

1 A bill to be entitled

2 An act relating to foster care services; amending s.  
3 20.19, F.S.; prohibiting certain members of a community  
4 alliance from receiving funds from the Department of  
5 Children and Family Services or a community-based care  
6 lead agency; amending s. 409.1671, F.S.; providing  
7 additional requirements for an eligible lead community-  
8 based provider to compete for a privatization project;  
9 requiring contracts with eligible lead community-based  
10 providers to include certain standards; revising  
11 requirements for the department's quality assurance  
12 program for privatized services; directing the Florida  
13 Coalition for Children, Inc., in consultation with the  
14 department, to develop a plan for a statewide risk pool  
15 for eligible lead community-based providers, their  
16 subcontractors, and certain providers that provide foster  
17 care and related services under contract with the  
18 department; deleting a requirement that the department  
19 develop a proposal; specifying the requirements of the  
20 plan; extending a plan submission deadline; revising the  
21 process for plan approval; directing the department to  
22 issue an interest-free loan upon approval of the plan;  
23 modifying the purposes of the community-based care risk  
24 pool; revising the purposes for which funding may be  
25 recommended to the Legislature; authorizing the risk pool  
26 to invest funds and retain interest; providing for  
27 payments upon a determination of insolvency; prohibiting  
28 payment of dividends to the risk pool members until

29 repayment of the loan issued by the department and until  
30 the risk pool is actuarially sound and solvent; deleting a  
31 requirement for a performance bond; providing for the risk  
32 pool to be managed by the Florida Coalition for Children,  
33 Inc., or its designated contractor; specifying the manner  
34 in which nonmember entities may be authorized to contract  
35 with the department; authorizing the department to require  
36 a bond; providing an exemption from state travel policies  
37 for lead community-based providers and their  
38 subcontractors; providing an effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Subsection (6) of section 20.19, Florida  
43 Statutes, is amended to read:

44 20.19 Department of Children and Family Services.--There  
45 is created a Department of Children and Family Services.

46 (6) COMMUNITY ALLIANCES.--

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

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

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

61 2. Needs assessment and establishment of community  
62 priorities for service delivery.

63 3. Determining community outcome goals to supplement  
64 state-required outcomes.

65 4. Serving as a catalyst for community resource  
66 development.

67 5. Providing for community education and advocacy on  
68 issues related to delivery of services.

69 6. Promoting prevention and early intervention services.

70 (c) The department shall ensure, to the greatest extent  
71 possible, that the formation of each community alliance builds  
72 on the strengths of the existing community human services  
73 infrastructure.

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

76 1. The district administrator.

77 2. A representative from county government.

78 3. A representative from the school district.

79 4. A representative from the county United Way.

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

81 6. A representative from the circuit court corresponding  
82 to the county.

83 7. A representative from the county children's board, if  
84 one exists.

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

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

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

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

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

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

121        (k)~~(j)~~ All alliance meetings are open to the public  
122 pursuant to s. 286.011 and the public records provision of s.  
123 119.07(1).

124        Section 2. Paragraph (e) of subsection (1), paragraph (a)  
125 of subsection (4), and subsections (7) and (8) of section  
126 409.1671, Florida Statutes, as amended by section 27 of chapter  
127 2003-399, Laws of Florida, are amended, paragraph (e) is added  
128 to subsection (3) of said section, and subsection (10) is added  
129 to said section, to read:

130        409.1671 Foster care and related services;  
131 privatization.--

132        (1)

133        (e) As used in this section, the term "eligible lead  
134 community-based provider" means a single agency with which the  
135 department shall contract for the provision of child protective  
136 services in a community that is no smaller than a county. The  
137 secretary of the department may authorize more than one eligible

138 | lead community-based provider within a single county when to do  
139 | so will result in more effective delivery of foster care and  
140 | related services. To compete for a privatization project, such  
141 | agency must have:

142 |       1. The ability to coordinate, integrate, and manage all  
143 | child protective services in the designated community in  
144 | cooperation with child protective investigations.

145 |       2. The ability to ensure continuity of care from entry to  
146 | exit for all children referred from the protective investigation  
147 | and court systems.

148 |       3. The ability to provide directly, or contract for  
149 | through a local network of providers, all necessary child  
150 | protective services. Such agency should directly provide no more  
151 | than 35 percent of all child protective services provided.

152 |       4. The willingness to accept accountability for meeting  
153 | the outcomes and performance standards related to child  
154 | protective services established by the Legislature and the  
155 | Federal Government.

156 |       5. The capability and the willingness to serve all  
157 | children referred to it from the protective investigation and  
158 | court systems, regardless of the level of funding allocated to  
159 | the community by the state, provided all related funding is  
160 | transferred.

161 |       6. The willingness to ensure that each individual who  
162 | provides child protective services completes the training  
163 | required of child protective service workers by the Department  
164 | of Children and Family Services.

