

By Senator Peadar

1-327E-02

1 A bill to be entitled
2 An act relating to residential group care;
3 repealing s. 39.521(5), F.S., relating to the
4 mandatory assessment of specified children for
5 placement in licensed residential group care;
6 creating s. 39.523, F.S.; prescribing
7 procedures for the mandatory assessment of
8 certain children for placement in licensed
9 residential group care; providing for reports;
10 providing for a residential group care
11 appropriations category in the General
12 Appropriations Act; specifying that the release
13 of certain funds is contingent on the approval
14 of a spending plan; prescribing elements of the
15 plan; authorizing one-time startup funding;
16 amending s. 409.1671, F.S.; specifying
17 timeframes for initiating and for completing
18 privatization of foster care and related
19 services; providing for the establishment of a
20 model comprehensive residential services
21 program in specified counties; requiring
22 community-based providers and subcontractors to
23 obtain automobile insurance coverage; providing
24 certain immunity from liability when
25 transporting clients in privately owned
26 automobiles; directing the Department of
27 Children and Family Services to adopt written
28 policies and procedures for contract monitoring
29 of community-based providers; modifying the
30 requirement for community-based providers to
31 furnish information to the department;

1 modifying the conditions under which a provider
2 may close a case; eliminating the authority for
3 a risk pool; requiring the development of a
4 proposal for a shared-earnings program;
5 providing direction for the development of the
6 proposal; providing for submission of the
7 proposal to the Legislative Budget Commission
8 and for submission to the Legislature under
9 certain conditions; expanding the program
10 relating to excess federal earnings and certain
11 additional state funds to additional entities;
12 eliminating a specified expiration for this
13 program; eliminating an obsolete review
14 requirement; amending s. 409.1676, F.S.;
15 removing a reference to specific districts and
16 regions of the department; amending s. 409.906,
17 F.S.; expanding the authority for the
18 establishment of child welfare targeted case
19 management projects; eliminating reference to a
20 pilot project; eliminating the requirement to
21 report to the Child Welfare Estimating
22 Conference regarding targeted case management;
23 directing the department, in consultation with
24 the Agency for Health Care Administration, to
25 conduct a review of the process for placing
26 children for residential mental health
27 treatment; providing for a report to the
28 Governor and Legislature; providing an
29 effective date.

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

1 Section 1. Subsection (5) of section 39.521, Florida
2 Statutes, is repealed.

3 Section 2. Section 39.523, Florida Statutes, is
4 created to read:

5 39.523 Placement in residential group care.--

6 (1) Except as provided in s. 39.407, any child 11
7 years of age or older who has been in licensed family foster
8 care for 6 months or longer and who is then moved more than
9 once must be assessed for placement in licensed residential
10 group care. The assessment procedures shall be conducted by
11 the department or its agent and shall incorporate and address
12 current and historical information from any psychological
13 testing or evaluation that has occurred; current and
14 historical information from the guardian ad litem, if one has
15 been assigned; current and historical information from any
16 current therapist, teacher, or other professional who has
17 knowledge of the child and has worked with the child;
18 information regarding the placement of any siblings of the
19 child and the impact of the child's placement in residential
20 group care on the child's siblings; the circumstances
21 necessitating the moves of the child while in family foster
22 care and the recommendations of the former foster families, if
23 available; the status of the child's case plan and a
24 determination as to the impact of placing the child in
25 residential group care on the goals of the case plan; the age,
26 maturity, and desires of the child concerning placement; the
27 availability of any less restrictive, more family-like setting
28 for the child in which the foster parents have the necessary
29 training and skills for providing a suitable placement for the
30 child; and any other information concerning the availability
31 of suitable residential group care. If such placement is

1 determined to be appropriate as a result of this procedure,
2 the child must be placed in residential group care, if
3 available.

4 (2) The results of the assessment described in
5 subsection (1) and the actions taken as a result of the
6 assessment must be included in the next judicial review of the
7 child. At each subsequent judicial review, the court must be
8 advised in writing of the status of the child's placement,
9 with special reference regarding the stability of the
10 placement and the permanency planning for the child.

