

1 A bill to be entitled
2 An act relating to foster care; amending s.
3 20.19, F.S.; modifying the authority for lead
4 agencies to provide services; amending s.
5 39.402, F.S.; requiring department recommend
6 visitation schedule; requiring department
7 provide information regarding services and
8 providing that participation in services not be
9 considered admission of allegations; amending
10 s. 39.521, F.S., relating to disposition
11 hearings; providing that certain children must
12 be assessed for placement and placed in
13 licensed residential group care; requiring
14 results of an assessment to be reviewed by the
15 court; requiring certain residential group care
16 facilities to establish permanency teams;
17 requiring that the Department of Children and
18 Family Services report to the Legislature each
19 year on the number of children placed in
20 residential group care and the number of
21 children for whom placement was unavailable;
22 amending s. 409.1671, F.S.; redefining the term
23 "related services"; providing for a plan to be
24 used as an alternative to procuring foster care
25 services through an eligible lead
26 community-based provider; creating s. 409.1676,
27 F.S.; providing for comprehensive residential
28 services to children who have extraordinary
29 needs; defining terms; providing for the
30 Department of Children and Family Services to
31 contract with specified entities for such

1 services; specifying duties of the contracting
2 entity; providing legal authority of the
3 contracting entity to authorize specified
4 activities for children served; prescribing
5 departmental duties; creating s. 409.1677,
6 F.S.; providing for model comprehensive
7 residential services programs in specified
8 counties; defining terms; providing for the
9 programs to be established through contracts
10 between the department and specified entities;
11 prescribing the content of each model program;
12 establishing responsibilities of the
13 contracting private entity; providing legal
14 authority of the contracting private entity to
15 authorize certain activities for children
16 served; prescribing departmental duties;
17 creating s. 409.1679, F.S.; prescribing
18 additional requirements for the programs
19 established under ss. 409.1676, 409.1677, F.S.,
20 including requirements relating to
21 reimbursement methodology and program
22 evaluation; requiring the department to provide
23 progress reports to the Legislature; amending
24 s. 409.175, F.S.; allowing a family foster home
25 license to be valid for an extended period in
26 specified circumstances; amending s. 409.176,
27 F.S.; providing for compliance with uniform
28 fire safety standards; amending s. 435.045,
29 F.S., relating to placement of dependent
30 children, authorizing department to conduct
31 criminal records checks; amending s. 784.081,

1 F.S., relating to upgrading the seriousness of
2 the offense if a person commits an assault or a
3 battery against specified officials or
4 employees; including on the list of such
5 officials and employees an employee of a lead
6 community-based provider and its direct-service
7 contract providers; requiring the Office of
8 Program Policy Analysis and Government
9 Accountability to provide the Legislature with
10 a report on the status of the child protection
11 program; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (c) of subsection (7) of section
16 20.19, Florida Statutes, is amended to read:

17 20.19 Department of Children and Family
18 Services.--There is created a Department of Children and
19 Family Services.

20 (7) PROTOTYPE REGION.--

21 (c) The department is authorized to contract for
22 children's services with a lead agency in each county of the
23 prototype area, except that the lead agency contract may cover
24 more than one county when it is determined that such coverage
25 will provide more effective or efficient services. The duties
26 of the lead agency shall include, but not necessarily be
27 limited to:

28 1. Directing and coordinating the program and
29 children's services within the scope of its contract.

30 2. Providing or contracting for the provision of core
31 services, including intake and eligibility, assessment,

1 service planning, and case management. ~~However, a lead agency~~
2 ~~may obtain approval from the department to provide core~~
3 ~~services, including intake and eligibility, assessment,~~
4 ~~service planning, and case management, upon a finding by the~~
5 ~~department that such lead agency is the only appropriate~~
6 ~~organization within the service district capable of providing~~
7 ~~such service or services within the department's quality~~
8 ~~assurance and performance standards.~~

9 3. Creating a service provider network capable of
10 delivering the services contained in client service plans,
11 which shall include identifying the necessary services, the
12 necessary volume of services, and possible utilization
13 patterns and negotiating rates and expectations with
14 providers.

15 4. Managing and monitoring of provider contracts and
16 subcontracts.

17 5. Developing and implementing an effective bill
18 payment mechanism to ensure all providers are paid in a timely
19 fashion.

20 6. Providing or arranging for administrative services
21 necessary to support service delivery.

22 7. Utilizing departmentally approved training and
23 meeting departmentally defined credentials and standards.

24 8. Providing for performance measurement in accordance
25 with the department's quality assurance program and providing
26 for quality improvement and performance measurement.

27 9. Developing and maintaining effective interagency
28 collaboration to optimize service delivery.

29 10. Ensuring that all federal and state reporting
30 requirements are met.

31

1 11. Operating a consumer complaint and grievance
2 process.

3 12. Ensuring that services are coordinated and not
4 duplicated with other major payors, such as the local schools
5 and Medicaid.

6 13. Any other duties or responsibilities defined in s.
7 409.1671 related to community-based care.

8 Section 2. Present subsection (15) of section 39.402,
9 Florida Statutes, is redesignated as subsection (16),
10 subsection (9) is amended and a new subsection (15) is added
11 to that section, to read:

12 39.402 Placement in a shelter.--

13 (9) At any shelter hearing, the department shall
14 provide to the court a recommendation for scheduled contact
15 between the child and parents, if appropriate.The court shall
16 determine visitation rights absent a clear and convincing
17 showing that visitation is not in the best interest of the
18 child. If visitation is ordered but will not commence within
19 72 hours of the shelter hearing, the department shall provide
20 justification to the court.

21 (10) The shelter hearing order shall contain a written
22 determination as to whether the department has made a
23 reasonable effort to prevent or eliminate the need for removal
24 or continued removal of the child from the home. If the
25 department has not made such an effort, the court shall order
26 the department to provide appropriate and available services
27 to ensure the protection of the child in the home when such
28 services are necessary for the child's health and safety.

