

By the Council for Healthy Communities and Representatives  
Murman, Rich, Fiorentino and Sobel

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

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

1 the Legislature appropriate a lump sum in the  
2 Administered Funds Program each year for a  
3 specified purpose; requiring agreements between  
4 Healthy Families Florida lead entities and  
5 community-based care lead agencies under  
6 certain circumstances; creating a task force on  
7 community-based care efficiency; specifying  
8 membership and duties; requiring a report;  
9 providing an effective date.

10

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

12

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

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

17 39.523 Placement in residential group care.--

18 (1) Except as provided in s. 39.407, any child 11  
19 years of age or older who has been in licensed family foster  
20 care for 6 months or longer and who is then moved more than  
21 once must be assessed for placement in licensed residential  
22 group care. The assessment procedures shall be conducted by  
23 the department or its agent and shall incorporate and address  
24 current and historical information from any psychological  
25 testing or evaluation that has occurred; current and  
26 historical information from the guardian ad litem, if one has  
27 been assigned; current and historical information from any  
28 current therapist, teacher, or other professional who has  
29 knowledge of the child and has worked with the child;  
30 information regarding the placement of any siblings of the  
31 child and the impact of the child's placement in residential

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

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

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

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

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

19       (b) As part of the report required in paragraph (a),  
20 the department shall also provide a detailed account of the  
21 expenditures incurred for "Special Categories: Grants and Aids  
22 - Residential Group Care" for the fiscal year immediately  
23 preceding the date of the report. This section of the report  
24 must include whatever supporting data is necessary to  
25 demonstrate full compliance with paragraph (6)(c). The  
26 document must present the information by district and must  
27 specify, at a minimum, the number of additional beds, the  
28 average rate per bed, the number of additional persons served,  
29 and a description of the enhanced and expanded services  
30 provided.

31

1       (6)(a) The provisions of this section shall be  
2 implemented to the extent of available appropriations  
3 contained in the annual General Appropriations Act for such  
4 purpose.

5       (b) Each year, funds included in the General  
6 Appropriations Act for residential group care shall be  
7 appropriated in a separately identified special category that  
8 is designated in the act as "Special Categories: Grants and  
9 Aids - Residential Group Care."

10       (c) Notwithstanding the provisions of s. 216.192(1),  
11 funds appropriated to "Special Categories: Grants and Aids -  
12 Residential Group Care" may not be released until the  
13 department has submitted and received approval for a spending  
14 plan that identifies the residential group care bed capacity  
15 shortage throughout the state and proposes a distribution  
16 formula by district which addresses the reported deficiencies.  
17 The spending plan must have as its first priority the  
18 reduction or elimination of any bed shortage identified and  
19 must also provide for program enhancements to ensure that  
20 residential group care programs meet a minimum level of  
21 expected performance and provide for expansion of the  
22 comprehensive residential group care services described in s.  
23 409.1676. Annual appropriation increases to "Special  
24 Categories: Grants and Aids - Residential Group Care" must be  
25 used in accordance with the provisions of the spending plan.

26       (d) Funds from "Special Categories: Grants and Aids -  
27 Residential Group Care" may be used as one-time startup  
28 funding for residential group care purposes that include, but  
29 are not limited to, remodeling or renovation of existing  
30 facilities, construction costs, leasing costs, purchase of  
31 equipment and furniture, site development, and other necessary

1 and reasonable costs associated with the startup of facilities  
2 or programs only upon specific approval of the terms and  
3 conditions by the secretary of the department.

4 Section 3. 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

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



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

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

10            1. The ability to coordinate, integrate, and manage  
11 all child protective services in the designated community in  
12 cooperation with child protective investigations.

13            2. The ability to ensure continuity of care from entry  
14 to exit for all children referred from the protective  
15 investigation and court systems.

16            3. The ability to provide directly, or contract for  
17 through a local network of providers, all necessary child  
18 protective services.

19            4. The willingness to accept accountability for  
20 meeting the outcomes and performance standards related to  
21 child protective services established by the Legislature and  
22 the Federal Government.

