

583-254AXA-08

Bill No. CS/HB 755

Amendment No. \_\_\_\_ (for drafter's use only)

|   | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Representative(s) Murman offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause

and insert:

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 Subsection (5) of section 39.521, Florida Statutes, is repealed.

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

39.523 Placement in residential group care.--

(1) Except as provided in s. 39.407, any dependent child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once and who is a child with extraordinary needs as defined in s. 409.1676 must be assessed for placement in licensed residential group care. The assessment procedures shall be conducted by the department or its agent and shall incorporate and address current and historical information from any psychological testing or evaluation that has occurred; current and historical information from the guardian

1 ad litem, if one has been assigned; current and historical  
2 information from any current therapist, teacher, or other  
3 professional who has knowledge of the child and has worked  
4 with the child; information regarding the placement of any  
5 siblings of the child and the impact of the child's placement  
6 in residential group care on the child's siblings; the  
7 circumstances necessitating the moves of the child while in  
8 family foster care and the recommendations of the former  
9 foster families, if available; the status of the child's case  
10 plan and a determination as to the impact of placing the child  
11 in residential group care on the goals of the case plan; the  
12 age, maturity, and desires of the child concerning placement;  
13 the availability of any less restrictive, more family-like  
14 setting for the child in which the foster parents have the  
15 necessary training and skills for providing a suitable  
16 placement for the child; and any other information concerning  
17 the availability of suitable residential group care. If such  
18 placement is determined to be appropriate as a result of this  
19 procedure, the child must be placed in residential group care,  
20 if available.

21 (2) The results of the assessment described in  
22 subsection (1) and the actions taken as a result of the  
23 assessment must be included in the next judicial review of the  
24 child. At each subsequent judicial review, the court must be  
25 advised in writing of the status of the child's placement,  
26 with special reference regarding the stability of the  
27 placement and the permanency planning for the child.

28 (3) Any residential group care facility that receives  
29 children under the provisions of this subsection shall  
30 establish special permanency teams dedicated to overcoming the  
31 special permanency challenges presented by this population of

1 children. Each facility shall report to the department its  
2 success in achieving permanency for children placed by the  
3 department in its care at intervals that allow the current  
4 information to be provided to the court at each judicial  
5 review for the child.

6 (4) This section does not prohibit the department from  
7 assessing and placing children who do not meet the criteria in  
8 subsection (1) in residential group care if such placement is  
9 the most appropriate placement for such children.

10 (5)(a) By December 1 of each year, the department  
11 shall report to the Legislature on the placement of children  
12 in licensed residential group care during the year, including  
13 the criteria used to determine the placement of children, the  
14 number of children who were evaluated for placement, the  
15 number of children who were placed based upon the evaluation,  
16 and the number of children who were not placed. The department  
17 shall maintain data specifying the number of children who were  
18 referred to licensed residential child care for whom placement  
19 was unavailable and the counties in which such placement was  
20 unavailable. The department shall include this data in its  
21 report to the Legislature due on December 1, so that the  
22 Legislature may consider this information in developing the  
23 General Appropriations Act.

24 (b) As part of the report required in paragraph (a),  
25 the department shall also provide a detailed account of the  
26 expenditures incurred for "Special Categories: Grants and Aids  
27 - Specialized Residential Group Care Services" for the fiscal  
28 year immediately preceding the date of the report. This  
29 section of the report must include whatever supporting data is  
30 necessary to demonstrate full compliance with paragraph  
31 (6)(c). The document must present the information by district

1 and must specify, at a minimum, the number of additional beds,  
2 the average rate per bed, the number of additional persons  
3 served, and a description of the enhanced and expanded  
4 services provided.

5 (6)(a) The provisions of this section shall be  
6 implemented to the extent of available appropriations  
7 contained in the annual General Appropriations Act for such  
8 purpose.

9 (b) Each year, funds included in the General  
10 Appropriations Act for Enhanced Residential Group Care as  
11 provided for in s. 409.1676, shall be appropriated in a  
12 separately identified special category that is designated in  
13 the act as "Special Categories: Grants and Aids - Specialized  
14 Residential Group Care Services."

15 (c) Each fiscal year, all funding increases for  
16 Enhanced Residential Group Care as provided in s. 409.1676,  
17 which are included in the General Appropriations Act shall be  
18 appropriated in a lump-sum category as defined in s.  
19 216.011(1)(aa). In accordance with s. 216.181(6)(a), the  
20 Executive Office of the Governor shall require the department  
21 to submit a spending plan that identifies the residential  
22 group care bed capacity shortage throughout the state and  
23 proposes a distribution formula by district which addresses  
24 the reported deficiencies. The spending plan must have as its  
25 first priority the reduction or elimination of any bed  
26 shortage identified and must also provide for program  
27 enhancements to ensure that residential group care programs  
28 meet a minimum level of expected performance and provide for  
29 expansion of the comprehensive residential group care services  
30 described in s. 409.1676. Annual appropriation increases  
31 appropriated in the lump-sum appropriation must be used in

1 accordance with the provisions of the spending plan.  
 2 (d) Funds from "Special Categories: Grants and Aids -  
 3 Specialized Residential Group Care Services" may be used as  
 4 one-time startup funding for residential group care purposes  
 5 that include, but are not limited to, remodeling or renovation  
 6 of existing facilities, construction costs, leasing costs,  
 7 purchase of equipment and furniture, site development, and  
 8 other necessary and reasonable costs associated with the  
 9 startup of facilities or programs upon the recommendation of  
 10 the lead community-based provider if one exists and upon  
 11 specific approval of the terms and conditions by the secretary  
 12 of the department.

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

15 39.407 Medical, psychiatric, and psychological  
 16 examination and treatment of child; physical or mental  
 17 examination of parent or person requesting custody of child.--

18 (5) Children who are in the legal custody of the  
 19 department may be placed by the department, without prior  
 20 approval of the court, in a residential treatment center  
 21 licensed under s. 394.875 or a hospital licensed under chapter  
 22 395 for residential mental health treatment only pursuant to  
 23 this section or may be placed by the court in accordance with  
 24 an order of involuntary examination or involuntary placement  
 25 entered pursuant to s. 394.463 or s. 394.467. All children  
 26 placed in a residential treatment program under this  
 27 subsection must have a guardian ad litem appointed.

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

29 1. "Residential treatment" means placement for  
 30 observation, diagnosis, or treatment of an emotional  
 31 disturbance in a residential treatment center licensed under

1 s. 394.875 or a hospital licensed under chapter 395.

