

CHAMBER ACTION

1 The Committee on Appropriations recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to foster care services; amending s.
7 20.19, F.S.; prohibiting certain members of a community
8 alliance from receiving funds from the Department of
9 Children and Family Services or a community-based care
10 lead agency; amending s. 409.1671, F.S.; providing
11 additional requirements for an eligible lead community-
12 based provider to compete for a privatization project;
13 requiring contracts with eligible lead community-based
14 providers to include certain standards; revising
15 requirements for the department's quality assurance
16 program for privatized services; directing the Florida
17 Coalition for Children, Inc., in consultation with the
18 department, to develop a plan for a statewide risk pool
19 for eligible lead community-based providers, their
20 subcontractors, and certain providers that provide foster
21 care and related services under contract with the
22 department; deleting a requirement that the department
23 develop a proposal; specifying the requirements of the

24 | plan; extending a plan submission deadline; revising the
 25 | process for plan approval; directing the department to
 26 | issue an interest-free loan upon approval of the plan;
 27 | modifying the purposes of the community-based care risk
 28 | pool; revising the purposes for which funding may be
 29 | recommended to the Legislature; authorizing the risk pool
 30 | to invest funds and retain interest; providing for
 31 | payments upon a determination of insolvency; prohibiting
 32 | payment of dividends to the risk pool members until
 33 | repayment of the loan issued by the department and until
 34 | the risk pool is actuarially sound and solvent; deleting a
 35 | requirement for a performance bond; providing for the risk
 36 | pool to be managed by the Florida Coalition for Children,
 37 | Inc., or its designated contractor; specifying the manner
 38 | in which nonmember entities may be authorized to contract
 39 | with the department; authorizing the department to require
 40 | a bond; providing an exemption from state travel policies
 41 | for lead community-based providers and their
 42 | subcontractors; providing an effective date.

43 |
 44 | Be It Enacted by the Legislature of the State of Florida:
 45 |

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

48 | 20.19 Department of Children and Family Services.--There
 49 | is created a Department of Children and Family Services.

50 | (6) COMMUNITY ALLIANCES.--

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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

65 2. Needs assessment and establishment of community
66 priorities for service delivery.

67 3. Determining community outcome goals to supplement
68 state-required outcomes.

69 4. Serving as a catalyst for community resource
70 development.

71 5. Providing for community education and advocacy on
72 issues related to delivery of services.

73 6. Promoting prevention and early intervention services.

74 (c) The department shall ensure, to the greatest extent
75 possible, that the formation of each community alliance builds
76 on the strengths of the existing community human services
77 infrastructure.

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

- 80 1. The district administrator.
- 81 2. A representative from county government.
- 82 3. A representative from the school district.
- 83 4. A representative from the county United Way.
- 84 5. A representative from the county sheriff's office.
- 85 6. A representative from the circuit court corresponding
86 to the county.
- 87 7. A representative from the county children's board, if
88 one exists.

89 (e) At any time after the initial meeting of the community
90 alliance, the community alliance shall adopt bylaws and may
91 increase the membership of the alliance to include the state
92 attorney for the judicial circuit in which the community
93 alliance is located, or his or her designee, the public defender
94 for the judicial circuit in which the community alliance is
95 located, or his or her designee, and other individuals and
96 organizations who represent funding organizations, are community
97 leaders, have knowledge of community-based service issues, or
98 otherwise represent perspectives that will enable them to
99 accomplish the duties listed in paragraph (b), if, in the
100 judgment of the alliance, such change is necessary to adequately
101 represent the diversity of the population within the community
102 alliance service districts.

103 (f) A member of the community alliance, other than a
104 member specified in paragraph (d), may not receive payment for

105 contractual services from the department or a community-based
 106 care lead agency.

107 (g)~~(f)~~ Members of the community alliances shall serve
 108 without compensation, but are entitled to receive reimbursement
 109 for per diem and travel expenses, as provided in s. 112.061.
 110 Payment may also be authorized for preapproved child care
 111 expenses or lost wages for members who are consumers of the
 112 department's services and for preapproved child care expenses
 113 for other members who demonstrate hardship.

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

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

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

125 (k)~~(j)~~ All alliance meetings are open to the public
 126 pursuant to s. 286.011 and the public records provision of s.
 127 119.07(1).

