

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2054

SPONSOR: Children and Families Committee and Senator Lynn

SUBJECT: Community-Based Initiatives

DATE: April 1, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Whiddon</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u> </u>	<u> </u>	<u>JU</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>BI</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>GO</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u>AHS</u>	<u> </u>
6.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

Committee Substitute for Senate Bill 2054 amends various provisions in statute directly affecting Community-Based Care (CBC) initiatives within Florida's child protection system.

- The required amount of bodily injury liability insurance coverage which staff of CBCs who transport clients in their personal vehicles must carry is reduced from \$100,000 per claim and \$300,000 per incident to \$25,000 and \$50,000.
- The department is directed to provide in each Lead Agency contract for reasonable administrative costs associated with the transfer of program responsibilities;
- CBCs are no longer required to notify the department in writing before closing a voluntary case.
- The minimum level of start-up funding required from local government entities for participation in the Community Partnership Matching Grant program is lowered from \$825,000 to \$250,000, and the source of state match is no longer limited to TANF funds.
- The requirement to assess a child before placement in a foster home that would then exceed five children is modified.
- The Office of Program Policy and Government Accountability is directed to evaluate child welfare legal services (CWLS) and to report its findings to the Legislature, Governor, and Chief Justice of the Supreme Court by December 31, 2003. The department is prohibited from changing its current CWLS system until directed to do so by the Legislature.
- The requirement that Community-Based Care be implemented statewide by December 31, 2004, is deleted; direction for continuing the implementation is specified; and an evaluation and report to the Legislature on the status of Community-Based Care are required.

This bill substantially amends sections 409.1671, 409.16745, and 409.175, of the Florida Statutes.

II. Present Situation:

Community-Based Care

Section 409.1671, F.S., establishes the Community-Based Care initiative and directs that foster care and related services be privatized statewide through eligible Lead Agencies by December 31, 2004. The first Lead Agency contract was signed in 1996 with YMCA Children and Families, Inc., in Sarasota County which began its community-based care operation in January, 1997. As of this month, five Lead Agencies have service contracts with the Department of Children and Families (DCF) to provide community-based care in 12 counties, and six Lead Agencies hold start-up contracts covering 16 counties. Start-up contracts are usually in place for about 12 months during which time the provider develops the infra-structure and capacity to take over service provision. In addition to these contracts, Invitations to Negotiate (ITNs) have been issued for Community-Based Care Lead Agencies in the state's remaining counties, and the department is in negotiation with seven Lead Agencies covering 33 counties for start-up contracts.

Under the start-up contract, as part of the transition to a service contract when responsibility for foster care and related services is turned over to a Lead Agency, the department has recently begun implementing a process which assesses the Lead Agency's level of preparedness with the help of a Readiness Assessment. The Readiness Assessment instrument covers an extensive list of indicators relating to such things as the provider's quality assurance program, its organizational stability, management of human resources, and the provider's plan and system for financial and risk management. In spite of this assessment of readiness, several Lead Agencies have struggled so badly, particularly during initial months of operation, that the viability of the CBC initiative within those counties has been in serious jeopardy and children have been at risk.

Transportation of Clients by Community-Based Care Staff

As a typical practice, staff of Lead Agencies and their sub-contractors transport children and their families in the staff's personal vehicles. Because of the liability associated with this practice, the Legislature provided that Lead Agencies and their sub-contractors must require such staff to obtain minimum bodily injury liability insurance in the amount of \$100,000 per claim and \$300,000 per incident on their personal automobiles and limited the net economic damages that could be awarded in any tort action to \$100,000 per claim (ch. 2002-219, L.O.F.). Non-economic damages are statutorily limited to \$200,000 per claim, and the law provides for a claims bill process for any amount exceeding the limits specified in s. 409.1671(1)(f), F.S.

The cost of this coverage varies by a number of factors including carrier, age and sex of the driver, location, and type of automobile, but one annual premium quoted for a 30 year old male driving a 2000 Nissan Altima in one urban area was \$1,873. Staff report that, at their salary, this premium creates a financial hardship for them. Indications are that many Lead Agencies and their subcontractors do not require their staff to carry the statutorily-mandated coverage.