2 2. "Least restrictive alternative" means the treatment  
3 and conditions of treatment that, separately and in  
4 combination, are no more intrusive or restrictive of freedom  
5 than reasonably necessary to achieve a substantial therapeutic  
6 benefit or to protect the child or adolescent or others from  
7 physical injury.

8 3. "Suitable for residential treatment" or  
9 "suitability" means a determination concerning a child or  
10 adolescent with an emotional disturbance as defined in s.  
11 394.492(5) or a serious emotional disturbance as defined in s.  
12 394.492(6) that each of the following criteria is met:

13 a. The child requires residential treatment.

14 b. The child is in need of a residential treatment  
15 program and is expected to benefit from mental health  
16 treatment.

17 c. An appropriate, less restrictive alternative to  
18 residential treatment is unavailable.

19 (b) Whenever the department believes that a child in  
20 its legal custody is emotionally disturbed and may need  
21 residential treatment, an examination and suitability  
22 assessment must be conducted by a qualified evaluator who is  
23 appointed by the Agency for Health Care Administration. This  
24 suitability assessment must be completed before the placement  
25 of the child in a residential treatment center for emotionally  
26 disturbed children and adolescents or a hospital. The  
27 qualified evaluator must be a psychiatrist or a psychologist  
28 licensed in Florida who has at least 3 years of experience in  
29 the diagnosis and treatment of serious emotional disturbances  
30 in children and adolescents and who has no actual or perceived  
31 conflict of interest with any inpatient facility or

1 residential treatment center or program.

2 (c) Before a child is admitted under this subsection,  
3 the child shall be assessed for suitability for residential  
4 treatment by a qualified evaluator who has conducted a  
5 personal examination and assessment of the child and has made  
6 written findings that:

7 1. The child appears to have an emotional disturbance  
8 serious enough to require residential treatment and is  
9 reasonably likely to benefit from the treatment.

10 2. The child has been provided with a clinically  
11 appropriate explanation of the nature and purpose of the  
12 treatment.

13 3. All available modalities of treatment less  
14 restrictive than residential treatment have been considered,  
15 and a less restrictive alternative that would offer comparable  
16 benefits to the child is unavailable.

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18 A copy of the written findings of the evaluation and  
19 suitability assessment must be provided to the department and  
20 to the guardian ad litem, who shall have the opportunity to  
21 discuss the findings with the evaluator.

22 (d) Immediately upon placing a child in a residential  
23 treatment program under this section, the department must  
24 notify the guardian ad litem and the court having jurisdiction  
25 over the child and must provide the guardian ad litem and the  
26 court with a copy of the assessment by the qualified  
27 evaluator.

28 (e) Within 10 days after the admission of a child to a  
29 residential treatment program, the director of the residential  
30 treatment program or the director's designee must ensure that  
31 an individualized plan of treatment has been prepared by the

1 program and has been explained to the child, to the  
2 department, and to the guardian ad litem, and submitted to the  
3 department. The child must be involved in the preparation of  
4 the plan to the maximum feasible extent consistent with his or  
5 her ability to understand and participate, and the guardian ad  
6 litem and the child's foster parents must be involved to the  
7 maximum extent consistent with the child's treatment needs.  
8 The plan must include a preliminary plan for residential  
9 treatment and aftercare upon completion of residential  
10 treatment. The plan must include specific behavioral and  
11 emotional goals against which the success of the residential  
12 treatment may be measured. A copy of the plan must be provided  
13 to the child, to the guardian ad litem, and to the department.

14 (f) Within 30 days after admission, the residential  
15 treatment program must review the appropriateness and  
16 suitability of the child's placement in the program. The  
17 residential treatment program must determine whether the child  
18 is receiving benefit towards the treatment goals and whether  
19 the child could be treated in a less restrictive treatment  
20 program. The residential treatment program shall prepare a  
21 written report of its findings and submit the report to the  
22 guardian ad litem and to the department. The department must  
23 submit the report to the court. The report must include a  
24 discharge plan for the child. The residential treatment  
25 program must continue to evaluate the child's treatment  
26 progress every 30 days thereafter and must include its  
27 findings in a written report submitted to the department. The  
28 department may not reimburse a facility until the facility has  
29 submitted every written report that is due.

30 (g)1. The department must submit, at the beginning of  
31 each month, to the court having jurisdiction over the child, a



1 written report regarding the child's progress towards  
2 achieving the goals specified in the individualized plan of  
3 treatment.

4           2. The court must conduct a hearing to review the  
5 status of the child's residential treatment plan no later than  
6 3 months after the child's admission to the residential  
7 treatment program. An independent review of the child's  
8 progress towards achieving the goals and objectives of the  
9 treatment plan must be completed by a qualified evaluator and  
10 submitted to the court before its 3-month review.

11           3. For any child in residential treatment at the time  
12 a judicial review is held pursuant to s. 39.701, the child's  
13 continued placement in residential treatment must be a subject  
14 of the judicial review.

15           4. If at any time the court determines that the child  
16 is not suitable for continued residential treatment, the court  
17 shall order the department to place the child in the least  
18 restrictive setting that is best suited to meet his or her  
19 needs.

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

23           (i) The department must adopt rules for implementing  
24 timeframes for the completion of suitability assessments by  
25 qualified evaluators and a procedure that includes timeframes  
26 for completing the 3-month independent review by the qualified  
27 evaluators of the child's progress towards achieving the goals  
28 and objectives of the treatment plan which review must be  
29 submitted to the court. The Agency for Health Care  
30 Administration must adopt rules for the registration of  
31 qualified evaluators, the procedure for selecting the

1 evaluators to conduct the reviews required under this section,  
2 and a reasonable, cost-efficient fee schedule for qualified  
3 evaluators.

