

Bill No. HB 723, 1st Eng.

Amendment No. \_\_\_\_ Barcode 801288

CHAMBER ACTION

Senate

House

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Senator Lynn moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

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

(6) COMMUNITY ALLIANCES.--

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

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

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

6 2. Needs assessment and establishment of community  
7 priorities for service delivery.

8 3. Determining community outcome goals to supplement  
9 state-required outcomes.

10 4. Serving as a catalyst for community resource  
11 development.

12 5. Providing for community education and advocacy on  
13 issues related to delivery of services.

14 6. Promoting prevention and early intervention  
15 services.

16 (c) The department shall ensure, to the greatest  
17 extent possible, that the formation of each community alliance  
18 builds on the strengths of the existing community human  
19 services infrastructure.

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

22 1. The district administrator.

23 2. A representative from county government.

24 3. A representative from the school district.

25 4. A representative from the county United Way.

26 5. A representative from the county sheriff's office.

27 6. A representative from the circuit court

28 corresponding to the county.

29 7. A representative from the county children's board,  
30 if one exists.

31 (e) At any time after the initial meeting of the

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1 community alliance, the community alliance shall adopt bylaws  
2 and may increase the membership of the alliance to include the  
3 state attorney for the judicial circuit in which the community  
4 alliance is located, or his or her designee, the public  
5 defender for the judicial circuit in which the community  
6 alliance is located, or his or her designee, and other  
7 individuals and organizations who represent funding  
8 organizations, are community leaders, have knowledge of  
9 community-based service issues, or otherwise represent  
10 perspectives that will enable them to accomplish the duties  
11 listed in paragraph (b), if, in the judgment of the alliance,  
12 such change is necessary to adequately represent the diversity  
13 of the population within the community alliance service  
14 districts.

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

19 ~~(g)(f)~~ Members of the community alliances shall serve  
20 without compensation, but are entitled to receive  
21 reimbursement for per diem and travel expenses, as provided in  
22 s. 112.061. Payment may also be authorized for preapproved  
23 child care expenses or lost wages for members who are  
24 consumers of the department's services and for preapproved  
25 child care expenses for other members who demonstrate  
26 hardship.

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

30 ~~(i)(h)~~ Actions taken by a community alliance must be  
31 consistent with department policy and state and federal laws,

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1 rules, and regulations.

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

7       ~~(k)(j)~~ All alliance meetings are open to the public  
 8 pursuant to s. 286.011 and the public records provision of s.  
 9 119.07(1).

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

16           409.1671 Foster care and related services;  
 17 privatization.--

18           (1)

19           (e) As used in this section, the term "eligible lead  
 20 community-based provider" means a single agency with which the  
 21 department shall contract for the provision of child  
 22 protective services in a community that is no smaller than a  
 23 county. The secretary of the department may authorize more  
 24 than one eligible lead community-based provider within a  
 25 single county when to do so will result in more effective  
 26 delivery of foster care and related services. To compete for a  
 27 privatization project, such agency must have:

28           1. The ability to coordinate, integrate, and manage  
 29 all child protective services in the designated community in  
 30 cooperation with child protective investigations.

31           2. The ability to ensure continuity of care from entry

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1 to exit for all children referred from the protective  
 2 investigation and court systems.

3 3. The ability to provide directly, or contract for  
 4 through a local network of providers, all necessary child  
 5 protective services. Such agencies should directly provide no  
 6 more than 35 percent of all child protective services  
 7 provided.

8 4. The willingness to accept accountability for  
 9 meeting the outcomes and performance standards related to  
 10 child protective services established by the Legislature and  
 11 the Federal Government.

12 5. The capability and the willingness to serve all  
 13 children referred to it from the protective investigation and  
 14 court systems, regardless of the level of funding allocated to  
 15 the community by the state, provided all related funding is  
 16 transferred.

17 6. The willingness to ensure that each individual who  
 18 provides child protective services completes the training  
 19 required of child protective service workers by the Department  
 20 of Children and Family Services.