11 (3) Any residential group care facility that receives
12 children under the provisions of this subsection shall
13 establish special permanency teams dedicated to overcoming the
14 special permanency challenges presented by this population of
15 children. Each facility shall report to the department its
16 success in achieving permanency for children placed by the
17 department in its care at intervals that allow the current
18 information to be provided to the court at each judicial
19 review for the child.

20 (4) This subsection does not prohibit the department
21 from assessing and placing children who do not meet the
22 criteria in subsection (1) in residential group care if such
23 placement is the most appropriate placement for such children.

24 (5)(a) By December 1 of each year, the department
25 shall report to the Legislature on the placement of children
26 in licensed residential group care during the year, including
27 the criteria used to determine the placement of children, the
28 number of children who were evaluated for placement, the
29 number of children who were placed based upon the evaluation,
30 and the number of children who were not placed. The department
31 shall maintain data specifying the number of children who were

1 referred to licensed residential child care for whom placement
2 was unavailable and the counties in which such placement was
3 unavailable. The department shall include this data in its
4 report to the Legislature due on December 1, so that the
5 Legislature may consider this information in developing the
6 General Appropriations Act.

7 (b) As part of the report required in paragraph (a),
8 the department shall also provide a detailed account of the
9 expenditures incurred for "Special Categories: Grants and Aids
10 - Residential Group Care" for the fiscal year immediately
11 preceding the date of the report. This section of the report
12 must include whatever supporting data is necessary to
13 demonstrate full compliance with paragraph (6)(c). The
14 document must present the information by district and must
15 specify, at a minimum, the number of additional beds, the
16 average rate per bed, the number of additional persons served,
17 and a description of the enhanced and expanded services
18 provided.

19 (6)(a) The provisions of this section shall be
20 implemented to the extent of available appropriations
21 contained in the annual General Appropriations Act for such
22 purpose.

23 (b) Each year, funds included in the General
24 Appropriations Act for Residential Group Care shall be
25 appropriated in a separately identified special category that
26 is designated in the act as "Special Grants and Aids -
27 Residential Group Care."

28 (c) Notwithstanding the provisions of s. 216.192(1),
29 funds appropriated to "Special Categories: Grants and Aids -
30 Residential Group Care" may not be released until the
31 department has submitted and received approval for a spending

1 plan that identifies the residential group care bed capacity
2 shortage throughout the state and proposes a distribution
3 formula by district which addresses the reported deficiencies.
4 The spending plan must have as its first priority the
5 reduction or elimination of any bed shortage identified and
6 must also provide for program enhancements to assure that
7 residential group care programs meet a minimum level of
8 expected performance and provide for expansion of the
9 comprehensive residential group care services described in s.
10 409.1676. Annual appropriation increases to "Special
11 Categories: Grants and Aids - Residential Group Care" must be
12 used in accordance with the provisions of the spending plan.

13 (d) Funds from "Special Categories: Grants and Aids -
14 Residential Group Care" may be used as one-time startup
15 funding for residential group care purposes that include, but
16 are not limited to, remodeling or renovation of existing
17 facilities, construction costs, leasing costs, purchase of
18 equipment and furniture, site development, and other necessary
19 and reasonable costs associated with the startup of facilities
20 or programs only upon specific approval of the terms and
21 conditions by the secretary of the department.

22 Section 3. Section 409.1671, Florida Statutes, is
23 amended to read:

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

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

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

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

1 only if a parent or guardian of the child is unavailable, his
2 or her whereabouts cannot reasonably be ascertained, and a
3 court order for such emergency medical services cannot be
4 obtained because of the severity of the emergency or because
5 it is after normal working hours. However, the provider may
6 not consent to sterilization, abortion, or termination of life
7 support. If a child's parents' rights have been terminated,
8 the nonprofit agency shall act as guardian of the child in all
9 circumstances.

10 (b) It is the intent of the Legislature that the
11 department will continue to work towards full privatization by
12 initiating the competitive-procurement process in each county
13 by January 1, 2003. In order to provide for an adequate
14 transition period to develop the necessary administrative and
15 service-delivery capacity in each community, the full transfer
16 of all foster care and related services must be completed
17 statewide by December 31, 2004.

