

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2566

SPONSOR: Senator Diaz-Balart

SUBJECT: Department of Children and Family Services

DATE: April 3, 2000                      REVISED: 4/05/00        \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/2 Amendments</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill changes the organizational structure of the Department of Children and Family Services as follows:

- Retains the current district and subdistrict structure of the department (except in one prototype region) but allows the Secretary of the department to realign the counties among the districts or subdistricts for achieving consistency between the boundaries of service districts and the boundaries of judicial circuits.
- Repeals the district health and human services boards and the statewide health and human services board and directs the department to establish a community alliance in each county comprised of stakeholders, community leaders, client representatives, and funders of human services to provide a focal point for community participation and governance of community-based services. The alliance is responsible for advising the department on issues such as resource use, needs assessment, community priorities for service delivery, and community outcome goals.
- Establishes a prototype region comprised of the sixth, twelfth, and thirteenth judicial circuits (Pasco, Pinellas, Manatee, Sarasota, Dazed, and Hillsborough counties) within which the department may consolidate the management and administrative structure or functions. The department is authorized to contract for services with a lead agency in each county within the prototype region that will be responsible for directing and coordinating the programs and services currently administered by the department; the lead agency may subcontract with other agencies for all or any part of the services.
- Requires that the department evaluate the efficiency and effectiveness of the operation of the prototype region before the Secretary may consolidate the administration of additional geographic areas of the state. This evaluation must be conducted by an outside evaluator with experience in the evaluation of organizational change and effectiveness; a

report must be submitted to the Legislature by February 1 of each year (beginning in 2001) on the progress and findings of the evaluation and must include proposed statutory changes.

- Establishes a program office but provides no direction for each of the following programs, headed by a program director appointed by the Secretary: adult services, child care services, developmental disabilities, economic self sufficiency, family safety, mental health, refugee services, and substance abuse.

The bill includes provisions affecting community-based care as follows:

- Adds Broward County sheriff to the county sheriffs who will be responsible for child protective investigations by the end of FY 1999/2000, and permits the department to enter into grant agreements with sheriffs of other counties, beginning in FY 2000/2001, to perform child protective investigations.
- Requires that sheriffs meet outcome measures approved by the Legislature and complete the training that is required of protective investigators employed by the department.
- Allows the department to advance payments to the sheriffs for child protective investigations.
- Extends the department's authority to develop certification programs for employees and agents to all providers (not just the family safety and preservation providers) to ensure that only qualified persons provide client services.
- Requires the department to implement employment programs and strategies to attract and retain competent staff in the transition to privatized community-based care, that includes lump-sum bonuses, salary incentives, relocation allowances, severance pay, out placement services, and time-limited exempt positions with salaries and benefits comparable to career service employees.
- Allows the department to contract with more than one lead agency within a single county when it would result in more effective delivery of foster care and related services.
- Allows the department to establish a risk pool to reduce service provider financial risk from unanticipated growth in caseloads.
- Creates a receivership procedure for lead community-based providers.

#### **Provisions to note in SB 2566:**

**1. The bill does not specify the duties and responsibilities of the district administrator as in current law but states that the administrator performs duties as assigned by the Secretary. Among other responsibilities, s. 20.19(10), F.S., currently provides that “. . .each district administrator has direct line authority over all departmental programs assigned to the district.” The proposed legislation eliminates this and all other statutory powers and**

responsibilities and provides only that “The district administrator shall serve at the pleasure of the Secretary and shall perform such duties as are assigned by the Secretary. Subject to the approval of the Secretary, such duties shall include transferring up to 10 percent of the total district budget, the provisions of ss. 216.292 and 216.351, F.S. notwithstanding.”