21 7. The ability to maintain eligibility to receive all  
 22 federal child welfare funds, including Title IV-E and IV-A  
 23 funds, currently being used by the Department of Children and  
 24 Family Services.

25 8. Written agreements with Healthy Families Florida  
 26 lead entities in their community, pursuant to s. 409.153, to  
 27 promote cooperative planning for the provision of prevention  
 28 and intervention services.

29 9. A board of directors, of which at least 51 percent  
 30 of the membership is comprised of persons residing in this  
 31 state. Of the state residents, at least 51 percent must also

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1 reside within the service area of the lead community-based  
2 provider.

3 (3)

4 (e) Each contract with an eligible lead  
5 community-based provider must include all performance outcome  
6 measures established by the Legislature and that are under the  
7 control of the lead agency. The standards must be adjusted  
8 annually by contract amendment to enable the department to  
9 meet the legislatively-established statewide standards.

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

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1 ~~in consultation with the community-based agencies that are~~  
2 ~~undertaking the privatized projects, shall establish minimum~~  
3 ~~thresholds for each component of service, consistent with~~  
4 ~~standards established by the Legislature and the Federal~~  
5 ~~Government.~~ Each program operated under contract with a  
6 community-based agency must be evaluated annually by the  
7 department. The department shall, to the extent possible, use  
8 independent financial audits provided by the community-based  
9 care agency to eliminate or reduce the ongoing contract and  
10 administrative reviews conducted by the department. The  
11 department may suggest additional items to be included in such  
12 independent financial audits to meet the department's needs.  
13 Should the department determine that such independent  
14 financial audits are inadequate, then other audits, as  
15 necessary, may be conducted by the department. Nothing herein  
16 shall abrogate the requirements of s. 215.97. The department  
17 shall submit an annual report regarding quality performance,  
18 outcome measure attainment, and cost efficiency to the  
19 President of the Senate, the Speaker of the House of  
20 Representatives, the minority leader of each house of the  
21 Legislature, and the Governor no later than January 31 of each  
22 year for each project in operation during the preceding fiscal  
23 year.

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

27 (7) The Florida Coalition for Children, Inc., in  
28 consultation with the department, shall develop a plan based  
29 on an independent actuarial study regarding the long-term use  
30 and structure of a statewide community-based care risk pool  
31 for the protection of eligible lead community-based providers,

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1 their subcontractors, and providers of other social services  
2 who contract directly with the department. The plan must also  
3 outline strategies to maximize federal earnings as they relate  
4 to the community-based care risk pool. At a minimum, the plan  
5 must allow for the use of federal earnings received from child  
6 welfare programs to be allocated to the community-based care  
7 risk pool by the department, which earnings are determined by  
8 the department to be in excess of the amount appropriated in  
9 the General Appropriations Act. The plan must specify the  
10 necessary steps to ensure the financial integrity and  
11 industry-standard risk management practices of the  
12 community-based care risk pool and the continued availability  
13 of funding from federal, state, and local sources. The plan  
14 must also include recommendations that permit the program to  
15 be available to entities of the department providing child  
16 welfare services until full conversion to community-based care  
17 takes place. The final plan shall be submitted to the  
18 department and then to the Executive Office of the Governor  
19 and the Legislative Budget Commission for formal adoption  
20 before January 1, 2005. Upon approval of the plan by all  
21 parties, the department shall issue an interest-free loan that  
22 is secured by the cumulative contractual revenue of the  
23 community-based care risk pool membership, and the amount of  
24 the loan shall equal the amount appropriated by the  
25 Legislature for this purpose. The plan shall provide for a  
26 governance structure that assures the department the ability  
27 to oversee the operation of the community-based care risk pool  
28 at least until this loan is repaid in full.

29 (a) The purposes for which the community-based care  
30 risk pool shall be used include, but are not limited to:

31 1. Significant changes in the number or composition of

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1 clients eligible to receive services.

2 2. Significant changes in the services that are  
3 eligible for reimbursement.