29 (11) If a child is placed in a shelter pursuant to a
30 court order following a shelter hearing, the court shall
31 require in the shelter hearing order that the parents of the

1 child, or the guardian of the child's estate, if possessed of
2 assets which under law may be disbursed for the care, support,
3 and maintenance of the child, to pay, to the department or
4 institution having custody of the child, fees as established
5 by the department. When the order affects the guardianship
6 estate, a certified copy of the order shall be delivered to
7 the judge having jurisdiction of the guardianship estate. The
8 shelter order shall also require the parents to provide to the
9 department and any other state agency or party designated by
10 the court, within 28 days after entry of the shelter order,
11 the financial information necessary to accurately calculate
12 child support pursuant to s. 61.30.

13 (12) In the event the shelter hearing is conducted by
14 a judge other than the juvenile court judge, the juvenile
15 court judge shall hold a shelter review on the status of the
16 child within 2 working days after the shelter hearing.

17 (13) A child may not be held in a shelter under an
18 order so directing for more than 60 days without an
19 adjudication of dependency. A child may not be held in a
20 shelter for more than 30 days after the entry of an order of
21 adjudication unless an order of disposition has been entered
22 by the court.

23 (14) The time limitations in this section do not
24 include:

25 (a) Periods of delay resulting from a continuance
26 granted at the request or with the consent of the child's
27 counsel or the child's guardian ad litem, if one has been
28 appointed by the court, or, if the child is of sufficient
29 capacity to express reasonable consent, at the request or with
30 the consent of the child's attorney or the child's guardian ad
31 litem, if one has been appointed by the court, and the child.

1 (b) Periods of delay resulting from a continuance
2 granted at the request of the attorney for the department, if
3 the continuance is granted:

4 1. Because of an unavailability of evidence material
5 to the case when the attorney for the department has exercised
6 due diligence to obtain such evidence and there are
7 substantial grounds to believe that such evidence will be
8 available within 30 days. However, if the department is not
9 prepared to present its case within 30 days, the parent or
10 legal custodian may move for issuance of an order to show
11 cause or the court on its own motion may impose appropriate
12 sanctions, which may include dismissal of the petition.

13 2. To allow the attorney for the department additional
14 time to prepare the case and additional time is justified
15 because of an exceptional circumstance.

16 (c) Reasonable periods of delay necessary to
17 accomplish notice of the hearing to the child's parents or
18 legal custodians; however, the petitioner shall continue
19 regular efforts to provide notice to the parents or legal
20 custodians during such periods of delay.

21 (d) Reasonable periods of delay resulting from a
22 continuance granted at the request of the parent or legal
23 custodian of a subject child.

24 (15) The department at the conclusion of the shelter
25 hearing, shall make available to parents or legal custodians
26 seeking voluntary services, any referral information necessary
27 for participation in such identified services. The parents' or
28 legal custodians' participation in the services shall not be
29 considered an admission or other acknowledgement of the
30 allegations in the shelter petition.

31

1 ~~(16)~~~~(15)~~ At the conclusion of a shelter hearing, the
2 court shall notify all parties in writing of the next
3 scheduled hearing to review the shelter placement. Such
4 hearing shall be held no later than 30 days after placement of
5 the child in shelter status, in conjunction with the
6 arraignment hearing, and every 15 days thereafter until the
7 child is released from shelter status.

8 Section 3. Present subsections (5), (6), and (7) of
9 section 39.521, Florida Statutes, are redesignated as
10 subsections (6), (7), and (8), respectively, and a new
11 subsection (5) is added to that section, to read:

12 39.521 Disposition hearings; powers of disposition.--

13 (5)(a) In districts 4, 11, and 12 and in the Suncoast
14 Region of the department and, except as provided in s. 39.407,
15 any child 11 years of age or older who has been in licensed
16 family foster care for 6 months or longer and who is then
17 moved more than once must be assessed for placement in
18 licensed residential group care. The assessment procedures
19 shall be conducted by the department or its agent and shall
20 incorporate and address current and historical information
21 from any psychological testing or evaluation that has
22 occurred; current and historical information from the guardian
23 ad litem, if one has been assigned; current and historical
24 information from any current therapist, teacher, or other
25 professional who has knowledge of the child and has worked
26 with the child; information regarding the placement of any
27 siblings of the child and the impact of the child's placement
28 in residential group care on the child's siblings; the
29 circumstances necessitating the moves of the child while in
30 family foster care and the recommendations of the former
31 foster families, if available; the status of the child's case

1 plan and a determination as to the impact of placing the child
2 in residential group care on the goals of the case plan; the
3 age, maturity, and desires of the child concerning placement;
4 the availability of any less restrictive, more family-like
5 setting for the child in which the foster parents have the
6 necessary training and skills for providing a suitable
7 placement for the child; and any other information concerning
8 the availability of suitable residential group care. If such
9 placement is determined to be appropriate as a result of this
10 procedure, the child must be placed in residential group care,
11 if available.

12 (b) The results of the assessment described in
13 paragraph (a) and the actions taken as a result of the
14 assessment must be included in the next judicial review of the
15 child. At each subsequent judicial review, the court must be
16 advised in writing of the status of the child's placement,
17 with special reference regarding the stability of the
18 placement and the permanency planning for the child.

19 (c) Any residential group care facility that receives
20 children under the provisions of this subsection shall
21 establish special permanency teams dedicated to overcoming the
22 special permanency challenges presented by this population of
23 children. Each facility shall report to the department its
24 success in achieving permanency for children placed by the
25 department in its care at intervals that allow the current
26 information to be provided to the court at each judicial
27 review for the child.