**2. The bill does not require that a representative of the private sector or business community be a member of the community alliance. There is no formal process for appointing persons to a community alliance. The bill does not specify who has the authority to dissolve or change the composition of an alliance. The responsibilities of a community alliance do not address enlisting additional community resources from the private sector to supplement public funds. The alliance is strictly advisory and has no governance responsibilities. There appears to be little incentive for persons in positions of authority in the community to serve on a community alliance. Given their lack of authority, serving on community alliances could be attractive primarily to providers.**

**3. The bill does not specify the office within the department assigned the responsibility for developing strategic plans and program and quality assurance standards to assure that uniform and consistent policies are implemented statewide. Also, the bill does not designate an entity responsible for monitoring programs and providing technical assistance to the districts and to community-based providers.**

**4. The bill does not clearly state that the Secretary may not expand or change the scope or duties of the lead agencies outside the prototype region until the Legislature reviews the findings and recommendations of an independent evaluation of the prototype region and approves any further changes to current law.**

**5. The bill repeals the district health and human services boards and the statewide health and human services board.**

This bill substantially amends sections 20.04, 20.19, 39.3065, 393.502, 393.503, 409.1671, 20.43, 39.001, 39.0015, 39.01, 39.302, 92.53, 216.136, 381.0072, 383.14, 393.064, 393.13, 394.462, 394.4674, 394.67, 397.311, 397.321, 397.821, 397.901, 400.435, 402.17, 402.3015, 402.40, 402.47, 409.152, 410.0245, 411.01, 411.223, 411.224, 414.028, 414.105, 414.36, 916.107, 985.223, 985.413, creates sections 402.73, 402.731, 409.1675, or repeals sections 402.185(2), 409.152(6), of the Florida Statutes.

## II. Present Situation:

### **Organization of the Department of Children and Family Services**

The Department of Children and Family Services (department) is created and organizationally structured pursuant to s. 20.19, F.S., with the specified mission of working in partnership with local communities to help people be self-sufficient and live in stable families and communities.

The Secretary of the department is appointed by the Governor and subject to confirmation by the Senate. The Secretary appoints a deputy secretary who acts in the absence of the Secretary.

The Office of Standards and Evaluation is established under s. 20.19, F.S., and is directly responsible to the Secretary. Statutorily assigned responsibilities of the Office of Evaluation include such activities as: the management of the department's outcome evaluation and program effectiveness efforts with each program office; the development of policies and procedures to ensure the validity, reliability, and utility of the department's evaluations; and the development of procedures for the competitive procurement of external evaluations.

Program offices are established and each program office is headed by an assistant secretary who is appointed by and serves at the pleasure of the Secretary. A program office is established for: Economic Self-Sufficiency; Children and Families; Alcohol, Drug Abuse, and Mental Health; and Developmental Services. These offices are responsible for all major program planning and policy development activities. Other program office responsibilities defined in s. 20.19(5), F.S., include such activities as: establishing program standards and performance objectives; developing program policies and rules; providing policy interpretations in order to achieve statewide program consistency; reviewing and monitoring of programs to assure compliance and accountability with statewide standards, federal and state laws and regulations; conducting outcome evaluations and program effectiveness activities; and developing budget and resource allocation methodologies.

The Assistant Secretary for Administration serves at the pleasure of the Secretary and is responsible for activities such as supervising all of the budget management activities of the department and developing uniform policies and procedures for personnel, finance and accounting, procurement, information and communications systems, and general services.

Fifteen geographic services districts are defined in s. 20.19(7), F.S., under which all services and programs are planned and administered. Each district has an administrator, appointed by the Secretary, who has direct line authority over all departmental programs assigned to the district. Section 20.19(10), F.S., specifies that the district administrator may combine programs under a program manager or program supervisor if approved by the Secretary. The program supervisors are responsible for such activities as administering district service programs, identifying and developing community resources, and identifying district needs.

Chapter 92-58, Laws of Florida, (the Health and Rehabilitation Services Reorganization Act of 1992), created a health and human services board in each district or subdistrict. The members of the health and human services boards are appointed by the Governor and the board of county commissioners. The responsibilities of the boards are specified in s. 20.19(8)(o), F.S., and include participating with the Secretary in the selection of the district administrator. The chairs of the boards constitute the statewide health and human services board that advises the Secretary on statewide issues and identifies barriers to service integration and program effectiveness.