4 3. Scheduled or unanticipated, but necessary, advances  
5 to providers or other cash-flow issues.

6 4. Proposals to participate in optional Medicaid  
7 services or other federal grant opportunities.

8 5. Appropriate incentive structures.

9 6. Continuity of care in the event of failure,  
10 discontinuance of service, or financial misconduct by a lead  
11 agency.

12 7. Payment for time-limited technical assistance and  
13 consultation to lead agencies in the event of serious  
14 performance or management problems.

15 8. Payment for meeting all traditional and  
16 nontraditional insurance needs of eligible members.

17 9. Significant changes in the mix of available funds.

18 (b) After approval of the plan in the 2004-2005 fiscal  
19 year and annually thereafter, the department may also request  
20 in its annual legislative budget request, and the Governor may  
21 recommend, that the funding necessary to carry out paragraph

22 (a) be appropriated to the department. Subsequent funding of  
23 the community-based care risk pool shall be supported by  
24 premiums assessed to members of the community-based care risk  
25 pool on a recurring basis. The community-based care risk pool  
26 may invest and retain interest earned on these funds. In  
27 addition, the department may transfer funds to the  
28 community-based care risk pool as available in order to ensure  
29 an adequate funding level if the fund is declared to be  
30 insolvent and approval is granted by the Legislative Budget  
31 Commission. Such payments for insolvency shall be made only

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1 after a determination is made by the department or its actuary  
2 that all participants in the community-based care risk pool  
3 are current in their payments of premiums and that assessments  
4 have been made at an actuarially sound level. Such payments by  
5 participants in the community-based care risk pool may not  
6 exceed reasonable industry standards, as determined by the  
7 actuary. Money from this fund may be used to match available  
8 federal dollars. Dividends or other payments, with the  
9 exception of legitimate claims, may not be paid to members of  
10 the community-based care risk pool until the loan issued by  
11 the department is repaid in full. Dividends or other payments,  
12 with the exception of legitimate claims and other purposes  
13 contained in the approved plan, may not be paid to members of  
14 the community-based care risk pool unless, at the time of  
15 distribution, the community-based care risk pool is deemed  
16 actuarially sound and solvent. Solvency shall be determined by  
17 an independent actuary contracted by the department. The plan  
18 shall be developed in consultation with the Office of  
19 Insurance Regulation.

20       1. Such funds shall constitute partial security for  
21 contract performance by lead agencies and shall be used to  
22 offset the need for a performance bond. Subject to the  
23 approval of the plan, the community-based care risk pool shall  
24 be managed by the Florida Coalition for Children, Inc., or the  
25 designated contractors of the Florida Coalition for Children,  
26 Inc. Nonmembers of the community-based care risk pool may  
27 continue to contract with the department, but must provide a  
28 letter of credit equal to one-twelfth of the annual contract  
29 amount in lieu of membership in the community-based care risk  
30 pool.

31       2. The department may separately require a bond to

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1 mitigate the financial consequences of potential acts of  
2 malfesance, misfesance, or criminal violations by the  
3 provider.

4 ~~(7) The department, in consultation with existing lead~~  
5 ~~agencies, shall develop a proposal regarding the long-term use~~  
6 ~~and structure of a statewide shared earnings program which~~  
7 ~~addresses the financial risk to eligible lead community-based~~  
8 ~~providers resulting from unanticipated caseload growth or from~~  
9 ~~significant changes in client mixes or services eligible for~~  
10 ~~federal reimbursement. The recommendations in the statewide~~  
11 ~~proposal must also be available to entities of the department~~  
12 ~~until the conversion to community-based care takes place. At a~~  
13 ~~minimum, the proposal must allow for use of federal earnings~~  
14 ~~received from child welfare programs, which earnings are~~  
15 ~~determined by the department to be in excess of the amount~~  
16 ~~appropriated in the General Appropriations Act, to be used for~~  
17 ~~specific purposes. These purposes include, but are not limited~~  
18 ~~to:~~