18 (c) In any county in which the full transfer is not
19 accomplished by December 31, 2004, the department shall put in
20 place a model comprehensive residential services program as
21 described in s. 409.1677.

22 1. The department must begin the process of
23 establishing the program in any county in which the department
24 has not entered into a transition contract for community-based
25 care by December 31, 2003, in order to assure that the program
26 is operational by December 31, 2004.

27 2. The program must be procured through a competitive
28 process.

29 3. To the extent possible, agencies that the
30 department believes have the potential to become lead agencies

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1 shall be given priority in the establishment of a model
2 program as a transition toward full community-based care.

3 4. The Legislature does not intend for the provisions
4 of this paragraph to substitute for the requirement that full
5 conversion to community-based care be accomplished.

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

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

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

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

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

28 5. The capability and the willingness to serve all
29 children referred to it from the protective investigation and
30 court systems, regardless of the level of funding allocated to
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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 (e)~~(c)~~1. If attempts to competitively procure services
12 through an eligible lead community-based provider as defined
13 in paragraph (d)~~(b)~~ do not produce a capable and willing
14 agency, the department shall develop a plan in collaboration
15 with the local community alliance. The plan must detail how
16 the 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. 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. 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 (f)~~(d)~~ Other than an entity to which s. 768.28
22 applies, any eligible lead community-based provider, as
23 defined in paragraph~~(d)~~~~(b)~~, or its employees or officers,
24 except as otherwise provided in paragraph~~(g)~~~~(e)~~, must, as a
25 part of its contract, obtain a minimum of \$1 million per
26 claim/\$3 million per incident in general liability insurance
27 coverage and \$100,000 per claim/\$300,000 per incident of
28 personal automobile insurance by those employees who meet
29 specific requirements to transport client children and
30 families in their personal automobiles specifically to
31 accomplish the contracted tasks. In any tort action brought

1 against such an eligible lead community-based provider or
2 employee, net economic damages shall be limited to \$1 million
3 per liability claim and \$100,000 per automobile claim,
4 including, but not limited to, past and future medical
5 expenses, wage loss, and loss of earning capacity, offset by
6 any collateral source payment paid or payable. In any tort
7 action brought against such an eligible lead community-based
8 provider, noneconomic damages shall be limited to \$200,000 per
9 claim. A claims bill may be brought on behalf of a claimant
10 pursuant to s. 768.28 for any amount exceeding the limits
11 specified in this paragraph. Any offset of collateral source
12 payments made as of the date of the settlement or judgment
13 shall be in accordance with s. 768.76. The lead
14 community-based provider shall not be liable in tort for the
15 acts or omissions of its subcontractors or the officers,
16 agents, or employees of its subcontractors.

17 (g)~~(e)~~ The liability of an eligible lead
18 community-based provider described in this section shall be
19 exclusive and in place of all other liability of such
20 provider. The same immunities from liability enjoyed by such
21 providers shall extend as well to each employee of the
22 provider when such employee is acting in furtherance of the
23 provider's business, including the transportation of clients
24 served, as described in this subsection, in privately owned
25 vehicles. Such immunities shall not be applicable to a
26 provider or an employee who acts in a culpably negligent
27 manner or with willful and wanton disregard or unprovoked
28 physical aggression when such acts result in injury or death
29 or such acts proximately cause such injury or death; nor shall
30 such immunities be applicable to employees of the same
31 provider when each is operating in the furtherance of the

1 provider's business, but they are assigned primarily to
2 unrelated works within private or public employment. The same
3 immunity provisions enjoyed by a provider shall also apply to
4 any sole proprietor, partner, corporate officer or director,
5 supervisor, or other person who in the course and scope of his
6 or her duties acts in a managerial or policymaking capacity
7 and the conduct that caused the alleged injury arose within
8 the course and scope of those managerial or policymaking
9 duties. Culpable negligence is defined as reckless
10 indifference or grossly careless disregard of human life.