28 (d) This subsection does not prohibit the department
29 from assessing and placing children who do not meet the
30 criteria in paragraph (a) in residential group care if such
31 placement is the most appropriate placement for such children.

1 (e) By December 1 of each year beginning in 2001, the
2 department shall report to the Legislature on the placement of
3 children in licensed residential group care during the year,
4 including the criteria used to determine the placement of
5 children, the number of children who were evaluated for
6 placement, the number of children who were placed based upon
7 the evaluation, and the number of children who were not
8 placed. The department shall maintain data specifying the
9 number of children who were referred to licensed residential
10 child care for whom placement was unavailable and the counties
11 in which such placement was unavailable. The department shall
12 include this data in its report to the Legislature due on
13 December 1, so that the Legislature may consider this
14 information in developing the General Appropriations Act.

15 (f) The provisions of this subsection shall be
16 implemented to the extent of available appropriations
17 contained in the annual General Appropriations Act for such
18 purpose.

19 Section 4. Subsection (1) of section 409.1671, Florida
20 Statutes, is amended to read:

21 409.1671 Foster care and related services;
22 privatization.--

23 (1)(a) It is the intent of the Legislature that the
24 Department of Children and Family Services shall privatize the
25 provision of foster care and related services statewide. It is
26 further the Legislature's intent to encourage communities and
27 other stakeholders in the well-being of children to
28 participate in assuring that children are safe and
29 well-nurtured. However, while recognizing that some local
30 governments are presently funding portions of certain foster
31 care and related services programs and may choose to expand

1 such funding in the future, the Legislature does not intend by
2 its privatization of foster care and related services that any
3 county, municipality, or special district be required to
4 assist in funding programs that previously have been funded by
5 the state. Nothing in this paragraph prohibits any county,
6 municipality, or special district from future voluntary
7 funding participation in foster care and related services. As
8 used in this section, the term "privatize" means to contract
9 with competent, community-based agencies. The department shall
10 submit a plan to accomplish privatization statewide, through a
11 competitive process, phased in over a 3-year period beginning
12 January 1, 2000. This plan must be developed with local
13 community participation, including, but not limited to, input
14 from community-based providers that are currently under
15 contract with the department to furnish community-based foster
16 care and related services, and must include a methodology for
17 determining and transferring all available funds, including
18 federal funds that the provider is eligible for and agrees to
19 earn and that portion of general revenue funds which is
20 currently associated with the services that are being
21 furnished under contract. The methodology must provide for the
22 transfer of funds appropriated and budgeted for all services
23 and programs that have been incorporated into the project,
24 including all management, capital (including current furniture
25 and equipment), and administrative funds to accomplish the
26 transfer of these programs. This methodology must address
27 expected workload and at least the 3 previous years'
28 experience in expenses and workload. With respect to any
29 district or portion of a district in which privatization
30 cannot be accomplished within the 3-year timeframe, the
31 department must clearly state in its plan the reasons the

1 timeframe cannot be met and the efforts that should be made to
2 remediate the obstacles, which may include alternatives to
3 total privatization, such as public-private partnerships. As
4 used in this section, the term "related services" includes,
5 but is not limited to,~~means~~ family preservation, independent
6 living, emergency shelter, residential group care, foster
7 care, therapeutic foster care, intensive residential
8 treatment, foster care supervision, case management,
9 postplacement supervision, permanent foster care, and family
10 reunification. Unless otherwise provided for, beginning in
11 fiscal year 1999-2000, either the state attorney or the Office
12 of the Attorney General shall provide child welfare legal
13 services, pursuant to chapter 39 and other relevant
14 provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee
15 Counties. Such legal services shall commence and be
16 effective, as soon as determined reasonably feasible by the
17 respective state attorney or the Office of the Attorney
18 General, after the privatization of associated programs and
19 child protective investigations has occurred. When a private
20 nonprofit agency has received case management
21 responsibilities, transferred from the state under this
22 section, for a child who is sheltered or found to be dependent
23 and who is assigned to the care of the privatization project,
24 the agency may act as the child's guardian for the purpose of
25 registering the child in school if a parent or guardian of the
26 child is unavailable and his or her whereabouts cannot
27 reasonably be ascertained. The private nonprofit agency may
28 also seek emergency medical attention for such a child, but
29 only if a parent or guardian of the child is unavailable, his
30 or her whereabouts cannot reasonably be ascertained, and a
31 court order for such emergency medical services cannot be

1 obtained because of the severity of the emergency or because
2 it is after normal working hours. However, the provider may
3 not consent to sterilization, abortion, or termination of life
4 support. If a child's parents' rights have been terminated,
5 the nonprofit agency shall act as guardian of the child in all
6 circumstances.

7 (b) As used in this section, the term "eligible lead
8 community-based provider" means a single agency with which the
9 department shall contract for the provision of child
10 protective services in a community that is no smaller than a
11 county. The secretary of the department may authorize more
12 than one eligible lead community-based provider within a
13 single county when to do so will result in more effective
14 delivery of foster care and related services. To compete for a
15 privatization project, such agency must have:

16 1. The ability to coordinate, integrate, and manage
17 all child protective services in the designated community in
18 cooperation with child protective investigations.

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

22 3. The ability to provide directly, or contract for
23 through a local network of providers, all necessary child
24 protective services.

25 4. The willingness to accept accountability for
26 meeting the outcomes and performance standards related to
27 child protective services established by the Legislature and
28 the Federal Government.

29 5. The capability and the willingness to serve all
30 children referred to it from the protective investigation and
31 court systems, regardless of the level of funding allocated to

1 the community by the state, provided all related funding is
2 transferred.

3 6. The willingness to ensure that each individual who
4 provides child protective services completes the training
5 required of child protective service workers by the Department
6 of Children and Family Services.