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

6 409.1671 Foster care and related services;  
7 privatization.--

8 (1)(a) It is the intent of the Legislature that the  
9 Department of Children and Family Services shall privatize the  
10 provision of foster care and related services statewide. It is  
11 further the Legislature's intent to encourage communities and  
12 other stakeholders in the well-being of children to  
13 participate in assuring that children are safe and  
14 well-nurtured. However, while recognizing that some local  
15 governments are presently funding portions of certain foster  
16 care and related services programs and may choose to expand  
17 such funding in the future, the Legislature does not intend by  
18 its privatization of foster care and related services that any  
19 county, municipality, or special district be required to  
20 assist in funding programs that previously have been funded by  
21 the state. Nothing in this paragraph prohibits any county,  
22 municipality, or special district from future voluntary  
23 funding participation in foster care and related services. As  
24 used in this section, the term "privatize" means to contract  
25 with competent, community-based agencies. The department shall  
26 submit a plan to accomplish privatization statewide, through a  
27 competitive process, phased in over a 3-year period beginning  
28 January 1, 2000. This plan must be developed with local  
29 community participation, including, but not limited to, input  
30 from community-based providers that are currently under  
31 contract with the department to furnish community-based foster

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

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

23 (b) It is the intent of the Legislature that the  
24 department will continue to work towards full privatization by  
25 initiating the competitive procurement process in each county  
26 by January 1, 2003. In order to provide for an adequate  
27 transition period to develop the necessary administrative and  
28 service delivery capacity in each community, the full transfer  
29 of all foster care and related services must be completed  
30 statewide by December 31, 2004.

31 (c)~~(b)~~ As used in this section, the term "eligible

- 1 lead community-based provider" means a single agency with  
2 which the department shall contract for the provision of child  
3 protective services in a community that is no smaller than a  
4 county. The secretary of the department may authorize more  
5 than one eligible lead community-based provider within a  
6 single county when to do so will result in more effective  
7 delivery of foster care and related services. To compete for a  
8 privatization project, such agency must have:
- 9 1. The ability to coordinate, integrate, and manage  
10 all child protective services in the designated community in  
11 cooperation with child protective investigations.
  - 12 2. The ability to ensure continuity of care from entry  
13 to exit for all children referred from the protective  
14 investigation and court systems.
  - 15 3. The ability to provide directly, or contract for  
16 through a local network of providers, all necessary child  
17 protective services.
  - 18 4. The willingness to accept accountability for  
19 meeting the outcomes and performance standards related to  
20 child protective services established by the Legislature and  
21 the Federal Government.
  - 22 5. The capability and the willingness to serve all  
23 children referred to it from the protective investigation and  
24 court systems, regardless of the level of funding allocated to  
25 the community by the state, provided all related funding is  
26 transferred.
  - 27 6. The willingness to ensure that each individual who  
28 provides child protective services completes the training  
29 required of child protective service workers by the Department  
30 of Children and Family Services.
  - 31 7. The ability to maintain eligibility to receive all

1 federal child welfare funds, including Title IV-E and IV-A  
2 funds, currently being used by the Department of Children and  
3 Family Services.

4 8. Written agreements with Healthy Families Florida  
5 lead entities in their community, pursuant to s. 409.153, to  
6 promote cooperative planning for the provision of prevention  
7 and intervention services.

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

27 2. The Legislature finds that the state has  
28 traditionally provided foster care services to children who  
29 have been the responsibility of the state. As such, foster  
30 children have not had the right to recover for injuries beyond  
31 the limitations specified in s. 768.28. The Legislature has

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1 determined that foster care and related services need to be  
2 privatized pursuant to this section and that the provision of  
3 such services is of paramount importance to the state. The  
4 purpose for such privatization is to increase the level of  
5 safety, security, and stability of children who are or become  
6 the responsibility of the state. One of the components  
7 necessary to secure a safe and stable environment for such  
8 children is that private providers maintain liability  
9 insurance. As such, insurance needs to be available and remain  
10 available to nongovernmental foster care and related services  
11 providers without the resources of such providers being  
12 significantly reduced by the cost of maintaining such  
13 insurance.

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

19 (e) In any county in which a service contract has not  
20 been executed by December 31, 2004, the department shall  
21 ensure access to a model comprehensive residential services  
22 program as described in s. 409.1677 which, without imposing  
23 undo financial, geographic, or other barriers, ensures  
24 reasonable and appropriate participation by the family in the  
25 child's program.

26 1. In order to ensure that the program is operational  
27 by December 31, 2004, the department must, by December 31,  
28 2003, begin the process of establishing access to a program in  
29 any county in which the department has not either entered into  
30 a transition contract or approved a community plan, as  
31 described in paragraph (d), which ensures full privatization

1 by the statutory deadline.

2 2. The program must be procured through a competitive  
3 process.

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

7 (f)(d) Other than an entity to which s. 768.28  
8 applies, any eligible lead community-based provider, as  
9 defined in paragraph(c)(b), or 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 eligible lead community-based provider must also  
14 require that staff who transport client children and families  
15 in their personal automobiles in order to carry out their job  
16 responsibilities obtain minimum bodily injury liability  
17 insurance in the amount of \$100,000 per claim, \$300,000 per  
18 incident, on their personal automobiles.In any tort action  
19 brought against such an eligible lead community-based provider  
20 or employee, net economic damages shall be limited to \$1  
21 million per liability claim and \$100,000 per automobile claim,  
22 including, but not limited to, past and future medical  
23 expenses, wage loss, and loss of earning capacity, offset by  
24 any collateral source payment paid or payable. In any tort  
25 action brought against such an eligible lead community-based  
26 provider, noneconomic damages shall be limited to \$200,000 per  
27 claim. A claims bill may be brought on behalf of a claimant  
28 pursuant to s. 768.28 for any amount exceeding the limits  
29 specified in this paragraph. Any offset of collateral source  
30 payments made as of the date of the settlement or judgment  
31 shall be in accordance with s. 768.76. The lead



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1 community-based provider shall not be liable in tort for the  
2 acts or omissions of its subcontractors or the officers,  
3 agents, or employees of its subcontractors.

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

29 (h)~~(f)~~ Any subcontractor of an eligible lead  
30 community-based provider, as defined in paragraph (c)~~(b)~~,  
31 which is a direct provider of foster care and related services

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1 to children and families, and its employees or officers,  
2 except as otherwise provided in paragraph (g)~~(e)~~, must, as a  
3 part of its contract, obtain a minimum of \$1 million per  
4 claim/\$3 million per incident in general liability insurance  
5 coverage. The subcontractor of an eligible lead  
6 community-based provider must also require that staff who  
7 transport client children and families in their personal  
8 automobiles in order to carry out their job responsibilities  
9 obtain minimum bodily injury liability insurance in the amount  
10 of \$100,000 per claim, \$300,000 per incident, on their  
11 personal automobiles.In any tort action brought against such  
12 subcontractor or employee, net economic damages shall be  
13 limited to \$1 million per liability claim and \$100,000 per  
14 automobile claim, including, but not limited to, past and  
15 future medical expenses, wage loss, and loss of earning  
16 capacity, offset by any collateral source payment paid or  
17 payable. In any tort action brought against such  
18 subcontractor, noneconomic damages shall be limited to  
19 \$200,000 per claim. A claims bill may be brought on behalf of  
20 a claimant pursuant to s. 768.28 for any amount exceeding the  
21 limits specified in this paragraph. Any offset of collateral  
22 source payments made as of the date of the settlement or  
23 judgment shall be in accordance with s. 768.76.

