

By the Committee on Children and Families; and Senator Lynn

300-2152-03

1 A bill to be entitled
2 An act relating to community-based care;
3 amending s. 409.1671, F.S.; deleting the
4 requirement for contracts for legal services in
5 certain counties; deleting the requirement for
6 a plan; requiring the Governor's approval of
7 the department's methodology for transferring
8 funds; specifying that the term "related
9 services" includes adoption services; modifying
10 the schedule by which community-based care will
11 be implemented; requiring written certification
12 prior to transferring services; requiring an
13 evaluation and report to the Legislature;
14 deleting dates by which certain community-based
15 care activities must occur; decreasing the
16 amount of automobile liability insurance
17 required of certain community-based care
18 providers; deleting certain termination of
19 services notice requirements; requiring the
20 payment of certain administrative costs
21 incurred by lead community-based providers;
22 amending s. 409.16745, F.S.; changing
23 eligibility requirements for participation in
24 the community partnership matching grant
25 program; amending s. 409.175, F.S.; providing
26 for an assessment by a family services
27 counselor and approval by a supervisor, rather
28 than a comprehensive behavioral health
29 assessment, of children in certain family
30 foster homes; providing for an evaluation by
31 the Office of Program Policy and Government

1 Accountability of child welfare legal services;
2 requiring a report; directing the department to
3 continue its current delivery of child welfare
4 legal services until directed otherwise by the
5 Legislature; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Paragraphs (a), (b), (f), and (h) of
10 subsection (1) and subsections (3) and (4) of section
11 409.1671, Florida Statutes, are amended to read:

12 409.1671 Foster care and related services;
13 privatization.--

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

1 develop and the Governor must approve ~~The department shall~~
2 ~~submit a plan to accomplish privatization statewide, through a~~
3 ~~competitive process, phased in over a 3-year period beginning~~
4 ~~January 1, 2000. This plan must be developed with local~~
5 ~~community participation, including, but not limited to, input~~
6 ~~from community-based providers that are currently under~~
7 ~~contract with the department to furnish community-based foster~~
8 ~~care and related services, and must include a methodology for~~
9 ~~determining and transferring all available funds, including~~
10 ~~federal funds that the provider is eligible for and agrees to~~
11 ~~earn and that portion of general revenue funds which is~~
12 ~~currently associated with the services that are being~~
13 ~~furnished under contract. The methodology must provide for the~~
14 ~~transfer of funds appropriated and budgeted for all services~~
15 ~~and programs that have been incorporated into the~~
16 community-based care project, including all management,
17 capital (including current furniture and equipment), and
18 administrative funds to accomplish the transfer of these
19 programs. This methodology must address expected workload and
20 at least the 3 previous years' experience in expenses and
21 workload. ~~With respect to any district or portion of a~~
22 ~~district in which privatization cannot be accomplished within~~
23 ~~the 3-year timeframe, the department must clearly state in its~~
24 ~~plan the reasons the timeframe cannot be met and the efforts~~
25 ~~that should be made to remediate the obstacles, which may~~
26 ~~include alternatives to total privatization, such as~~
27 ~~public-private partnerships.~~As used in this section, the term
28 "related services" includes, but is not limited to, family
29 preservation, independent living, emergency shelter,
30 residential group care, foster care, therapeutic foster care,
31 intensive residential treatment, foster care supervision, case

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

1 (b) It is the intent of the Legislature that the
2 department will continue to work towards full privatization in
3 a manner that assures the viability of the community-based
4 system and best provides for the safety of children in the
5 child protection system.

6 1. To that end, the department is directed to continue
7 the process of privatizing services in those counties that
8 have signed start-up contracts in place on or before May 1,
9 2003. However, no services shall be transferred to a
10 community-based care lead agency until the department and the
11 local community alliance have certified in writing that the
12 lead agency is fully programmatically, financially, and
13 otherwise competent and ready to deliver and be accountable
14 for those services.

15 a. To assist them in making this determination of
16 readiness, the department and community alliance jointly shall
17 designate a technical assistance team that includes but is not
18 limited to experienced staff from successfully operating lead
19 agencies.