23            5. The capability and the willingness to serve all  
24 children referred to it from the protective investigation and  
25 court systems, regardless of the level of funding allocated to  
26 the community by the state, provided all related funding is  
27 transferred.

28            6. The willingness to ensure that each individual who  
29 provides child protective services completes the training  
30 required of child protective service workers by the Department  
31 of Children and Family Services.

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

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

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

30           1. In order to ensure that the program is operational  
31 by December 31, 2004, the department must, by December 31,

1 2003, begin the process of establishing access to a program in  
2 any county in which the department has not either entered into  
3 a transition contract or approved a community plan, as  
4 described in (d), that ensures full privatization by the  
5 statutory deadline.

6 2. The program must be procured through a competitive  
7 process.

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

11 ~~(f)1.2-~~ The Legislature finds that the state has  
12 traditionally provided foster care services to children who  
13 have been the responsibility of the state. As such, foster  
14 children have not had the right to recover for injuries beyond  
15 the limitations specified in s. 768.28. The Legislature has  
16 determined that foster care and related services need to be  
17 privatized pursuant to this section and that the provision of  
18 such services is of paramount importance to the state. The  
19 purpose for such privatization is to increase the level of  
20 safety, security, and stability of children who are or become  
21 the responsibility of the state. One of the components  
22 necessary to secure a safe and stable environment for such  
23 children is that private providers maintain liability  
24 insurance. As such, insurance needs to be available and remain  
25 available to nongovernmental foster care and related services  
26 providers without the resources of such providers being  
27 significantly reduced by the cost of maintaining such  
28 insurance.

29 ~~2.3-~~ The Legislature further finds that, by requiring  
30 the following minimum levels of insurance, children in  
31 privatized foster care and related services will gain

1 increased protection and rights of recovery in the event of  
2 injury than provided for in s. 768.28.  
3 (g)~~(d)~~ Other than an entity to which s. 768.28  
4 applies, any eligible lead community-based provider, as  
5 defined in paragraph(c)~~(b)~~, or its employees or officers,  
6 except as otherwise provided in paragraph(h)~~(e)~~, must, as a  
7 part of its contract, obtain a minimum of \$1 million per  
8 claim/\$3 million per incident in general liability insurance  
9 coverage. The eligible lead community-based provider must also  
10 require that staff who transport client children and families  
11 in their personal automobiles in order to carry out their job  
12 responsibilities obtain minimum bodily injury liability  
13 insurance in the amount of \$100,000 per claim, \$300,000 per  
14 incident, on their personal automobiles.In any tort action  
15 brought against such an eligible lead community-based provider  
16 or employee, net economic damages shall be limited to \$1  
17 million per liability claim and \$100,000 per automobile claim,  
18 including, but not limited to, past and future medical  
19 expenses, wage loss, and loss of earning capacity, offset by  
20 any collateral source payment paid or payable. In any tort  
21 action brought against such an eligible lead community-based  
22 provider, noneconomic damages shall be limited to \$200,000 per  
23 claim. A claims bill may be brought on behalf of a claimant  
24 pursuant to s. 768.28 for any amount exceeding the limits  
25 specified in this paragraph. Any offset of collateral source  
26 payments made as of the date of the settlement or judgment  
27 shall be in accordance with s. 768.76. The lead  
28 community-based provider shall not be liable in tort for the  
29 acts or omissions of its subcontractors or the officers,  
30 agents, or employees of its subcontractors.  
31

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

26           ~~(i)(f)~~ Any subcontractor of an eligible lead  
27 community-based provider, as defined in paragraph ~~(c)(b)~~,  
28 which is a direct provider of foster care and related services  
29 to children and families, and its employees or officers,  
30 except as otherwise provided in paragraph ~~(h)(e)~~, must, as a  
31 part of its contract, obtain a minimum of \$1 million per

