

By the Committee on Banking and Insurance; and Senator Lynn

311-2244-04

1 A bill to be entitled
2 An act relating to foster care services;
3 amending s. 20.19, F.S.; prohibiting certain
4 members of a community alliance from receiving
5 funds from the Department of Children and
6 Family Services or a community-based lead
7 agency; amending s. 409.1671, F.S.; revising
8 requirements for the department's quality
9 assurance program for privatized services;
10 requiring the Department of Children and Family
11 Services to develop a proposal for the use of a
12 risk pool for community-based providers that
13 provide foster care and related services under
14 contract with the department; specifying
15 proposal requirements; extending a proposal
16 submission deadline; requiring the department
17 to submit a detailed operational plan prior to
18 the release of funds; removing limitations on
19 the distribution program; providing an
20 exemption from state travel policies for
21 community-based providers and subcontractors;
22 providing effective dates.

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

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26 Section 1. Subsection (6) of section 20.19, Florida
27 Statutes, is amended to read:

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29 20.19 Department of Children and Family
30 Services.--There is created a Department of Children and
31 Family Services.

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(6) COMMUNITY ALLIANCES.--

1 (a) The department shall, in consultation with local
2 communities, establish a community alliance of the
3 stakeholders, community leaders, client representatives and
4 funders of human services in each county to provide a focal
5 point for community participation and governance of
6 community-based services. An alliance may cover more than one
7 county when such arrangement is determined to provide for more
8 effective representation. The community alliance shall
9 represent the diversity of the community.

10 (b) The duties of the community alliance shall
11 include, but not necessarily be limited to:

12 1. Joint planning for resource utilization in the
13 community, including resources appropriated to the department
14 and any funds that local funding sources choose to provide.

15 2. Needs assessment and establishment of community
16 priorities for service delivery.

17 3. Determining community outcome goals to supplement
18 state-required outcomes.

19 4. Serving as a catalyst for community resource
20 development.

21 5. Providing for community education and advocacy on
22 issues related to delivery of services.

23 6. Promoting prevention and early intervention
24 services.

25 (c) The department shall ensure, to the greatest
26 extent possible, that the formation of each community alliance
27 builds on the strengths of the existing community human
28 services infrastructure.

29 (d) The initial membership of the community alliance
30 in a county shall be composed of the following:

31 1. The district administrator.

- 1 2. A representative from county government.
- 2 3. A representative from the school district.
- 3 4. A representative from the county United Way.
- 4 5. A representative from the county sheriff's office.
- 5 6. A representative from the circuit court
- 6 corresponding to the county.
- 7 7. A representative from the county children's board,
- 8 if one exists.

9 (e) At any time after the initial meeting of the
10 community alliance, the community alliance shall adopt bylaws
11 and may increase the membership of the alliance to include the
12 state attorney for the judicial circuit in which the community
13 alliance is located, or his or her designee, the public
14 defender for the judicial circuit in which the community
15 alliance is located, or his or her designee, and other
16 individuals and organizations who represent funding
17 organizations, are community leaders, have knowledge of
18 community-based service issues, or otherwise represent
19 perspectives that will enable them to accomplish the duties
20 listed in paragraph (b), if, in the judgment of the alliance,
21 such change is necessary to adequately represent the diversity
22 of the population within the community alliance service
23 districts.

24 (f) A member of the community alliance, other than a
25 member specified in paragraph (d), may not receive payment for
26 contractual services from the department or a community-based
27 care lead agency.

28 ~~(g)~~(f) Members of the community alliances shall serve
29 without compensation, but are entitled to receive
30 reimbursement for per diem and travel expenses, as provided in
31 s. 112.061. Payment may also be authorized for preapproved

1 child care expenses or lost wages for members who are
2 consumers of the department's services and for preapproved
3 child care expenses for other members who demonstrate
4 hardship.

5 (h)~~(g)~~ Members of a community alliance are subject to
6 the provisions of part III of chapter 112, the Code of Ethics
7 for Public Officers and Employees.

8 (i)~~(h)~~ Actions taken by a community alliance must be
9 consistent with department policy and state and federal laws,
10 rules, and regulations.

