

CHAMBER ACTION

1 The Committee on Future of Florida's Families recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to foster care services; amending s.
8 20.19, F.S.; prohibiting members of community alliances
9 from receiving funds from the Department of Children and
10 Family Services or community-based care lead agencies;
11 amending s. 409.1671, F.S.; providing a restriction on the
12 level of child protective services provided; providing
13 requirements for a lead agency's board of directors;
14 revising requirements for the quality assurance program;
15 revising provisions requiring the department to develop a
16 proposal for the use of eligible lead community-based
17 providers to include foster care and related services;
18 specifying proposal requirements; extending a proposal
19 submission deadline; requiring the department to submit a
20 detailed operational plan prior to the release of funds;
21 removing limitations on the distribution program;
22 exempting certain lead community-based providers and their

HB 723

2004
CS

23 subcontractors from state travel policies; providing an
24 effective date.

25

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

27

28 Section 1. Paragraphs (f) through (j) of subsection (6) of
29 section 20.19, Florida Statutes, are redesignated as paragraphs
30 (g) through (k), respectively, and a new paragraph (f) is added
31 to said subsection to read:

32 20.19 Department of Children and Family Services.--There
33 is created a Department of Children and Family Services.

34 (6) COMMUNITY ALLIANCES.--

35 (f) Members of the community alliances may not receive
36 funds from either the department or a community-based care lead
37 agency.

38 Section 2. Paragraph (e) of subsection (1), paragraph (a)
39 of subsection (4), and subsections (7) and (8) of section
40 409.1671, Florida Statutes, are amended, and subsection (10) is
41 added to said section, to read:

42 409.1671 Foster care and related services;
43 privatization.--

44 (1)

45 (e) As used in this section, the term "eligible lead
46 community-based provider" means a single agency with which the
47 department shall contract for the provision of child protective
48 services in a community that is no smaller than a county. The
49 secretary of the department may authorize more than one eligible
50 lead community-based provider within a single county when to do

HB 723

2004
CS

51 | so will result in more effective delivery of foster care and
52 | related services. To compete for a privatization project, such
53 | agency must have:

54 | 1. The ability to coordinate, integrate, and manage all
55 | child protective services in the designated community in
56 | cooperation with child protective investigations.

57 | 2. The ability to ensure continuity of care from entry to
58 | exit for all children referred from the protective investigation
59 | and court systems.

60 | 3. The ability to provide directly, or contract for
61 | through a local network of providers, all necessary child
62 | protective services. Such agency shall directly provide no more
63 | than 35 percent of all child protective services provided.

64 | 4. The willingness to accept accountability for meeting
65 | the outcomes and performance standards related to child
66 | protective services established by the Legislature and the
67 | Federal Government.

68 | 5. The capability and the willingness to serve all
69 | children referred to it from the protective investigation and
70 | court systems, regardless of the level of funding allocated to
71 | the community by the state, provided all related funding is
72 | transferred.

73 | 6. The willingness to ensure that each individual who
74 | provides child protective services completes the training
75 | required of child protective service workers by the Department
76 | of Children and Family Services.

77 | 7. The ability to maintain eligibility to receive all
78 | federal child welfare funds, including Title IV-E and IV-A

HB 723

2004
CS

79 funds, currently being used by the Department of Children and
80 Family Services.

81 8. Written agreements with Healthy Families Florida lead
82 entities in their community, pursuant to s. 409.153, to promote
83 cooperative planning for the provision of prevention and
84 intervention services.

85 9. A board of directors of which at least 51 percent of
86 its members reside in Florida and at least 51 percent of those
87 members residing in Florida must also reside within the service
88 area of the community-based care lead agency.

89 (4)(a) The department, in consultation with the community-
90 based agencies that are undertaking the privatized projects,
91 shall establish a quality assurance program for privatized
92 services. The quality assurance program shall be based on
93 standards established by the Adoption and Safe Families Act as
94 well as a national accrediting organization such as the Council
95 on Accreditation of Services for Families and Children, Inc.
96 (COA) or CARF--the Rehabilitation Accreditation Commission. ~~The~~
97 ~~department may develop a request for proposal for such~~
98 ~~oversight. This program must be developed and administered at a~~
99 ~~statewide level. The Legislature intends that the department be~~
100 ~~permitted to have limited flexibility to use funds for improving~~
101 ~~quality assurance. To this end, the department may transfer up~~
102 ~~to 0.125 percent of the total funds from categories used to pay~~
103 ~~for these contractually provided services, but the total amount~~
104 ~~of such transferred funds may not exceed \$300,000 in any fiscal~~
105 ~~year. When necessary, the department may establish, in~~
106 ~~accordance with s. 216.177, additional positions that will be~~

HB 723

2004
CS

107 ~~exclusively devoted to these functions. Any positions required~~
 108 ~~under this paragraph may be established, notwithstanding ss.~~
 109 ~~216.262(1)(a) and 216.351. The department, in consultation with~~
 110 ~~the community-based agencies that are undertaking the privatized~~
 111 ~~projects, shall establish minimum thresholds for each component~~
 112 ~~of service, consistent with standards established by the~~
 113 ~~Legislature and the Federal Government.~~ Each program operated
 114 under contract with a community-based agency must be evaluated
 115 annually by the department. The department shall, to the extent
 116 possible, use independent financial audits provided by the
 117 community-based care agency to eliminate or reduce the ongoing
 118 contract and administrative reviews conducted by the department.
 119 The department may suggest additional items to be included in
 120 such independent financial audits to meet the department's
 121 needs. Should the department determine that such independent
 122 financial audits are inadequate, then other audits, as
 123 necessary, may be conducted by the department. Nothing herein
 124 shall abrogate the requirements of s. 215.97. The department
 125 shall submit an annual report regarding quality performance,
 126 outcome measure attainment, and cost efficiency to the President
 127 of the Senate, the Speaker of the House of Representatives, the
 128 minority leader of each house of the Legislature, and the
 129 Governor no later than January 31 of each year for each project
 130 in operation during the preceding fiscal year.