24 (i)~~(g)~~ The liability of a subcontractor of an eligible  
25 lead community-based provider that is a direct provider of  
26 foster care and related services as described in this section  
27 shall be exclusive and in place of all other liability of such  
28 provider. The same immunities from liability enjoyed by such  
29 subcontractor provider shall extend as well to each employee  
30 of the subcontractor when such employee is acting in  
31 furtherance of the subcontractor's business, including the

1 transportation of clients served, as described in this  
2 subsection, in privately owned vehicles. Such immunities shall  
3 not be applicable to a subcontractor or an employee who acts  
4 in a culpably negligent manner or with willful and wanton  
5 disregard or unprovoked physical aggression when such acts  
6 result in injury or death or such acts proximately cause such  
7 injury or death; nor shall such immunities be applicable to  
8 employees of the same subcontractor when each is operating in  
9 the furtherance of the subcontractor's business, but they are  
10 assigned primarily to unrelated works within private or public  
11 employment. The same immunity provisions enjoyed by a  
12 subcontractor shall also apply to any sole proprietor,  
13 partner, corporate officer or director, supervisor, or other  
14 person who in the course and scope of his or her duties acts  
15 in a managerial or policymaking capacity and the conduct that  
16 caused the alleged injury arose within the course and scope of  
17 those managerial or policymaking duties. Culpable negligence  
18 is defined as reckless indifference or grossly careless  
19 disregard of human life.

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

29 (2)(a) The department may contract for the delivery,  
30 administration, or management of protective services, the  
31 services specified in subsection (1) relating to foster care,

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

22 (b) Persons employed by the department in the  
 23 provision of foster care and related services whose positions  
 24 are being privatized pursuant to this statute shall be given  
 25 hiring preference by the provider, if provider qualifications  
 26 are met.

27 (3)(a) In order to help ensure a seamless child  
 28 protection system, the department shall ensure that contracts  
 29 entered into with community-based agencies pursuant to this  
 30 section include provisions for a case-transfer process to  
 31 determine the date that the community-based agency will

1 initiate the appropriate services for a child and family. This  
2 case-transfer process must clearly identify the closure of the  
3 protective investigation and the initiation of service  
4 provision. At the point of case transfer, and at the  
5 conclusion of an investigation, the department must provide a  
6 complete summary of the findings of the investigation to the  
7 community-based agency.

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

22 (c) The contract between the department and  
23 community-based agencies must include provisions that specify  
24 the procedures to be used by the parties to resolve  
25 differences in interpreting the contract or to resolve  
26 disputes as to the adequacy of the parties' compliance with  
27 their respective obligations under the contract.

28 (4)(a) The department shall establish a quality  
29 assurance program for privatized services. The quality  
30 assurance program shall be based on standards established by a  
31 national accrediting organization such as the Council on

1 Accreditation of Services for Families and Children, Inc.  
2 (COA) or CARF--the Rehabilitation Accreditation Commission.  
3 The department may develop a request for proposal for such  
4 oversight. This program must be developed and administered at  
5 a statewide level. The Legislature intends that the department  
6 be permitted to have limited flexibility to use funds for  
7 improving quality assurance. To this end, effective January 1,  
8 2000, the department may transfer up to 0.125 percent of the  
9 total funds from categories used to pay for these  
10 contractually provided services, but the total amount of such  
11 transferred funds may not exceed \$300,000 in any fiscal year.  
12 When necessary, the department may establish, in accordance  
13 with s. 216.177, additional positions that will be exclusively  
14 devoted to these functions. Any positions required under this  
15 paragraph may be established, notwithstanding ss.  
16 216.262(1)(a) and 216.351. The department, in consultation  
17 with the community-based agencies that are undertaking the  
18 privatized projects, shall establish minimum thresholds for  
19 each component of service, consistent with standards  
20 established by the Legislature. Each program operated under  
21 contract with a community-based agency must be evaluated  
22 annually by the department. The department shall submit an  
23 annual report regarding quality performance, outcome measure  
24 attainment, and cost efficiency to the President of the  
25 Senate, the Speaker of the House of Representatives, the  
26 minority leader of each house of the Legislature, and the  
27 Governor no later than January 31 of each year for each  
28 project in operation during the preceding fiscal year.  
29 (b) The department shall use these findings in making  
30 recommendations to the Governor and the Legislature for future  
31 program and funding priorities in the child welfare system.

1           (5)(a) The community-based agency must comply with  
2 statutory requirements and agency rules in the provision of  
3 contractual services. Each foster home, therapeutic foster  
4 home, emergency shelter, or other placement facility operated  
5 by the community-based agency or agencies must be licensed by  
6 the Department of Children and Family Services under chapter  
7 402 or this chapter. Each community-based agency must be  
8 licensed as a child-caring or child-placing agency by the  
9 department under this chapter. The department, in order to  
10 eliminate or reduce the number of duplicate inspections by  
11 various program offices, shall coordinate inspections required  
12 pursuant to licensure of agencies under this section.

