

By the Committees on Appropriations; Children and Families;
and Senator Peadar

300-1889-02

1 A bill to be entitled
2 An act relating to out-of-home care; repealing
3 s. 39.521(5), F.S., relating to the mandatory
4 assessment of specified children for placement
5 in licensed residential group care; creating s.
6 39.523, F.S.; prescribing procedures for the
7 mandatory assessment of certain children for
8 placement in licensed residential group care;
9 providing for reports; providing for a
10 residential group care appropriations category
11 in the General Appropriations Act; providing
12 for funding increases to be appropriated in a
13 lump-sum category; specifying that the release
14 of certain funds is contingent on the approval
15 of a spending plan; prescribing elements of the
16 plan; authorizing one-time startup funding;
17 amending s. 39.407, F.S.; clarifying that the
18 Department of Children and Family Services may
19 place a child who is in its custody in a
20 residential treatment center without prior
21 approval of the court; amending s. 409.1671,
22 F.S.; providing intent that the Department of
23 Children and Family Services and the Department
24 of Juvenile Justice establish an interagency
25 agreement regarding referral to residential
26 group care facilities; specifying that a
27 residential group care facility must be
28 licensed as a child-caring agency; requiring
29 such facilities serving certain children to
30 meet specified staff qualifications and
31 Medicaid-provider criteria; redefining the term

1 "serious behavioral problems"; authorizing the
2 department to adopt rules; specifying
3 timeframes for initiating and for completing
4 privatization of foster care and related
5 services; providing for the establishment of a
6 model comprehensive residential services
7 program in specified counties; providing that
8 community-based providers and subcontractors
9 require employees to obtain bodily injury
10 liability insurance on personal automobiles;
11 providing certain immunity from liability when
12 transporting clients in privately owned
13 automobiles; directing the Department of
14 Children and Family Services to adopt written
15 policies and procedures for contract monitoring
16 of community-based providers; modifying the
17 requirement for community-based providers to
18 furnish information to the department;
19 modifying the conditions under which a provider
20 may close a case; modifying the requirements
21 concerning dual licensure of foster homes;
22 eliminating the authority for a risk pool;
23 requiring the development of a proposal for a
24 shared-earnings program; providing direction
25 for the development of the proposal; providing
26 for submission of the proposal to the
27 Legislative Budget Commission and for
28 submission to the Legislature under certain
29 conditions; expanding the program relating to
30 excess federal earnings and certain additional
31 state funds to additional entities; eliminating

1 a specified expiration for this program;
2 requiring that the Legislature appropriate a
3 lump sum in the Administered Funds Program each
4 year for a specified purpose; specifying the
5 type of bond that may be required; eliminating
6 an obsolete review requirement; amending s.
7 409.1676, F.S.; removing a reference to
8 specific districts and regions of the
9 department; amending s. 409.175, F.S.; defining
10 the term "family foster group home"; amending
11 s. 409.906, F.S.; expanding the authority for
12 the establishment of child welfare targeted
13 case management projects; eliminating reference
14 to a pilot project; eliminating the requirement
15 to report to the Child Welfare Estimating
16 Conference regarding targeted case management;
17 directing the Office of Program Policy Analysis
18 and Government Accountability, in consultation
19 with the Agency for Health Care Administration,
20 to conduct a review of the process for placing
21 children for residential mental health
22 treatment; providing for a report to the
23 Governor and Legislature; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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

30 Section 2. Section 39.523, Florida Statutes, is
31 created to read:

1 39.523 Placement in residential group care.--
2 (1) Except as provided in s. 39.407, any dependent
3 child 11 years of age or older who has been in licensed family
4 foster care for 6 months or longer and who is then moved more
5 than once must be assessed for placement in licensed
6 residential group care. The assessment procedures shall be
7 conducted by the department or its agent and shall incorporate
8 and address current and historical information from any
9 psychological testing or evaluation that has occurred; current
10 and historical information from the guardian ad litem, if one
11 has been assigned; current and historical information from any
12 current therapist, teacher, or other professional who has
13 knowledge of the child and has worked with the child;
14 information regarding the placement of any siblings of the
15 child and the impact of the child's placement in residential
16 group care on the child's siblings; the circumstances
17 necessitating the moves of the child while in family foster
18 care and the recommendations of the former foster families, if
19 available; the status of the child's case plan and a
20 determination as to the impact of placing the child in
21 residential group care on the goals of the case plan; the age,
22 maturity, and desires of the child concerning placement; the
23 availability of any less restrictive, more family-like setting
24 for the child in which the foster parents have the necessary
25 training and skills for providing a suitable placement for the
26 child; and any other information concerning the availability
27 of suitable residential group care. If such placement is
28 determined to be appropriate as a result of this procedure,
29 the child must be placed in residential group care, if
30 available.
31

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

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

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

21 (5)(a) By December 1 of each year, the department
22 shall report to the Legislature on the placement of children
23 in licensed residential group care during the year, including
24 the criteria used to determine the placement of children, the
25 number of children who were evaluated for placement, the
26 number of children who were placed based upon the evaluation,
27 and the number of children who were not placed. The department
28 shall maintain data specifying the number of children who were
29 referred to licensed residential child care for whom placement
30 was unavailable and the counties in which such placement was
31 unavailable. The department shall include this data in its

1 report to the Legislature due on December 1, so that the
2 Legislature may consider this information in developing the
3 General Appropriations Act.

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

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

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

25 (c) Each fiscal year, any funding increases to
26 "Special Categories: Grants and Aids.--Residential Group Care"
27 which are included in the General Appropriations Act shall be
28 appropriated in a lump-sum category as defined in s.
29 216.011(1)(aa). In accordance with s. 216.181(6)(a), the
30 Executive Office of the Governor shall require the department
31 to submit a spending plan that identifies the residential

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

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

23 Section 3. Subsection (5) of section 39.407, Florida
24 Statutes, is amended to read:

25 39.407 Medical, psychiatric, and psychological
26 examination and treatment of child; physical or mental
27 examination of parent or person requesting custody of child.--

28 (5) Children who are in the legal custody of the
29 department may be placed by the department, without prior
30 approval of the court, in a residential treatment center
31 licensed under s. 394.875 or a hospital licensed under chapter

1 395 for residential mental health treatment only pursuant to
2 this section or may be placed by the court in accordance with
3 an order of involuntary examination or involuntary placement
4 entered pursuant to s. 394.463 or s. 394.467. All children
5 placed in a residential treatment program under this
6 subsection must have a guardian ad litem appointed.