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

21 (j)~~(g)~~ The liability of a subcontractor of an eligible  
22 lead community-based provider that is a direct provider of  
23 foster care and related services as described in this section  
24 shall be exclusive and in place of all other liability of such  
25 provider. The same immunities from liability enjoyed by such  
26 subcontractor provider shall extend as well to each employee  
27 of the subcontractor when such employee is acting in  
28 furtherance of the subcontractor's business, including the  
29 transportation of clients served, as described in this  
30 subsection, in privately owned vehicles. Such immunities shall  
31 not be applicable to a subcontractor or an employee who acts

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

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

26 (2)(a) The department may contract for the delivery,  
27 administration, or management of protective services, the  
28 services specified in subsection (1) relating to foster care,  
29 and other related services or programs, as appropriate. The  
30 department shall retain responsibility for the quality of  
31 contracted services and programs and shall ensure that



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

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

24 (3)(a) In order to help ensure a seamless child  
25 protection system, the department shall ensure that contracts  
26 entered into with community-based agencies pursuant to this  
27 section include provisions for a case-transfer process to  
28 determine the date that the community-based agency will  
29 initiate the appropriate services for a child and family. This  
30 case-transfer process must clearly identify the closure of the  
31 protective investigation and the initiation of service

1 provision. At the point of case transfer, and at the  
2 conclusion of an investigation, the department must provide a  
3 complete summary of the findings of the investigation to the  
4 community-based agency.

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

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

25 (4)(a) The department shall establish a quality  
26 assurance program for privatized services. The quality  
27 assurance program shall be based on standards established by a  
28 national accrediting organization such as the Council on  
29 Accreditation of Services for Families and Children, Inc.  
30 (COA) or CARF--the Rehabilitation Accreditation Commission.  
31 The department may develop a request for proposal for such

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

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

29 (5)(a) The community-based agency must comply with  
30 statutory requirements and agency rules in the provision of  
31 contractual services. Each foster home, therapeutic foster

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

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

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

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

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

26 (6) Beginning January 1, 1999, and continuing at least  
27 through June 30, 2000, the Department of Children and Family  
28 Services shall privatize all foster care and related services  
29 in district 5 while continuing to contract with the current  
30 model programs in districts 1, 4, and 13, and in subdistrict  
31 8A, and shall expand the subdistrict 8A pilot program to

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

24 (7) The department, in consultation with existing lead  
25 agencies, shall develop a statewide proposal regarding the  
26 long-term use and structure of a shared earnings program which  
27 addresses ~~is authorized to establish and administer a risk~~  
28 ~~pool to reduce~~ the financial risk to eligible lead  
29 community-based providers resulting from unanticipated  
30 caseload growth or from significant changes in client mixes or  
31 services eligible for federal reimbursement. The

1 recommendations in the statewide proposal must also be  
2 available to entities of the department until the conversion  
3 to community-based care takes place. At a minimum, the  
4 proposal must allow federal earnings received from child  
5 welfare programs that are determined by the department to be  
6 in excess of the amount appropriated in the General  
7 Appropriations Act. These purposes include, but are not  
8 limited to:

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

11       (b) Significant changes in the services that are  
12 eligible for reimbursement.

13       (c) Significant changes in the availability of federal  
14 funds.

15       (d) Shortfalls in state funds available for eligible  
16 or ineligible services.

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

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

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

22       (h) Appropriate incentive structures.

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

25

26 The department shall further specify the necessary steps to  
27 ensure the financial integrity of these dollars and their  
28 continued availability on an ongoing basis. The final proposal  
29 shall be submitted to the Legislative Budget Commission for  
30 formal adoption before December 31, 2002. If the Legislative  
31 Budget Commission refuses to concur with the adoption of the

1 proposal, the department shall present its proposal in the  
2 form of recommended legislation to the President of the Senate  
3 and the Speaker of the House of Representatives before the  
4 commencement of the next legislative session.

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

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

28 (a) "Residential group care" means a living  
29 environment for children who have been adjudicated dependent  
30 and are expected to be in foster care for at least 6 months  
31 with 24-hour-awake staff or live-in group home parents or



1 staff. Beginning July 1, 2001, all facilities must be  
2 appropriately licensed in this state, and they must be  
3 accredited by July 1, 2005.