Chapter 98-25, L.O.F., included the provisions in s. 20.19(17), F. S., relating to contracting and performance standards. These provisions address the way that the department procures contracts for services, conducts contract negotiations, and monitors and evaluates elements of the contract management process.

Provisions are also included in s. 20.19, F.S., regarding the departmental budget specifying budget entities, conformity with federal statutes and regulations, information systems, headquarters and

service facilities, procurement of health services, consultation with counties on mandated programs, outcome evaluation and program effectiveness, and innovation zones.

Chapter 99-219, L.O.F., waived certain provisions under s. 20.19, F.S., until July 1, 2000, in order for the Secretary of the Department of Children and Family Services to organize programs, districts, and functions of the department to achieve a more effective and efficient service delivery system and to improve accountability. The law required the Secretary to submit a report by August 1, 1999, describing actions that had been taken and additional plans for operating the department's programs and services under those provisions waived. It also directed the Secretary to submit a comprehensive plan for department reorganization to the Governor and the Legislature by January 1, 2000, and to submit a plan to realign the districts of the department so that the district boundaries are consistent with the boundaries of the judicial circuits. The plan was delivered on schedule to the Legislature.

### **Community-Based Care**

The department's family safety and preservation program began moving toward community-based care in the 1980s and early 1990s when child welfare services were purchased from private sector providers such as Florida Sheriff's Youth Association and the Children's Home Society.

That trend in child welfare continued with the passage of ch. 96-402, L.O.F., which directed the department to contract with competent community based agencies during FY 1996-97 for the provision of foster care and related services in Districts 1, 4, 13, and Subdistrict 8A. The Legislature believed that privatizing child welfare services would strengthen the support and commitment of communities to the reunification of families and that privatized care of children and families and would result in efficiencies and increased accountability.

Chapter 98-180, L.O.F., defined the term "eligible lead community-based provider" in s. 409.1671(1)(b), F.S., as a single agency that contracts with the department for the provision of child protective services in a community that is no smaller than a county. Beginning January 1, 1999, and continuing at least through December 31, 1999, the department was directed to expand the privatization of all foster care and related services to District 5 (Pinellas and Pasco), and to expand the Subdistrict 8A pilot to incorporate Manatee County. The department was directed to submit a plan by July 1, 1999, to phase in privatization statewide over a 3 year period beginning January 1, 2000.

Because of delays associated with selecting a lead agency in District 5, the 1999 Legislature modified the privatization start-up date to June 30, 2000. The provider selected for District 5 is Family Continuity Programs, Inc. The department anticipates that the contract will be signed by May 1, 2000. Start up delays are due primarily to staff preparation and training. The privatization contract in District 13 was terminated in 1999, at which time the department assumed the responsibilities of providing foster care and related services.

Chapter 98-180, L.O.F., also required that the department transfer by the end of fiscal year 1999-2000, all responsibility for child protective investigations for Pinellas, Manatee, and Pasco counties to the sheriff of that county in which the child abuse, neglect, or abandonment was alleged to have occurred. Individuals who provide these services were required to complete the

training provided to and required of protective investigators employed by the department. During fiscal year 1998-1999, the department and each sheriff's office entered into a contract for the provision of these services. The sheriffs were required to operate in accordance with the performance standards established by the Legislature for protective investigations conducted by the department.

The Manatee county sheriff began conducting investigations in February, 1997, with no statutory mandate to do so, but there have been delays with implementation in Pinellas and Pasco counties. The 1999 General Appropriations Act appropriated \$10,840,652 to Broward, Manatee, Pinellas, and Pasco counties to assist in the implementation of child protective investigations. The Pinellas county sheriff began conducting child protective investigations in February, 2000, and the department reports that the Pasco county sheriff will begin conducting investigations on April 3, 2000.