19 ~~(a) Significant changes in the number or composition~~  
20 ~~of clients eligible to receive services.~~

21 ~~(b) Significant changes in the services that are~~  
22 ~~eligible for reimbursement.~~

23 ~~(c) Significant changes in the availability of federal~~  
24 ~~funds.~~

25 ~~(d) Shortfalls in state funds available for eligible~~  
26 ~~or ineligible services.~~

27 ~~(e) Significant changes in the mix of available funds.~~

28 ~~(f) Scheduled or unanticipated, but necessary,~~  
29 ~~advances to providers or other cash-flow issues.~~

30 ~~(g) Proposals to participate in optional Medicaid~~  
31 ~~services or other federal grant opportunities.~~

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1           ~~(h) Appropriate incentive structures.~~

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

4

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. For fiscal year~~  
15 ~~2003-2004 and annually thereafter, the Department of Children~~  
16 ~~and Family Services may request in its legislative budget~~  
17 ~~request, and the Governor may recommend, the funding necessary~~  
18 ~~to carry out paragraph (i) from excess federal earnings. The~~  
19 ~~General Appropriations Act shall include any funds~~  
20 ~~appropriated for this purpose in a lump sum in the~~  
21 ~~Administered Funds Program, which funds constitute partial~~  
22 ~~security for lead agency contract performance. The department~~  
23 ~~shall use this appropriation to offset the need for a~~  
24 ~~performance bond for that year after a comparison of risk to~~  
25 ~~the funds available. In no event shall this performance bond~~  
26 ~~exceed 2.5 percent of the annual contract value. The~~  
27 ~~department may separately require a bond to mitigate the~~  
28 ~~financial consequences of potential acts of malfeasance,~~  
29 ~~misfeasance, or criminal violations by the provider. Prior to~~  
30 ~~the release of any funds in the lump sum, the department shall~~  
31 ~~submit a detailed operational plan, which must identify the~~

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

5 (8) Notwithstanding the provisions of s. 215.425, all  
 6 documented federal funds earned for the current fiscal year by  
 7 the department and community-based agencies which exceed the  
 8 amount appropriated by the Legislature shall be distributed to  
 9 all entities that contributed to the excess earnings based on  
 10 a schedule and methodology developed by the department and  
 11 approved by the Executive Office of the Governor. Distribution  
 12 shall be pro rata based on total earnings and shall be made  
 13 only to those entities that contributed to excess earnings.  
 14 Excess earnings of community-based agencies shall be used only  
 15 in the service district in which they were earned. Additional  
 16 state funds appropriated by the Legislature for  
 17 community-based agencies or made available pursuant to the  
 18 budgetary amendment process described in s. 216.177 shall be  
 19 transferred to the community-based agencies. The department  
 20 shall amend a community-based agency's contract to permit  
 21 expenditure of the funds. ~~The distribution program applies~~  
 22 ~~only to entities that were under privatization contracts as of~~  
 23 ~~July 1, 2002.~~

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

29 Section 3. Section 39.0016, Florida Statutes, is  
 30 created to read:

31 39.0016 Education of abused, neglected, and abandoned

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1 children.--

2       (1) As used in this section, the term:

3           (a) "Children known to the department" means children  
4 who are found to be dependent or children in shelter care.

5           (b) "Department" means the Department of Children and  
6 Family Services or a community-based care lead agency acting  
7 on behalf of the Department of Children and Family Services,  
8 as appropriate.

9           (2) The provisions of this section establish goals and  
10 not rights. This section does not require the delivery of any  
11 particular service or level of service in excess of existing  
12 appropriations. A person may not maintain a cause of action  
13 against the state or any of its subdivisions, agencies,  
14 contractors, subcontractors, or agents based upon this section  
15 becoming law or failure by the Legislature to provide adequate  
16 funding for the achievement of these goals. This section does  
17 not require the expenditure of funds to meet the goals  
18 established in this section except funds specifically  
19 appropriated for such purpose.