20 b. The elements to be considered in determining
21 readiness must include a set of uniform criteria to be applied
22 in each location as well as criteria that acknowledge
23 differences between rural and urban counties and must be
24 incorporated into a plan for assessing and certifying the
25 readiness of community-based care lead agencies to be
26 developed by the department and submitted to the Governor, the
27 President of the Senate, and the Speaker of the House of
28 Representatives no later than October 1, 2003. Each community
29 alliance may add elements that address unique and critical
30 issues within that community to the plan for determining
31 readiness developed by the department.

1 c. Written certification must be provided to the
2 Governor, the President of the Senate, and the Speaker of the
3 House of Representatives prior to any services being
4 transferred from the department to the lead agency.

5 2. No start-up contract for community-based care can
6 be entered into with any lead agency after May 1, 2003,
7 without specific statutory direction. In time for the
8 Legislature's consideration during the 2005 session, the
9 Executive Office of the Governor must secure an independent
10 evaluation of the status of community-based care in this
11 state, to include, at a minimum, the following:

12 a. A determination of the specific benefits the
13 initiative has yielded for dependent children and their
14 families and a determination of any weaknesses in the
15 initiative that have not been beneficial;

16 b. An analysis of the cost effectiveness of
17 community-based care;

18 c. An assessment of the programmatic and financial
19 viability of each lead agency;

20 d. A determination of how accessibility of services
21 has been affected by the various community-based care models;
22 and

23 e. An assessment of the relationship between each lead
24 agency and its key community stakeholders such as law
25 enforcement agencies, the courts, the department, other
26 community providers, and the Community Alliance.

27
28 A report on the evaluation, including any recommendations for
29 modifying the statutory direction for community-based care; an
30 analysis of those locations where implementing alternatives to
31 the lead agency model, such as public-private partnerships,

1 would be advisable; and specific recommendations for further
2 implementation in the state's remaining counties shall be
3 submitted by the Executive Office of the Governor to the
4 President of the Senate, and the Speaker of the House of
5 Representatives by January 31, 2005.~~by initiating the~~
6 ~~competitive procurement process in each county by January 1,~~
7 ~~2003. In order to provide for an adequate transition period to~~
8 ~~develop the necessary administrative and service delivery~~
9 ~~capacity in each community, the full transfer of all foster~~
10 ~~care and related services must be completed statewide by~~
11 ~~December 31, 2004.~~

12 (f) Other than an entity to which s. 768.28 applies,
13 any eligible lead community-based provider, as defined in
14 paragraph (c), or its employees or officers, except as
15 otherwise provided in paragraph (g), must, as a part of its
16 contract, obtain a minimum of \$1 million per claim/\$3 million
17 per incident in general liability insurance coverage. The
18 eligible lead community-based provider must also require that
19 staff who transport client children and families in their
20 personal automobiles in order to carry out their job
21 responsibilities obtain minimum bodily injury liability
22 insurance in the amount of \$25,000~~\$100,000~~ per claim, \$50,000
23 ~~\$300,000~~ per incident, on their personal automobiles. In any
24 tort action brought against such an eligible lead
25 community-based provider or employee, net economic damages
26 shall be limited to \$1 million per liability claim and
27 \$100,000 per automobile claim, including, but not limited to,
28 past and future medical expenses, wage loss, and loss of
29 earning capacity, offset by any collateral source payment paid
30 or payable. In any tort action brought against such an
31 eligible lead community-based provider, noneconomic damages