128 Section 2. Paragraph (e) of subsection (1), paragraph (a)
 129 of subsection (4), and subsections (7) and (8) of section
 130 409.1671, Florida Statutes, as amended by section 27 of chapter
 131 2003-399, Laws of Florida, are amended, paragraph (e) is added

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132 to subsection (3) of said section, and subsection (10) is added
133 to said section, to read:

134 409.1671 Foster care and related services;
135 privatization.--

136 (1)

137 (e) As used in this section, the term "eligible lead
138 community-based provider" means a single agency with which the
139 department shall contract for the provision of child protective
140 services in a community that is no smaller than a county. The
141 secretary of the department may authorize more than one eligible
142 lead community-based provider within a single county when to do
143 so will result in more effective delivery of foster care and
144 related services. To compete for a privatization project, such
145 agency must have:

146 1. The ability to coordinate, integrate, and manage all
147 child protective services in the designated community in
148 cooperation with child protective investigations.

149 2. The ability to ensure continuity of care from entry to
150 exit for all children referred from the protective investigation
151 and court systems.

152 3. The ability to provide directly, or contract for
153 through a local network of providers, all necessary child
154 protective services. Such agency should directly provide no more
155 than 35 percent of all child protective services provided.

156 4. The willingness to accept accountability for meeting
157 the outcomes and performance standards related to child
158 protective services established by the Legislature and the
159 Federal Government.

160 5. The capability and the willingness to serve all
161 children referred to it from the protective investigation and
162 court systems, regardless of the level of funding allocated to
163 the community by the state, provided all related funding is
164 transferred.

165 6. The willingness to ensure that each individual who
166 provides child protective services completes the training
167 required of child protective service workers by the Department
168 of Children and Family Services.

169 7. The ability to maintain eligibility to receive all
170 federal child welfare funds, including Title IV-E and IV-A
171 funds, currently being used by the Department of Children and
172 Family Services.

173 8. Written agreements with Healthy Families Florida lead
174 entities in their community, pursuant to s. 409.153, to promote
175 cooperative planning for the provision of prevention and
176 intervention services.

177 9. A board of directors, of which at least 51 percent of
178 the membership is comprised of persons residing in this state.
179 Of the state residents, at least 51 percent must also reside
180 within the service area of the lead community-based provider.

181 (3)

182 (e) Each contract with an eligible lead community-based
183 provider must include all performance outcome measures that are
184 established by the Legislature and that are under the control of
185 the lead agency. The standards must be adjusted annually by
186 contract amendment to enable the department to meet the
187 legislatively established statewide standards.

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188 (4)(a) The department, in consultation with the community-
 189 based agencies that are undertaking the privatized projects,
 190 shall establish a quality assurance program for privatized
 191 services. The quality assurance program shall be based on
 192 standards established by the Adoption and Safe Families Act as
 193 well as by a national accrediting organization such as the
 194 Council on Accreditation of Services for Families and Children,
 195 Inc. (COA) or CARF--the Rehabilitation Accreditation Commission.
 196 ~~The department may develop a request for proposal for such~~
 197 ~~oversight. This program must be developed and administered at a~~
 198 ~~statewide level. The Legislature intends that the department be~~
 199 ~~permitted to have limited flexibility to use funds for improving~~
 200 ~~quality assurance. To this end, the department may transfer up~~
 201 ~~to 0.125 percent of the total funds from categories used to pay~~
 202 ~~for these contractually provided services, but the total amount~~
 203 ~~of such transferred funds may not exceed \$300,000 in any fiscal~~
 204 ~~year. When necessary, the department may establish, in~~
 205 ~~accordance with s. 216.177, additional positions that will be~~
 206 ~~exclusively devoted to these functions. Any positions required~~
 207 ~~under this paragraph may be established, notwithstanding ss.~~
 208 ~~216.262(1)(a) and 216.351. The department, in consultation with~~
 209 ~~the community-based agencies that are undertaking the privatized~~
 210 ~~projects, shall establish minimum thresholds for each component~~
 211 ~~of service, consistent with standards established by the~~
 212 ~~Legislature and the Federal Government. Each program operated~~
 213 ~~under contract with a community-based agency must be evaluated~~
 214 ~~annually by the department. The department shall, to the extent~~
 215 ~~possible, use independent financial audits provided by the~~

216 community-based care agency to eliminate or reduce the ongoing
 217 contract and administrative reviews conducted by the department.
 218 The department may suggest additional items to be included in
 219 such independent financial audits to meet the department's
 220 needs. Should the department determine that such independent
 221 financial audits are inadequate, then other audits, as
 222 necessary, may be conducted by the department. Nothing herein
 223 shall abrogate the requirements of s. 215.97. The department
 224 shall submit an annual report regarding quality performance,
 225 outcome measure attainment, and cost efficiency to the President
 226 of the Senate, the Speaker of the House of Representatives, the
 227 minority leader of each house of the Legislature, and the
 228 Governor no later than January 31 of each year for each project
 229 in operation during the preceding fiscal year.

