

By Senator Lynn

7-1215-04

1                                   A bill to be entitled  
2           An act relating to community-based care;  
3           amending s. 409.1671, F.S.; directing the  
4           Department of Children and Family Services and  
5           lead community-based providers to develop a  
6           proposal for a statewide shared financial risk  
7           program to protect the community-based lead  
8           agencies that contract with the department to  
9           deliver foster care and related services;  
10          requiring the department to submit the proposal  
11          for the financial risk program to the  
12          Legislative Budget Commission for formal  
13          adoption before October 1, 2004; requiring the  
14          department to present the proposal in the form  
15          of recommended legislation if the commission  
16          refuses to adopt the department's proposal;  
17          specifying the purposes for which the financial  
18          risk program may be used; authorizing the  
19          department to request appropriations to fund  
20          the program; requiring the department to submit  
21          a detailed operational plan that identifies the  
22          sources of the funds to be used and the reasons  
23          justifying their use before appropriated funds  
24          may be released; clarifying conditions for the  
25          need of a performance bond; limiting the value  
26          of any performance bond required; providing for  
27          an irrevocable letter of credit to substitute  
28          for a performance bond; providing an effective  
29          date.

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

1 Section 1. Subsection (7) of section 409.1671, Florida  
2 Statutes, as amended by section 27 of chapter 2003-399, Laws  
3 of Florida, is amended to read:

4 409.1671 Foster care and related services;  
5 privatization.--

6 (7) The department, in consultation with existing lead  
7 agencies, shall develop a proposal regarding the long-term use  
8 and structure of a statewide shared ~~earnings program which~~  
9 ~~addresses the financial risk program for the protection of to~~  
10 eligible lead community-based providers that contract directly  
11 with the department for the delivery of foster care and  
12 related services resulting from unanticipated caseload growth  
13 or from significant changes in client mixes or services  
14 eligible for federal reimbursement. The recommendations in the  
15 statewide proposal must also be available to entities of the  
16 department until the conversion to community-based care takes  
17 place. At a minimum, the proposal must allow for use of  
18 federal earnings received from child welfare programs, which  
19 earnings are determined by the department to be in excess of  
20 the amount appropriated in the General Appropriations Act, ~~to~~  
21 ~~be used for specific purposes.~~ The proposal must specify the  
22 necessary steps to ensure the financial integrity of the risk  
23 program and the continued availability of funding on an  
24 ongoing basis from federal, state, and local sources. The  
25 proposal must also include recommendations that permit the  
26 program to be available to entities of the department  
27 providing child welfare services until full conversion to  
28 community-based care takes place. The final proposal shall be  
29 submitted to the Legislative Budget Commission for formal  
30 adoption before October 1, 2004. If the Legislative Budget  
31 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  
4 commencement of the 2005 legislative session.

5 (a) The ~~These~~ purposes for which the risk program may  
6 be used include, but are not limited to:

7 1.(a) Significant changes in the number or composition  
8 of clients eligible to receive services.

9 2.(b) Significant changes in the services that are  
10 eligible for reimbursement.

11 3.(c) Significant changes in the availability of  
12 federal funds.

13 4.(d) Shortfalls in state funds available for eligible  
14 or ineligible services.

15 5.(e) Significant changes in the mix of available  
16 funds.

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

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

21 8.(h) Appropriate incentive structures.

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

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

1 ~~form of recommended legislation to the President of the Senate~~  
2 ~~and the Speaker of the House of Representatives before the~~  
3 ~~commencement of the next legislative session.~~

4 (b) For the 2004-2005 fiscal year 2003-2004 and  
5 annually thereafter, the department of Children and Family  
6 Services may request in its annual legislative budget request,  
7 and the Governor may recommend, that the funding necessary to  
8 carry out paragraph(a)(i)be from excess federal earnings.  
9 ~~The General Appropriations Act shall include any funds~~  
10 appropriated to the department. Prior to the release of the  
11 funds, the department shall submit a detailed operational  
12 plan, that must identify the sources of the specific funds to  
13 be used and the reasons justifying their use. The release of  
14 these funds is subject to the notice and review provisions of  
15 s. 216.77 but does not require the approval of the Legislative  
16 Budget Commission.~~for this purpose in a lump sum in the~~  
17 ~~Administered Funds Program, which~~

18 1. The funds shall constitute partial security for  
19 lead agency contract performance and shall be used.~~The~~  
20 ~~department shall use this appropriation to offset the need for~~  
21 ~~a performance bond for that year after a comparison of risk to~~  
22 ~~the funds available. If it is determined that available funds~~  
23 ~~will be insufficient and a bond required, the in no event~~  
24 ~~shall this performance bond may not exceed 2.5 percent of the~~  
25 ~~annual contract value. An irrevocable letter of credit may~~  
26 substitute for the required bond.

27 2. The department may separately require a bond to  
28 mitigate the financial consequences of potential acts of  
29 malfeasance, misfeasance, or criminal violations by the  
30 provider. Prior to the release of any funds in the lump sum,  
31 ~~the department shall submit a detailed operational plan, which~~

1 ~~must identify the sources of specific trust funds to be used.~~  
2 ~~The release of the trust fund shall be subject to the notice~~  
3 ~~and review provisions of s. 216.177. However, the release~~  
4 ~~shall not require approval of the Legislative Budget~~  
5 ~~Commission.~~

6 Section 2. This act shall take effect July 1, 2004.

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9 SENATE SUMMARY

10 Directs the Department of Children and Family Services  
11 and lead community-based providers to develop a proposal  
12 for a statewide shared financial risk program to protect  
13 the community-based lead agencies that contract with the  
14 department to deliver foster care and related services.  
15 Requires the department to submit the proposal to the  
16 Legislative Budget Commission for formal adoption before  
17 October 1, 2004. Requires the department to present the  
18 proposal in the form of recommended legislation if the  
19 commission refuses to adopt the department's proposal.  
20 Specifies the purposes for which the financial risk  
21 program may be used. Authorizes the department to request  
22 appropriations to fund the program. Requires the  
23 department to submit a detailed operational plan that  
24 identifies the sources of the funds to be used and the  
25 reasons justifying their use before appropriated funds  
26 may be released. Clarifies the conditions for the need of  
27 a performance bond. Limits the value of any performance  
28 bond required to 2.5 percent of the annual contract  
29 value. Permits an irrevocable letter of credit to  
30 substitute for a performance bond.  
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