7 (a) As used in this subsection, the term:

8 1. "Residential treatment" means placement for
9 observation, diagnosis, or treatment of an emotional
10 disturbance in a residential treatment center licensed under
11 s. 394.875 or a hospital licensed under chapter 395.

12 2. "Least restrictive alternative" means the treatment
13 and conditions of treatment that, separately and in
14 combination, are no more intrusive or restrictive of freedom
15 than reasonably necessary to achieve a substantial therapeutic
16 benefit or to protect the child or adolescent or others from
17 physical injury.

18 3. "Suitable for residential treatment" or
19 "suitability" means a determination concerning a child or
20 adolescent with an emotional disturbance as defined in s.
21 394.492(5) or a serious emotional disturbance as defined in s.
22 394.492(6) that each of the following criteria is met:

23 a. The child requires residential treatment.

24 b. The child is in need of a residential treatment
25 program and is expected to benefit from mental health
26 treatment.

27 c. An appropriate, less restrictive alternative to
28 residential treatment is unavailable.

29 (b) Whenever the department believes that a child in
30 its legal custody is emotionally disturbed and may need
31 residential treatment, an examination and suitability

1 assessment must be conducted by a qualified evaluator who is
2 appointed by the Agency for Health Care Administration. This
3 suitability assessment must be completed before the placement
4 of the child in a residential treatment center for emotionally
5 disturbed children and adolescents or a hospital. The
6 qualified evaluator must be a psychiatrist or a psychologist
7 licensed in Florida who has at least 3 years of experience in
8 the diagnosis and treatment of serious emotional disturbances
9 in children and adolescents and who has no actual or perceived
10 conflict of interest with any inpatient facility or
11 residential treatment center or program.

12 (c) Before a child is admitted under this subsection,
13 the child shall be assessed for suitability for residential
14 treatment by a qualified evaluator who has conducted a
15 personal examination and assessment of the child and has made
16 written findings that:

17 1. The child appears to have an emotional disturbance
18 serious enough to require residential treatment and is
19 reasonably likely to benefit from the treatment.

20 2. The child has been provided with a clinically
21 appropriate explanation of the nature and purpose of the
22 treatment.

23 3. All available modalities of treatment less
24 restrictive than residential treatment have been considered,
25 and a less restrictive alternative that would offer comparable
26 benefits to the child is unavailable.

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28 A copy of the written findings of the evaluation and
29 suitability assessment must be provided to the department and
30 to the guardian ad litem, who shall have the opportunity to
31 discuss the findings with the evaluator.

1 (d) Immediately upon placing a child in a residential
2 treatment program under this section, the department must
3 notify the guardian ad litem and the court having jurisdiction
4 over the child and must provide the guardian ad litem and the
5 court with a copy of the assessment by the qualified
6 evaluator.

7 (e) Within 10 days after the admission of a child to a
8 residential treatment program, the director of the residential
9 treatment program or the director's designee must ensure that
10 an individualized plan of treatment has been prepared by the
11 program and has been explained to the child, to the
12 department, and to the guardian ad litem, and submitted to the
13 department. The child must be involved in the preparation of
14 the plan to the maximum feasible extent consistent with his or
15 her ability to understand and participate, and the guardian ad
16 litem and the child's foster parents must be involved to the
17 maximum extent consistent with the child's treatment needs.
18 The plan must include a preliminary plan for residential
19 treatment and aftercare upon completion of residential
20 treatment. The plan must include specific behavioral and
21 emotional goals against which the success of the residential
22 treatment may be measured. A copy of the plan must be provided
23 to the child, to the guardian ad litem, and to the department.

24 (f) Within 30 days after admission, the residential
25 treatment program must review the appropriateness and
26 suitability of the child's placement in the program. The
27 residential treatment program must determine whether the child
28 is receiving benefit towards the treatment goals and whether
29 the child could be treated in a less restrictive treatment
30 program. The residential treatment program shall prepare a
31 written report of its findings and submit the report to the

1 guardian ad litem and to the department. The department must
2 submit the report to the court. The report must include a
3 discharge plan for the child. The residential treatment
4 program must continue to evaluate the child's treatment
5 progress every 30 days thereafter and must include its
6 findings in a written report submitted to the department. The
7 department may not reimburse a facility until the facility has
8 submitted every written report that is due.

9 (g)1. The department must submit, at the beginning of
10 each month, to the court having jurisdiction over the child, a
11 written report regarding the child's progress towards
12 achieving the goals specified in the individualized plan of
13 treatment.

14 2. The court must conduct a hearing to review the
15 status of the child's residential treatment plan no later than
16 3 months after the child's admission to the residential
17 treatment program. An independent review of the child's
18 progress towards achieving the goals and objectives of the
19 treatment plan must be completed by a qualified evaluator and
20 submitted to the court before its 3-month review.

21 3. For any child in residential treatment at the time
22 a judicial review is held pursuant to s. 39.701, the child's
23 continued placement in residential treatment must be a subject
24 of the judicial review.

25 4. If at any time the court determines that the child
26 is not suitable for continued residential treatment, the court
27 shall order the department to place the child in the least
28 restrictive setting that is best suited to meet his or her
29 needs.

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1 (h) After the initial 3-month review, the court must
2 conduct a review of the child's residential treatment plan
3 every 90 days.