230 (7) The Florida Coalition for Children, Inc., in
 231 consultation with the department, shall develop a plan based on
 232 an independent actuarial study regarding the long-term use and
 233 structure of a statewide community-based care risk pool for the
 234 protection of eligible lead community-based providers, their
 235 subcontractors, and providers of other social services who
 236 contract directly with the department. The plan must also
 237 outline strategies to maximize federal earnings as they relate
 238 to the community-based care risk pool. At a minimum, the plan
 239 must allow for the use of federal earnings received from child
 240 welfare programs to be allocated to the community-based care
 241 risk pool by the department, which earnings are determined by
 242 the department to be in excess of the amount appropriated in the
 243 General Appropriations Act. The plan must specify the necessary

244 steps to ensure the financial integrity and industry-standard
 245 risk management practices of the community-based care risk pool
 246 and the continued availability of funding from federal, state,
 247 and local sources. The plan must also include recommendations
 248 that permit the program to be available to entities of the
 249 department providing child welfare services until full
 250 conversion to community-based care takes place. The final plan
 251 shall be submitted to the department and the Office of Insurance
 252 Regulation and then to the Executive Office of the Governor and
 253 the Legislative Budget Commission for formal adoption before
 254 January 1, 2005. Upon approval of the plan by all parties, the
 255 department shall issue an interest-free loan that is secured by
 256 the cumulative contractual revenue of the community-based care
 257 risk pool membership, and the amount of the loan shall equal the
 258 amount appropriated by the Legislature for this purpose. The
 259 plan shall provide for a governance structure that assures the
 260 department the ability to oversee the operation of the
 261 community-based care risk pool at least until this loan is
 262 repaid in full.

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

265 1. Significant changes in the number or composition of
 266 clients eligible to receive services.

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

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

271 4. Proposals to participate in optional Medicaid services
 272 or other federal grant opportunities.

273 5. Appropriate incentive structures.

274 6. Continuity of care in the event of failure,
 275 discontinuance of service, or financial misconduct by a lead
 276 agency.

277 7. Payment for time-limited technical assistance and
 278 consultation to lead agencies in the event of serious
 279 performance or management problems.

280 8. Payment for meeting all traditional and nontraditional
 281 insurance needs of eligible members.

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

283 (b) After approval of the plan in the 2004-2005 fiscal
 284 year and annually thereafter, the department may also request in
 285 its annual legislative budget request, and the Governor may
 286 recommend, that the funding necessary to carry out the purposes
 287 described in paragraph (a) be appropriated to the department.
 288 Subsequent funding of the community-based care risk pool shall
 289 be supported by premiums assessed to members of the community-
 290 based care risk pool on a recurring basis. The community-based
 291 care risk pool may invest and retain interest earned on these
 292 funds. In addition, the department may transfer funds to the
 293 community-based care risk pool as available in order to ensure
 294 an adequate funding level if the fund is declared to be
 295 insolvent and approval is granted by the Legislative Budget
 296 Commission. Such payments for insolvency shall be made only
 297 after a determination is made by the department or its actuary
 298 that all members of the community-based care risk pool are

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299 current in their payments of premiums and that assessments have
300 been made at an actuarially sound level. Such payments by
301 members of the community-based care risk pool may not exceed
302 reasonable industry standards, as determined by the actuary.
303 Moneys from this fund may be used to match available federal
304 dollars. Dividends or other payments, with the exception of
305 legitimate claims, may not be paid to members of the community-
306 based care risk pool until the loan issued by the department is
307 repaid in full. Dividends or other payments, with the exception
308 of legitimate claims and other purposes contained in the
309 approved plan, may not be paid to members of the community-based
310 care risk pool unless, at the time of distribution, the
311 community-based care risk pool is deemed actuarially sound and
312 solvent. Solvency shall be determined by an independent actuary
313 contracted by the department. The Office of Insurance Regulation
314 must approve the determination of solvency by the independent
315 actuary before the department may accept the recommendation of
316 the independent actuary.