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

9 (h) Any subcontractor of an eligible lead
10 community-based provider, as defined in paragraph (c), which
11 is a direct provider of foster care and related services to
12 children and families, and its employees or officers, except
13 as otherwise provided in paragraph (g), must, as a part of its
14 contract, obtain a minimum of \$1 million per claim/\$3 million
15 per incident in general liability insurance coverage. The
16 subcontractor of an eligible lead community-based provider
17 must also require that staff who transport client children and
18 families in their personal automobiles in order to carry out
19 their job responsibilities obtain minimum bodily injury
20 liability insurance in the amount of \$25,000~~\$100,000~~ per
21 claim, \$50,000~~\$300,000~~ per incident, on their personal
22 automobiles. In any tort action brought against such
23 subcontractor or employee, net economic damages shall be
24 limited to \$1 million per liability claim and \$100,000 per
25 automobile claim, including, but not limited to, past and
26 future medical expenses, wage loss, and loss of earning
27 capacity, offset by any collateral source payment paid or
28 payable. In any tort action brought against such
29 subcontractor, noneconomic damages shall be limited to
30 \$200,000 per claim. A claims bill may be brought on behalf of
31 a claimant pursuant to s. 768.28 for any amount exceeding the

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

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

16 (b) The contracts must also ensure that each
17 community-based agency shall furnish information on its
18 activities in all cases in client case records. ~~A provider may
19 not discontinue services on any voluntary case without prior
20 written notification to the department 30 days before planned
21 case closure. If the department disagrees with the recommended
22 case closure date, written notification to the provider must
23 be provided before the case closure date.~~

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

30 (d) Each contract with an eligible lead
31 community-based provider shall provide for the payment by the

1 department to the provider of a reasonable administrative cost
2 in addition to funding for the provision of services.

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

9 The department may develop a request for proposal for such
10 oversight. This program must be developed and administered at
11 a statewide level. The Legislature intends that the department
12 be permitted to have limited flexibility to use funds for
13 improving quality assurance. To this end, ~~effective January 1,~~
14 ~~2000,~~the department may transfer up to 0.125 percent of the
15 total funds from categories used to pay for these
16 contractually provided services, but the total amount of such
17 transferred funds may not exceed \$300,000 in any fiscal year.
18 When necessary, the department may establish, in accordance
19 with s. 216.177, additional positions that will be exclusively
20 devoted to these functions. Any positions required under this
21 paragraph may be established, notwithstanding ss.

22 216.262(1)(a) and 216.351. The department, in consultation
23 with the community-based agencies that are undertaking the
24 privatized projects, shall establish minimum thresholds for
25 each component of service, consistent with standards
26 established by the Legislature and the Federal Government.

27 Each program operated under contract with a community-based
28 agency must be evaluated annually by the department. The
29 department shall submit an annual report regarding quality
30 performance, outcome measure attainment, and cost efficiency
31 to the President of the Senate, the Speaker of the House of

1 Representatives, the minority leader of each house of the
2 Legislature, and the Governor no later than January 31 of each
3 year for each project in operation during the preceding fiscal
4 year.

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

8 Section 2. Section 409.16745, Florida Statutes, is
9 amended to read:

10 409.16745 Community partnership matching grant
11 program.--It is the intent of the Legislature to improve
12 services and local participation in community-based care
13 initiatives by fostering community support and providing
14 enhanced prevention and in-home services, thereby reducing the
15 risk otherwise faced by lead agencies. There is established a
16 community partnership matching grant program to be operated by
17 the Department of Children and Family Services for the purpose
18 of encouraging local participation in community-based care for
19 child welfare. Any children's services council or other local
20 government entity that makes a financial commitment to a
21 community-based care lead agency is eligible for a grant upon
22 proof that the children's services council or local government
23 entity has provided the selected lead agency at least \$250,000
24 ~~\$825,000~~ in start up funds, from any local resources otherwise
25 available to it. The total amount of local contribution may be
26 matched on a two-for-one basis up to a maximum amount of \$2
27 million per council or local government entity. Awarded
28 matching grant funds may be used for any prevention or in-home
29 services provided by the children's services council or other
30 local government entity that meets
31 temporary-assistance-for-needy-families' eligibility

1 requirements and can be reasonably expected to reduce the
2 number of children entering the child welfare system. To
3 ensure necessary flexibility for the development, start up,
4 and ongoing operation of community-based care initiatives, the
5 notice period required for any budget action authorized by the
6 provisions of s. 20.19(5)(b), is waived for the family safety
7 program; however, the Department of Children and Family
8 Services must provide copies of all such actions to the
9 Executive Office of the Governor and Legislature within 72
10 hours of their occurrence. Funding available for the matching
11 grant program is subject to legislative appropriation of
12 nonrecurring ~~temporary assistance for needy families~~ funds
13 provided for the purpose.