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

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

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

21           (c) A dually licensed home under this section shall be  
22 eligible to receive both an out-of-home care payment and a  
23 subsidized child care payment for the same child pursuant to  
24 federal law. The department may adopt administrative rules  
25 necessary to administer this paragraph ~~the foster care board~~  
26 ~~rate and the subsidized child care rate for the same child~~  
27 ~~only if care is provided 24 hours a day. The subsidized child~~  
28 ~~care rate shall be no more than the approved full-time rate.~~

29           (6) Beginning January 1, 1999, and continuing at least  
30 through June 30, 2000, the Department of Children and Family  
31 Services shall privatize all foster care and related services

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1 in district 5 while continuing to contract with the current  
2 model programs in districts 1, 4, and 13, and in subdistrict  
3 8A, and shall expand the subdistrict 8A pilot program to  
4 incorporate Manatee County. Planning for the district 5  
5 privatization shall be done by providers that are currently  
6 under contract with the department for foster care and related  
7 services and shall be done in consultation with the  
8 department. A lead provider of the district 5 program shall  
9 be competitively selected, must demonstrate the ability to  
10 provide necessary comprehensive services through a local  
11 network of providers, and must meet criteria established in  
12 this section. Contracts with organizations responsible for the  
13 model programs must include the management and administration  
14 of all privatized services specified in subsection (1).  
15 However, the department may use funds for contract management  
16 only after obtaining written approval from the Executive  
17 Office of the Governor. The request for such approval must  
18 include, but is not limited to, a statement of the proposed  
19 amount of such funds and a description of the manner in which  
20 such funds will be used. If the community-based organization  
21 selected for a model program under this subsection is not a  
22 Medicaid provider, the organization shall be issued a Medicaid  
23 provider number pursuant to s. 409.907 for the provision of  
24 services currently authorized under the state Medicaid plan to  
25 those children encompassed in this model and in a manner not  
26 to exceed the current level of state expenditure.

27 (7) The department, in consultation with existing lead  
28 agencies, shall develop a proposal regarding the long-term use  
29 and structure of a statewide shared earnings program which  
30 addresses ~~is authorized to establish and administer a risk~~  
31 ~~pool to reduce~~ the financial risk to eligible lead



1 community-based providers resulting from unanticipated  
2 caseload growth or from significant changes in client mixes or  
3 services eligible for federal reimbursement. The  
4 recommendations in the statewide proposal must also be  
5 available to entities of the department until the conversion  
6 to community-based care takes place. At a minimum, the  
7 proposal must allow for use of federal earnings received from  
8 child welfare programs, which earnings are determined by the  
9 department to be in excess of the amount appropriated in the  
10 General Appropriations Act, to be used for specific purposes.

11 These purposes include, but are not limited to:

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

14 (b) Significant changes in the services that are  
15 eligible for reimbursement.

16 (c) Significant changes in the availability of federal  
17 funds.

18 (d) Shortfalls in state funds available for eligible  
19 or ineligible services.

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

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

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

25 (h) Appropriate incentive structures.

26 (i) Continuity of care in the event of lead agency  
27 failure, discontinuance of service, or financial misconduct.

28

29 The department shall further specify the necessary steps to  
30 ensure the financial integrity of these dollars and their  
31 continued availability on an ongoing basis. The final proposal

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1 shall be submitted to the Legislative Budget Commission for  
2 formal adoption before December 31, 2002. If the Legislative  
3 Budget Commission refuses to concur with the adoption of the  
4 proposal, the department shall present its proposal in the  
5 form of recommended legislation to the President of the Senate  
6 and the Speaker of the House of Representatives before the  
7 commencement of the next legislative session. For fiscal year  
8 2003-2004 and annually thereafter, the Department of Children  
9 and Family Services may request in its legislative budget  
10 request, and the Governor may recommend, the funding necessary  
11 to carry out paragraph (i) from excess federal earnings. The  
12 General Appropriations Act shall include any funds  
13 appropriated for this purpose in a lump sum in the  
14 Administered Funds Program, which funds constitute partial  
15 security for lead agency contract performance. The department  
16 shall use this appropriation to offset the need for a  
17 performance bond for that year after a comparison of risk to  
18 the funds available. In no event shall this performance bond  
19 exceed 2.5 percent of the annual contract value. The  
20 department may separately require a bond to mitigate the  
21 financial consequences of potential acts of malfeasance,  
22 misfeasance, or criminal violations by the provider. Prior to  
23 the release of any funds in the lump sum, the department shall  
24 submit a detailed operational plan, which must identify the  
25 sources of specific trust funds to be used. The release of the  
26 trust fund shall be subject to the notice and review  
27 provisions of s. 216.177. However, the release shall not  
28 require approval of the Legislative Budget Commission.

29 (8) Notwithstanding the provisions of s. 215.425, all  
30 documented federal funds earned for the current fiscal year by  
31 the department and community-based agencies which exceed the

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

27 (9) Each district and subdistrict that participates in  
28 the model program effort or any future privatization effort as  
29 described in this section must thoroughly analyze and report  
30 the complete direct and indirect costs of delivering these  
31 services through the department and the full cost of

1 privatization, including the cost of monitoring and evaluating  
2 the contracted services.

3 Section 5. Section 409.1676, Florida Statutes, is  
4 amended to read:

5 409.1676 Comprehensive residential group care services  
6 to children who have extraordinary needs.--

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

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

1           (a) "Child with extraordinary needs" means a dependent  
2 child who has serious behavioral problems or who has been  
3 determined to be without the options of either reunification  
4 with family or adoption.

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

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

28           1. An adjudication of delinquency and be on  
29 conditional release status with the Department of Juvenile  
30 Justice.

31           2. A history of physical aggression or violent

1 behavior toward self or others, animals, or property within  
2 the past year.

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

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

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

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

22 (4) The lead agency, the contracted not-for-profit  
23 corporation, or the local government entity is responsible for  
24 a comprehensive assessment, residential care, transportation,  
25 access to behavioral health services, recreational activities,  
26 clothing, supplies, and miscellaneous expenses associated with  
27 caring for these children; for necessary arrangement for or  
28 provision of educational services; and for assuring necessary  
29 and appropriate health and dental care.

30 (5) The department may transfer all casework  
31 responsibilities for children served under this program to the

1 entity that provides this service, including case management  
2 and development and implementation of a case plan in  
3 accordance with current standards for child protection  
4 services. When the department establishes this program in a  
5 community that has a lead agency as described in s. 409.1671,  
6 the casework responsibilities must be transferred to the lead  
7 agency.

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

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

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

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

28 (10) The department may adopt rules necessary to  
29 administer this section.

30 Section 6. Present subsections (3) through (15) of  
31 section 409.175, Florida Statutes, are renumbered as

1 subsections (4) through (16), respectively, present  
2 subsections (5), (8), (9), and (11) are amended, and a new  
3 subsection (3) is added to said section, to read:

4           409.175 Licensure of family foster homes, residential  
5 child-caring agencies, and child-placing agencies.--

6           (3)(a) The total number of children placed in each  
7 family foster home shall be based on the recommendation of the  
8 department, or the community-based care lead agency where one  
9 is providing foster care and related services, based on the  
10 needs of each child in care, the ability of the foster family  
11 to meet the individual needs of each child, including any  
12 adoptive or biological children living in the home, the amount  
13 of safe physical plant space, the ratio of active and  
14 appropriate adult supervision, and the background, experience,  
15 and skill of the family foster parents.