11 (h)~~(f)~~ Any subcontractor of an eligible lead
12 community-based provider, as defined in paragraph~~(d)~~~~(b)~~,
13 which is a direct provider of foster care and related services
14 to children and families, and its employees or officers,
15 except as otherwise provided in paragraph~~(g)~~~~(e)~~, must, as a
16 part of its contract, obtain a minimum of \$1 million per
17 claim/\$3 million per incident in general liability insurance
18 coverage and \$100,000 per claim/\$300,000 per incident of
19 personal automobile insurance by those employees who meet
20 specific requirements to transport client children and
21 families in their personal automobiles specifically to
22 accomplish the contracted tasks. In any tort action brought
23 against such subcontractor or employee, net economic damages
24 shall be limited to \$1 million per liability claim and
25 \$100,000 per automobile claim, including, but not limited to,
26 past and future medical expenses, wage loss, and loss of
27 earning capacity, offset by any collateral source payment paid
28 or payable. In any tort action brought against such
29 subcontractor, noneconomic damages shall be limited to
30 \$200,000 per claim. A claims bill may be brought on behalf of
31 a claimant pursuant to s. 768.28 for any amount exceeding the

1 limits specified in this paragraph. Any offset of collateral
2 source payments made as of the date of the settlement or
3 judgment shall be in accordance with s. 768.76.

4 (i)~~(g)~~ The liability of a subcontractor of an eligible
5 lead community-based provider that is a direct provider of
6 foster care and related services as described in this section
7 shall be exclusive and in place of all other liability of such
8 provider. The same immunities from liability enjoyed by such
9 subcontractor provider shall extend as well to each employee
10 of the subcontractor when such employee is acting in
11 furtherance of the subcontractor's business, including the
12 transportation of clients served, as described in this
13 subsection, in privately owned vehicles. Such immunities shall
14 not be applicable to a subcontractor or an employee who acts
15 in a culpably negligent manner or with willful and wanton
16 disregard or unprovoked physical aggression when such acts
17 result in injury or death or such acts proximately cause such
18 injury or death; nor shall such immunities be applicable to
19 employees of the same subcontractor when each is operating in
20 the furtherance of the subcontractor's business, but they are
21 assigned primarily to unrelated works within private or public
22 employment. The same immunity provisions enjoyed by a
23 subcontractor shall also apply to any sole proprietor,
24 partner, corporate officer or director, supervisor, or other
25 person who in the course and scope of his or her duties acts
26 in a managerial or policymaking capacity and the conduct that
27 caused the alleged injury arose within the course and scope of
28 those managerial or policymaking duties. Culpable negligence
29 is defined as reckless indifference or grossly careless
30 disregard of human life.

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1 (j)~~(h)~~ The Legislature is cognizant of the increasing
2 costs of goods and services each year and recognizes that
3 fixing a set amount of compensation actually has the effect of
4 a reduction in compensation each year. Accordingly, the
5 conditional limitations on damages in this section shall be
6 increased at the rate of 5 percent each year, prorated from
7 the effective date of this paragraph to the date at which
8 damages subject to such limitations are awarded by final
9 judgment or settlement.

10 (2)(a) The department may contract for the delivery,
11 administration, or management of protective services, the
12 services specified in subsection (1) relating to foster care,
13 and other related services or programs, as appropriate. The
14 department shall retain responsibility for the quality of
15 contracted services and programs and shall ensure that
16 services are delivered in accordance with applicable federal
17 and state statutes and regulations. The department must adopt
18 written policies and procedures for monitoring the contract
19 for delivery of services by lead community-based providers.
20 These policies and procedures must, at a minimum, address the
21 evaluation of fiscal accountability and program operations,
22 including provider achievement of performance standards,
23 provider monitoring of subcontractors, and timely followup of
24 corrective actions for significant monitoring findings related
25 to providers and subcontractors. These policies and procedures
26 must also include provisions for reducing the duplication of
27 program monitoring activities to the extent possible. The
28 department's written procedures must assure that the written
29 findings, conclusions, and recommendations from monitoring the
30 contract for services of lead community-based providers are

1 communicated to the director of the provider agency as
2 expeditiously as possible.

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

8 (3)(a) In order to help ensure a seamless child
9 protection system, the department shall ensure that contracts
10 entered into with community-based agencies pursuant to this
11 section include provisions for a case-transfer process to
12 determine the date that the community-based agency will
13 initiate the appropriate services for a child and family. This
14 case-transfer process must clearly identify the closure of the
15 protective investigation and the initiation of service
16 provision. At the point of case transfer, and at the
17 conclusion of an investigation, the department must provide a
18 complete summary of the findings of the investigation to the
19 community-based agency.