11 (j)~~(i)~~ Alliance members shall annually submit a
12 disclosure statement of services interests to the department's
13 inspector general. Any member who has an interest in a matter
14 under consideration by the alliance must abstain from voting
15 on that matter.

16 (k)~~(j)~~ All alliance meetings are open to the public
17 pursuant to s. 286.011 and the public records provision of s.
18 119.07(1).

19 Section 2. Subsections (4), (7), and (8) of section
20 409.1671, Florida Statutes, as amended by section 27 of
21 chapter 2003-399, Laws of Florida, are amended, and subsection
22 (10) is added to that section, to read:

23 409.1671 Foster care and related services;
24 privatization.--

25 (4)(a) The department, in consultation with the
26 community-based agencies that are undertaking the privatized
27 projects, shall establish a quality assurance program for
28 privatized services. The quality assurance program shall be
29 based on standards established by the Adoption and Safe
30 Families Act as well as by a national accrediting organization
31 such as the Council on Accreditation of Services for Families

1 and Children, Inc. (COA) or CARF--the Rehabilitation
2 Accreditation Commission. ~~The department may develop a request~~
3 ~~for proposal for such oversight. This program must be~~
4 ~~developed and administered at a statewide level. The~~
5 ~~Legislature intends that the department be permitted to have~~
6 ~~limited flexibility to use funds for improving quality~~
7 ~~assurance. To this end, the department may transfer up to~~
8 ~~0.125 percent of the total funds from categories used to pay~~
9 ~~for these contractually provided services, but the total~~
10 ~~amount of such transferred funds may not exceed \$300,000 in~~
11 ~~any fiscal year. When necessary, the department may establish,~~
12 ~~in accordance with s. 216.177, additional positions that will~~
13 ~~be exclusively devoted to these functions. Any positions~~
14 ~~required under this paragraph may be established,~~
15 ~~notwithstanding ss. 216.262(1)(a) and 216.351. The department,~~
16 ~~in consultation with the community-based agencies that are~~
17 ~~undertaking the privatized projects, shall establish minimum~~
18 ~~thresholds for each component of service, consistent with~~
19 ~~standards established by the Legislature and the Federal~~
20 ~~Government.~~ Each program operated under contract with a
21 community-based agency must be evaluated annually by the
22 department. The department shall, to the extent possible, use
23 independent financial audits provided by the community-based
24 care agency to eliminate or reduce the ongoing contract and
25 administrative reviews conducted by the department. The
26 department may suggest additional items to be included in such
27 independent financial audits to meet the department's needs.
28 Should the department determine that such independent
29 financial audits are inadequate, then other audits, as
30 necessary, may be conducted by the department. Nothing herein
31 shall abrogate the requirements of s. 215.97. The department

1 shall submit an annual report regarding quality performance,
2 outcome measure attainment, and cost efficiency to the
3 President of the Senate, the Speaker of the House of
4 Representatives, the minority leader of each house of the
5 Legislature, and the Governor no later than January 31 of each
6 year for each project in operation during the preceding fiscal
7 year.

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

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

1 department providing child welfare services until full
2 conversion to community-based care takes place. The final
3 proposal shall be submitted to the Legislative Budget
4 Commission for formal adoption before October 1, 2004. If the
5 Legislative Budget Commission refuses to concur with the
6 adoption of the proposal, the department shall present its
7 proposal in the form of recommended legislation to the
8 President of the Senate and the Speaker of the House of
9 Representatives before the commencement of the next
10 legislative session.

11 (a) The ~~These~~ purposes for which the risk pool shall
12 be used include, but are not limited to:

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

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

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

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

21 5.(e) Significant changes in the mix of available
22 funds.

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

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

27 8.(h) Appropriate incentive structures.

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

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1 10. Payment for time-limited technical assistance and
2 consultation to lead agencies in the event of serious
3 performance or management problems.