16           (b) If the total number of children in a family foster  
17 home will exceed five, including the family's own children, a  
18 comprehensive behavioral health assessment of each child to be  
19 placed in the home must be completed prior to placement of any  
20 additional children in the home. The comprehensive behavioral  
21 health assessment must comply with Medicaid rules and  
22 regulations, assess and document the mental, physical, and  
23 psychosocial needs of the child, and recommend the maximum  
24 number of children in a family foster home that will allow the  
25 child's needs to be met.

26           (c) For any licensed family foster home, the  
27 appropriateness of the number of children in the home must be  
28 reassessed annually as part of the relicensure process. For a  
29 home with more than five children, if it is determined by the  
30 licensure study at the time of relicensure that the total  
31 number of children in the home is appropriate and that there



1 have been no substantive licensure violations and no  
2 indications of child maltreatment or child-on-child sexual  
3 abuse within the past 12 months, the relicensure of the home  
4 shall not be denied based on the total number of children in  
5 the home.

6 ~~(6)~~(5)(a) An application for a license shall be made  
7 on forms provided, and in the manner prescribed, by the  
8 department. The department shall make a determination as to  
9 the good moral character of the applicant based upon  
10 screening.

11 (b) Upon application, the department shall conduct a  
12 licensing study based on its licensing rules; shall inspect  
13 the home or the agency and the records, including financial  
14 records, of the agency; and shall interview the applicant.  
15 The department may authorize a licensed child-placing agency  
16 to conduct the licensing study of a family foster home to be  
17 used exclusively by that agency and to verify to the  
18 department that the home meets the licensing requirements  
19 established by the department. Upon certification by a  
20 licensed child-placing agency that a family foster home meets  
21 the licensing requirements, the department shall issue the  
22 license.

23 (c) A licensed family foster home, child-placing  
24 agency, or residential child-caring agency which applies for  
25 renewal of its license shall submit to the department a list  
26 of personnel who have worked on a continuous basis at the  
27 applicant family foster home or agency since submitting  
28 fingerprints to the department, identifying those for whom a  
29 written assurance of compliance was provided by the department  
30 and identifying those personnel who have recently begun  
31 working at the family foster home or agency and are awaiting

1 the results of the required fingerprint check, along with the  
2 date of the submission of those fingerprints for processing.  
3 The department shall by rule determine the frequency of  
4 requests to the Department of Law Enforcement to run state  
5 criminal records checks for such personnel except for those  
6 personnel awaiting the results of initial fingerprint checks  
7 for employment at the applicant family foster home or agency.

8 (d)1. The department may pursue other remedies  
9 provided in this section in addition to denial or revocation  
10 of a license for failure to comply with the screening  
11 requirements. The disciplinary actions determination to be  
12 made by the department and the procedure for hearing for  
13 applicants and licensees shall be in accordance with chapter  
14 120.

15 2. When the department has reasonable cause to believe  
16 that grounds for denial or termination of employment exist, it  
17 shall notify, in writing, the applicant, licensee, or summer  
18 or recreation camp, and the personnel affected, stating the  
19 specific record which indicates noncompliance with the  
20 screening requirements.

21 3. Procedures established for hearing under chapter  
22 120 shall be available to the applicant, licensee, summer day  
23 camp, or summer 24-hour camp, and affected personnel, in order  
24 to present evidence relating either to the accuracy of the  
25 basis for exclusion or to the denial of an exemption from  
26 disqualification.

27 4. Refusal on the part of an applicant to dismiss  
28 personnel who have been found not to be in compliance with the  
29 requirements for good moral character of personnel shall  
30 result in automatic denial or revocation of license in  
31 addition to any other remedies provided in this section which

1 may be pursued by the department.

2 (e) At the request of the department, the local county  
3 health department shall inspect a home or agency according to  
4 the licensing rules promulgated by the department. Inspection  
5 reports shall be furnished to the department within 30 days of  
6 the request. Such an inspection shall only be required when  
7 called for by the licensing agency.

8 (f) All residential child-caring agencies must meet  
9 firesafety standards for such agencies adopted by the Division  
10 of State Fire Marshal of the Department of Insurance and must  
11 be inspected annually. At the request of the department,  
12 firesafety inspections shall be conducted by the Division of  
13 State Fire Marshal or a local fire department official who has  
14 been certified by the division as having completed the  
15 training requirements for persons inspecting such agencies.  
16 Inspection reports shall be furnished to the department within  
17 30 days of a request.

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

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

1 property of the department.

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

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

- 17 1. Has maintained a license with the department as a
- 18 family foster home for at least the 3 previous consecutive
- 19 years;
- 20 2. Remains in good standing with the department; and
- 21 3. Has not been the subject of a report of child abuse
- 22 or neglect with any findings of maltreatment.

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

29 (k) The department may not license summer day camps or  
30 summer 24-hour camps. However, the department shall have  
31 access to the personnel records of such facilities to ensure

- 1 compliance with the screening requirements.
- 2        ~~(9)~~~~(8)~~(a) The department may deny, suspend, or revoke
- 3 a license.
- 4        (b) Any of the following actions by a home or agency
- 5 or its personnel is a ground for denial, suspension, or
- 6 revocation of a license:
- 7            1. An intentional or negligent act materially
- 8 affecting the health or safety of children in the home or
- 9 agency.
- 10           2. A violation of the provisions of this section or of
- 11 licensing rules promulgated pursuant to this section.
- 12           3. Noncompliance with the requirements for good moral
- 13 character as specified in paragraph~~(5)~~~~(4)~~(a).
- 14           4. Failure to dismiss personnel found in noncompliance
- 15 with requirements for good moral character.
- 16        ~~(10)~~~~(9)~~(a) The department may institute injunctive
- 17 proceedings in a court of competent jurisdiction to:
- 18            1. Enforce the provisions of this section or any
- 19 license requirement, rule, or order issued or entered into
- 20 pursuant thereto; or
- 21            2. Terminate the operation of an agency in which any
- 22 of the following conditions exist:
- 23                a. The licensee has failed to take preventive or
- 24 corrective measures in accordance with any order of the
- 25 department to maintain conformity with licensing requirements.
- 26                b. There is a violation of any of the provisions of
- 27 this section, or of any licensing requirement promulgated
- 28 pursuant to this section, which violation threatens harm to
- 29 any child or which constitutes an emergency requiring
- 30 immediate action.
- 31            3. Terminate the operation of a summer day camp or

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1 summer 24-hour camp providing care for children when such camp  
2 has willfully and knowingly refused to comply with the  
3 screening requirements for personnel or has refused to  
4 terminate the employment of personnel found to be in  
5 noncompliance with the requirements for good moral character  
6 as determined in paragraph (5)~~(4)~~(a).