20 (b) The contracts must also ensure that each
21 community-based agency shall furnish information on its
22 activities in all cases in client case records ~~regular status~~
23 ~~reports of its cases to the department as specified in the~~
24 ~~contract.~~ A provider may not discontinue services on any
25 voluntary case without prior written notification to the
26 department 30 days before planned case closure. If the
27 department disagrees with the recommended case closure,
28 written notification to the provider must be provided before
29 the case-closure date.~~without prior written notification to~~
30 ~~the department. After discontinuing services to a child or a~~
31 ~~child and family, the community-based agency must provide a~~

1 ~~written case summary, including its assessment of the child~~
2 ~~and family, to the department.~~

3 (c) The contract between the department and
4 community-based agencies must include provisions that specify
5 the procedures to be used by the parties to resolve
6 differences in interpreting the contract or to resolve
7 disputes as to the adequacy of the parties' compliance with
8 their respective obligations under the contract.

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

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

10 (b) The department shall use these findings in making
11 recommendations to the Governor and the Legislature for future
12 program and funding priorities in the child welfare system.

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

25 (b) Substitute care providers who are licensed under
26 s. 409.175 and have contracted with a lead agency authorized
27 under this section shall also be authorized to provide
28 registered or licensed family day care under s. 402.313, if
29 consistent with federal law and if the home has met:

- 30 1. The requirements of s. 402.313; and
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1 2. The requirements of s. 402.281 and has received
2 Gold Seal Quality Care designation.

3 (c) A dually licensed home under this section shall be
4 eligible to receive both the foster care board rate and the
5 subsidized child care rate for the same child only if care is
6 provided 24 hours a day. The subsidized child care rate shall
7 be no more than the approved full-time rate.

8 (6) Beginning January 1, 1999, and continuing at least
9 through June 30, 2000, the Department of Children and Family
10 Services shall privatize all foster care and related services
11 in district 5 while continuing to contract with the current
12 model programs in districts 1, 4, and 13, and in subdistrict
13 8A, and shall expand the subdistrict 8A pilot program to
14 incorporate Manatee County. Planning for the district 5
15 privatization shall be done by providers that are currently
16 under contract with the department for foster care and related
17 services and shall be done in consultation with the
18 department. A lead provider of the district 5 program shall
19 be competitively selected, must demonstrate the ability to
20 provide necessary comprehensive services through a local
21 network of providers, and must meet criteria established in
22 this section. Contracts with organizations responsible for the
23 model programs must include the management and administration
24 of all privatized services specified in subsection (1).
25 However, the department may use funds for contract management
26 only after obtaining written approval from the Executive
27 Office of the Governor. The request for such approval must
28 include, but is not limited to, a statement of the proposed
29 amount of such funds and a description of the manner in which
30 such funds will be used. If the community-based organization
31 selected for a model program under this subsection is not a

1 Medicaid provider, the organization shall be issued a Medicaid
2 provider number pursuant to s. 409.907 for the provision of
3 services currently authorized under the state Medicaid plan to
4 those children encompassed in this model and in a manner not
5 to exceed the current level of state expenditure.

6 (7) The department, in consultation with existing lead
7 agencies, shall develop a statewide proposal regarding the
8 long-term use and structure of a shared-earnings program which
9 addresses ~~is authorized to establish and administer a risk~~
10 pool to reduce the financial risk to eligible lead
11 community-based providers resulting from unanticipated
12 caseload growth or from significant changes in client mixes or
13 services eligible for federal reimbursement. The
14 recommendations in the statewide proposal must also be
15 available to entities of the department until the conversion
16 to community-based care takes place. At a minimum, the
17 proposal must allow federal earnings received from child
18 welfare programs that are considered by the department to be
19 in excess of those required to meet the intent of the General
20 Appropriations Act to be used for specified purposes. These
21 purposes include, but are not limited to:

22 (a) Significant changes in the number or composition
23 of clients eligible to receive services.