20           (3) The department shall enter into an agreement with  
21 the Department of Education regarding the education and  
22 related care of children known to the department. Such  
23 agreement shall be designed to provide educational access to  
24 children known to the department for the purpose of  
25 facilitating the delivery of services or programs to children  
26 known to the department. The agreement shall avoid duplication  
27 of services or programs and shall provide for combining  
28 resources to maximize the availability or delivery of services  
29 or programs.

30           (4) The department shall enter into agreements with  
31 district school boards or other local educational entities

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1 regarding education and related services for children known to  
2 the department who are of school age and children known to the  
3 department who are younger than school age but who would  
4 otherwise qualify for services from the district school board.

5 Such agreements shall include, but are not limited to:

6 (a) A requirement that the department shall:

7 1. Enroll children known to the department in school.

8 The agreement shall provide for continuing the enrollment of a  
9 child known to the department at the same school, if possible,  
10 with the goal of avoiding disruption of education.

11 2. Notify the school and school district in which a  
12 child known to the department is enrolled of the name and  
13 phone number of the child known to the department caregiver  
14 and caseworker for child safety purposes.

15 3. Establish a protocol for the department to share  
16 information about a child known to the department with the  
17 school district, consistent with the Family Educational Rights  
18 and Privacy Act, since the sharing of information will assist  
19 each agency in obtaining education and related services for  
20 the benefit of the child.

21 4. Notify the school district of the department's case  
22 planning for a child known to the department, both at the time  
23 of plan development and plan review. Within the plan  
24 development or review process, the school district may provide  
25 information regarding the child known to the department if the  
26 school district deems it desirable and appropriate.

27 (b) A requirement that the district school board  
28 shall:

29 1. Provide the department with a general listing of  
30 the services and information available from the district  
31 school board, including, but not limited to, the current

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1 Sunshine State Standards, the Surrogate Parent Training  
2 Manual, and other resources accessible through the Department  
3 of Education or local school districts to facilitate  
4 educational access for a child known to the department.

5       2. Identify all educational and other services  
6 provided by the school and school district which the school  
7 district believes are reasonably necessary to meet the  
8 educational needs of a child known to the department.

9       3. Determine whether transportation is available for a  
10 child known to the department when such transportation will  
11 avoid a change in school assignment due to a change in  
12 residential placement. Recognizing that continued enrollment  
13 in the same school throughout the time the child known to the  
14 department is in out-of-home care is preferable unless  
15 enrollment in the same school would be unsafe or otherwise  
16 impractical, the department, the district school board, and  
17 the Department of Education shall assess the availability of  
18 federal, charitable, or grant funding for such transportation.

19       4. Provide individualized student intervention or an  
20 individual educational plan when a determination has been made  
21 through legally appropriate criteria that intervention  
22 services are required. The intervention or individual  
23 educational plan must include strategies to enable the child  
24 known to the department to maximize the attainment of  
25 educational goals.

26       (c) A requirement that the department and the district  
27 school board shall cooperate in accessing the services and  
28 supports needed for a child known to the department who has or  
29 is suspected of having a disability to receive an appropriate  
30 education consistent with the Individuals with Disabilities  
31 Education Act and state implementing laws, rules, and

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1 assurances. Coordination of services for a child known to the  
2 department who has or is suspected of having a disability may  
3 include:

4 1. Referral for screening.

5 2. Sharing of evaluations between the school district  
6 and the department where appropriate.

7 3. Provision of education and related services  
8 appropriate for the needs and abilities of the child known to  
9 the department.

10 4. Coordination of services and plans between the  
11 school and the residential setting to avoid duplication or  
12 conflicting service plans.

13 5. Appointment of a surrogate parent, consistent with  
14 the Individuals with Disabilities Education Act, for  
15 educational purposes for a child known to the department who  
16 qualifies as soon as the child is determined to be dependent  
17 and without a parent to act for the child. The surrogate  
18 parent shall be appointed by the school district without  
19 regard to where the child known to the department is placed so  
20 that one surrogate parent can follow the education of the  
21 child known to the department during his or her entire time in  
22 state custody.