317 1. Appropriated funds shall constitute partial security
318 for contract performance by lead agencies and shall be used to
319 offset the need for a performance bond. Subject to the approval
320 of the plan, the community-based care risk pool shall be managed
321 by the Florida Coalition for Children, Inc., or the designated
322 contractors of the Florida Coalition for Children, Inc.
323 Nonmembers of the community-based care risk pool may continue to
324 contract with the department but must provide a letter of credit
325 equal to one-twelfth of the annual contract amount in lieu of
326 membership in the community-based care risk pool.

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327 2. The department may separately require a bond to
328 mitigate the financial consequences of potential acts of
329 malfeasance or misfeasance or criminal violations by the
330 provider. The department, in consultation with existing lead
331 agencies, shall develop a proposal regarding the long-term use
332 and structure of a statewide shared earnings program which
333 addresses the financial risk to eligible lead community-based
334 providers resulting from unanticipated caseload growth or from
335 significant changes in client mixes or services eligible for
336 federal reimbursement. The recommendations in the statewide
337 proposal must also be available to entities of the department
338 until the conversion to community-based care takes place. At a
339 minimum, the proposal must allow for use of federal earnings
340 received from child welfare programs, which earnings are
341 determined by the department to be in excess of the amount
342 appropriated in the General Appropriations Act, to be used for
343 specific purposes. These purposes include, but are not limited
344 to:

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

347 ~~(b) Significant changes in the services that are eligible~~
348 ~~for reimbursement.~~

349 ~~(c) Significant changes in the availability of federal~~
350 ~~funds.~~

351 ~~(d) Shortfalls in state funds available for eligible or~~
352 ~~ineligible services.~~

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

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

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

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

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

361
 362 ~~The department shall further specify the necessary steps to~~
 363 ~~ensure the financial integrity of these dollars and their~~
 364 ~~continued availability on an ongoing basis. The final proposal~~
 365 ~~shall be submitted to the Legislative Budget Commission for~~
 366 ~~formal adoption before December 31, 2002. If the Legislative~~
 367 ~~Budget Commission refuses to concur with the adoption of the~~
 368 ~~proposal, the department shall present its proposal in the form~~
 369 ~~of recommended legislation to the President of the Senate and~~
 370 ~~the Speaker of the House of Representatives before the~~
 371 ~~commencement of the next legislative session. For fiscal year~~
 372 ~~2003-2004 and annually thereafter, the Department of Children~~
 373 ~~and Family Services may request in its legislative budget~~
 374 ~~request, and the Governor may recommend, the funding necessary~~
 375 ~~to carry out paragraph (i) from excess federal earnings. The~~
 376 ~~General Appropriations Act shall include any funds appropriated~~
 377 ~~for this purpose in a lump sum in the Administered Funds~~
 378 ~~Program, which funds constitute partial security for lead agency~~
 379 ~~contract performance. The department shall use this~~
 380 ~~appropriation to offset the need for a performance bond for that~~
 381 ~~year after a comparison of risk to the funds available. In no~~

382 ~~event shall this performance bond exceed 2.5 percent of the~~
 383 ~~annual contract value. The department may separately require a~~
 384 ~~bond to mitigate the financial consequences of potential acts of~~
 385 ~~malfeasance, misfeasance, or criminal violations by the~~
 386 ~~provider. Prior to the release of any funds in the lump sum, the~~
 387 ~~department shall submit a detailed operational plan, which must~~
 388 ~~identify the sources of specific trust funds to be used. The~~
 389 ~~release of the trust fund shall be subject to the notice and~~
 390 ~~review provisions of s. 216.177. However, the release shall not~~
 391 ~~require approval of the Legislative Budget Commission.~~

392 (8) Notwithstanding the provisions of s. 215.425, all
 393 documented federal funds earned for the current fiscal year by
 394 the department and community-based agencies which exceed the
 395 amount appropriated by the Legislature shall be distributed to
 396 all entities that contributed to the excess earnings based on a
 397 schedule and methodology developed by the department and
 398 approved by the Executive Office of the Governor. Distribution
 399 shall be pro rata based on total earnings and shall be made only
 400 to those entities that contributed to excess earnings. Excess
 401 earnings of community-based agencies shall be used only in the
 402 service district in which they were earned. Additional state
 403 funds appropriated by the Legislature for community-based
 404 agencies or made available pursuant to the budgetary amendment
 405 process described in s. 216.177 shall be transferred to the
 406 community-based agencies. The department shall amend a
 407 community-based agency's contract to permit expenditure of the
 408 funds. ~~The distribution program applies only to entities that~~
 409 ~~were under privatization contracts as of July 1, 2002.~~

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

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