7 7. The ability to maintain eligibility to receive all
8 federal child welfare funds, including Title IV-E and IV-A
9 funds, currently being used by the Department of Children and
10 Family Services.

11 (c)1. If attempts to competitively procure services
12 through an eligible lead community-based provider as defined
13 in paragraph (b) do not produce a capable and willing agency,
14 the department shall develop a plan in collaboration with the
15 local community alliance. The plan must detail how the
16 community will continue to implement privatization through
17 competitively procuring either the specific components of
18 foster care and related services or comprehensive services for
19 defined eligible populations of children and families from
20 qualified licensed agencies as part of its efforts to develop
21 the local capacity for a community-based system of coordinated
22 care. The plan must ensure local control over the management
23 and administration of the service provision in accordance with
24 the intent of this section and may include recognized best
25 business practices, including some form of public or private
26 partnerships. In the absence of a community alliance, the plan
27 must be submitted to the President of the Senate and the
28 Speaker of the House of Representatives for their comments.

29 ~~2.1.~~ The Legislature finds that the state has
30 traditionally provided foster care services to children who
31 have been the responsibility of the state. As such, foster

1 children have not had the right to recover for injuries beyond
2 the limitations specified in s. 768.28. The Legislature has
3 determined that foster care and related services need to be
4 privatized pursuant to this section and that the provision of
5 such services is of paramount importance to the state. The
6 purpose for such privatization is to increase the level of
7 safety, security, and stability of children who are or become
8 the responsibility of the state. One of the components
9 necessary to secure a safe and stable environment for such
10 children is that private providers maintain liability
11 insurance. As such, insurance needs to be available and remain
12 available to nongovernmental foster care and related services
13 providers without the resources of such providers being
14 significantly reduced by the cost of maintaining such
15 insurance.

16 3.2 The Legislature further finds that, by requiring
17 the following minimum levels of insurance, children in
18 privatized foster care and related services will gain
19 increased protection and rights of recovery in the event of
20 injury than provided for in s. 768.28.

21 (d) Other than an entity to which s. 768.28 applies,
22 any eligible lead community-based provider, as defined in
23 paragraph (b), or its employees or officers, except as
24 otherwise provided in paragraph (e), must, as a part of its
25 contract, obtain a minimum of \$1 million per claim/\$3 million
26 per incident in general liability insurance coverage. In any
27 tort action brought against such an eligible lead
28 community-based provider, net economic damages shall be
29 limited to \$1 million per claim, including, but not limited
30 to, past and future medical expenses, wage loss, and loss of
31 earning capacity, offset by any collateral source payment paid

1 or payable. In any tort action brought against such an
2 eligible lead community-based provider, noneconomic damages
3 shall be limited to \$200,000 per claim. A claims bill may be
4 brought on behalf of a claimant pursuant to s. 768.28 for any
5 amount exceeding the limits specified in this paragraph. Any
6 offset of collateral source payments made as of the date of
7 the settlement or judgment shall be in accordance with s.
8 768.76. The lead community-based provider shall not be liable
9 in tort for the acts or omissions of its subcontractors or the
10 officers, agents, or employees of its subcontractors.

11 (e) The liability of an eligible lead community-based
12 provider described in this section shall be exclusive and in
13 place of all other liability of such provider. The same
14 immunities from liability enjoyed by such providers shall
15 extend as well to each employee of the provider when such
16 employee is acting in furtherance of the provider's business.
17 Such immunities shall not be applicable to a provider or an
18 employee who acts in a culpably negligent manner or with
19 willful and wanton disregard or unprovoked physical aggression
20 when such acts result in injury or death or such acts
21 proximately cause such injury or death; nor shall such
22 immunities be applicable to employees of the same provider
23 when each is operating in the furtherance of the provider's
24 business, but they are assigned primarily to unrelated works
25 within private or public employment. The same immunity
26 provisions enjoyed by a provider shall also apply to any sole
27 proprietor, partner, corporate officer or director,
28 supervisor, or other person who in the course and scope of his
29 or her duties acts in a managerial or policymaking capacity
30 and the conduct that caused the alleged injury arose within
31 the course and scope of those managerial or policymaking

1 duties. Culpable negligence is defined as reckless
2 indifference or grossly careless disregard of human life.

3 (f) Any subcontractor of an eligible lead
4 community-based provider, as defined in paragraph (b), which
5 is a direct provider of foster care and related services to
6 children and families, and its employees or officers, except
7 as otherwise provided in paragraph (e), must, as a part of its
8 contract, obtain a minimum of \$1 million per claim/\$3 million
9 per incident in general liability insurance coverage. In any
10 tort action brought against such subcontractor, net economic
11 damages shall be limited to \$1 million per claim, including,
12 but not limited to, past and future medical expenses, wage
13 loss, and loss of earning capacity, offset by any collateral
14 source payment paid or payable. In any tort action brought
15 against such subcontractor, noneconomic damages shall be
16 limited to \$200,000 per claim. A claims bill may be brought on
17 behalf of a claimant pursuant to s. 768.28 for any amount
18 exceeding the limits specified in this paragraph. Any offset
19 of collateral source payments made as of the date of the
20 settlement or judgment shall be in accordance with s. 768.76.

21 (g) The liability of a subcontractor of an eligible
22 lead community-based provider that is a direct provider of
23 foster care and related services as described in this section
24 shall be exclusive and in place of all other liability of such
25 provider. The same immunities from liability enjoyed by such
26 subcontractor provider shall extend as well to each employee
27 of the subcontractor when such employee is acting in
28 furtherance of the subcontractor's business. Such immunities
29 shall not be applicable to a subcontractor or an employee who
30 acts in a culpably negligent manner or with willful and wanton
31 disregard or unprovoked physical aggression when such acts

1 result in injury or death or such acts proximately cause such
2 injury or death; nor shall such immunities be applicable to
3 employees of the same subcontractor when each is operating in
4 the furtherance of the subcontractor's business, but they are
5 assigned primarily to unrelated works within private or public
6 employment. The same immunity provisions enjoyed by a
7 subcontractor shall also apply to any sole proprietor,
8 partner, corporate officer or director, supervisor, or other
9 person who in the course and scope of his or her duties acts
10 in a managerial or policymaking capacity and the conduct that
11 caused the alleged injury arose within the course and scope of
12 those managerial or policymaking duties. Culpable negligence
13 is defined as reckless indifference or grossly careless
14 disregard of human life.

