

By Representative Gottlieb

1 A bill to be entitled
2 An act relating to foster care and related
3 services; amending s. 409.1671, F.S.; extending
4 phase-in of the statewide foster care
5 privatization plan; providing for incremental
6 transition into community-based care; requiring
7 the Department of Children and Family Services
8 to provide an operations prospectus to lead
9 agency contract bidders; specifying contents;
10 requiring oversight and quality assurance of
11 the privatization process by the Office of
12 Program Policy Analysis and Government
13 Accountability; providing for the development
14 and use of outcome measures; providing for
15 incorporation of the outcome measures in lead
16 agency contracts; providing an effective date.

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

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20 Section 1. Paragraph (a) of subsection (1), paragraph
21 (a) of subsection (2), and paragraph (a) of subsection (4) of
22 section 409.1671, Florida Statutes, are amended to read:

23 409.1671 Foster care and related services;
24 privatization.--

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

1 governments are presently funding portions of certain foster
2 care and related services programs and may choose to expand
3 such funding in the future, the Legislature does not intend by
4 its privatization of foster care and related services that any
5 county, municipality, or special district be required to
6 assist in funding programs that previously have been funded by
7 the state. Nothing in this paragraph prohibits any county,
8 municipality, or special district from future voluntary
9 funding participation in foster care and related services. As
10 used in this section, the term "privatize" means to contract
11 with competent, community-based agencies. The department shall
12 submit a plan to accomplish privatization statewide, through a
13 competitive process, phased in over a 5-year ~~3-year~~ period
14 beginning January 1, 2000. The privatization plan shall allow
15 for the incremental transition of each district into
16 community-based care so that the lead agency can, prior to
17 assuming responsibility for other children and families,
18 demonstrate to the Office of Program Policy Analysis and
19 Government Accountability and the community that with each
20 incremental transition it is meeting the performance criteria
21 established by the Office of Program Policy Analysis and
22 Government Accountability pursuant to paragraph (4)(a). This
23 plan must be developed with local community participation,
24 including, but not limited to, input from community-based
25 providers that are currently under contract with the
26 department to furnish community-based foster care and related
27 services, and must include a methodology for determining and
28 transferring all available funds, including federal funds that
29 the provider is eligible for and agrees to earn and that
30 portion of general revenue funds which is currently associated
31 with the services that are being furnished under contract. The

1 methodology must provide for the transfer of funds
2 appropriated and budgeted for all services and programs that
3 have been incorporated into the project, including all
4 management, capital (including current furniture and
5 equipment), and administrative funds to accomplish the
6 transfer of these programs. This methodology must address
7 current and expected workload and at least the 3 previous
8 years' experience in expenses and workload. With respect to
9 any district or portion of a district in which privatization
10 cannot be accomplished within the 5-year ~~3-year~~ timeframe, the
11 department must clearly state in its plan the reasons the
12 timeframe cannot be met and the efforts that should be made to
13 remediate the obstacles, which may include alternatives to
14 total privatization, such as public-private partnerships. As
15 used in this section, the term "related services" includes,
16 but is not limited to, family preservation, independent
17 living, emergency shelter, residential group care, foster
18 care, therapeutic foster care, intensive residential
19 treatment, foster care supervision, case management,
20 postplacement supervision, permanent foster care, and family
21 reunification. Unless otherwise provided for, beginning in
22 fiscal year 1999-2000, either the state attorney or the Office
23 of the Attorney General shall provide child welfare legal
24 services, pursuant to chapter 39 and other relevant
25 provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee
26 Counties. Such legal services shall commence and be
27 effective, as soon as determined reasonably feasible by the
28 respective state attorney or the Office of the Attorney
29 General, after the privatization of associated programs and
30 child protective investigations has occurred. When a private
31 nonprofit agency has received case management