Chapter 99-206, L.O.F., addressed several issues associated with the privatization of foster care and related services. These issues included excess federal funds earned by the community-based providers and the Department of Children and Family Services, liability insurance of community-based providers under contract with the Department of Children and Family Services to provide these services, adversely affected employees of the Department of Children and Family Services who currently provide these services, the implementation date for privatizing these services in District 5 (Pinellas and Pasco Counties), and pilot projects for testing child-welfare targeted case-management.

The department's experience with lead agencies providing foster care and related services has raised several issues and problems which the department cannot address without additional legislative action. For example, the financial risks imposed on lead agencies when there is an unanticipated growth in the caseload of children who require foster care and related services have been raised as an issue by the department and by the current and potential lead agency providers. Also, there are currently no statutory provisions for receivership when a lead community-based agency established under s. 409.1671, F.S., can no longer fulfill its contractual obligations to the department.

Except for state-owned mental health hospitals and developmental services institutions, all mental health, substance abuse, and developmental services are currently provided by community-based agencies under contract with the department. Child care services and refugee programs are also provided through contracts with the department. Economic self-sufficiency programs and adult services programs are currently provided by employees of the department.

### **III. Effect of Proposed Changes:**

#### **Organization of the Department of Children and Family Services**

The bill amends s. 20.19, F.S., relating to the organizational structure of the Department of Children and Family Services as follows:

- Specifies that the department will work in partnership with local communities to ensure the safety, well-being, and self-sufficiency of the people who are served and adds quality assurance as a means to ensure the department's accountability.
- States that the department will move toward a service delivery system contracted through private providers.
- Retains the current district and subdistrict structure of the department except in one prototype region. The bill allows the Secretary of the department to realign the counties among the districts or subdistricts for achieving consistency between the boundaries of service districts and the boundaries of judicial circuits.
- Repeals the district health and human services boards and the statewide health and human services board.
- Requires that the department establish a community alliance in each county to provide a focal point for community participation and governance of community-based services. A community alliance is comprised of stakeholders, community leaders, client representatives and funders of human services. The initial membership of the community alliance in a county must include the district administrator and representatives of county government, the school district, United Way, sheriff's office, circuit court, and the children's board if one exists. The responsibilities of an alliance are delineated and include: joint planning for resource use, assessing needs and establishing community priorities for service delivery, determining community outcome goals, providing for community education and advocacy, and promoting prevention and early intervention services. The bill allows for the expansion of those duties; nothing in the bill prevents their duties from being of a governance nature rather than strictly advisory.

The bill does not require that a representative of the private sector or business community be a member of the alliance. There is no formal process for appointing persons to a community alliance. The bill does not specify who has the authority to dissolve or change the composition of an alliance. The responsibilities of a community alliance do not address enlisting additional community resources from the private sector to supplement public funds. The alliance is strictly advisory and has no governance responsibilities. There appear to be no incentives for persons in positions of authority in the community to serve on a community alliance. Because the alliance is advisory, there does not appear to be a dual office conflict for public officers who chose to be an alliance member.

- Establishes a prototype region where the department may consolidate the management and administrative structure or function of the geographic area that includes the sixth, twelfth, and thirteenth judicial circuit: Pasco, Pinellas, Manatee, Sarasota, DeSoto, and Hillsborough Counties. The bill authorizes the department to contract for services with a lead agency in each county within the prototype region. The lead agency will be responsible for directing and coordinating the programs and services currently administered by the department. The lead agency may subcontract with other agencies for all or any part of the services.

- Establishes eight program offices as opposed to four: adult services, child care services, developmental disabilities, economic self sufficiency services, family safety, mental health, refugee services, and substance abuse. Each program office is headed by a program director or other management position who is appointed by and serves at the pleasure of the Secretary. The bill authorizes the Secretary, in consultation with the Executive Office of the Governor, to consolidate, restructure, or rearrange program offices and support offices, consistent with current law.