4 (i) The department must adopt rules for implementing
5 timeframes for the completion of suitability assessments by
6 qualified evaluators and a procedure that includes timeframes
7 for completing the 3-month independent review by the qualified
8 evaluators of the child's progress towards achieving the goals
9 and objectives of the treatment plan which review must be
10 submitted to the court. The Agency for Health Care
11 Administration must adopt rules for the registration of
12 qualified evaluators, the procedure for selecting the
13 evaluators to conduct the reviews required under this section,
14 and a reasonable, cost-efficient fee schedule for qualified
15 evaluators.

16 Section 4. Section 409.1671, Florida Statutes, is
17 amended to read:

18 409.1671 Foster care and related services;
19 privatization.--

20 (1)(a) It is the intent of the Legislature that the
21 Department of Children and Family Services shall privatize the
22 provision of foster care and related services statewide. It is
23 further the Legislature's intent to encourage communities and
24 other stakeholders in the well-being of children to
25 participate in assuring that children are safe and
26 well-nurtured. However, while recognizing that some local
27 governments are presently funding portions of certain foster
28 care and related services programs and may choose to expand
29 such funding in the future, the Legislature does not intend by
30 its privatization of foster care and related services that any
31 county, municipality, or special district be required to

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

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

1 support. If a child's parents' rights have been terminated,
2 the nonprofit agency shall act as guardian of the child in all
3 circumstances.

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

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

21 1. The ability to coordinate, integrate, and manage
22 all child protective services in the designated community in
23 cooperation with child protective investigations.

24 2. The ability to ensure continuity of care from entry
25 to exit for all children referred from the protective
26 investigation and court systems.

27 3. The ability to provide directly, or contract for
28 through a local network of providers, all necessary child
29 protective services.

30 4. The willingness to accept accountability for
31 meeting the outcomes and performance standards related to

1 child protective services established by the Legislature and
2 the Federal Government.

3 5. The capability and the willingness to serve all
4 children referred to it from the protective investigation and
5 court systems, regardless of the level of funding allocated to
6 the community by the state, provided all related funding is
7 transferred.

8 6. The willingness to ensure that each individual who
9 provides child protective services completes the training
10 required of child protective service workers by the Department
11 of Children and Family Services.

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

16 (d)~~(c)~~1. If attempts to competitively procure services
17 through an eligible lead community-based provider as defined
18 in paragraph (c)~~(b)~~ do not produce a capable and willing
19 agency, the department shall develop a plan in collaboration
20 with the local community alliance. The plan must detail how
21 the community will continue to implement privatization, to be
22 accomplished by December 31, 2004 through competitively
23 procuring either the specific components of foster care and
24 related services or comprehensive services for defined
25 eligible populations of children and families from qualified
26 licensed agencies as part of its efforts to develop the local
27 capacity for a community-based system of coordinated care. The
28 plan must ensure local control over the management and
29 administration of the service provision in accordance with the
30 intent of this section and may include recognized best
31 business practices, including some form of public or private

1 partnerships. In the absence of a community alliance, the plan
2 must be submitted to the President of the Senate and the
3 Speaker of the House of Representatives for their comments.

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

22 3. The Legislature further finds that, by requiring
23 the following minimum levels of insurance, children in
24 privatized foster care and related services will gain
25 increased protection and rights of recovery in the event of
26 injury than provided for in s. 768.28.

27 (e) In any county in which a service contract has not
28 been executed by December 31, 2004, the department shall
29 ensure access to a model comprehensive residential services
30 program as described in s. 409.1677 which, without imposing
31 undo financial, geographic, or other barriers, ensures

1 reasonable and appropriate participation by the family in the
2 child's program.

3 1. In order to assure that the program is operational
4 by December 31, 2004, the department must, by December 31,
5 2003, begin the process of establishing access to a program in
6 any county in which the department has not either entered into
7 a transition contract or approved a community plan, as
8 described in paragraph (d), which assures full privatization
9 by the statutory deadline.

10 2. The program must be procured through a competitive
11 process.

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

15 (f)(d) Other than an entity to which s. 768.28
16 applies, any eligible lead community-based provider, as
17 defined in paragraph(c)(b), or its employees or officers,
18 except as otherwise provided in paragraph(g)(e), must, as a
19 part of its contract, obtain a minimum of \$1 million per
20 claim/\$3 million per incident in general liability insurance
21 coverage. The eligible lead community-based provider must also
22 require that staff who transport client children and families
23 in their personal automobiles in order to carry out their job
24 responsibilities obtain minimum bodily injury liability
25 insurance in the amount of \$100,000 per claim, \$300,000 per
26 incident on their personal automobiles.In any tort action
27 brought against such an eligible lead community-based provider
28 or employee, net economic damages shall be limited to \$1
29 million per liability claim and \$100,000 per automobile claim,
30 including, but not limited to, past and future medical
31 expenses, wage loss, and loss of earning capacity, offset by

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

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

1 or her duties acts in a managerial or policymaking capacity
2 and the conduct that caused the alleged injury arose within
3 the course and scope of those managerial or policymaking
4 duties. Culpable negligence is defined as reckless
5 indifference or grossly careless disregard of human life.
6 (h)~~(f)~~ Any subcontractor of an eligible lead
7 community-based provider, as defined in paragraph~~(c)~~~~(b)~~,
8 which is a direct provider of foster care and related services
9 to children and families, and its employees or officers,
10 except as otherwise provided in paragraph~~(g)~~~~(e)~~, must, as a
11 part of its contract, obtain a minimum of \$1 million per
12 claim/\$3 million per incident in general liability insurance
13 coverage. The subcontractor of an eligible lead
14 community-based provider must also require that staff who
15 transport client children and families in their personal
16 automobiles in order to carry out their job responsibilities
17 obtain minimum bodily injury liability insurance in the amount
18 of \$100,000 per claim, \$300,000 per incident on their personal
19 automobiles.In any tort action brought against such
20 subcontractor or employee, net economic damages shall be
21 limited to \$1 million per liability claim and \$100,000 per
22 automobile claim, including, but not limited to, past and
23 future medical expenses, wage loss, and loss of earning
24 capacity, offset by any collateral source payment paid or
25 payable. In any tort action brought against such
26 subcontractor, noneconomic damages shall be limited to
27 \$200,000 per claim. A claims bill may be brought on behalf of
28 a claimant pursuant to s. 768.28 for any amount exceeding the
29 limits specified in this paragraph. Any offset of collateral
30 source payments made as of the date of the settlement or
31 judgment shall be in accordance with s. 768.76.