165 7. The ability to maintain eligibility to receive all  
166 federal child welfare funds, including Title IV-E and IV-A  
167 funds, currently being used by the Department of Children and  
168 Family Services.

169 8. Written agreements with Healthy Families Florida lead  
170 entities in their community, pursuant to s. 409.153, to promote  
171 cooperative planning for the provision of prevention and  
172 intervention services.

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

177 (3)

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

184 (4)(a) The department, in consultation with the community-  
185 based agencies that are undertaking the privatized projects,  
186 shall establish a quality assurance program for privatized  
187 services. The quality assurance program shall be based on  
188 standards established by the Adoption and Safe Families Act as  
189 well as by a national accrediting organization such as the  
190 Council on Accreditation of Services for Families and Children,  
191 Inc. (COA) or CARF--the Rehabilitation Accreditation Commission.  
192 ~~The department may develop a request for proposal for such~~

193 ~~oversight. This program must be developed and administered at a~~  
194 ~~statewide level. The Legislature intends that the department be~~  
195 ~~permitted to have limited flexibility to use funds for improving~~  
196 ~~quality assurance. To this end, the department may transfer up~~  
197 ~~to 0.125 percent of the total funds from categories used to pay~~  
198 ~~for these contractually provided services, but the total amount~~  
199 ~~of such transferred funds may not exceed \$300,000 in any fiscal~~  
200 ~~year. When necessary, the department may establish, in~~  
201 ~~accordance with s. 216.177, additional positions that will be~~  
202 ~~exclusively devoted to these functions. Any positions required~~  
203 ~~under this paragraph may be established, notwithstanding ss.~~  
204 ~~216.262(1)(a) and 216.351. The department, in consultation with~~  
205 ~~the community-based agencies that are undertaking the privatized~~  
206 ~~projects, shall establish minimum thresholds for each component~~  
207 ~~of service, consistent with standards established by the~~  
208 ~~Legislature and the Federal Government. Each program operated~~  
209 ~~under contract with a community-based agency must be evaluated~~  
210 ~~annually by the department. The department shall, to the extent~~  
211 ~~possible, use independent financial audits provided by the~~  
212 ~~community-based care agency to eliminate or reduce the ongoing~~  
213 ~~contract and administrative reviews conducted by the department.~~  
214 ~~The department may suggest additional items to be included in~~  
215 ~~such independent financial audits to meet the department's~~  
216 ~~needs. Should the department determine that such independent~~  
217 ~~financial audits are inadequate, then other audits, as~~  
218 ~~necessary, may be conducted by the department. Nothing herein~~  
219 ~~shall abrogate the requirements of s. 215.97. The department~~  
220 ~~shall submit an annual report regarding quality performance,~~



221 outcome measure attainment, and cost efficiency to the President  
222 of the Senate, the Speaker of the House of Representatives, the  
223 minority leader of each house of the Legislature, and the  
224 Governor no later than January 31 of each year for each project  
225 in operation during the preceding fiscal year.

226 (7) The Florida Coalition for Children, Inc., in  
227 consultation with the department, shall develop a plan based on  
228 an independent actuarial study regarding the long-term use and  
229 structure of a statewide community-based care risk pool for the  
230 protection of eligible lead community-based providers, their  
231 subcontractors, and providers of other social services who  
232 contract directly with the department. The plan must also  
233 outline strategies to maximize federal earnings as they relate  
234 to the community-based care risk pool. At a minimum, the plan  
235 must allow for the use of federal earnings received from child  
236 welfare programs to be allocated to the community-based care  
237 risk pool by the department, which earnings are determined by  
238 the department to be in excess of the amount appropriated in the  
239 General Appropriations Act. The plan must specify the necessary  
240 steps to ensure the financial integrity and industry-standard  
241 risk management practices of the community-based care risk pool  
242 and the continued availability of funding from federal, state,  
243 and local sources. The plan must also include recommendations  
244 that permit the program to be available to entities of the  
245 department providing child welfare services until full  
246 conversion to community-based care takes place. The final plan  
247 shall be submitted to the department and the Office of Insurance  
248 Regulation and then to the Executive Office of the Governor and

249 the Legislative Budget Commission for formal adoption before  
250 January 1, 2005. Upon approval of the plan by all parties, the  
251 department shall issue an interest-free loan that is secured by  
252 the cumulative contractual revenue of the community-based care  
253 risk pool membership, and the amount of the loan shall equal the  
254 amount appropriated by the Legislature for this purpose. The  
255 plan shall provide for a governance structure that assures the  
256 department the ability to oversee the operation of the  
257 community-based care risk pool at least until this loan is  
258 repaid in full.

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

261 1. Significant changes in the number or composition of  
262 clients eligible to receive services.

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

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

267 4. Proposals to participate in optional Medicaid services  
268 or other federal grant opportunities.

269 5. Appropriate incentive structures.

270 6. Continuity of care in the event of failure,  
271 discontinuance of service, or financial misconduct by a lead  
272 agency.

