

By the Committees on Children and Families; Banking and Insurance; and Senator Lynn

300-2332-04

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.; providing
8 additional requirements for an eligible lead
9 community-based provider to compete for a
10 privatization project; requiring contracts with
11 lead community-based providers to include
12 certain standards; revising requirements for
13 the department's quality assurance program for
14 privatized services; requiring the Department
15 of Children and Family Services to develop a
16 proposal for the use of a risk pool for
17 community-based providers that provide foster
18 care and related services under contract with
19 the department; specifying proposal
20 requirements; extending a proposal submission
21 deadline; requiring the department to submit a
22 detailed operational plan prior to the release
23 of funds; removing limitations on the
24 distribution program; providing an exemption
25 from state travel policies for community-based
26 providers and subcontractors; providing
27 effective dates.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (6) of section 20.19, Florida
2 Statutes, is amended to read:

3 20.19 Department of Children and Family
4 Services.--There is created a Department of Children and
5 Family Services.

6 (6) COMMUNITY ALLIANCES.--

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

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

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

21 2. Needs assessment and establishment of community
22 priorities for service delivery.

23 3. Determining community outcome goals to supplement
24 state-required outcomes.

25 4. Serving as a catalyst for community resource
26 development.

27 5. Providing for community education and advocacy on
28 issues related to delivery of services.

29 6. Promoting prevention and early intervention
30 services.

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1 (c) The department shall ensure, to the greatest
2 extent possible, that the formation of each community alliance
3 builds on the strengths of the existing community human
4 services infrastructure.

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

- 7 1. The district administrator.
- 8 2. A representative from county government.
- 9 3. A representative from the school district.
- 10 4. A representative from the county United Way.
- 11 5. A representative from the county sheriff's office.
- 12 6. A representative from the circuit court
13 corresponding to the county.
- 14 7. A representative from the county children's board,
15 if one exists.

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

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

5 (g)~~(f)~~ Members of the community alliances shall serve
6 without compensation, but are entitled to receive
7 reimbursement for per diem and travel expenses, as provided in
8 s. 112.061. Payment may also be authorized for preapproved
9 child care expenses or lost wages for members who are
10 consumers of the department's services and for preapproved
11 child care expenses for other members who demonstrate
12 hardship.

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

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

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

24 (k)~~(j)~~ All alliance meetings are open to the public
25 pursuant to s. 286.011 and the public records provision of s.
26 119.07(1).

27 Section 2. Paragraph (e) of subsection (1) and
28 subsections (4), (7), and (8) of section 409.1671, Florida
29 Statutes, as amended by section 27 of chapter 2003-399, Laws
30 of Florida, are amended, paragraph (e) is added to subsection
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1 (3) of that section, and subsection (10) is added to that
2 section, to read:

3 409.1671 Foster care and related services;
4 privatization.--

5 (1)

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

15 1. The ability to coordinate, integrate, and manage
16 all child protective services in the designated community in
17 cooperation with child protective investigations.

18 2. The ability to ensure continuity of care from entry
19 to exit for all children referred from the protective
20 investigation and court systems.

21 3. The ability to provide directly, or contract for
22 through a local network of providers, all necessary child
23 protective services. In selecting contract service providers,
24 such agency shall give preference to established providers
25 within the counties served by the lead agency. If an
26 established provider within the counties served is not
27 selected, the lead agency must provide documentation based on
28 specific performance or capacity criteria demonstrating the
29 rationale for the decision. The lead agency must deliver this
30 documentation to the department before the contract is

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1 executed or before the agency decides to provide the service
2 directly.

3 4. The willingness to accept accountability for
4 meeting the outcomes and performance standards related to
5 child protective services established by the Legislature and
6 the Federal Government.

7 5. The capability and the willingness to serve all
8 children referred to it from the protective investigation and
9 court systems, regardless of the level of funding allocated to
10 the community by the state, provided all related funding is
11 transferred.

12 6. The willingness to ensure that each individual who
13 provides child protective services completes the training
14 required of child protective service workers by the Department
15 of Children and Family Services.