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

28 (j)~~(h)~~ The Legislature is cognizant of the increasing
29 costs of goods and services each year and recognizes that
30 fixing a set amount of compensation actually has the effect of
31 a reduction in compensation each year. Accordingly, the

1 conditional limitations on damages in this section shall be
2 increased at the rate of 5 percent each year, prorated from
3 the effective date of this paragraph to the date at which
4 damages subject to such limitations are awarded by final
5 judgment or settlement.

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

30 (b) Persons employed by the department in the
31 provision of foster care and related services whose positions

1 are being privatized pursuant to this statute shall be given
2 hiring preference by the provider, if provider qualifications
3 are met.

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

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

30 (c) The contract between the department and
31 community-based agencies must include provisions that specify

1 the procedures to be used by the parties to resolve
2 differences in interpreting the contract or to resolve
3 disputes as to the adequacy of the parties' compliance with
4 their respective obligations under the contract.

5 (4)(a) The department shall establish a quality
6 assurance program for privatized services. The quality
7 assurance program shall be based on standards established by a
8 national accrediting organization such as the Council on
9 Accreditation of Services for Families and Children, Inc.

10 (COA) or CARF--the Rehabilitation Accreditation Commission.

11 The department may develop a request for proposal for such
12 oversight. This program must be developed and administered at
13 a statewide level. The Legislature intends that the department

14 be permitted to have limited flexibility to use funds for
15 improving quality assurance. To this end, effective January 1,
16 2000, the department may transfer up to 0.125 percent of the
17 total funds from categories used to pay for these

18 contractually provided services, but the total amount of such
19 transferred funds may not exceed \$300,000 in any fiscal year.

20 When necessary, the department may establish, in accordance
21 with s. 216.177, additional positions that will be exclusively
22 devoted to these functions. Any positions required under this
23 paragraph may be established, notwithstanding ss.

24 216.262(1)(a) and 216.351. The department, in consultation
25 with the community-based agencies that are undertaking the
26 privatized projects, shall establish minimum thresholds for
27 each component of service, consistent with standards

28 established by the Legislature. Each program operated under
29 contract with a community-based agency must be evaluated
30 annually by the department. The department shall submit an

31 annual report regarding quality performance, outcome measure

1 attainment, and cost efficiency to the President of the
2 Senate, the Speaker of the House of Representatives, the
3 minority leader of each house of the Legislature, and the
4 Governor no later than January 31 of each year for each
5 project in operation during the preceding fiscal year.

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

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

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

26 ~~1. the requirements of s. 402.313, and~~

27 ~~2. The requirements of s. 402.281 and has received~~
28 ~~Gold Seal Quality Care designation.~~

29 (c) A dually licensed home under this section shall be
30 eligible to receive both an out-of-home care payment and a
31 subsidized child care payment for the same child pursuant to

1 federal law. The department may adopt administrative rules
2 necessary to administer this paragraph ~~the foster care board~~
3 ~~rate and the subsidized child care rate for the same child~~
4 ~~only if care is provided 24 hours a day. The subsidized child~~
5 ~~care rate shall be no more than the approved full-time rate.~~

6 (6) Beginning January 1, 1999, and continuing at least
7 through June 30, 2000, the Department of Children and Family
8 Services shall privatize all foster care and related services
9 in district 5 while continuing to contract with the current
10 model programs in districts 1, 4, and 13, and in subdistrict
11 8A, and shall expand the subdistrict 8A pilot program to
12 incorporate Manatee County. Planning for the district 5
13 privatization shall be done by providers that are currently
14 under contract with the department for foster care and related
15 services and shall be done in consultation with the
16 department. A lead provider of the district 5 program shall
17 be competitively selected, must demonstrate the ability to
18 provide necessary comprehensive services through a local
19 network of providers, and must meet criteria established in
20 this section. Contracts with organizations responsible for the
21 model programs must include the management and administration
22 of all privatized services specified in subsection (1).
23 However, the department may use funds for contract management
24 only after obtaining written approval from the Executive
25 Office of the Governor. The request for such approval must
26 include, but is not limited to, a statement of the proposed
27 amount of such funds and a description of the manner in which
28 such funds will be used. If the community-based organization
29 selected for a model program under this subsection is not a
30 Medicaid provider, the organization shall be issued a Medicaid
31 provider number pursuant to s. 409.907 for the provision of

1 services currently authorized under the state Medicaid plan to
2 those children encompassed in this model and in a manner not
3 to exceed the current level of state expenditure.

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

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

22 (b) Significant changes in the services that are
23 eligible for reimbursement.

24 (c) Significant changes in the availability of federal
25 funds.

26 (d) Shortfalls in state funds available for eligible
27 or ineligible services.

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

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

31

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

3 (h) Appropriate incentive structures.

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

6
7 The department shall further specify the necessary steps to
8 ensure the financial integrity of these dollars and their
9 continued availability on an ongoing basis. The final proposal
10 shall be submitted to the Legislative Budget Commission for
11 formal adoption before December 31, 2002. If the Legislative
12 Budget Commission refuses to concur with the adoption of the
13 proposal, the department shall present its proposal in the
14 form of recommended legislation to the President of the Senate
15 and the Speaker of the House of Representatives before the
16 commencement of the next legislative session. For fiscal year
17 2003-2004 and annually thereafter, the Department of Children
18 and Family Services may request, and the Governor may
19 recommend, the funding necessary to carry out paragraph (i),
20 in its legislative budget request from excess federal
21 earnings. The General Appropriations Act shall include any
22 funds appropriated for this purpose in a lump sum in the
23 Administered Funds Program, which funds constitute sufficient
24 and exclusive security for lead-agency contract performance,
25 and no other performance bond shall be required. The
26 department may require a bond to mitigate the financial
27 consequences of potential acts of malfeasance, misfeasance, or
28 criminal violations by the provider. Prior to the release of
29 any funds in the lump sum, the department shall submit a
30 detailed operational plan, which must identify the sources of
31 specific trust funds to be used. The release of the trust fund

1 shall be subject to the notice and review provisions of s.
2 216.177. However, the release shall not require approval of
3 the Legislative Budget Commission.