15 (h) The Legislature is cognizant of the increasing
16 costs of goods and services each year and recognizes that
17 fixing a set amount of compensation actually has the effect of
18 a reduction in compensation each year. Accordingly, the
19 conditional limitations on damages in this section shall be
20 increased at the rate of 5 percent each year, prorated from
21 the effective date of this paragraph to the date at which
22 damages subject to such limitations are awarded by final
23 judgment or settlement.

24 Section 5. Section 409.1676, Florida Statutes, is
25 created to read:

26 409.1676 Comprehensive residential services to
27 children who have extraordinary needs.--

28 (1) It is the intent of the Legislature to provide
29 comprehensive residential services, including residential
30 care, case management, and other services, to children in the
31 child protection system who have extraordinary needs, such as

1 serious behavioral problems or having been determined to be
2 without the options of either reunification with family or
3 adoption. These services are to be provided in a residential
4 group care setting by a not-for-profit corporation or a local
5 government entity under a contract with the Department of
6 Children and Family Services or by a lead agency as described
7 in s. 409.1671. These contracts should be designed to provide
8 an identified number of children with access to a full array
9 of services for a fixed price.

10 (2) As used in this section, the term:

11 (a) "Residential group care" means a living
12 environment for children who have been adjudicated dependent
13 and are expected to be in foster care for at least 6 months
14 with 24-hour-awake staff or live-in group home parents or
15 staff. Beginning July 1, 2001, all facilities must be
16 appropriately licensed in this state, and they must be
17 accredited by July 1, 2005.

18 (b) "Serious behavioral problems" means behaviors of
19 children who have been assessed by a licensed master's-level
20 human-services professional to need at a minimum intensive
21 services but who do not meet the criteria of s. 394.492(6) or
22 s. 394.492(7). A child with an emotional disturbance as
23 defined in s. 394.492(5) may be served in residential group
24 care unless a determination is made by a mental health
25 professional that such a setting is inappropriate.

26 (3) The department, in accordance with a specific
27 appropriation for this program, shall contract with a
28 not-for-profit corporation, a local government entity, or the
29 lead agency that has been established in accordance with s.
30 409.1671 for the performance of residential group care
31 services described in this section in, at a minimum, districts

1 4, 11, 12, and the Suncoast Region of the Department of
2 Children and Family Services and with a not-for-profit entity
3 serving children from multiple districts. A lead agency that
4 is currently providing residential care may provide this
5 service directly with the approval of the local community
6 alliance. The department or a lead agency may contract for
7 more than one site in a county if that is determined to be the
8 most effective way to achieve the goals set forth in this
9 section.

10 (4) The lead agency, the contracted not-for-profit
11 corporation, or the local government entity is responsible for
12 a comprehensive assessment, residential care, transportation,
13 behavioral health services, recreational activities, clothing,
14 supplies and miscellaneous expenses associated with caring for
15 these children, for necessary arrangement for or provision of
16 educational services, and for assuring necessary and
17 appropriate health and dental care.

18 (5) The department may transfer all casework
19 responsibilities for children served under this program to the
20 entity that provides this service, including case management
21 and development and implementation of a case plan in
22 accordance with current standards for child protection
23 services. When the department establishes this program in a
24 community that has a lead agency as described in s. 409.1671,
25 the casework responsibilities must be transferred to the lead
26 agency.

27 (6) This section does not prohibit any provider of
28 these services from appropriately billing Medicaid for
29 services rendered, from contracting with a local school
30 district for educational services, or from earning federal or
31 local funding for services provided, as long as two or more

1 funding sources do not pay for the same specific service that
2 has been provided to a child.

3 (7) The lead agency, not-for-profit corporation, or
4 local government entity has the legal authority for children
5 served under this program, as provided in chapter 39 or this
6 chapter, as appropriate, to enroll the child in school, to
7 sign for a driver's license for the child, to co-sign loans
8 and insurance for the child, to sign for medical treatment,
9 and to authorize other such activities.

10 (8) The department shall provide technical assistance
11 as requested and contract-management services.

12 (9) The provisions of this section shall be
13 implemented to the extent of available appropriations
14 contained in the annual General Appropriations Act for such
15 purpose.

16 Section 6. Section 409.1677, Florida Statutes, is
17 created to read:

18 409.1677 Model comprehensive residential services
19 programs.--

20 (1) As used in this section, the term:

21 (a) "Residential group care" means a living
22 environment for children who have been adjudicated dependent
23 and are expected to be in foster care for a minimum of 6
24 months with 24-hour-awake staff or live-in group home parents
25 or staff. Beginning July 1, 2001, all facilities must be
26 appropriately licensed in this state, and they must be
27 accredited by July 1, 2005.

28 (b) "Serious behavioral problems" means behaviors of
29 children who have been assessed by a licensed master's-level
30 human-services professional to need at a minimum intensive
31 services but who do not meet the criteria of s. 394.492(6) or

1 s. 394.492(7). A child with an emotional disturbance as
2 defined in s. 394.492(5) may be served in residential group
3 care unless a determination is made by a mental health
4 professional that such a setting is inappropriate.