4 (b) "Serious behavioral problems" means behaviors of  
5 children who have been assessed by a licensed master's-level  
6 human-services professional to need at a minimum intensive  
7 services but who do not meet the criteria of s. 394.492(6) or  
8 (7). A child with an emotional disturbance as defined in s.  
9 394.492(5) may be served in residential group care unless a  
10 determination is made by a mental health professional that  
11 such a setting is inappropriate.

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

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

1 for these children; for necessary arrangement for or provision  
2 of educational services; and for assuring necessary and  
3 appropriate health and dental care.

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

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

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

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

29 (9) The provisions of this section shall be  
30 implemented to the extent of available appropriations  
31

1 contained in the annual General Appropriations Act for such  
2 purpose.

3 Section 5. Subsection (24) of section 409.906, Florida  
4 Statutes, is amended to read:

5 409.906 Optional Medicaid services.--Subject to  
6 specific appropriations, the agency may make payments for  
7 services which are optional to the state under Title XIX of  
8 the Social Security Act and are furnished by Medicaid  
9 providers to recipients who are determined to be eligible on  
10 the dates on which the services were provided. Any optional  
11 service that is provided shall be provided only when medically  
12 necessary and in accordance with state and federal law.  
13 Optional services rendered by providers in mobile units to  
14 Medicaid recipients may be restricted or prohibited by the  
15 agency. Nothing in this section shall be construed to prevent  
16 or limit the agency from adjusting fees, reimbursement rates,  
17 lengths of stay, number of visits, or number of services, or  
18 making any other adjustments necessary to comply with the  
19 availability of moneys and any limitations or directions  
20 provided for in the General Appropriations Act or chapter 216.  
21 If necessary to safeguard the state's systems of providing  
22 services to elderly and disabled persons and subject to the  
23 notice and review provisions of s. 216.177, the Governor may  
24 direct the Agency for Health Care Administration to amend the  
25 Medicaid state plan to delete the optional Medicaid service  
26 known as "Intermediate Care Facilities for the Developmentally  
27 Disabled." Optional services may include:

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

1 identified by the Department of Children and Family Services  
2 and for all counties with a ~~the~~ community-based child welfare  
3 project ~~in Sarasota and Manatee counties~~, as authorized under  
4 s. 409.1671, which have been specifically approved by the  
5 department. ~~These projects shall be established for the~~  
6 ~~purpose of determining the impact of targeted case management~~  
7 ~~on the child welfare program and the earnings from the child~~  
8 ~~welfare program.~~ Results of targeted case management ~~the pilot~~  
9 projects shall be reported to ~~the Child Welfare Estimating~~  
10 ~~Conference~~ and the Social Services Estimating Conference  
11 established under s. 216.136. ~~The number of projects may not~~  
12 ~~be increased until requested by the Department of Children and~~  
13 ~~Family Services, recommended by the Child Welfare Estimating~~  
14 ~~Conference and the Social Services Estimating Conference, and~~  
15 ~~approved by the Legislature.~~ The covered group of individuals  
16 who are eligible to receive targeted case management include  
17 children who are eligible for Medicaid; who are between the  
18 ages of birth through 21; and who are under protective  
19 supervision or postplacement supervision, under foster-care  
20 supervision, or in shelter care or foster care. The number of  
21 individuals who are eligible to receive targeted case  
22 management shall be limited to the number for whom the  
23 Department of Children and Family Services has available  
24 matching funds to cover the costs. The general revenue funds  
25 required to match the funds for services provided by the  
26 community-based child welfare projects are limited to funds  
27 available for services described under s. 409.1671. The  
28 Department of Children and Family Services may transfer the  
29 general revenue matching funds as billed by the Agency for  
30 Health Care Administration.  
31