4 (8) Notwithstanding the provisions of s. 215.425, all
5 documented federal funds earned for the current fiscal year by
6 the department and community-based agencies which exceed the
7 amount appropriated by the Legislature shall be distributed to
8 all entities that contributed to the excess earnings based on
9 a schedule and methodology developed by the department and
10 approved by the Executive Office of the Governor. Distribution
11 shall be pro rata based on total earnings and shall be made
12 only to those entities that contributed to excess earnings.
13 Excess earnings of community-based agencies shall be used only
14 in the service district in which they were earned. Additional
15 state funds appropriated by the Legislature for
16 community-based agencies or made available pursuant to the
17 budgetary amendment process described in s. 216.177 shall be
18 transferred to the community-based agencies. The department
19 shall amend a community-based agency's contract to permit
20 expenditure of the funds. The distribution program applies
21 only to entities that were under privatization contracts as of
22 July 1, 2002 1999. ~~This program is authorized for a period of~~
23 ~~3 years beginning July 1, 1999, and ending June 30, 2002. The~~
24 ~~Office of Program Policy Analysis and Government~~
25 ~~Accountability shall review this program and report to the~~
26 ~~President of the Senate and the Speaker of the House of~~
27 ~~Representatives by December 31, 2001. The review shall assess~~
28 ~~the program to determine how the additional resources were~~
29 ~~used, the number of additional clients served, the~~
30 ~~improvements in quality of service attained, the performance~~

1 ~~outcomes associated with the additional resources, and the~~
2 ~~feasibility of continuing or expanding this program.~~

3 (9) Each district and subdistrict that participates in
4 the model program effort or any future privatization effort as
5 described in this section must thoroughly analyze and report
6 the complete direct and indirect costs of delivering these
7 services through the department and the full cost of
8 privatization, including the cost of monitoring and evaluating
9 the contracted services.

10 Section 5. Section 409.1676, Florida Statutes, is
11 amended to read:

12 409.1676 Comprehensive residential group care services
13 to children who have extraordinary needs.--

14 (1) It is the intent of the Legislature to provide
15 comprehensive residential group care services, including
16 residential care, case management, and other services, to
17 children in the child protection system who have extraordinary
18 needs, such as serious behavioral problems or having been
19 determined to be without the options of either reunification
20 with family or adoption. These services are to be provided in
21 a residential group care setting by a not-for-profit
22 corporation or a local government entity under a contract with
23 the Department of Children and Family Services or by a lead
24 agency as described in s. 409.1671. These contracts should be
25 designed to provide an identified number of children with
26 access to a full array of services for a fixed price. Further,
27 it is the intent of the Legislature that the Department of
28 Children and Family Services and the Department of Juvenile
29 Justice establish an interagency agreement by December 1,
30 2002, which describes respective agency responsibilities for
31 referral, placement, service provision, and service

1 coordination for dependent and delinquent youth who are
2 referred to these residential group care facilities. The
3 agreement must require interagency collaboration in the
4 development of terms, conditions, and performance outcomes for
5 residential group care contracts serving the youth referred
6 who have been adjudicated both dependent and delinquent.

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

8 (a) "Residential group care" means a living
9 environment for children who have been adjudicated dependent
10 and are expected to be in foster care for at least 6 months
11 with 24-hour-awake staff or live-in group home parents or
12 staff. Each facility ~~Beginning July 1, 2001, all facilities~~
13 must be appropriately licensed in this state as a residential
14 child caring agency as defined in s. 409.175(2)(j), and they
15 must be accredited by July 1, 2005. A residential group care
16 facility serving children having a serious behavioral problem
17 as defined in this section must have available staff or
18 contract personnel with the clinical expertise, credentials,
19 and training to provide services identified in s. 409.1671(4)
20 and must be a qualified Medicaid provider for Behavioral
21 Health Overlay Services (BHOS).

22 (b) "Serious behavioral problems" means behaviors of
23 children who have been assessed by a licensed master's-level
24 human-services professional to need at a minimum intensive
25 services but who do not meet the criteria of s. 394.492(6) or
26 (7). A child with an emotional disturbance as defined in s.
27 394.492(5) may be served in residential group care unless a
28 determination is made by a mental health professional that
29 such a setting is inappropriate. A child having a serious
30 behavioral problem must have been determined in the assessment
31 to have at least one of the following risk factors:

1 1. An adjudication of delinquency and be on
2 conditional release status with the Department of Juvenile
3 Justice.

4 2. A history of physical aggression or violent
5 behavior toward self or others, animals, or property within
6 the past year.

7 3. A history of setting fires within the past year.

8 4. A history of multiple episodes of running away from
9 home or placements within the past year.

10 5. A history of sexual aggression toward other youth.

11 (3) The department, in accordance with a specific
12 appropriation for this program, shall contract with a
13 not-for-profit corporation, a local government entity, or the
14 lead agency that has been established in accordance with s.
15 409.1671 for the performance of residential group care
16 services described in this section ~~in, at a minimum, districts~~
17 ~~4, 11, 12, and the Suncoast Region of the Department of~~
18 ~~Children and Family Services and with a not-for-profit entity~~
19 ~~serving children from multiple districts.~~ A lead agency that
20 is currently providing residential care may provide this
21 service directly with the approval of the local community
22 alliance. The department or a lead agency may contract for
23 more than one site in a county if that is determined to be the
24 most effective way to achieve the goals set forth in this
25 section.

26 (4) The lead agency, the contracted not-for-profit
27 corporation, or the local government entity is responsible for
28 a comprehensive assessment, residential care, transportation,
29 behavioral health services, recreational activities, clothing,
30 supplies, and miscellaneous expenses associated with caring
31 for these children; for necessary arrangement for or provision

1 of educational services; and for assuring necessary and
2 appropriate health and dental care.

