 Supplement, is amended to read:

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

10 (1)(a) It is the intent of the Legislature that the
11 Department of Children and Family Services shall privatize the
12 provision of foster care and related services statewide. As
13 used in this section, the term "privatize" means to contract
14 with competent, community-based agencies. The department
15 shall submit a plan to accomplish privatization statewide,
16 through a competitive process, phased in over a 3-year period
17 beginning January 1, 2000. This plan is to be submitted by
18 July 1, 1999, to the President of the Senate, the Speaker of
19 the House of Representatives, the Governor, and the minority
20 leaders of both houses. This plan must be developed with local
21 community participation, including, but not limited to, input
22 from community-based providers that are currently under
23 contract with the department to furnish community-based foster
24 care and related services, and must include a methodology for
25 determining and transferring all available funds, including
26 federal funds that the provider is eligible for and agrees to
27 earn and that portion of general revenue funds which is
28 currently associated with the services that are being
29 furnished under contract. Notwithstanding the provisions of s.
30 215.425, all documented federal earnings by a community-based
31 agency which exceed the amount identified in the contract for

1 services and any additional state funds appropriated by the
2 Legislature or made available pursuant to the budgetary
3 amendment process described in s. 216.177 shall be transferred
4 to the community-based agency in the district in which the
5 funds were earned after being received by the department. The
6 community-based agency must use such funds for the sole
7 purpose of providing child welfare services in the district in
8 which the funds were earned. The Department of Children and
9 Family Services shall amend the community-based-agency
10 contract to permit expenditure of these funds.The methodology
11 must provide for the transfer of funds appropriated and
12 budgeted for all services and programs that have been
13 incorporated into the project, including all management,
14 capital (including current furniture and equipment), and
15 administrative funds to accomplish the transfer of these
16 programs. This methodology must address expected workload and
17 at least the 3 previous years' experience in expenses and
18 workload. With respect to any district or portion of a
19 district in which privatization cannot be accomplished within
20 the 3-year timeframe, the department must clearly state in its
21 plan the reasons the timeframe cannot be met and the efforts
22 that should be made to remediate the obstacles, which may
23 include alternatives to total privatization, such as
24 public-private partnerships. As used in this section, the term
25 "related services" means family preservation, independent
26 living, emergency shelter, residential group care, foster
27 care, therapeutic foster care, intensive residential
28 treatment, foster care supervision, case management,
29 postplacement supervision, permanent foster care, and family
30 reunification. Unless otherwise provided for, beginning in
31 fiscal year 1999-2000, either the state attorney or the Office

1 of the Attorney General shall provide child welfare legal
2 services, pursuant to chapter 39 and other relevant
3 provisions, in Sarasota, Pinellas, Pasco, and Manatee
4 Counties. Such legal services shall commence and be
5 effective, as soon as determined reasonably feasible by the
6 respective state attorney or the Office of the Attorney
7 General, after the privatization of associated programs and
8 child protective investigations has occurred. When a private
9 nonprofit agency has received case management
10 responsibilities, transferred from the state under this
11 section, for a child who is sheltered or found to be dependent
12 and who is assigned to the care of the privatization project,
13 the agency may act as the child's guardian for the purpose of
14 registering the child in school if a parent or guardian of the
15 child is unavailable and his or her whereabouts cannot
16 reasonably be ascertained. The private nonprofit agency may
17 also seek emergency medical attention for such a child, but
18 only if a parent or guardian of the child is unavailable, his
19 or her whereabouts cannot reasonably be ascertained, and a
20 court order for such emergency medical services cannot be
21 obtained because of the severity of the emergency or because
22 it is after normal working hours. However, the provider may
23 not consent to sterilization, abortion, or termination of life
24 support. If a child's parents' rights have been terminated,
25 the nonprofit agency shall act as guardian of the child in all
26 circumstances.

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

- 3 1. The ability to coordinate, integrate, and manage
4 all child protective services in the designated community in
5 cooperation with child protective investigations.
- 6 2. The ability to ensure continuity of care from entry
7 to exit for all children referred from the protective
8 investigation and court systems.
- 9 3. The ability to provide directly, or contract for
10 through a local network of providers, all necessary child
11 protective services.
- 12 4. The willingness to accept accountability for
13 meeting the outcomes and performance standards related to
14 child protective services established by the Legislature and
15 the Federal Government.
- 16 5. The capability and the willingness to serve all
17 children referred to it from the protective investigation and
18 court systems, regardless of the level of funding allocated to
19 the community by the state, provided all related funding is
20 transferred.
- 21 6. The willingness to ensure that each individual who
22 provides child protective services completes the training
23 required of child protective service workers by the Department
24 of Children and Family Services.

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

3 (b) Persons employed by the department in the
4 provision of foster care and related services whose positions
5 are being privatized pursuant to this statute shall be given
6 hiring preference by the provider, if provider qualifications
7 are met.

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

1 contract with a community-based agency must be evaluated
2 annually by the department. The department shall submit an
3 annual report regarding quality performance, outcome measure
4 attainment, and cost efficiency to the President of the
5 Senate, the Speaker of the House of Representatives, the
6 minority leader of each house of the Legislature, and the
7 Governor no later than January 31 of each year for each
8 project in operation during the preceding fiscal year.