5 (2) The department shall establish a model
6 comprehensive residential services program in Dade and Manatee
7 Counties through a contract with the designated lead agency
8 established in accordance with s. 409.1671 or with a private
9 entity capable of providing residential group care and
10 home-based care and experienced in the delivery of a range of
11 services to foster children, if no lead agency exists. These
12 model programs are to serve that portion of eligible children
13 within each county which is specified in the contract, based
14 on funds appropriated, to include a full array of services for
15 a fixed price. The private entity or lead agency is
16 responsible for all programmatic functions necessary to carry
17 out the intent of this section.

18 (3) Each model must include:

19 (a) A focus on serving the full range of children in
20 foster care, including those who have specialized needs, such
21 as children who are unlikely to be reunited with their
22 families or placed in adoptive homes; sibling groups; children
23 who have serious behavioral problems; and children who are
24 victims of sexual abuse.

25 (b) For each child who is in care, the provision of or
26 arrangements for a comprehensive assessment; residential care;
27 transportation; behavioral health services; recreational
28 activities; clothing, supplies, and miscellaneous expenses
29 associated with caring for these children; educational
30 services; necessary and appropriate health and dental care;
31 legal services; and aftercare services.

1 (c) A commitment and ability to find and use
2 innovative approaches to address the problems in the
3 traditional foster care system, such as high caregiver
4 turnover, disrupted and multiple placements, runaway behavior,
5 and abusive or nontherapeutic care.

6 (d) The provision of a full range of residential
7 services tailored to the individual needs of each child in
8 care, including group homes for initial assessment and for
9 stabilization; professional and traditional foster homes;
10 residential group care provided in a setting that is homelike
11 and provides care in residences housing no more than 12
12 children and staffed with full-time, appropriately trained
13 house parents; and independent living apartments. The programs
14 are designed for children who must enter the foster care
15 system, but the use of placement with relatives as part of a
16 child's care is encouraged.

17 (e) The provision of the full range of administrative
18 services necessary to operate the program.

19 (f) Specific eligibility criteria established in the
20 contract, including a "no-reject-no-eject" commitment with the
21 described eligible children, unless the court determines that
22 the placement is not in a child's best interest.

23 (g) An ability, through its trained, multidisciplinary
24 staff, to facilitate the achievement of the permanency goals
25 of the children who are in care.

26 (h) The design and utilization of a retired-volunteer
27 mentor program that would make use of the skills of retired
28 individuals in helping to meet the needs of both the children
29 in care and their caregivers.

30
31

1 (i) The willingness and ability to assume financial
2 risk for the care of children referred to the program under
3 the contract.

4 (j) The willingness and ability to serve as a research
5 and teaching laboratory for departmental and community-based
6 care programs throughout the state in an effort to improve the
7 quality of foster care.

8 (4) This section does not prohibit any provider of
9 these services from appropriately billing Medicaid for
10 services rendered, from contracting with a local school
11 district for educational services, or from earning federal or
12 local funding for services provided, as long as two or more
13 funding sources do not pay for the same specific service that
14 has been provided to a child.

15 (5) The lead agency, not-for-profit corporation, or
16 local government entity has the legal authority for children
17 served under this program, as provided in chapter 39 or this
18 chapter, as appropriate, to enroll the child in school, to
19 sign for a driver's license for the child, to co-sign loans
20 and insurance for the child, to sign for medical treatment,
21 and to authorize other such activities.

22 (6) The department shall provide technical assistance
23 as requested and contract-management services.

24 (7) The provisions of this section shall be
25 implemented to the extent of available appropriations
26 contained in the annual General Appropriations Act for such
27 purpose.

28 Section 7. Section 409.1679, Florida Statutes, is
29 created to read:

30 409.1679 Additional requirements, effective date,
31 reimbursement methodology, and evaluation.--

1 (1) The programs established under ss. 409.1676 and
2 409.1677 are to be operational within 6 months after those
3 sections take effect, and, beginning 1 month after this
4 section takes effect and continuing until full operation of
5 those programs is realized, the department shall provide to
6 the Legislature monthly written status reports on the progress
7 toward implementing those programs.

8 (2) The programs established under ss. 409.1676 and
9 409.1677 must be included as part of the annual evaluation
10 currently required under s. 409.1671. With respect to these
11 specific programs and models, the annual evaluation must be
12 conducted by an independent third party and must include, by
13 specific site, the level of attainment of the targeted
14 outcomes listed in subsection (3). The evaluation of the model
15 programs must include, at a minimum, an assessment of their
16 cost-effectiveness, of their ability to successfully implement
17 the assigned program elements, and of their attainment of
18 performance standards that include legislatively established
19 standards for similar programs and other standards determined
20 jointly by the department and the providers and stated in a
21 contract.

22 (3) Each program established under ss. 409.1676 and
23 409.1677 must meet the following expectations, which must be
24 included in its contracts with the department or lead agency:

25 (a) No more than 10 percent of the children served may
26 move from one living environment to another, unless the child
27 is returned to family members or is moved, in accordance with
28 the treatment plan, to a less-restrictive setting. Each child
29 must have a comprehensive transitional plan that identifies
30 the child's living arrangement upon leaving the program and
31 specific steps and services that are being provided to prepare

1 for that arrangement. Specific expectations as to the time
2 period necessary for the achievement of these permanency goals
3 must be included in the contract.

4 (b) Each child must receive a full academic year of
5 appropriate educational instruction. No more than 10 percent
6 of the children may be in more than one academic setting in an
7 academic year, unless the child is being moved, in accordance
8 with an educational plan, to a less-restrictive setting. Each
9 child must demonstrate academic progress and must be
10 performing at grade level or at a level commensurate with a
11 valid academic assessment.

12 (c) Siblings must be kept together in the same living
13 environment 100 percent of the time, unless that is determined
14 by the provider not to be in the children's best interest.
15 When siblings are separated in placement, the decision must be
16 reviewed and approved by the court within 30 days.