The bill does not specify the office with the responsibility for developing strategic plans and program and quality assurance standards to assure that uniform and consistent policies are implemented statewide. Also, the bill does not designate an entity responsible for monitoring programs and providing technical assistance to the districts and to community-based providers.

- Amends s. 20.04 (4), F.S., by eliminating program offices being headed by “assistant secretaries” and replaces it with “program directors.”

This change in title from “assistant secretary” to “program director” has the appearance that the department’s program leaders have been down-graded which could make it difficult for the Secretary to recruit and retain professionals with expertise and stature in the different program areas.

- Maintains a district administrator who is appointed by the Secretary to each district. The only duty specified in the bill for the district administrator is the ability to transfer up to 10 percent of the total district budget notwithstanding the provisions of s. 216.292, F.S., and s. 216.351, F.S.

Unlike current law, the bill does not specify the duties and responsibilities of the district administrator but states that the district administrator performs duties as assigned by the Secretary. The bill does not specify the departmental entity under the Secretary that is responsible for operating the department’s programs or supervising and monitoring the providers’ contracts, either in the prototype region or in the other districts. Current law requires that the duties of the district administrator include administering the offices and programs of the department within his or her district and coordinating services with other departments and local government.

- Specifies that the department must evaluate the efficiency and effectiveness of the operation of the prototype region before the Secretary consolidates the administration of additional geographic areas of the state. This evaluation must be conducted by an outside evaluator with experience in the evaluation of organizational change and effectiveness. By February 1 of each year (beginning in 2001), the department must report to Legislature on the progress and findings of the evaluation and must recommend statutory changes based upon the evaluation findings. The bill states that all consolidations of districts by the Secretary must be consistent with subsection (5) unless the approved by the Legislature. Subsection (5) pertains to community alliances. It appears that this reference is incorrect and it should be (4) relating to defined geographic service districts.

The bill does not clearly state that the Secretary may not modify the scope or duties of the lead agencies in the prototype region until the Legislature reviews the findings and recommendations



of an independent evaluation of the prototype region and approves any further changes to current law.

- Retains the provisions relating to consultation with counties on mandated programs and procurement of health services.
- Deletes from s. 20.19, F.S., the following provisions or subsections: needs assessment activities, regional processing centers, Office of Standards and Evaluation, Assistant Secretary for Administration, health and human services boards, district nominee qualifications review committees, statewide health and human services board, departmental budget, information systems, eligibility requirements, headquarters; service facilities, outcome evaluation and program effectiveness, and innovation zones.

The bill creates s. 402.73, F.S., that includes all current statutory provisions in s. 20.19(17), F.S., relating to contracting and performance standards.

### **Community-Based Care**

The bill amends s. 39.3065, F.S., relating to child protective investigation conducted by sheriffs as follows:

- Adds Broward County sheriff to the county sheriffs who will be responsible for child protective investigations by the end of FY 1999/2000, and allows the department to enter into grant agreements with sheriffs of other counties to perform child protective investigations beginning in FY 2000/2001.
- Clarifies that persons who provide child protective investigations for the sheriffs' office must complete the training that is required of protective investigators employed by the department.
- Allows the department to advance payments to the sheriffs for child protective investigations.
- Requires performance evaluation to be conducted by a team of peer reviewers from the respective sheriffs' offices that perform child protective investigations and representatives from the department.
- Deletes a provision for a committee appointed by the Governor to establish criteria to evaluate child protective investigations conducted by the sheriff and directs the department to submit an annual report regarding the quality of the sheriffs' performance in conducting child protective investigations.

Creates s. 402.731, F.S., relating to certification program for employees and transitional employment provisions which includes the current statutory provisions in s. 20.19(4), F.S. Those provisions do the following:

- Extends the department's authority to develop certification programs for employees and agents to all providers (not just the family safety and preservation providers) to ensure that only qualified persons provide client services. The department is authorized to develop rules for certification requirements that include training and testing, and continuing education, and decertification procedures when an individual no longer meets the qualifications.
- Requires the department to implement employment programs to attract and retain competent staff for the transition to privatized community-based care. Employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, severance pay, outplacement services, and time-limited exempt positions that have salaries and benefits as if they were career service employees.