131 (7) The department, in consultation with existing lead
 132 agencies, shall develop a proposal regarding the long-term use
 133 and structure of a statewide community-based care risk pool for
 134 the protection of ~~shared earnings program which addresses the~~

135 ~~financial risk to~~ eligible lead community-based providers who
 136 contract directly with the department for the delivery of foster
 137 care and related services resulting from unanticipated caseload
 138 ~~growth or from significant changes in client mixes or services~~
 139 ~~eligible for federal reimbursement. The recommendations in the~~
 140 ~~statewide proposal must also be available to entities of the~~
 141 ~~department until the conversion to community-based care takes~~
 142 place. At a minimum, the proposal must allow for use of federal
 143 earnings received from child welfare programs, which earnings
 144 are determined by the department to be in excess of the amount
 145 appropriated in the General Appropriations Act, to be used for
 146 specific purposes. The proposal must specify the necessary steps
 147 to ensure the financial integrity of the risk program and the
 148 continued availability of funding from federal, state, and local
 149 sources. The proposal must also include recommendations that
 150 permit the program to be available to entities of the department
 151 providing child welfare services until full conversion to
 152 community-based care takes place. The final proposal shall be
 153 submitted to the Legislative Budget Commission for formal
 154 adoption before October 1, 2004. If the Legislative Budget
 155 Commission refuses to concur with the adoption of the proposal,
 156 the department shall present its proposal in the form of
 157 recommended legislation to the President of the Senate and the
 158 Speaker of the House of Representatives before the commencement
 159 of the next legislative session.

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

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

164 2.(b) Significant changes in the services that are
165 eligible for reimbursement.

166 3.(e) Significant changes in the availability of federal
167 funds.

168 4.(d) Shortfalls in state funds available for eligible or
169 ineligible services.

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

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

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

175 8.(h) Appropriate incentive structures.

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

178 10. Payment for time-limited technical assistance and
179 consultation to lead agencies in the event of serious
180 performance or management problems.

181
182 ~~The department shall further specify the necessary steps to~~
183 ~~ensure the financial integrity of these dollars and their~~
184 ~~continued availability on an ongoing basis. The final proposal~~
185 ~~shall be submitted to the Legislative Budget Commission for~~
186 ~~formal adoption before December 31, 2002. If the Legislative~~
187 ~~Budget Commission refuses to concur with the adoption of the~~
188 ~~proposal, the department shall present its proposal in the form~~
189 ~~of recommended legislation to the President of the Senate and~~

190 ~~the Speaker of the House of Representatives before the~~
 191 ~~commencement of the next legislative session.~~

192 (b) For fiscal year 2004-2005 ~~2003-2004~~ and annually
 193 thereafter, the department ~~of Children and Family Services~~ may
 194 also request in its annual legislative budget request, and the
 195 Governor may recommend, that the funding necessary to carry out
 196 paragraph (a) ~~be (i) from excess federal earnings. The General~~
 197 ~~Appropriations Act shall include any funds appropriated to for~~
 198 ~~this purpose in a lump sum in the~~ department. Prior to the
 199 release of such funds, the department shall submit a detailed
 200 operational plan, which must identify the sources of specific
 201 funds to be used and the reasons justifying their use. The
 202 release of these funds shall be subject to the notice and review
 203 provisions of s. 216.177 but shall not require the approval of
 204 the Legislative Budget Commission.

205 1. Such Administered Funds Program, which funds shall
 206 constitute partial security for lead agency contract performance
 207 and shall be used. The department shall use this appropriation
 208 to offset the need for a performance bond ~~for that year after a~~
 209 ~~comparison of risk to the funds available. In no event shall~~
 210 ~~this performance bond exceed 2.5 percent of the annual contract~~
 211 ~~value.~~

212 2. The department may separately require a bond to
 213 mitigate the financial consequences of potential acts of
 214 malfeasance, misfeasance, or criminal violations by the
 215 provider. ~~Prior to the release of any funds in the lump sum, the~~
 216 ~~department shall submit a detailed operational plan, which must~~
 217 ~~identify the sources of specific trust funds to be used. The~~

HB 723

2004
CS

218 ~~release of the trust fund shall be subject to the notice and~~
 219 ~~review provisions of s. 216.177. However, the release shall not~~
 220 ~~require approval of the Legislative Budget Commission.~~

221 (8) Notwithstanding the provisions of s. 215.425, all
 222 documented federal funds earned for the current fiscal year by
 223 the department and community-based agencies which exceed the
 224 amount appropriated by the Legislature shall be distributed to
 225 all entities that contributed to the excess earnings based on a
 226 schedule and methodology developed by the department and
 227 approved by the Executive Office of the Governor. Distribution
 228 shall be pro rata based on total earnings and shall be made only
 229 to those entities that contributed to excess earnings. Excess
 230 earnings of community-based agencies shall be used only in the
 231 service district in which they were earned. Additional state
 232 funds appropriated by the Legislature for community-based
 233 agencies or made available pursuant to the budgetary amendment
 234 process described in s. 216.177 shall be transferred to the
 235 community-based agencies. The department shall amend a
 236 community-based agency's contract to permit expenditure of the
 237 funds. ~~The distribution program applies only to entities that~~
 238 ~~were under privatization contracts as of July 1, 2002.~~

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

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