1           Section 6. The Office of Program Policy Analysis and  
2 Government Accountability, in consultation with the Department  
3 of Children and Family Services and the Agency for Health Care  
4 Administration, shall conduct a review of the process for  
5 placing children for residential mental health treatment as  
6 specified in s. 39.407(5), Florida Statutes. This review is to  
7 be used to determine whether changes are needed in this  
8 process. The integrity of the examination process that is  
9 intended to ensure that only a child with an emotional  
10 disturbance or a serious emotional disturbance is placed in a  
11 residential mental health facility and to ensure that a child  
12 who is diagnosed with an emotional disturbance or a serious  
13 emotional disturbance receives the most appropriate mental  
14 health treatment in the least restrictive setting must be  
15 maintained. The review shall analyze and make recommendations  
16 relative to issues pertinent to the process such as the number  
17 of children who are assessed and the outcomes of the  
18 assessments, the costs associated with the suitability  
19 assessments based on geographic differentials, delays in  
20 receiving appropriate mental health treatment services in both  
21 residential and nonresidential settings which can be  
22 attributed to the assessment process, and the need to expand  
23 the mental health professional groups who may conduct the  
24 suitability assessment. The Department of Children and Family  
25 Services shall submit a report of its findings and any  
26 proposed changes to substantive law to the Executive Office of  
27 the Governor, the President of the Senate, and the Speaker of  
28 the House of Representatives by January 1, 2003.

29           Section 7. For fiscal year 2003-2004 and annually  
30 thereafter, the Department of Children and Family Services  
31 shall request, and the Governor shall recommend, the funding

1 necessary to carry out s. 409.1671(7)(i), Florida Statutes, in  
2 its legislative budget request from excess federal earnings.  
3 The General Appropriations Act shall include any funds  
4 appropriated for this purpose in a lump sum in the  
5 Administered Funds Program. The department shall submit a  
6 detailed operational plan, which must include the  
7 identification of the sources of specific trust funds to be  
8 used to cover the costs of the continuation of child welfare  
9 services. The release of the trust fund shall be subject to  
10 the notice and review provisions of s. 216.177, Florida  
11 Statutes. However, the release shall not require approval of  
12 the Legislative Budget Commission.

13       Section 8. Pursuant to s. 409.1671, Florida Statutes,  
14 community-based care lead agencies receiving start-up funds  
15 shall develop written agreements with Healthy Families Florida  
16 lead entities in their community, pursuant to s. 409.153,  
17 Florida Statutes, to promote cooperative planning for the  
18 provision of prevention and intervention services.

19       Section 9. To assist the department in fulfilling the  
20 requirements of s. 409.1671, Florida Statutes, there is  
21 created a task force on gaining efficiency in community-based  
22 care.

23       (1) The task force shall complete the following by  
24 February 2003, beginning no later than October 1, 2002. The  
25 goal of the task force is to identify and minimize duplication  
26 of effort and define reporting parameters to be used by the  
27 department, alliances, community stakeholders, and the  
28 Legislature, through the following tasks:

29       (a) Developing specific recommendations regarding the  
30 use of the independent financial audits required of community  
31

1 agencies instead of the department doing an additional  
2 financial review or a minimal review.

3 (b) Developing specific recommendations regarding the  
4 role of national accreditation as required by s. 409.1671,  
5 Florida Statutes, instead of or in concert with any similar  
6 reviews performed by the department.

7 (c) Developing specific recommendations regarding the  
8 coordination and frequency of reviews of the community  
9 agencies by the various state agencies and department.

10 (d) Developing specific recommendations regarding the  
11 level and type of staffing that the department will require in  
12 the performance of these duties.

13 (e) Developing specific recommendations on outcomes  
14 and performance measurements.

15 (2) The members of the task force shall consist of 10  
16 community representatives from all areas of the state, a  
17 representative of the guardian ad litem program, and a  
18 representative of the dependency court system, all appointed  
19 by the Governor; the president of the Florida Foster and  
20 Adoptive Parent Association; a state representative appointed  
21 by the Speaker of the House of Representatives; a state  
22 senator appointed by the President of the Senate; and the  
23 Secretary of Children and Family Services or a designee.

24 (3) The recommendations of the task force shall be  
25 reported to the Secretary of Children and Family Services, the  
26 Governor, the Speaker of the House of Representatives, and the  
27 President of the Senate no later than February 15, 2003.

28 Section 10. This act shall take effect July 1, 2002.  
29  
30  
31