24 (b) Significant changes in the services that are
25 eligible for reimbursement.

26 (c) Significant changes in the availability of federal
27 funds.

28 (d) Shortfalls in state funds available for eligible
29 or ineligible services.

30 (e) Significant changes in the mix of available funds.
31

1 (f) Scheduled or unanticipated, but necessary,
2 advances to providers or other cash-flow issues.

3 (g) Proposals to participate in optional Medicaid
4 services or other federal grant opportunities.

5 (h) Appropriate incentive structures.

6 (i) Continuity of care in the event of lead-agency
7 failure, discontinuance of service, or financial misconduct.

8
9 The department shall further specify the necessary steps to
10 ensure the financial integrity of these dollars and their
11 continued availability on an ongoing basis. The final proposal
12 shall be submitted to the Legislative Budget Commission for
13 formal adoption before December 31, 2002. If the Legislative
14 Budget Commission refuses to concur with the adoption of the
15 proposal, the department shall present its proposal in the
16 form of recommended legislation to the President of the Senate
17 and the Speaker of the House of Representatives before the
18 commencement of the next legislative session.

19 (8) Notwithstanding the provisions of s. 215.425, all
20 documented federal funds earned for the current fiscal year by
21 the department and community-based agencies which exceed the
22 amount appropriated by the Legislature shall be distributed to
23 all entities that contributed to the excess earnings based on
24 a schedule and methodology developed by the department and
25 approved by the Executive Office of the Governor. Distribution
26 shall be pro rata based on total earnings and shall be made
27 only to those entities that contributed to excess earnings.
28 Excess earnings of community-based agencies shall be used only
29 in the service district in which they were earned. Additional
30 state funds appropriated by the Legislature for
31 community-based agencies or made available pursuant to the

1 budgetary amendment process described in s. 216.177 shall be
2 transferred to the community-based agencies. The department
3 shall amend a community-based agency's contract to permit
4 expenditure of the funds. The distribution program applies
5 only to entities that were under privatization contracts as of
6 July 1, 2002 ~~1999~~. ~~This program is authorized for a period of~~
7 ~~3 years beginning July 1, 1999, and ending June 30, 2002. The~~
8 ~~Office of Program Policy Analysis and Government~~
9 ~~Accountability shall review this program and report to the~~
10 ~~President of the Senate and the Speaker of the House of~~
11 ~~Representatives by December 31, 2001. The review shall assess~~
12 ~~the program to determine how the additional resources were~~
13 ~~used, the number of additional clients served, the~~
14 ~~improvements in quality of service attained, the performance~~
15 ~~outcomes associated with the additional resources, and the~~
16 ~~feasibility of continuing or expanding this program.~~

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

24 Section 4. Section 409.1676, Florida Statutes, is
25 amended to read:

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

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

1 needs, such as serious behavioral problems or having been
2 determined to be without the options of either reunification
3 with family or adoption. These services are to be provided in
4 a residential group care setting by a not-for-profit
5 corporation or a local government entity under a contract with
6 the Department of Children and Family Services or by a lead
7 agency as described in s. 409.1671. These contracts should be
8 designed to provide an identified number of children with
9 access to a full array 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 (7). A child with an emotional disturbance as defined in s.
23 394.492(5) may be served in residential group care unless a
24 determination is made by a mental health professional that
25 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
15 for these children; for necessary arrangement for or provision
16 of 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 cosign loans and
8 insurance for the child, to sign for medical treatment, and to
9 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 5. Subsection (24) of section 409.906, Florida
17 Statutes, is amended to read:

18 409.906 Optional Medicaid services.--Subject to
19 specific appropriations, the agency may make payments for
20 services which are optional to the state under Title XIX of
21 the Social Security Act and are furnished by Medicaid
22 providers to recipients who are determined to be eligible on
23 the dates on which the services were provided. Any optional
24 service that is provided shall be provided only when medically
25 necessary and in accordance with state and federal law.