7 (b) If the department finds, within 30 days after  
8 written notification by registered mail of the requirement for  
9 licensure, that a person or agency continues to care for or to  
10 place children without a license or, within 30 days after  
11 written notification by registered mail of the requirement for  
12 screening of personnel and compliance with paragraph (5)~~(4)~~(a)  
13 for the hiring and continued employment of personnel, that a  
14 summer day camp or summer 24-hour camp continues to provide  
15 care for children without complying, the department shall  
16 notify the appropriate state attorney of the violation of law  
17 and, if necessary, shall institute a civil suit to enjoin the  
18 person or agency from continuing the placement or care of  
19 children or to enjoin the summer day camp or summer 24-hour  
20 camp from continuing the care of children.

21 (c) Such injunctive relief may be temporary or  
22 permanent.

23 (12)~~(11)~~(a) It is unlawful for any person or agency  
24 to:

25 1. Provide continuing full-time care for or to receive  
26 or place a child apart from her or his parents in a  
27 residential group care facility, family foster home, or  
28 adoptive home without a valid license issued by the department  
29 if such license is required by subsection (5)~~(4)~~; or

30 2. Make a willful or intentional misstatement on any  
31 license application or other document required to be filed in

1 connection with an application for a license.

2 (b) It is unlawful for any person, agency, summer day  
3 camp, or summer 24-hour camp providing care for children to:

4 1. Willfully or intentionally fail to comply with the  
5 requirements for the screening of personnel or the dismissal  
6 of personnel found not to be in compliance with the  
7 requirements for good moral character as specified in  
8 paragraph(5)(4)(a).

9 2. Use information from the criminal records obtained  
10 under this section for any purpose other than screening a  
11 person for employment as specified in this section or to  
12 release such information to any other person for any purpose  
13 other than screening for employment as specified in this  
14 section.

15 (c) It is unlawful for any person, agency, summer day  
16 camp, or summer 24-hour camp providing care for children to  
17 use information from the juvenile records of any person  
18 obtained under this section for any purpose other than  
19 screening for employment as specified in this section or to  
20 release information from such records to any other person for  
21 any purpose other than screening for employment as specified  
22 in this section.

23 (d)1. A first violation of paragraph (a) or paragraph  
24 (b) is a misdemeanor of the first degree, punishable as  
25 provided in s. 775.082 or s. 775.083.

26 2. A second or subsequent violation of paragraph (a)  
27 or paragraph (b) is a felony of the third degree, punishable  
28 as provided in s. 775.082 or s. 775.083.

29 3. A violation of paragraph (c) is a felony of the  
30 third degree, punishable as provided in s. 775.082, s.  
31 775.083, or s. 775.084.

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

3 409.906 Optional Medicaid services.--Subject to  
4 specific appropriations, the agency may make payments for  
5 services which are optional to the state under Title XIX of  
6 the Social Security Act and are furnished by Medicaid  
7 providers to recipients who are determined to be eligible on  
8 the dates on which the services were provided. Any optional  
9 service that is provided shall be provided only when medically  
10 necessary and in accordance with state and federal law.

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

26 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The  
27 Agency for Health Care Administration, in consultation with  
28 the Department of Children and Family Services, may establish  
29 a targeted case-management ~~pilot~~ project in those counties  
30 identified by the Department of Children and Family Services  
31 and for all counties with a ~~the~~ community-based child welfare



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1 ~~project in Sarasota and Manatee counties, as authorized under~~  
2 ~~s. 409.1671, which have been specifically approved by the~~  
3 ~~department. These projects shall be established for the~~  
4 ~~purpose of determining the impact of targeted case management~~  
5 ~~on the child welfare program and the earnings from the child~~  
6 ~~welfare program. Results of targeted case management the pilot~~  
7 ~~projects shall be reported to the Child Welfare Estimating~~  
8 ~~Conference and the Social Services Estimating Conference~~  
9 ~~established under s. 216.136. The number of projects may not~~  
10 ~~be increased until requested by the Department of Children and~~  
11 ~~Family Services, recommended by the Child Welfare Estimating~~  
12 ~~Conference and the Social Services Estimating Conference, and~~  
13 ~~approved by the Legislature. The covered group of individuals~~  
14 ~~who are eligible to receive targeted case management include~~  
15 ~~children who are eligible for Medicaid; who are between the~~  
16 ~~ages of birth through 21; and who are under protective~~  
17 ~~supervision or postplacement supervision, under foster-care~~  
18 ~~supervision, or in shelter care or foster care. The number of~~  
19 ~~individuals who are eligible to receive targeted case~~  
20 ~~management shall be limited to the number for whom the~~  
21 ~~Department of Children and Family Services has available~~  
22 ~~matching funds to cover the costs. The general revenue funds~~  
23 ~~required to match the funds for services provided by the~~  
24 ~~community-based child welfare projects are limited to funds~~  
25 ~~available for services described under s. 409.1671. The~~  
26 ~~Department of Children and Family Services may transfer the~~  
27 ~~general revenue matching funds as billed by the Agency for~~  
28 ~~Health Care Administration.~~

29 Section 8. Section 393.0657, Florida Statutes, is  
30 amended to read:

31 393.0657 Persons not required to be refingerprinted or

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1 rescreened.--Any provision of law to the contrary  
2 notwithstanding, human resource personnel who have been  
3 fingerprinted or screened pursuant to chapters 393, 394, 397,  
4 402, and 409, and teachers who have been fingerprinted  
5 pursuant to chapter 231, who have not been unemployed for more  
6 than 90 days thereafter, and who under the penalty of perjury  
7 attest to the completion of such fingerprinting or screening  
8 and to compliance with the provisions of this section and the  
9 standards for good moral character as contained in such  
10 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6),  
11 397.451, 402.305(2), and 409.175(5)(~~4~~), shall not be required  
12 to be refingerprinted or rescreened in order to comply with  
13 any direct service provider screening or fingerprinting  
14 requirements.