Case Closure by Lead Agencies

One of the more serious problems experienced during early efforts to implement community-based care involved poor coordination of cases by the department and provider which resulted in children “falling through the cracks.” As a result of those early experiences, s. 409.1671(3)(b), F.S., was amended to provide direction for coordination that includes a prohibition against a provider discontinuing services on a voluntary case without a 30-day prior written notification to the department. With the implementation of the case tracking component of HomeSafenet, however, the department is now notified of such case actions electronically and no longer must rely on written notification.

Child Welfare Legal Services

As part of the move to Community-Based Care, s. 409.1671 (1)(a), F.S., provided that “either the state attorney or the Office of the Attorney General shall provide child welfare legal services... in Sarasota, Pinellas, Pasco, Broward, and Manatee Counties.” The State Attorney provides these legal services in Pinellas/Pasco, the Attorney General in Broward and Hillsborough/Manatee, and the department provides child welfare legal services (CWLS) in all remaining counties, even in counties converting to Community-Based Care. In the 14 districts and region, the department employs 282 attorneys, 254 of whom are child welfare legal attorneys.

Child welfare legal services work is extremely time consuming and requires specific legal skills and knowledge. Although no analysis of the various states’ approach to handling these legal services could be found, a spokesman with the American Bar Association said that the agency attorney model, like the arrangement currently used in Florida, works best.

In 1996, OPPAGA issued a report entitled “Evaluation of Child Welfare Legal Services Pilot Projects” which examined the provision of legal services through contracts with the State Attorney or the Office of the Attorney General in three judicial circuits. The evaluation found a number of unresolved policy questions in this arrangement including the issue of clearly identifying the CWLS attorneys’ client, jurisdictional boundary complications, and questions of potential conflicts. OPPAGA decided, however, that the pilots were too new at the time of its evaluation to draw solid conclusions about the benefits of the out-posting of these legal services and recommended that another evaluation be conducted following at least 2 years of operation. That evaluation was not conducted.

Administrative Funds Transfer

As part of the legislative directive regarding Community-Based Care, the department is directed to “provide for the transfer of funds appropriated and budgeted for all services and programs that have been incorporated into the project, including all management, capital (including current furniture and equipment), and *administrative funds* to accomplish the transfer of these programs” [s. 409.1671(1)(a)]. In spite of the statutory directive to transfer administrative funds to Lead Agencies, only the most recently negotiated service contract, signed in Broward County, includes administrative funds of approximately \$600,000 or 1 percent of the total contract value. The other Lead Agency contracts have not included administrative funds; the department has retained those revenues even as the programs they administer have transferred.

Community Partnership Matching Grants

Section 409.16745, F.S., establishes the Community Partnership Matching Grant Program which entitles any children's services council or local government entity to a two-for-one match for revenues provided to assist in the start-up of Lead Agencies. The law requires the council or local government entity to provide at least \$825,000 in start-up funds and caps the match at \$2 million which can be used for any prevention or in-home services provided by the children's services council or local government entity that "can be reasonably expected to reduce the number of children entering the child welfare system." Funds to be used as match are statutorily limited to nonrecurring TANF funds.

In FY 2001-2002, Duval, Palm Beach, Hillsborough, Broward and a consortium of counties and children's services councils in DCF District 15 provided a total of \$5 million in local revenues for Lead Agency start-up and were matched with \$10 million in TANF. In FY 2002-2003, the department anticipates grants to be awarded in District 3, Orange/Osceola, Seminole, Brevard, and Miami-Dade/Monroe. Several rural and multiple-county districts, including Districts 13, 14, 2a, 2b, 4 and 8, have reported to the department that the local commitment of at least \$825,000 makes participation in this grant program prohibitive.

Comprehensive Behavioral Health Assessment

Section 409.175(3)(b), F.S., provides for a comprehensive behavioral health assessment of each child prior to placement in a foster home if the total number of children in the foster home will exceed five, including the family's own children. The assessment must comply with Medicaid rules and regulations and is reported to take at least 24 days to secure.