The bill amends s. 409.1671, F.S., relating to foster care and related services as follows:

- Allows the department to contract with more than one lead agency within a single county when it will result in more effective delivery of foster care and related services.
- Requires rather than permits that quality assurance standards for privatized services be based on standards of a national accreditation organization.
- Allows the department to establish a risk pool to reduce service provider financial risk from unanticipated growth in caseloads.

The bill creates s. 409.1675, F.S., relating to a receivership procedure for lead community-based providers. Those provisions do the following:

- Authorize the Department of Children and Family Services to petition a court of competent jurisdiction for the appointment of a receiver to take over operation of a lead community-based provider that experiences certain safety and financial problems.
- Establish certain judicial time frames and procedures to be followed in the consideration of such a petition.
- Specify the powers and duties of the receiver focusing on the safe and efficient continuation of services provided to clients.
- Provide procedures regarding payment, compensation and liability issues, and termination of receivership.

These receivership standards and procedures are in some respects more rigorous than receivership standards in ch. 400, F.S., relating to nursing homes and assisted living facilities and in ch.393, F.S., relating to Developmental Services facilities.

The bill amends s. 393.502, F.S., relating to family care councils as follows:

- Requires that the family care council develop bylaws for recommending members to the council and changes the entity responsible for appointing council members from the health and human services boards to the Governor.

The bill amends s. 393.503, F.S., relating to respite and family care subsidy expenditure by removing the health and human service boards and adds the department as the recipient of recommendations from the family care councils.

The bill amends s. 402.40, F.S., specifying that the department may contract with one or more child welfare training academies with Tallahassee Community College.

The bill amends s. 985.413, F.S., to replace the health and human services board with the district administrator in serving as an ex officio member of the district juvenile justice board and in fulfilling other information-sharing functions.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

The bill specifies that meetings of the community alliance are open to the public pursuant to s. 286.011, F.S., and the public records provisions of s. 119.07(1), F.S.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Contracting with lead agencies in the prototype region will result in the shifting of more public resources to the private sector. The bill provides no limits on the amount of funds that lead agencies or their sub-contractors may retain for administrative purposes.

**C. Government Sector Impact:**

The consolidation of the management and administrative structure or functions in the prototype region could result in administrative cost savings. The bill does not address the redirection of funds resulting from these savings.

There is no provision in the bill specifying a maximum amount of public funds that may be used by a lead agency for administrative purposes.

Any expansion of the department's certification programs must be done within existing resources.

SB 2566 will have an impact on the department personnel in the prototype region. The department cannot determine the number of personnel who will be affected or the extent. Additional programs and incentives for attracting and retaining competent staff must be done within existing resources and within current statutory provisions.

Any costs associated with the establishment of the risk pool specified in the bill for eligible lead community-based providers must be done within existing resources.

**VI. Technical Deficiencies:**

The bill has two incorrect references pertaining to the service districts that are defined in s. 20.19(4), F.S. The first incorrect reference is in s. 20.19(6)(a), F.S., and specifies "subsection (5)" but the reference should be "subsection (4)." The second incorrect reference is in s. 20.19(6)(c), F.S., and specifies "paragraph (4)" but should be "subsection (4)."

**VII. Related Issues:**

None.

**VIII. Amendments:**

# 1 by Children and Families:

Makes technical corrections, specifies certain components that must be included in the independent evaluation of the prototype region, and clarifies that the evaluation of the prototype region must be completed and submitted to the Legislature and appropriate legislative action taken before any changes are made to the scope or duties of a lead agency outside of the prototype region.

# 2 by Children and Families:

Removes the contracting requirement that a lien be filed for renovation or new construction projects and specifies that a security interest in property must be granted by a contractor or political subdivision when state funds are used to purchase or make improvements to real property that would be in effect for at least five years from the date of purchase or the completion of the improvements.