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

24 (b) Substitute care providers licensed under rule 65C
25 of the Florida Administrative Code and contracted with a lead
26 agency authorized under s. 409.1671 shall also be authorized
27 to provide registered or licensed family day care under
28 chapter 65C-20, F.A.C., subject to the following requirements
29 and limitations:

30 1. All providers must complete the department's
31 3-clock-hour family day care course described in

1 65C-20.002(2), F.A.C., within 60 days after registration or
2 licensure.

3 2. All providers must comply with the admissions and
4 recordkeeping standards established in 65C-20.005, F.A.C.

5 3. There may be no more than two infants under 2 years
6 of age, either residing or being provided day care, in the
7 home.

8 4. Including infants under 2 years of age and the
9 family's own birth children, there may be no more than five
10 pre-kindergarten-age children either residing or being
11 provided day care in the home.

12 5. Before-school and after-school care shall be
13 limited to an additional five school-age children, including
14 the family's own birth children.

15 6. A dually licensed home under this section shall be
16 eligible to receive both the foster care board rate and the
17 subsidized child care rate for the same child only if care is
18 provided 24 hours per day.

19 7. The lead agency must develop specific standards and
20 training for these dually licensed homes and must approve or
21 certify the dually licensed home as a "pre-school foster home"
22 before the home is dually licensed and receives the foster
23 care board rate and the subsidized child care rate. The
24 training and standards must include a school readiness
25 curriculum.

26 (5) Beginning January 1, 1999, and continuing at least
27 through June 30, 2000 ~~December 31, 1999~~, the Department of
28 Children and Family Services shall privatize all foster care
29 and related services in district 5 while continuing to
30 contract with the current model programs in districts 1, 4,
31 and 13, and in subdistrict 8A, and shall expand the

1 subdistrict 8A pilot program to incorporate Manatee County.
2 Planning for the district 5 privatization shall be done by
3 providers that are currently under contract with the
4 department for foster care and related services and shall be
5 done in consultation with the department. A lead provider of
6 the district 5 program shall be competitively selected, must
7 demonstrate the ability to provide necessary comprehensive
8 services through a local network of providers, and must meet
9 criteria established in this section. Contracts with
10 organizations responsible for the model programs must include
11 the management and administration of all privatized services
12 specified in subsection (1). However, the department may use
13 funds for contract management only after obtaining written
14 approval from the Executive Office of the Governor. The
15 request for such approval must include, but is not limited to,
16 a statement of the proposed amount of such funds and a
17 description of the manner in which such funds will be used. If
18 the community-based organization selected for a model program
19 under this subsection is not a Medicaid provider, the
20 organization shall be issued a Medicaid provider number
21 pursuant to s. 409.907 for the provision of services currently
22 authorized under the state Medicaid plan to those children
23 encompassed in this model and in a manner not to exceed the
24 current level of state expenditure.

25 (6) Each district and subdistrict that participates in
26 the model program effort or any future privatization effort as
27 described in this section must thoroughly analyze and report
28 the complete direct and indirect costs of delivering these
29 services through the department and the full cost of
30 privatization, including the cost of monitoring and evaluating
31 the contracted services.

1 Section 3. Paragraph (e) is added to subsection (3) of
2 section 409.912, Florida Statutes, 1998 Supplement, to read:

3 409.912 Cost-effective purchasing of health care.--The
4 agency shall purchase goods and services for Medicaid
5 recipients in the most cost-effective manner consistent with
6 the delivery of quality medical care. The agency shall
7 maximize the use of prepaid per capita and prepaid aggregate
8 fixed-sum basis services when appropriate and other
9 alternative service delivery and reimbursement methodologies,
10 including competitive bidding pursuant to s. 287.057, designed
11 to facilitate the cost-effective purchase of a case-managed
12 continuum of care. The agency shall also require providers to
13 minimize the exposure of recipients to the need for acute
14 inpatient, custodial, and other institutional care and the
15 inappropriate or unnecessary use of high-cost services.

16 (3) The agency may contract with:

17 (e) A community-based agency that provides behavioral
18 health care to Medicaid recipients through a community-based
19 care child welfare project that is approved by the Department
20 of Children and Family Services and authorized under s.
21 409.1671. The community-based agency under contract with the
22 Department of Children and Family Services must obtain a
23 waiver from the Agency for Health Care Administration pursuant
24 to paragraph (d) to implement these services. Payments may be
25 made on a prepaid capitation or fixed-sum basis. The entity
26 may provide such prepaid services either directly or through
27 formal arrangements with other qualified providers. Further,
28 the agency is authorized to establish a targeted case
29 management program within those counties included in the
30 community-based care child welfare project that is approved by
31 the Department of Children and Family Services and authorized

1 under s. 409.1671. The general revenue required match for
2 these services is limited to those funds available for match
3 and contained within the contracted funds for covered services
4 with the lead agency.

5 Section 4. This act shall take effect upon becoming a
6 law.

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9 SENATE SUMMARY

10 Requires the Child Welfare System Estimating Conference
11 to include forecasts of child welfare caseloads in its
12 estimates. Requires it to include placements to emergency
13 shelter, foster care, residential group care, and
14 adoptive services. Provides that federal moneys that
15 exceed the amount provided for in a contract between the
16 state and a community-based agency providing services be
17 transferred to the agency for the purpose of providing
18 child welfare services. Requires community-based agencies
19 to give preference in hiring to state employees providing
20 foster care and related services. Prescribes requirements
21 for preschool foster homes. Authorizes the agency for
22 Health Care Administration to contract with
23 community-based agencies providing behavioral health
24 care. Provides for payments. Authorizes the agency to
25 establish a targeted case management program.
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