23 6. For each child known to the department 14 years of  
24 age and older, transition planning by the department and all  
25 providers, including the department's independent living  
26 program staff, to meet the requirements of the local school  
27 district for educational purposes.

28 (5) The department shall incorporate an education  
29 component into all training programs of the department  
30 regarding children known to the department. Such training  
31 shall be coordinated with the Department of Education and the

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1 local school districts. The department shall offer  
2 opportunities for education personnel to participate in such  
3 training. Such coordination shall include, but not be limited  
4 to, notice of training sessions, opportunities to purchase  
5 training materials, proposals to avoid duplication of services  
6 by offering joint training, and incorporation of materials  
7 available from the Department of Education and local school  
8 districts into the department training when appropriate. The  
9 department training components shall include:

10 (a) Training for surrogate parents to include how an  
11 ability to learn of a child known to the department is  
12 affected by abuse, abandonment, neglect, and removal from the  
13 home.

14 (b) Training for parents in cases in which  
15 reunification is the goal, or for preadoptive parents when  
16 adoption is the goal, so that such parents learn how to access  
17 the services the child known to the department needs and the  
18 importance of their involvement in the education of the child  
19 known to the department.

20 (c) Training for caseworkers and foster parents to  
21 include information on the right of the child known to the  
22 department to an education, the role of an education in the  
23 development and adjustment of a child known to the department,  
24 the proper ways to access education and related services for  
25 the child known to the department, and the importance and  
26 strategies for parental involvement in education for the  
27 success of the child known to the department.

28 (d) Training of caseworkers regarding the services and  
29 information available through the Department of Education and  
30 local school districts, including, but not limited to, the  
31 current Sunshine State Standards, the Surrogate Parent

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1 Training Manual, and other resources accessible through the  
 2 Department of Education or local school districts to  
 3 facilitate educational access for a child known to the  
 4 department.

5 Section 4. Paragraph (d) of subsection (3) of section  
 6 1002.22, Florida Statutes, is amended to read:

7 1002.22 Student records and reports; rights of parents  
 8 and students; notification; penalty.--

9 (3) RIGHTS OF PARENT OR STUDENT.--The parent of any  
 10 student who attends or has attended any public school, area  
 11 technical center, or public postsecondary educational  
 12 institution shall have the following rights with respect to  
 13 any records or reports created, maintained, and used by any  
 14 public educational institution in the state. However,  
 15 whenever a student has attained 18 years of age, or is  
 16 attending a postsecondary educational institution, the  
 17 permission or consent required of, and the rights accorded to,  
 18 the parents of the student shall thereafter be required of and  
 19 accorded to the student only, unless the student is a  
 20 dependent student of such parents as defined in 26 U.S.C. s.  
 21 152 (s. 152 of the Internal Revenue Code of 1954). The State  
 22 Board of Education shall adopt rules whereby parents or  
 23 students may exercise these rights:

24 (d) Right of privacy.--Every student shall have a  
 25 right of privacy with respect to the educational records kept  
 26 on him or her. Personally identifiable records or reports of a  
 27 student, and any personal information contained therein, are  
 28 confidential and exempt from the provisions of s. 119.07(1).  
 29 ~~A No~~ state or local educational agency, board, public school,  
 30 technical center, or public postsecondary educational  
 31 institution ~~may not~~ shall permit the release of such records,

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1 reports, or information without the written consent of the  
2 student's parent, or of the student himself or herself if he  
3 or she is qualified as provided in this subsection, to any  
4 individual, agency, or organization. However, personally  
5 identifiable records or reports of a student may be released  
6 to the following persons or organizations without the consent  
7 of the student or the student's parent:

8           1. Officials of schools, school systems, technical  
9 centers, or public postsecondary educational institutions in  
10 which the student seeks or intends to enroll; and a copy of  
11 such records or reports shall be furnished to the parent or  
12 student upon request.