16 7. The ability to maintain eligibility to receive all
17 federal child welfare funds, including Title IV-E and IV-A
18 funds, currently being used by the Department of Children and
19 Family Services.

20 8. Written agreements with Healthy Families Florida
21 lead entities in their community, pursuant to s. 409.153, to
22 promote cooperative planning for the provision of prevention
23 and intervention services.

24 9. A board of directors, of which at least 51 percent
25 of the membership is comprised of persons residing in this
26 state. Of the state residents, at least 51 percent must also
27 reside within the service area of the lead community-based
28 provider.

29 (3)

30 (e) Each contract with an eligible lead
31 community-based provider must include all performance measures

1 established by the Legislature, with the most current
2 standards added annually by contract amendment.

3 (4)(a) The department, in consultation with the
4 community-based agencies that are undertaking the privatized
5 projects, shall establish a quality assurance program for
6 privatized services. The quality assurance program shall be
7 based on standards established by the Adoption and Safe
8 Families Act as well as by a national accrediting organization
9 such as the Council on Accreditation of Services for Families
10 and Children, Inc. (COA) or CARF--the Rehabilitation
11 Accreditation Commission. ~~The department may develop a request~~
12 ~~for proposal for such oversight. This program must be~~
13 ~~developed and administered at a statewide level. The~~
14 ~~Legislature intends that the department be permitted to have~~
15 ~~limited flexibility to use funds for improving quality~~
16 ~~assurance. To this end, the department may transfer up to~~
17 ~~0.125 percent of the total funds from categories used to pay~~
18 ~~for these contractually provided services, but the total~~
19 ~~amount of such transferred funds may not exceed \$300,000 in~~
20 ~~any fiscal year. When necessary, the department may establish,~~
21 ~~in accordance with s. 216.177, additional positions that will~~
22 ~~be exclusively devoted to these functions. Any positions~~
23 ~~required under this paragraph may be established,~~
24 ~~notwithstanding ss. 216.262(1)(a) and 216.351. The department,~~
25 ~~in consultation with the community-based agencies that are~~
26 ~~undertaking the privatized projects, shall establish minimum~~
27 ~~thresholds for each component of service, consistent with~~
28 ~~standards established by the Legislature and the Federal~~
29 ~~Government. Each program operated under contract with a~~
30 ~~community-based agency must be evaluated annually by the~~
31 ~~department. The department shall, to the extent possible, use~~

1 independent financial audits provided by the community-based
2 care agency to eliminate or reduce the ongoing contract and
3 administrative reviews conducted by the department. The
4 department may suggest additional items to be included in such
5 independent financial audits to meet the department's needs.
6 Should the department determine that such independent
7 financial audits are inadequate, then other audits, as
8 necessary, may be conducted by the department. Nothing herein
9 shall abrogate the requirements of s. 215.97. The department
10 shall submit an annual report regarding quality performance,
11 outcome measure attainment, and cost efficiency to the
12 President of the Senate, the Speaker of the House of
13 Representatives, the minority leader of each house of the
14 Legislature, and the Governor no later than January 31 of each
15 year for each project in operation during the preceding fiscal
16 year.

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

20 (7) The department, in consultation with existing lead
21 agencies, shall develop a proposal regarding the long-term use
22 and structure of a statewide community-based care risk pool
23 for the protection of ~~shared earnings program which addresses~~
24 ~~the financial risk to~~ eligible lead community-based providers
25 that contract directly with the department for the delivery of
26 foster care and related services ~~resulting from unanticipated~~
27 ~~caseload growth or from significant changes in client mixes or~~
28 ~~services eligible for federal reimbursement. The~~
29 ~~recommendations in the statewide proposal must also be~~
30 ~~available to entities of the department until the conversion~~
31 ~~to community-based care takes place. At a minimum, the~~

1 proposal must allow for use of federal earnings received from
2 child welfare programs, which earnings are determined by the
3 department to be in excess of the amount appropriated in the
4 General Appropriations Act, ~~to be used for specific purposes.~~
5 The proposal must specify the necessary steps to ensure the
6 financial integrity of the risk program and the continued
7 availability of funding from federal, state, and local
8 sources. The proposal must also include recommendations that
9 permit the program to be available to entities of the
10 department providing child welfare services until full
11 conversion to community-based care takes place. The final
12 proposal shall be submitted to the Legislative Budget
13 Commission for formal adoption before October 1, 2004. If the
14 Legislative Budget Commission refuses to concur with the
15 adoption of the proposal, the department shall present its
16 proposal in the form of recommended legislation to the
17 President of the Senate and the Speaker of the House of
18 Representatives before the commencement of the next
19 legislative session.