3 (5) The department may transfer all casework
4 responsibilities for children served under this program to the
5 entity that provides this service, including case management
6 and development and implementation of a case plan in
7 accordance with current standards for child protection
8 services. When the department establishes this program in a
9 community that has a lead agency as described in s. 409.1671,
10 the casework responsibilities must be transferred to the lead
11 agency.

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

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

26 (8) The department shall provide technical assistance
27 as requested and contract management services.

28 (9) The provisions of this section shall be
29 implemented to the extent of available appropriations
30 contained in the annual General Appropriations Act for such
31 purpose.

1 (10) The department may adopt rules necessary to
2 administer this section.

3 Section 6. Subsections (2) and (5) of section 409.175,
4 Florida Statutes, are amended to read:

5 409.175 Licensure of family foster homes, residential
6 child-caring agencies, and child-placing agencies.--

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

8 (a) "Agency" means a residential child-caring agency
9 or a child-placing agency.

10 (b) "Boarding school" means a school which is
11 registered with the Department of Education as a school. Its
12 program must follow established school schedules, with holiday
13 breaks and summer recesses in accordance with other public and
14 private school programs. The children in residence must
15 customarily return to their family homes or legal guardians
16 during school breaks and must not be in residence year-round,
17 except that this provision does not apply to foreign students.
18 The parents of these children retain custody and planning and
19 financial responsibility.

20 (c) "Child" means any unmarried person under the age
21 of 18 years.

22 (d) "Child-placing agency" means any person,
23 corporation, or agency, public or private, other than the
24 parent or legal guardian of the child or an intermediary
25 acting pursuant to chapter 63, that receives a child for
26 placement and places or arranges for the placement of a child
27 in a family foster home, residential child-caring agency, or
28 adoptive home.

29 (e) "Family foster home" means a private residence in
30 which children who are unattended by a parent or legal
31 guardian are provided 24-hour care. Such homes include

1 emergency shelter family homes, family foster group homes, and
2 specialized foster homes for children with special needs. A
3 person who cares for a child of a friend for a period not to
4 exceed 90 days, a relative who cares for a child and does not
5 receive reimbursement for such care from the state or federal
6 government, or an adoptive home which has been approved by the
7 department or by a licensed child-placing agency for children
8 placed for adoption is not considered a family foster home.

9 1. "Family Foster Group Home" means a licensed private
10 family home occupied by a married couple or individual who has
11 demonstrated the interest and special qualifications to care
12 for preadolescent and adolescent children, including the
13 family's own children. The family foster group home parent
14 must be able to work in close cooperation with the department
15 and the child placing agency. The licensed capacity of each
16 home shall be based on the recommendation of the child placing
17 agency based on the needs of each child in care, the ability
18 of the foster family to meet the individual needs of each
19 child including any adoptive or biological children living in
20 the home, the amount of safe physical plant space, the ratio
21 of active and appropriate adult supervision, and the
22 background experience and skill of the family foster parents.

23 a. If there are more than five children in a family
24 foster group home including the family's own children, there
25 must be an assessment completed by the child placing agency
26 documented in the licensure file, determining that the home
27 can appropriately meet the needs of all children living in the
28 home. The appropriateness of the number of children in that
29 home must be reassessed annually as part of the relicensure
30 process.

31

1 b. In each family foster group home, a plan to address
2 supervision appropriate to the needs of all children living in
3 the home must be developed and approved by the child placing
4 agency. The plan may or may not include the requirement for
5 24-hour-awake supervision, depending on the needs of the
6 children in the home.

7 c. In a family foster group home, at least one parent
8 must be a full time foster parent having no employment
9 commitment outside the home.

10 (f) "License" means "license" as defined in s.
11 120.52(9). A license under this section is issued to a family
12 foster home or other facility and is not a professional
13 license of any individual. Receipt of a license under this
14 section shall not create a property right in the recipient. A
15 license under this act is a public trust and a privilege, and
16 is not an entitlement. This privilege must guide the finder of
17 fact or trier of law at any administrative proceeding or court
18 action initiated by the department.

19 (g) "Operator" means any onsite person ultimately
20 responsible for the overall operation of a child-placing
21 agency, family foster home, or residential child-caring
22 agency, whether or not she or he is the owner or administrator
23 of such an agency or home.

24 (h) "Owner" means the person who is licensed to
25 operate the child-placing agency, family foster home, or
26 residential child-caring agency.

27 (i) "Personnel" means all owners, operators,
28 employees, and volunteers working in a child-placing agency,
29 family foster home, or residential child-caring agency who may
30 be employed by or do volunteer work for a person, corporation,
31 or agency which holds a license as a child-placing agency or a

1 residential child-caring agency, but the term does not include
2 those who do not work on the premises where child care is
3 furnished and either have no direct contact with a child or
4 have no contact with a child outside of the presence of the
5 child's parent or guardian. For purposes of screening, the
6 term shall include any member, over the age of 12 years, of
7 the family of the owner or operator or any person other than a
8 client, over the age of 12 years, residing with the owner or
9 operator if the agency or family foster home is located in or
10 adjacent to the home of the owner or operator or if the family
11 member of, or person residing with, the owner or operator has
12 any direct contact with the children. Members of the family of
13 the owner or operator, or persons residing with the owner or
14 operator, who are between the ages of 12 years and 18 years
15 shall not be required to be fingerprinted, but shall be
16 screened for delinquency records. For purposes of screening,
17 the term "personnel" shall also include owners, operators,
18 employees, and volunteers working in summer day camps, or
19 summer 24-hour camps providing care for children. A volunteer
20 who assists on an intermittent basis for less than 40 hours
21 per month shall not be included in the term "personnel" for
22 the purposes of screening, provided that the volunteer is
23 under direct and constant supervision by persons who meet the
24 personnel requirements of this section.