15 Section 9. Section 402.3057, Florida Statutes, is  
16 amended to read:

17 402.3057 Persons not required to be refingerprinted or  
18 rescreened.--Any provision of law to the contrary  
19 notwithstanding, human resource personnel who have been  
20 fingerprinted or screened pursuant to chapters 393, 394, 397,  
21 402, and 409, and teachers and noninstructional personnel who  
22 have been fingerprinted pursuant to chapter 231, who have not  
23 been unemployed for more than 90 days thereafter, and who  
24 under the penalty of perjury attest to the completion of such  
25 fingerprinting or screening and to compliance with the  
26 provisions of this section and the standards for good moral  
27 character as contained in such provisions as ss. 110.1127(3),  
28 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
29 409.175(5)(~~4~~), shall not be required to be refingerprinted or  
30 rescreened in order to comply with any caretaker screening or  
31 fingerprinting requirements.

1           Section 10. Section 409.1757, Florida Statutes, is  
 2 amended to read:  
 3           409.1757 Persons not required to be refingerprinted or  
 4 rescreened.--Any provision of law to the contrary  
 5 notwithstanding, human resource personnel who have been  
 6 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 7 402, and this chapter, and teachers who have been  
 8 fingerprinted pursuant to chapter 231, who have not been  
 9 unemployed for more than 90 days thereafter, and who under the  
 10 penalty of perjury attest to the completion of such  
 11 fingerprinting or screening and to compliance with the  
 12 provisions of this section and the standards for good moral  
 13 character as contained in such provisions as ss. 110.1127(3),  
 14 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
 15 409.175(5)~~(4)~~, shall not be required to be refingerprinted or  
 16 rescreened in order to comply with any caretaker screening or  
 17 fingerprinting requirements.

18           Section 11. The Office of Program Policy Analysis and  
 19 Government Accountability, in consultation with the Department  
 20 of Children and Family Services and the Agency for Health Care  
 21 Administration, shall conduct a review of the process for  
 22 placing children for residential mental health treatment as  
 23 specified in s. 39.407(5), Florida Statutes. This review is to  
 24 be used to determine whether changes are needed in this  
 25 process. The integrity of the examination process that is  
 26 intended to ensure that only a child with an emotional  
 27 disturbance or a serious emotional disturbance is placed in a  
 28 residential mental health facility and to ensure that a child  
 29 who is diagnosed with an emotional disturbance or a serious  
 30 emotional disturbance receives the most appropriate mental  
 31 health treatment in the least restrictive setting must be

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

16 Section 12. This act shall take effect July 1, 2002.  
 17  
 18

19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 remove: the entire title

22

23 and insert:

24

A bill to be entitled

25

An act relating to out-of-home care; repealing

26

s. 39.521(5), F.S., relating to the mandatory

27

assessment of specified children for placement

28

in licensed residential group care; creating s.

29

39.523, F.S.; prescribing procedures for the

30

mandatory assessment of certain children for

31

placement in licensed residential group care;

1 providing for reports; providing for a  
2 specialized residential group care services  
3 appropriations category in the General  
4 Appropriations Act; providing for funding  
5 increases to be appropriated in a lump-sum  
6 category; specifying that the release of  
7 certain funds is contingent on the approval of  
8 a spending plan; prescribing elements of the  
9 plan; authorizing one-time startup funding;  
10 amending s. 39.407, F.S.; clarifying that the  
11 Department of Children and Family Services may  
12 place a child who is in its custody in a  
13 residential treatment center without prior  
14 approval of the court; amending s. 409.1671,  
15 F.S.; specifying timeframes for initiating and  
16 for completing privatization of foster care and  
17 related services; requiring cooperative  
18 planning agreements between lead  
19 community-based providers and Healthy Families  
20 Florida lead agencies for certain purposes;  
21 providing for the establishment of a model  
22 comprehensive residential services program in  
23 specified counties; providing that  
24 community-based providers and subcontractors  
25 require employees to obtain bodily injury  
26 liability insurance on personal automobiles;  
27 providing certain immunity from liability when  
28 transporting clients in privately owned  
29 automobiles; directing the Department of  
30 Children and Family Services to adopt written  
31 policies and procedures for contract monitoring

1 of community-based providers; modifying the  
2 requirement for community-based providers to  
3 furnish information to the department;  
4 modifying the conditions under which a provider  
5 may close a case; modifying the requirements  
6 concerning dual licensure of foster homes;  
7 authorizing the department to adopt rules;  
8 eliminating the authority for a risk pool;  
9 requiring the development of a proposal for a  
10 statewide shared earnings program; providing  
11 for use of excess federal earnings and certain  
12 additional state funds for the development of  
13 the proposal; providing for submission of the  
14 proposal to the Legislative Budget Commission  
15 and for submission to the Legislature under  
16 certain conditions; requiring that the  
17 Legislature appropriate a lump sum in the  
18 Administered Funds Program each year for a  
19 specified purpose; specifying the type of bond  
20 that may be required; eliminating a specified  
21 expiration for this program; eliminating an  
22 obsolete review requirement; amending s.  
23 409.1676, F.S.; providing intent that the  
24 Department of Children and Family Services and  
25 the Department of Juvenile Justice establish an  
26 interagency agreement regarding referral to  
27 residential group care facilities; specifying  
28 that a residential group care facility must be  
29 licensed as a child-caring agency; requiring  
30 such facilities serving certain children to  
31 meet specified staff qualifications; redefining

1 and adding terms; redefining the term "serious  
2 behavioral problems"; authorizing the  
3 department to adopt rules; removing a reference  
4 to specific districts and regions of the  
5 department; amending s. 409.175, F.S.;  
6 providing criteria for the number of children  
7 placed in each family foster home; providing  
8 for a comprehensive behavioral health  
9 assessment of each child under certain  
10 circumstances; requiring assessment of the  
11 appropriateness of the number of children as a  
12 condition of annual relicensure; correcting  
13 cross references; amending s. 409.906, F.S.;  
14 expanding the authority for the establishment  
15 of child welfare targeted case management  
16 projects; eliminating reference to a pilot  
17 project; eliminating the requirement to report  
18 to the Child Welfare Estimating Conference  
19 regarding targeted case management; amending  
20 ss. 393.0657, 402.3057, and 409.1757, F.S.;  
21 correcting cross references; directing the  
22 Office of Program Policy Analysis and  
23 Government Accountability, 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.

30  
31