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

22 1.~~(a)~~ Significant changes in the number or composition
23 of clients eligible to receive services.

24 2.~~(b)~~ Significant changes in the services that are
25 eligible for reimbursement.

26 3.~~(c)~~ Significant changes in the availability of
27 federal funds.

28 4.~~(d)~~ Shortfalls in state funds available for eligible
29 or ineligible services.

30 5.~~(e)~~ Significant changes in the mix of available
31 funds.

1 ~~6.(f)~~ Scheduled or unanticipated, but necessary,
2 advances to providers or other cash-flow issues.

3 ~~7.(g)~~ Proposals to participate in optional Medicaid
4 services or other federal grant opportunities.

5 ~~8.(h)~~ Appropriate incentive structures.

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

8 ~~10. Payment for time-limited technical assistance and~~
9 ~~consultation to lead agencies in the event of serious~~
10 ~~performance or management problems.~~

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

22 ~~(b)~~ For fiscal year ~~2004-2005~~ 2003-2004 and annually
23 thereafter, the Department of Children and Family Services may
24 also request in its annual legislative budget request, and the
25 Governor may recommend, that the funding necessary to carry
26 out paragraph ~~(a)~~ ~~be~~ ~~(i)~~ ~~from excess federal earnings.~~ The
27 ~~General Appropriations Act shall include any funds~~
28 appropriated to the department. Prior to the release of such
29 funds, the department shall submit a detailed operational
30 plan, which must identify the sources of specific funds to be
31 used and the reasons justifying their use. The release of

1 these funds shall be subject to the notice and review
2 provisions of s. 216.177, but shall not require the approval
3 of the Legislative Budget Commission.

4 1. Such ~~for this purpose in a lump sum in the~~
5 ~~Administered Funds Program, which funds shall constitute~~
6 ~~partial security for lead agency contract performance and~~
7 ~~shall be used. The department shall use this appropriation to~~
8 ~~offset the need for a performance bond for that year after a~~
9 ~~comparison of risk to the funds available. In no event shall~~
10 ~~this performance bond exceed 2.5 percent of the annual~~
11 ~~contract value.~~

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

22 (8) Notwithstanding the provisions of s. 215.425, all
23 documented federal funds earned for the current fiscal year by
24 the department and community-based agencies which exceed the
25 amount appropriated by the Legislature shall be distributed to
26 all entities that contributed to the excess earnings based on
27 a schedule and methodology developed by the department and
28 approved by the Executive Office of the Governor. Distribution
29 shall be pro rata based on total earnings and shall be made
30 only to those entities that contributed to excess earnings.
31 Excess earnings of community-based agencies shall be used only

1 in the service district in which they were earned. Additional
2 state funds appropriated by the Legislature for
3 community-based agencies or made available pursuant to the
4 budgetary amendment process described in s. 216.177 shall be
5 transferred to the community-based agencies. The department
6 shall amend a community-based agency's contract to permit
7 expenditure of the funds. ~~The distribution program applies~~
8 ~~only to entities that were under privatization contracts as of~~
9 ~~July 1, 2002.~~

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

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

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS for Senate Bill 1698

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21 - Directs lead agencies to give preference to established
22 providers when contracting for services and provides
23 actions a lead agency must take if established providers
24 are not selected;
25 - Requires that the board of directors of a lead agency
26 include at least 51 percent Florida residents; of the
27 Florida residents, at least 51 percent must be residents
28 of the area served by the lead agency;
29 - Directs the Department of Children and Families to
30 include in its contracts with lead agencies all
31 legislatively-established performance measures and to
amend the contracts annually with the current standards.