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

18 (2)(a) The department may contract for the delivery,
19 administration, or management of protective services, the
20 services specified in subsection (1) relating to foster care,
21 and other related services or programs, as appropriate.
22 However, no later than 60 days after the effective date of
23 this act, the department shall ensure that all lead agency
24 contract bidders are provided with a prospectus which shall
25 set forth a full and fair disclosure of all material
26 information regarding the current operation of each district's
27 family foster care program and related services. The
28 prospectus shall contain, at a minimum: all current and
29 projected case management and out-of-home care needs of
30 children; all current and projected mental health needs of
31 children, including the need for residential mental health

1 treatment; all state and federal performance and compliance
2 reports, audits, and system performance data; all incident
3 reports, inspector general reports, provider audits,
4 evaluations of contractor performance, and other available
5 investigative reports; the current and proposed budgeted funds
6 which will be available to the lead agency to implement
7 community-based care, including all funds derived from federal
8 and state revenues, grants, trust funds, and earnings; all
9 known current costs associated with operating the family
10 foster care program and related services, including unit costs
11 for services based upon geographical locations and
12 cost-of-services increases; and all known or anticipated risk
13 management claims and litigation involving children who have
14 been or are currently receiving services from the department
15 or any contract providers.The department shall retain
16 responsibility for the quality of contracted services and
17 programs and shall ensure, by employing the outcome measures
18 developed by the Office of Program Policy Analysis and
19 Government Accountability and by any other appropriate means,
20 that services are delivered in accordance with applicable
21 federal and state statutes, rules, and regulations and in a
22 manner so that children are safe and nurtured while receiving
23 service pursuant to chapter 39.

24 (4)(a) There shall be independent third-party
25 oversight and quality assurance of the privatization process
26 by the Office of Program Policy Analysis and Government
27 Accountability in each district, which shall utilize federal
28 and state standards, recognized child welfare monitoring
29 standards, and all performance expectations of the department
30 as to the lead agency to develop appropriate outcome measures
31 and monitor and assess the transition to community-based care

1 and the performance of the lead agency to ensure that all
2 children receiving community-based care services are safe,
3 nurtured, and receiving the benefits and protections afforded
4 to them under state and federal law. The outcome measures
5 established by the Office of Program Policy Analysis and
6 Government Accountability shall be incorporated into any
7 contracts entered into with any agency assuming lead agency
8 responsibilities.The department shall establish a quality
9 assurance program for privatized services. The quality
10 assurance program shall be based on standards established by a
11 national accrediting organization such as the Council on
12 Accreditation of Services for Families and Children, Inc.
13 (COA) or CARF--the Rehabilitation Accreditation Commission.
14 The department may develop a request for proposal for such
15 oversight. This program must be developed and administered at
16 a statewide level. The Legislature intends that the department
17 be permitted to have limited flexibility to use funds for
18 improving quality assurance. To this end, effective January 1,
19 2000, the department may transfer up to 0.125 percent of the
20 total funds from categories used to pay for these
21 contractually provided services, but the total amount of such
22 transferred funds may not exceed \$300,000 in any fiscal year.
23 When necessary, the department may establish, in accordance
24 with s. 216.177, additional positions that will be exclusively
25 devoted to these functions. Any positions required under this
26 paragraph may be established, notwithstanding ss.
27 216.262(1)(a) and 216.351. The department, in consultation
28 with the community-based agencies that are undertaking the
29 privatized projects, shall establish minimum thresholds for
30 each component of service, consistent with standards
31 established by the Legislature. Each program operated under

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

9 Section 2. This act shall take effect July 1, 2002.

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12 HOUSE SUMMARY

13 Extends from 3 to 5 years the phase-in of the statewide
14 foster care privatization plan. Requires the plan to
15 allow for the incremental transition of each district
16 into community-based care to facilitate demonstrating
17 that performance criteria are met. Requires the
18 Department of Children and Family Services to provide a
19 prospectus to lead agency contract bidders containing
20 specified information on current district foster care and
21 related services operations. Provides for use of certain
22 outcome measures and other means to ensure service
23 delivery in accordance with applicable laws, rules, and
24 standards. Requires oversight and quality assurance of
25 the privatization process in each district by the Office
26 of Program Policy Analysis and Government Accountability.
27 Provides for the development of outcome measures and for
28 their incorporation into lead agency contracts.
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