17 (d) The program must experience a caregiver turnover
18 rate and an incidence of child runaway episodes which are at
19 least 50 percent below the rates experienced in the rest of
20 the state.

21 (e) In addition to providing a comprehensive
22 assessment, the program must provide, 100 percent of the time,
23 any or all of the following services that are indicated
24 through the assessment: residential care; transportation;
25 behavioral health services; recreational activities; clothing,
26 supplies, and miscellaneous expenses associated with caring
27 for these children; necessary arrangements for or provision of
28 educational services; and necessary and appropriate health and
29 dental care.

30 (f) The children who are served in this program must
31 be satisfied with the services and living environment.

1 (g) The caregivers must be satisfied with the program.

2 (4) Notwithstanding the provisions of s. 409.141, the
3 Department of Children and Family Services shall fairly and
4 reasonably reimburse the programs established under ss.
5 409.1676 and 409.1677 based on a prospective per-diem rate,
6 which must be specified annually in the General Appropriations
7 Act. Funding for these programs shall be made available from
8 resources appropriated and identified in the General
9 Appropriations Act.

10 Section 8. Present paragraph (j) of subsection (5) of
11 section 409.175, Florida Statutes, is redesignated as
12 paragraph (k), paragraphs (h) and (i) of that subsection are
13 amended, and a new paragraph (j) is added to that subsection,
14 to read:

15 409.175 Licensure of family foster homes, residential
16 child-caring agencies, and child-placing agencies.--

17 (5)

18 (h) Upon determination that the applicant meets the
19 state minimum licensing requirements, the department shall
20 issue a license without charge to a specific person or agency
21 at a specific location. A license may be issued if all the
22 screening materials have been timely submitted; however, a
23 license may not be issued or renewed if any person at the home
24 or agency has failed the required screening. The license is
25 nontransferable. A copy of the license shall be displayed in a
26 conspicuous place. Except as provided in paragraph (j),the
27 license is valid for 1 year from the date of issuance, unless
28 the license is suspended or revoked by the department or is
29 voluntarily surrendered by the licensee. The license is the
30 property of the department.

31

1 (i) A license issued for the operation of a family
2 foster home or agency, unless sooner suspended, revoked, or
3 voluntarily returned, will expire automatically 1 year from
4 the date of issuance except as provided in paragraph (j).
5 Ninety days prior to the expiration date, an application for
6 renewal shall be submitted to the department by a licensee who
7 wishes to have the license renewed. A license shall be
8 renewed upon the filing of an application on forms furnished
9 by the department if the applicant has first met the
10 requirements established under this section and the rules
11 promulgated hereunder.

12 (j) The department may issue a license that is valid
13 for longer than 1 year but no longer than 3 years to a family
14 foster home that:

15 1. Has maintained a license with the department as a
16 family foster home for at least the 3 previous consecutive
17 years;

18 2. Remains in good standing with the department; and

19 3. Has not been the subject of a report of child abuse
20 or neglect with any findings of maltreatment.

21
22 A family foster home that has been issued a license valid for
23 longer than 1 year must be monitored and visited as frequently
24 as one that has been issued a 1-year license. The department
25 reserves the right to reduce a licensure period to 1 year at
26 any time.

27 ~~(k)(j)~~ The department may not license summer day camps
28 or summer 24-hour camps. However, the department shall have
29 access to the personnel records of such facilities to ensure
30 compliance with the screening requirements.

31

1 Section 9. Paragraph (a) of subsection (2) of section
2 409.176, Florida Statutes, is amended to read:

3 409.176 Registration of residential child-caring
4 agencies and family foster homes.--

5 (1)(a) A residential child-caring agency or family
6 foster home may not receive a child for continuing full-time
7 care or custody, and a residential child-caring agency may not
8 place a child for full-time continuing care or custody in a
9 family foster home, unless it has first registered with an
10 association that is certified by a Florida statewide child
11 care organization which was in existence on January 1, 1984,
12 and which publishes, and requires compliance with, its
13 standards and files copies thereof with the department as
14 provided in paragraph (5)(b). For purposes of this section,
15 such an association shall be referred to as the "qualified
16 association."

17 (b) For the purposes of this section, the terms
18 "child," "family foster home," "screening," and "residential
19 child-caring agency" are defined as provided in s. 409.175(2),
20 and the terms "personnel," "operator," and "owner" as they
21 pertain to "residential child-caring agency" are defined as
22 provided in s. 409.175.

23 (c) As used in this section, the term "facility" means
24 a residential child-caring agency or a family foster home.

25 (2)(a) Registration shall consist of annually filing
26 with the qualified association, on forms provided by the
27 qualified association, the name and address of the facility;
28 the capacity of, and the number of children being cared for
29 in, the facility; the names and addresses of the officers and
30 the board of directors or other governing body of the
31 organization, if applicable; the name of the officer or person

1 in charge of the facility; and proof that the facility is in
2 compliance with the minimum ~~fire~~, health, sanitary, and safety
3 standards required by applicable state law or local ordinance,
4 and the uniform fire safety standards required by chapter 633,
5 and in compliance with the requirements for screening of
6 personnel in s. 409.175 and chapter 435. A separate
7 registration form shall be filed for each such facility.

8 (b) As part of the registration application, each
9 child-caring agency and each family foster home shall annually
10 provide to the qualified association the names and ages of
11 children being cared for in the facility; the names of
12 children who have been received from out of state or who have
13 been sent out of state during the past calendar year; the
14 names of children who have left the facility during the past
15 year, the lengths of their stays, and the nature of the
16 placements; the names of all personnel; and proof that the
17 facility is in compliance with published minimum standards
18 that are filed with the department under the provisions of
19 paragraph (5)(b). The agency shall also attest to the good
20 moral character of the personnel of the facility by providing
21 proof of compliance with the screening requirements of s.
22 409.175 and chapter 435 and provide the name of any member of
23 the staff having a prior felony conviction.