14 Section 3. Subsection (3) of section 409.175, Florida
15 Statutes, is amended to read:

16 409.175 Licensure of family foster homes, residential
17 child-caring agencies, and child-placing agencies.--

18 (3)(a) The total number of children placed in each
19 family foster home shall be based on the recommendation of the
20 department, or the community-based care lead agency where one
21 is providing foster care and related services, based on the
22 needs of each child in care, the ability of the foster family
23 to meet the individual needs of each child, including any
24 adoptive or biological children living in the home, the amount
25 of safe physical plant space, the ratio of active and
26 appropriate adult supervision, and the background, experience,
27 and skill of the family foster parents.

28 (b) If the total number of children in a family foster
29 home will exceed five, including the family's own children, an
30 assessment ~~a comprehensive behavioral health assessment~~ of
31 each child to be placed in the home must be completed by a

1 family services counselor and approved in writing by the
2 counselor's supervisor prior to placement of any additional
3 children in the home, except that, if the placement involves a
4 child whose sibling is already in the home or a child who has
5 been in placement in the home previously, the assessment must
6 be completed within 72 hours after placement. The
7 ~~comprehensive behavioral health~~ assessment must ~~comply with~~
8 ~~Medicaid rules and regulations,~~ assess and document the
9 mental, physical, and psychosocial needs of the child, and
10 recommend the maximum number of children in a family foster
11 home that will allow the child's needs to be met.

12 (c) For any licensed family foster home, the
13 appropriateness of the number of children in the home must be
14 reassessed annually as part of the relicensure process. For a
15 home with more than five children, if it is determined by the
16 licensure study at the time of relicensure that the total
17 number of children in the home is appropriate and that there
18 have been no substantive licensure violations and no
19 indications of child maltreatment or child-on-child sexual
20 abuse within the past 12 months, the relicensure of the home
21 shall not be denied based on the total number of children in
22 the home.

23 Section 4. The Office of Program Policy and Government
24 Accountability shall prepare an evaluation of child welfare
25 legal services to be submitted to the Governor, the President
26 of the Senate, the Speaker of the House of Representatives,
27 and the Chief Justice of the Supreme Court by December 31,
28 2003. The evaluation shall consider the different models of
29 provision of legal services in dependency proceedings on
30 behalf of the state, including representation by other
31 government, for profit, or not-for-profit entities, and

1 include discussion of the organizational placement on the cost
2 and delivery of providing these services; the organizational
3 placement's effect on communication between attorneys and
4 caseworkers; the ability to attract, retain, and provide
5 professional development opportunities for experienced
6 attorneys; and the implications of each model for the
7 attorney's professional responsibilities. Following receipt of
8 the report of this evaluation and until directed otherwise by
9 the Legislature, the department shall maintain its current
10 delivery system for child welfare legal services.

11 Section 5. This act shall take effect July 1, 2003.

12

13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 2054

16 Deletes the provision authorizing the Department of Children
17 and Families to transfer funds associated with child welfare
18 legal services to Community-Based Care (CBC) Lead Agencies;

18 Deletes the change to the limit on the amount of economic
19 damages that can be awarded in a tort action against staff who
20 transport clients in their own vehicles;

20 Directs the Office of Program Policy and Government
21 Accountability to evaluate child welfare legal services,
22 specifies elements of the evaluation, and requires a report to
23 the Legislature, Governor, and the Chief Justice of the
24 Supreme Court by December 31, 2003;

23 Prohibits the department from changing the way it delivers
24 child welfare legal services until statutorily directed to do
25 so;

25 Removes the statutorily-set date by which Community-Based Care
26 must be implemented statewide; provides direction for
27 continuing the implementation; and requires the Executive
28 Office of the Governor to secure an evaluation of the status
29 of Community-Based Care and to report to the Legislature by
30 January 31, 2005; and

28 Removes the provisions relating to revenue maximization.

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