25 (j) "Residential child-caring agency" means any
26 person, corporation, or agency, public or private, other than
27 the child's parent or legal guardian, that provides staffed
28 24-hour care for children in facilities maintained for that
29 purpose, regardless of whether operated for profit or whether
30 a fee is charged. Such residential child-caring agencies
31 include, but are not limited to, maternity homes, runaway

1 shelters, group homes that are administered by an agency,
2 emergency shelters that are not in private residences, and
3 wilderness camps. Residential child-caring agencies do not
4 include hospitals, boarding schools, summer or recreation
5 camps, nursing homes, or facilities operated by a governmental
6 agency for the training, treatment, or secure care of
7 delinquent youth, or facilities licensed under s. 393.067 or
8 s. 394.875 or chapter 397.

9 (k) "Screening" means the act of assessing the
10 background of personnel and includes, but is not limited to,
11 employment history checks as provided in chapter 435, using
12 the level 2 standards for screening set forth in that chapter.
13 Screening for employees and volunteers in summer day camps and
14 summer 24-hour camps and screening for all volunteers included
15 under the definition of "personnel" shall be conducted as
16 provided in chapter 435, using the level 1 standards set forth
17 in that chapter.

18 (l) "Summer day camp" means recreational, educational,
19 and other enrichment programs operated during summer vacations
20 for children who are 5 years of age on or before September 1
21 and older.

22 (m) "Summer 24-hour camp" means recreational,
23 educational, and other enrichment programs operated on a
24 24-hour basis during summer vacation for children who are 5
25 years of age on or before September 1 and older, that are not
26 exclusively educational.

27 (5)(a) An application for a license shall be made on
28 forms provided, and in the manner prescribed, by the
29 department. The department shall make a determination as to
30 the good moral character of the applicant based upon
31 screening.

1 (b) Upon application, the department shall conduct a
2 licensing study based on its licensing rules; shall inspect
3 the home or the agency and the records, including financial
4 records, of the agency; and shall interview the applicant.
5 The department may authorize a licensed child-placing agency
6 to conduct the licensing study of a family foster home to be
7 used exclusively by that agency and to verify to the
8 department that the home meets the licensing requirements
9 established by the department. Upon certification by a
10 licensed child-placing agency that a family foster home meets
11 the licensing requirements, the department shall issue the
12 license.

13 (c) A licensed family foster home, child-placing
14 agency, or residential child-caring agency which applies for
15 renewal of its license shall submit to the department a list
16 of personnel who have worked on a continuous basis at the
17 applicant family foster home or agency since submitting
18 fingerprints to the department, identifying those for whom a
19 written assurance of compliance was provided by the department
20 and identifying those personnel who have recently begun
21 working at the family foster home or agency and are awaiting
22 the results of the required fingerprint check, along with the
23 date of the submission of those fingerprints for processing.
24 The department shall by rule determine the frequency of
25 requests to the Department of Law Enforcement to run state
26 criminal records checks for such personnel except for those
27 personnel awaiting the results of initial fingerprint checks
28 for employment at the applicant family foster home or agency.

29 (d)1. The department may pursue other remedies
30 provided in this section in addition to denial or revocation
31 of a license for failure to comply with the screening

1 requirements. The disciplinary actions determination to be
2 made by the department and the procedure for hearing for
3 applicants and licensees shall be in accordance with chapter
4 120.

5 2. When the department has reasonable cause to believe
6 that grounds for denial or termination of employment exist, it
7 shall notify, in writing, the applicant, licensee, or summer
8 or recreation camp, and the personnel affected, stating the
9 specific record which indicates noncompliance with the
10 screening requirements.

11 3. Procedures established for hearing under chapter
12 120 shall be available to the applicant, licensee, summer day
13 camp, or summer 24-hour camp, and affected personnel, in order
14 to present evidence relating either to the accuracy of the
15 basis for exclusion or to the denial of an exemption from
16 disqualification.

17 4. Refusal on the part of an applicant to dismiss
18 personnel who have been found not to be in compliance with the
19 requirements for good moral character of personnel shall
20 result in automatic denial or revocation of license in
21 addition to any other remedies provided in this section which
22 may be pursued by the department.

23 (e) At the request of the department, the local county
24 health department shall inspect a home or agency according to
25 the licensing rules promulgated by the department. Inspection
26 reports shall be furnished to the department within 30 days of
27 the request. Such an inspection shall only be required when
28 called for by the licensing agency.

29 (f) All residential child-caring agencies must meet
30 firesafety standards for such agencies adopted by the Division
31 of State Fire Marshal of the Department of Insurance and must

1 be inspected annually. At the request of the department,
2 firesafety inspections shall be conducted by the Division of
3 State Fire Marshal or a local fire department official who has
4 been certified by the division as having completed the
5 training requirements for persons inspecting such agencies.
6 Inspection reports shall be furnished to the department within
7 30 days of a request.

8 (g) In the licensing process, the licensing staff of
9 the department shall provide consultation on request.

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

23 (i) A license issued for the operation of a family
24 foster home or agency, unless sooner suspended, revoked, or
25 voluntarily returned, will expire automatically 1 year from
26 the date of issuance except as provided in paragraph (j).
27 Ninety days prior to the expiration date, an application for
28 renewal shall be submitted to the department by a licensee who
29 wishes to have the license renewed. A license shall be
30 renewed upon the filing of an application on forms furnished
31 by the department if the applicant has first met the

1 requirements established under this section and the rules
2 promulgated hereunder.

3 (j) Except for a family foster group home having a
4 licensed capacity for more than five children,the department
5 may issue a license that is valid for longer than 1 year but
6 no longer than 3 years to a family foster home that:

- 7 1. Has maintained a license with the department as a
8 family foster home for at least the 3 previous consecutive
9 years;
- 10 2. Remains in good standing with the department; and
- 11 3. Has not been the subject of a report of child abuse
12 or neglect with any findings of maltreatment.

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14 A family foster home that has been issued a license valid for
15 longer than 1 year must be monitored and visited as frequently
16 as one that has been issued a 1-year license. The department
17 reserves the right to reduce a licensure period to 1 year at
18 any time.