24 (c) Upon verification that all requirements for
25 registration have been met, the qualified association shall
26 issue without charge a certificate of registration valid for 1
27 year.

28 Section 10. Section 435.045, Florida Statutes, is
29 amended to read:

30 435.045 Requirements for placement of dependent
31 children ~~prospective foster or adoptive parents.--~~

1 (1)(a) Unless an election provided for in subsection
2 (2) is made with respect to the state, the department is
3 authorized to ~~shall~~ conduct criminal records checks equivalent
4 to the level 2 screening required in s. 435.04(1) for any
5 person being considered by the department for placement of a
6 child subject to a placement decision pursuant to ch. 39,
7 Florida Statutes. ~~prospective foster or adoptive parent before~~
8 ~~the foster or adoptive parent may be finally approved for~~
9 ~~placement of a child on whose behalf foster care maintenance~~
10 ~~payments or adoption assistance payments under s. 471 of the~~
11 ~~Social Security Act, 42 U.S.C. s. 671, are to be made.~~

12 Approval shall not be granted:

13 1. In any case in which a record check reveals a
14 felony conviction for child abuse, abandonment, or neglect;
15 for spousal abuse; for a crime against children, including
16 child pornography, or for a crime involving violence,
17 including rape, sexual assault, or homicide but not including
18 other physical assault or battery, if the department finds
19 that a court of competent jurisdiction has determined that the
20 felony was committed at any time; and

21 2. In any case in which a record check reveals a
22 felony conviction for physical assault, battery, or a
23 drug-related offense, if the department finds that a court of
24 competent jurisdiction has determined that the felony was
25 committed within the past 5 years.

26 (b) Notwithstanding paragraph (a), the department may
27 place a child in a foster home which otherwise meets licensing
28 requirements if state and local criminal records checks do not
29 disqualify the applicant and the department has submitted
30 fingerprint information to the Florida Department of Law
31 Enforcement for forwarding to the Federal Bureau of

1 Investigation and is awaiting the results of the federal
2 criminal records check.

3 (c) Prospective and approved foster parents must
4 disclose to the department any prior or pending local, state,
5 or federal criminal proceedings in which they are or have been
6 involved.

7 (2) For purposes of this section, and ss. 39.401(3)
8 and 39.521(1)(d), the department and its authorized agents or
9 contract providers are hereby designated a criminal justice
10 agency for the purposes of accessing criminal justice
11 information, including National Crime Information Center
12 information, to be used for enforcing Florida's laws
13 concerning the crimes of child abuse, abandonment, and
14 neglect. This information shall be used solely for purposes
15 supporting the detection, apprehension, prosecution, pretrial
16 release, posttrial release, or rehabilitation of criminal
17 offenders or persons accused of the crimes of child abuse,
18 abandonment, or neglect and shall not be further disseminated
19 or used for any other purposes.

20 (3) Subsection (2) shall not apply if the Governor has
21 notified the Secretary of the United States Department of
22 Health and Human Services in writing that the state has
23 elected to make subsection (2) inapplicable to the state, or
24 if the Legislature, by law, has elected to make subsection (2)
25 inapplicable to the state.

26 Section 11. Section 784.081, Florida Statutes, is
27 amended to read:

28 784.081 Assault or battery on specified officials or
29 employees; reclassification of offenses.--Whenever a person is
30 charged with committing an assault or aggravated assault or a
31 battery or aggravated battery upon any elected official or

1 employee of: a school district; a private school; the Florida
2 School for the Deaf and the Blind; a university developmental
3 research school; a state university or any other entity of the
4 state system of public education, as defined in s. 228.041; ~~or~~
5 an employee or protective investigator of the Department of
6 Children and Family Services; or an employee of a lead
7 community-based provider and its direct service contract
8 providers, when the person committing the offense knows or has
9 reason to know the identity or position or employment of the
10 victim, the offense for which the person is charged shall be
11 reclassified as follows:

12 (1) In the case of aggravated battery, from a felony
13 of the second degree to a felony of the first degree.

14 (2) In the case of aggravated assault, from a felony
15 of the third degree to a felony of the second degree.

16 (3) In the case of battery, from a misdemeanor of the
17 first degree to a felony of the third degree.

18 (4) In the case of assault, from a misdemeanor of the
19 second degree to a misdemeanor of the first degree.

20 Section 12. Status report on the child protection
21 program.--

22 (1) The Office of Program Policy Analysis and
23 Government Accountability shall provide the Legislature with a
24 report on the status of the child protection program. The
25 report shall be submitted to the Governor, the President of
26 the Senate, the Speaker of the House of Representatives, the
27 minority leaders of each house of the Legislature, and the
28 appropriate substantive committees of each house of the
29 Legislature, no later than February 1, 2002.

30 (2) The status report shall contain, at a minimum:
31

1 (a) The most current statistical information from the
2 abuse hotline.

3 (b) The most current data on the number of abuse and
4 neglect cases that are not closed within 60 days, by district.

5 (c) Reasons cases are not closed, by district.

6 (d) The turnover rate of the child protective
7 investigator staff, by district.

8 (e) Strategies to retain child protective investigator
9 staff.

10 (f) Factors that are creating caseload increases in
11 district 7 and other districts, including strategies to
12 address these factors.

13 (g) The most current statistical information
14 concerning the number of foster homes recruited, the number of
15 additional foster homes needed, and the description of the
16 department's effort to recruit foster homes.

17 (h) The department's progress in implementing the
18 HomeSafeNet information system.

19 (i) The progress made in implementing the
20 recommendations of the Office of Program Policy Analysis and
21 Government Accountability in the March 2001 justification
22 review of the child protection program.

23 Section 13. This act shall take effect July 1, 2001.

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