13           2. Other school officials, including teachers within  
14 the educational institution or agency, who have legitimate  
15 educational interests in the information contained in the  
16 records.

17           3. The United States Secretary of Education, the  
18 Director of the National Institute of Education, the Assistant  
19 Secretary for Education, the Comptroller General of the United  
20 States, or state or local educational authorities who are  
21 authorized to receive such information subject to the  
22 conditions set forth in applicable federal statutes and  
23 regulations of the United States Department of Education, or  
24 in applicable state statutes and rules of the State Board of  
25 Education.

26           4. Other school officials, in connection with a  
27 student's application for or receipt of financial aid.

28           5. Individuals or organizations conducting studies for  
29 or on behalf of an institution or a board of education for the  
30 purpose of developing, validating, or administering predictive  
31 tests, administering student aid programs, or improving

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1 instruction, if such studies are conducted in such a manner as  
2 will not permit the personal identification of students and  
3 their parents by persons other than representatives of such  
4 organizations and if such information will be destroyed when  
5 no longer needed for the purpose of conducting such studies.

6         6. Accrediting organizations, in order to carry out  
7 their accrediting functions.

8         7. School readiness coalitions and the Florida  
9 Partnership for School Readiness in order to carry out their  
10 assigned duties.

11         8. For use as evidence in student expulsion hearings  
12 conducted by a district school board pursuant to the  
13 provisions of chapter 120.

14         9. Appropriate parties in connection with an  
15 emergency, if knowledge of the information in the student's  
16 educational records is necessary to protect the health or  
17 safety of the student or other individuals.

18         10. The Auditor General and the Office of Program  
19 Policy Analysis and Government Accountability in connection  
20 with their official functions; however, except when the  
21 collection of personally identifiable information is  
22 specifically authorized by law, any data collected by the  
23 Auditor General and the Office of Program Policy Analysis and  
24 Government Accountability is confidential and exempt from the  
25 provisions of s. 119.07(1) and shall be protected in such a  
26 way as will not permit the personal identification of students  
27 and their parents by other than the Auditor General, the  
28 Office of Program Policy Analysis and Government  
29 Accountability, and their staff, and such personally  
30 identifiable data shall be destroyed when no longer needed for  
31 the Auditor General's and the Office of Program Policy

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1 Analysis and Government Accountability's official use.

2           11.a. A court of competent jurisdiction in compliance  
3 with an order of that court or the attorney of record pursuant  
4 to a lawfully issued subpoena, upon the condition that the  
5 student and the student's parent are notified of the order or  
6 subpoena in advance of compliance therewith by the educational  
7 institution or agency.

8           b. A person or entity pursuant to a court of competent  
9 jurisdiction in compliance with an order of that court or the  
10 attorney of record pursuant to a lawfully issued subpoena,  
11 upon the condition that the student, or his or her parent if  
12 the student is either a minor and not attending a  
13 postsecondary educational institution or a dependent of such  
14 parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal  
15 Revenue Code of 1954), is notified of the order or subpoena in  
16 advance of compliance therewith by the educational institution  
17 or agency.

18           12. Credit bureaus, in connection with an agreement  
19 for financial aid that the student has executed, provided that  
20 such information may be disclosed only to the extent necessary  
21 to enforce the terms or conditions of the financial aid  
22 agreement. Credit bureaus shall not release any information  
23 obtained pursuant to this paragraph to any person.

24           13. Parties to an interagency agreement among the  
25 Department of Juvenile Justice, school and law enforcement  
26 authorities, and other signatory agencies for the purpose of  
27 reducing juvenile crime and especially motor vehicle theft by  
28 promoting cooperation and collaboration, and the sharing of  
29 appropriate information in a joint effort to improve school  
30 safety, to reduce truancy and in-school and out-of-school  
31 suspensions, and to support alternatives to in-school and

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1 out-of-school suspensions and expulsions that provide  
2 structured and well-supervised educational programs  
3 supplemented by a coordinated overlay of other appropriate  
4 services designed to correct behaviors that lead to truancy,  
5 suspensions, and expulsions, and that support students in  
6 successfully completing their education. Information provided  
7 in furtherance of such interagency agreements is intended  
8 solely for use in determining the appropriate programs and  
9 services for each juvenile or the juvenile's family, or for  
10 coordinating the delivery of such programs and services, and  
11 as such is inadmissible in any court proceedings prior to a  
12 dispositional hearing unless written consent is provided by a  
13 parent or other responsible adult on behalf of the juvenile.