19 (k) The department may not license summer day camps or
20 summer 24-hour camps. However, the department shall have
21 access to the personnel records of such facilities to ensure
22 compliance with the screening requirements.

23 Section 7. Subsection (24) of section 409.906, Florida
24 Statutes, is amended to read:

25 409.906 Optional Medicaid services.--Subject to
26 specific appropriations, the agency may make payments for
27 services which are optional to the state under Title XIX of
28 the Social Security Act and are furnished by Medicaid
29 providers to recipients who are determined to be eligible on
30 the dates on which the services were provided. Any optional
31 service that is provided shall be provided only when medically

1 necessary and in accordance with state and federal law.
2 Optional services rendered by providers in mobile units to
3 Medicaid recipients may be restricted or prohibited by the
4 agency. Nothing in this section shall be construed to prevent
5 or limit the agency from adjusting fees, reimbursement rates,
6 lengths of stay, number of visits, or number of services, or
7 making any other adjustments necessary to comply with the
8 availability of moneys and any limitations or directions
9 provided for in the General Appropriations Act or chapter 216.
10 If necessary to safeguard the state's systems of providing
11 services to elderly and disabled persons and subject to the
12 notice and review provisions of s. 216.177, the Governor may
13 direct the Agency for Health Care Administration to amend the
14 Medicaid state plan to delete the optional Medicaid service
15 known as "Intermediate Care Facilities for the Developmentally
16 Disabled." Optional services may include:

17 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
18 Agency for Health Care Administration, in consultation with
19 the Department of Children and Family Services, may establish
20 a targeted case-management ~~pilot~~ project in those counties
21 identified by the Department of Children and Family Services
22 and for all counties with a the community-based child welfare
23 ~~project in Sarasota and Manatee counties~~, as authorized under
24 s. 409.1671, which have been specifically approved by the
25 department. These projects shall be established for the
26 ~~purpose of determining the impact of targeted case management~~
27 ~~on the child welfare program and the earnings from the child~~
28 ~~welfare program.~~Results of targeted case management ~~the pilot~~
29 projects shall be reported to ~~the Child Welfare Estimating~~
30 ~~Conference and the Social Services Estimating Conference~~
31 established under s. 216.136. ~~The number of projects may not~~

1 ~~be increased until requested by the Department of Children and~~
2 ~~Family Services, recommended by the Child Welfare Estimating~~
3 ~~Conference and the Social Services Estimating Conference, and~~
4 ~~approved by the Legislature.~~The covered group of individuals
5 who are eligible to receive targeted case management include
6 children who are eligible for Medicaid; who are between the
7 ages of birth through 21; and who are under protective
8 supervision or postplacement supervision, under foster-care
9 supervision, or in shelter care or foster care. The number of
10 individuals who are eligible to receive targeted case
11 management shall be limited to the number for whom the
12 Department of Children and Family Services has available
13 matching funds to cover the costs. The general revenue funds
14 required to match the funds for services provided by the
15 community-based child welfare projects are limited to funds
16 available for services described under s. 409.1671. The
17 Department of Children and Family Services may transfer the
18 general revenue matching funds as billed by the Agency for
19 Health Care Administration.

20 Section 8. The Office of Program Policy Analysis and
21 Government Accountability, in consultation with the Department
22 of Children and Family Services and the Agency for Health Care
23 Administration, shall conduct a review of the process for
24 placing children for residential mental health treatment as
25 specified in section 39.407(5), Florida Statutes. This review
26 is to be used to determine whether changes are needed in this
27 process. The integrity of the examination process that is
28 intended to assure that only a child with an emotional
29 disturbance or a serious emotional disturbance is placed in a
30 residential mental health facility and to assure that a child
31 who is diagnosed with an emotional disturbance or a serious

1 emotional disturbance receives the most appropriate mental
2 health treatment in the least-restrictive setting must be
3 maintained. The review shall analyze and make recommendations
4 relative to issues pertinent to the process such as the number
5 of children who are assessed and the outcomes of the
6 assessments, the costs associated with the suitability
7 assessments based on geographic differentials, delays in
8 receiving appropriate mental health treatment services in both
9 residential and nonresidential settings which can be
10 attributed to the assessment process, and the need to expand
11 the mental health professional groups who may conduct the
12 suitability assessment. The Department of Children and Family
13 Services shall submit a report of its findings and any
14 proposed changes to substantive law to the Office of the
15 Governor, the President of the Senate, and the Speaker of the
16 House of Representatives by January 1, 2003.

17 Section 9. This act shall take effect July 1, 2002.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 632

4 Amends s. 39.407, F.S., to clarify that children who are in
5 the legal custody of the Department of Children and Family
6 Services may be placed in residential treatment by the
7 department without prior court approval.

8 Authorizes the department to ensure access to a model program
9 for children in any county that is not fully privatized by the
10 statutory deadline rather than requiring that a separate model
11 program be established in each of those counties.

12 Modifies the amendment to s. 409.1676, F.S., by targeting
13 residential group care facilities on youth with certain
14 behavioral risk factors; requesting the Departments of
15 Children and Family Services and Juvenile Justice to develop
16 an interagency agreement regarding youth in residential group
17 care; specifying that residential group care facilities must
18 be licensed as child-caring agencies and, if caring for youth
19 with serious behavioral problems, must have staff with certain
20 expertise and be qualified Medicaid providers for Behavioral
21 Health Overlay Services(BHOS); and authorizing the Department
22 of Children and Family Services to adopt rules.

23 Specifies that, beginning FY 2003-2004, funds appropriated by
24 the Legislature to protect the department against the failure
25 of a community-based lead agency must be appropriated in a
26 lump sum in the Administered Funds Program and that these
27 funds constitute sufficient security for lead agency
28 performance; authorizes the department to require a bond for
29 malfeasance, misfeasance, or criminal violations; requires an
30 operational plan from the department prior to the release of
31 the lump sum and specifies that its release is subject to s.
216.177, F.S., except that approval of the Legislative Budget
Commission is not required.