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5 ~~The department shall further specify the necessary steps to~~
6 ~~ensure the financial integrity of these dollars and their~~
7 ~~continued availability on an ongoing basis. The final proposal~~
8 ~~shall be submitted to the Legislative Budget Commission for~~
9 ~~formal adoption before December 31, 2002. If the Legislative~~
10 ~~Budget Commission refuses to concur with the adoption of the~~
11 ~~proposal, the department shall present its proposal in the~~
12 ~~form of recommended legislation to the President of the Senate~~
13 ~~and the Speaker of the House of Representatives before the~~
14 ~~commencement of the next legislative session.~~

15 (b) For fiscal year 2004-2005 ~~2003-2004~~ and annually
16 thereafter, the Department of Children and Family Services may
17 also request in its annual legislative budget request, and the
18 Governor may recommend, that the funding necessary to carry
19 out paragraph ~~(a) be (i) from excess federal earnings.~~ The
20 ~~General Appropriations Act shall include any funds~~
21 appropriated to the department. Prior to the release of such
22 funds, the department shall submit a detailed operational
23 plan, which must identify the sources of specific funds to be
24 used and the reasons justifying their use. The release of
25 these funds shall be subject to the notice and review
26 provisions of s. 216.177, but shall not require the approval
27 of the Legislative Budget Commission.

28 1. Such for this purpose in a lump sum in the
29 ~~Administered Funds Program, which funds shall constitute~~
30 ~~partial security for lead agency contract performance and~~
31 ~~shall be used. The department shall use this appropriation to~~

1 offset the need for a performance bond ~~for that year after a~~
2 ~~comparison of risk to the funds available. In no event shall~~
3 ~~this performance bond exceed 2.5 percent of the annual~~
4 ~~contract value.~~

5 2. The department may separately require a bond to
6 mitigate the financial consequences of potential acts of
7 malfeasance, misfeasance, or criminal violations by the
8 provider. ~~Prior to the release of any funds in the lump sum,~~
9 ~~the department shall submit a detailed operational plan, which~~
10 ~~must identify the sources of specific trust funds to be used.~~
11 ~~The release of the trust fund shall be subject to the notice~~
12 ~~and review provisions of s. 216.177. However, the release~~
13 ~~shall not require approval of the Legislative Budget~~
14 ~~Commission.~~

15 (8) Notwithstanding the provisions of s. 215.425, all
16 documented federal funds earned for the current fiscal year by
17 the department and community-based agencies which exceed the
18 amount appropriated by the Legislature shall be distributed to
19 all entities that contributed to the excess earnings based on
20 a schedule and methodology developed by the department and
21 approved by the Executive Office of the Governor. Distribution
22 shall be pro rata based on total earnings and shall be made
23 only to those entities that contributed to excess earnings.
24 Excess earnings of community-based agencies shall be used only
25 in the service district in which they were earned. Additional
26 state funds appropriated by the Legislature for
27 community-based agencies or made available pursuant to the
28 budgetary amendment process described in s. 216.177 shall be
29 transferred to the community-based agencies. The department
30 shall amend a community-based agency's contract to permit
31 expenditure of the funds. ~~The distribution program applies~~

1 ~~only to entities that were under privatization contracts as of~~
2 ~~July 1, 2002.~~

3 (10) The lead community-based providers and their
4 subcontractors shall be exempt from state travel policies as
5 set forth in s. 112.061(3)(a) for their travel expenses
6 incurred in order to comply with the requirements of this
7 section.

8 Section 3. This act shall take effect July 1, 2004.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 1698

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13 Adds a purpose for the use of funds from the risk pool to
14 include payment for time-limited technical assistance and
15 consultation to lead agencies in the event of serious
16 performance or management problems.

17 Provides that lead community-based providers and their
18 subcontractors are exempt from the requirements of s.
19 112.061(3)(a), F.S., that all travel must be authorized and
20 approved by the agency.

21 Amends s. 20.19, F.S., to provide that members of a community
22 alliance, other than the statutorily mandated members, may not
23 receive funds for contractual services from either the
24 Department of Children and Family Services (DCF) or a
25 community-based care lead agency.

26 Deletes the provision of current law that allows only those
27 entities that were under privatization contracts as of July 1,
28 2002, from being eligible to receive any additional state
29 funds.

30 Deletes legislative intent that the DCF be permitted to have
31 limited flexibility to use funds for improving quality
assurance and provisions which limit the percentage and dollar
amount of total funds that may be transferred from categories
used to pay for these contractually provided services.

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