Although limiting the number of children in a given foster home to five or fewer is preferable, and, by rule, must be achieved unless a waiver is granted, situations arise when it is in a child's best interest to be placed in a home that would then exceed five children and to be placed there more quickly than is currently possible with the requirement for a comprehensive behavioral health assessment prior to placement. Such situations include when a child's siblings are already placed in the foster home and when the child being placed has been in a particular foster home before and wants to return.

III. Effect of Proposed Changes:

Section 1 amends s. 409.1671(1)(a), F.S., to delete the direction to the department to contract for the provision of child welfare legal services with either the State Attorney or the Office of the Attorney General in certain counties.

Section 409.1671(1)(a), F.S., is further amended to delete the date by which Community-Based Care must be in place statewide; to direct the department to continue the process of privatizing services in those counties that have start-up contracts in place on May 1, 2003; to specify, however, that no services are to be transferred to a Lead Agency until a specified certification process that speaks to a Lead Agency's readiness is completed; to prohibit any start-up contract from being entered into after May 1, 2003, without statutory direction; and to direct the Office of the Governor to secure an independent evaluation of the status of Community-Based Care in this state and to report to the Legislature by January 31, 2005.

Section 409.1671(1)(b), F.S., is amended, modifying the requirement that the full conversion to Community-Based Care be completed statewide by December 31, 2004. An exception to the deadline is provided specifying that no Lead Agency service contract may be signed until a technical assistance team, comprised of experienced staff from successfully operating Lead Agencies and department staff, attests in writing that the Lead Agency is programmatically, financially, and otherwise fully competent and ready to assume all responsibilities required in the contract.

Sections 409.1671(1)(f) and (h), F.S., are amended. The amount of bodily injury liability insurance coverage that Community-Based Care staff who transport clients in their personal automobiles must carry is decreased to \$25,000 per claim and \$50,000 per incident. The amount of general liability insurance coverage that must be carried by these staffs' employers remains \$1 million per claim/\$3 million per incident, and the claims bill process remains available when damages in excess of the statutory limits are sought.

Section 409.1671(3), F.S., is amended to remove the requirement that a provider notify the department in writing 30 days before closing a voluntary case. This section is further amended to specify that each contract with a Lead Agency must provide for the payment by the department of a "reasonable administrative cost" in addition to funding for provision of services.

Section 2 amends s. 409.16745, F.S., to lower from \$825,000 to \$250,000 the amount of start-up funding required from children's services councils or local government entities in order for them to participate in the Community Partnership Matching Grant program. The limitation to the source of state matching revenues to TANF funds is deleted allowing such match to come from any nonrecurring funds appropriated by the Legislature for that purpose.

Section 3 amends s. 409.175, F.S., to delete the requirement that the assessment of a child whose placement in a foster home would raise the census in that home to more than 5 be the Medicaid Comprehensive Behavioral Health Assessment. Instead, an assessment would have to be conducted by a family services counselor, be approved by the supervisor, and would have to be completed prior to placement except when the placement involves a child whose sibling is already in the home or a child who has been in placement in the home previously, in which case the assessment would have to be completed within 72 hours after placement.

Section 4 directs the Office of Program Policy and Government Accountability to evaluate the system for providing child welfare legal services, proscribes elements to be included in the evaluation, and requires a report to the Legislature, the Governor, and the Chief Justice of the Supreme Court by December 31, 2003. The department is directed to maintain its current system for providing these legal services until directed otherwise by the Legislature.

Section 5 provides an effective date of July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Staff with Lead Agencies and their subcontractors would experience a reduction in the cost of annual premiums for statutorily-required bodily injury liability insurance. Savings would vary, but calculations by three insurance companies in one urban area report annual savings that range from \$172 to \$613.

C. Government Sector Impact:

Children's Services Councils and other local government entities wishing to participate in the Community Partnership Matching Grant program would be required to contribute a minimum of \$250,000 in start-up funds instead of \$825,000, thereby enabling more local governments to draw down state matching funds.

There will be an undetermined cost associated with the required evaluation of the status of Community-Based Care.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.