26 Optional services rendered by providers in mobile units to
27 Medicaid recipients may be restricted or prohibited by the
28 agency. Nothing in this section shall be construed to prevent
29 or limit the agency from adjusting fees, reimbursement rates,
30 lengths of stay, number of visits, or number of services, or
31 making any other adjustments necessary to comply with the

1 availability of moneys and any limitations or directions
2 provided for in the General Appropriations Act or chapter 216.
3 If necessary to safeguard the state's systems of providing
4 services to elderly and disabled persons and subject to the
5 notice and review provisions of s. 216.177, the Governor may
6 direct the Agency for Health Care Administration to amend the
7 Medicaid state plan to delete the optional Medicaid service
8 known as "Intermediate Care Facilities for the Developmentally
9 Disabled." Optional services may include:
10 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
11 Agency for Health Care Administration, in consultation with
12 the Department of Children and Family Services, may establish
13 a targeted case-management ~~pilot~~ project in those counties
14 identified by the Department of Children and Family Services
15 and for all counties with a ~~the~~ community-based child welfare
16 project ~~in Sarasota and Manatee counties~~, as authorized under
17 s. 409.1671, which have been specifically approved by the
18 department. These projects shall be established for the
19 purpose of determining the impact of targeted case management
20 on the child welfare program and the earnings from the child
21 welfare program.Results of targeted case management ~~the pilot~~
22 projects shall be reported to ~~the Child Welfare Estimating~~
23 ~~Conference~~ and the Social Services Estimating Conference
24 established under s. 216.136. ~~The number of projects may not~~
25 ~~be increased until requested by the Department of Children and~~
26 ~~Family Services, recommended by the Child Welfare Estimating~~
27 ~~Conference and the Social Services Estimating Conference, and~~
28 ~~approved by the Legislature.~~The covered group of individuals
29 who are eligible to receive targeted case management include
30 children who are eligible for Medicaid; who are between the
31 ages of birth through 21; and who are under protective

1 supervision or postplacement supervision, under foster-care
2 supervision, or in shelter care or foster care. The number of
3 individuals who are eligible to receive targeted case
4 management shall be limited to the number for whom the
5 Department of Children and Family Services has available
6 matching funds to cover the costs. The general revenue funds
7 required to match the funds for services provided by the
8 community-based child welfare projects are limited to funds
9 available for services described under s. 409.1671. The
10 Department of Children and Family Services may transfer the
11 general revenue matching funds as billed by the Agency for
12 Health Care Administration.

13 Section 6. The Department of Children and Family
14 Services, in consultation with the Agency for Health Care
15 Administration, shall conduct a review of the process for
16 placing children for residential mental health treatment as
17 specified in section 39.407(5), Florida Statutes. This review
18 is to be used to determine whether changes are needed in this
19 process. The integrity of the examination process that is
20 intended to assure that only a child with an emotional
21 disturbance or a serious emotional disturbance is placed in a
22 residential mental health facility and to assure that a child
23 who is diagnosed with an emotional disturbance or a serious
24 emotional disturbance receives the most appropriate mental
25 health treatment in the least-restrictive setting must be
26 maintained. The review shall analyze and make recommendations
27 relative to issues pertinent to the process such as the number
28 of children who are assessed and the outcomes of the
29 assessments, the costs associated with the suitability
30 assessments based on geographic differentials, delays in
31 receiving appropriate mental health treatment services in both

1 residential and nonresidential settings which can be
2 attributed to the assessment process, and the need to expand
3 the mental health professional groups who may conduct the
4 suitability assessment. The Department of Children and Family
5 Services shall submit a report of its findings and any
6 proposed changes to substantive law to the Office of the
7 Governor, the President of the Senate, and the Speaker of the
8 House of Representatives by January 1, 2003.

9 Section 7. This act shall take effect July 1, 2002.

10 *****

11 *****
12 SENATE SUMMARY

13 Revises requirements for the annual report to the
14 Legislature made by the Department of Children and Family
15 Services concerning the placement of children in licensed
16 residential group care. Provides for a residential group
17 care appropriations category in the General
18 Appropriations Act and specifies the purposes for which
19 and the conditions under which funds in that category may
20 be used. Revises requirements for the privatization of
21 foster care and related services. Expands authority to
22 establish child welfare targeted case management
23 projects. Provides for a review of the process for
24 placing children for residential mental health treatment.
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