14 14. Consistent with the Family Educational Rights and  
15 Privacy Act, the Department of Children and Family Services or  
16 a community-based care lead agency acting on behalf of the  
17 Department of Children and Family Services, as appropriate.

18  
19 This paragraph does not prohibit any educational institution  
20 from publishing and releasing to the general public directory  
21 information relating to a student if the institution elects to  
22 do so. However, no educational institution shall release, to  
23 any individual, agency, or organization that is not listed in  
24 subparagraphs 1.-14. 1.-13., directory information relating to  
25 the student body in general or a portion thereof unless it is  
26 normally published for the purpose of release to the public in  
27 general. Any educational institution making directory  
28 information public shall give public notice of the categories  
29 of information that it has designated as directory information  
30 with respect to all students attending the institution and  
31 shall allow a reasonable period of time after such notice has

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1 been given for a parent or student to inform the institution  
2 in writing that any or all of the information designated  
3 should not be released.

4 Section 5. This act shall take effect July 1, 2004.

5

6

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause

10

11 and insert:

12

A bill to be entitled

13

An act relating to foster care services;

14

amending s. 20.19, F.S.; prohibiting certain

15

members of a community alliance from receiving

16

funds from the Department of Children and

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Family Services or a community-based lead

18

agency; amending s. 409.1671, F.S.; providing

19

additional requirements for an eligible lead

20

community-based provider to compete for a

21

privatization project; requiring contracts with

22

lead community-based providers to include

23

certain standards; revising requirements for

24

the department's quality assurance program for

25

privatized services; directing the Florida

26

Coalition for Children, Inc., to develop a plan

27

for a statewide risk pool for community-based

28

providers that provide foster care and related

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services under contract with the department or

30

a lead community-based provider; deleting a

31

requirement that the department develop a

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1           proposal; specifying the requirements of the  
2           plan; extending a submission deadline; revising  
3           the process for plan approval; directing the  
4           department to issue a loan upon approval of the  
5           plan; modifying the purposes of the risk pool;  
6           revising the purposes for which funding may be  
7           recommended to the Legislature; deleting  
8           provisions requiring the creation of a risk  
9           pool within the State Treasury; revising the  
10          requirements for operating the risk pool;  
11          authorizing the risk pool to invest funds and  
12          retain interest; providing for payments upon a  
13          determination of insolvency; prohibiting  
14          payment of dividends until repayment of the  
15          loan by the department and until the risk pool  
16          is actuarially sound; deleting a requirement  
17          for a performance bond; providing for the risk  
18          pool to be managed by the Florida Coalition for  
19          Children, Inc., or its designated contractor;  
20          specifying the manner by which nonmember  
21          entities may be authorized to contract with the  
22          department; providing an exemption from state  
23          travel policies for community-based providers  
24          and subcontractors; creating s. 39.0016, F.S.,  
25          relating to the education of abused, neglected,  
26          and abandoned children; creating definitions;  
27          providing for interpretation of the act;  
28          requiring an agreement between the Department  
29          of Children and Family Services and the  
30          Department of Education; requiring agreements  
31          between the Department of Children and Family

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1 Services and district school boards or other  
2 local educational entities; specifying  
3 provisions of such agreements; requiring access  
4 to certain information; requiring education  
5 training components; amending s. 1002.22, F.S.,  
6 relating to access to student records;  
7 authorizing the release of records to the  
8 Department of Children and Family Services or a  
9 community-based care lead agency; providing  
10 effective dates.

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