273 7. Payment for time-limited technical assistance and  
274 consultation to lead agencies in the event of serious  
275 performance or management problems.

276 8. Payment for meeting all traditional and nontraditional  
277 insurance needs of eligible members.

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

279 (b) After approval of the plan in the 2004-2005 fiscal  
280 year and annually thereafter, the department may also request in  
281 its annual legislative budget request, and the Governor may  
282 recommend, that the funding necessary to carry out the purposes  
283 described in paragraph (a) be appropriated to the department.  
284 Subsequent funding of the community-based care risk pool shall  
285 be supported by premiums assessed to members of the community-  
286 based care risk pool on a recurring basis. The community-based  
287 care risk pool may invest and retain interest earned on these  
288 funds. In addition, the department may transfer funds to the  
289 community-based care risk pool as available in order to ensure  
290 an adequate funding level if the fund is declared to be  
291 insolvent and approval is granted by the Legislative Budget  
292 Commission. Such payments for insolvency shall be made only  
293 after a determination is made by the department or its actuary  
294 that all members of the community-based care risk pool are  
295 current in their payments of premiums and that assessments have  
296 been made at an actuarially sound level. Such payments by  
297 members of the community-based care risk pool may not exceed  
298 reasonable industry standards, as determined by the actuary.  
299 Moneys from this fund may be used to match available federal  
300 dollars. Dividends or other payments, with the exception of  
301 legitimate claims, may not be paid to members of the community-  
302 based care risk pool until the loan issued by the department is  
303 repaid in full. Dividends or other payments, with the exception

304 of legitimate claims and other purposes contained in the  
305 approved plan, may not be paid to members of the community-based  
306 care risk pool unless, at the time of distribution, the  
307 community-based care risk pool is deemed actuarially sound and  
308 solvent. Solvency shall be determined by an independent actuary  
309 contracted by the department. The Office of Insurance Regulation  
310 must approve the determination of solvency by the independent  
311 actuary before the department may accept the recommendation of  
312 the independent actuary.

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

323 2. The department may separately require a bond to  
324 mitigate the financial consequences of potential acts of  
325 malfesance or misfesance or criminal violations by the  
326 provider. The department, in consultation with existing lead  
327 agencies, shall develop a proposal regarding the long-term use  
328 and structure of a statewide shared earnings program which  
329 addresses the financial risk to eligible lead community-based  
330 providers resulting from unanticipated caseload growth or from  
331 significant changes in client mixes or services eligible for

332 ~~federal reimbursement. The recommendations in the statewide~~  
333 ~~proposal must also be available to entities of the department~~  
334 ~~until the conversion to community-based care takes place. At a~~  
335 ~~minimum, the proposal must allow for use of federal earnings~~  
336 ~~received from child welfare programs, which earnings are~~  
337 ~~determined by the department to be in excess of the amount~~  
338 ~~appropriated in the General Appropriations Act, to be used for~~  
339 ~~specific purposes. These purposes include, but are not limited~~  
340 ~~to:~~

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

343 ~~(b) Significant changes in the services that are eligible~~  
344 ~~for reimbursement.~~

345 ~~(c) Significant changes in the availability of federal~~  
346 ~~funds.~~

347 ~~(d) Shortfalls in state funds available for eligible or~~  
348 ~~ineligible services.~~

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

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

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

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

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

357

358 ~~The department shall further specify the necessary steps to~~  
359 ~~ensure the financial integrity of these dollars and their~~

360 ~~continued availability on an ongoing basis. The final proposal~~  
361 ~~shall be submitted to the Legislative Budget Commission for~~  
362 ~~formal adoption before December 31, 2002. If the Legislative~~  
363 ~~Budget Commission refuses to concur with the adoption of the~~  
364 ~~proposal, the department shall present its proposal in the form~~  
365 ~~of recommended legislation to the President of the Senate and~~  
366 ~~the Speaker of the House of Representatives before the~~  
367 ~~commencement of the next legislative session. For fiscal year~~  
368 ~~2003-2004 and annually thereafter, the Department of Children~~  
369 ~~and Family Services may request in its legislative budget~~  
370 ~~request, and the Governor may recommend, the funding necessary~~  
371 ~~to carry out paragraph (i) from excess federal earnings. The~~  
372 ~~General Appropriations Act shall include any funds appropriated~~  
373 ~~for this purpose in a lump sum in the Administered Funds~~  
374 ~~Program, which funds constitute partial security for lead agency~~  
375 ~~contract performance. The department shall use this~~  
376 ~~appropriation to offset the need for a performance bond for that~~  
377 ~~year after a comparison of risk to the funds available. In no~~  
378 ~~event shall this performance bond exceed 2.5 percent of the~~  
379 ~~annual contract value. The department may separately require a~~  
380 ~~bond to mitigate the financial consequences of potential acts of~~  
381 ~~malfeasance, misfeasance, or criminal violations by the~~  
382 ~~provider. Prior to the release of any funds in the lump sum, the~~  
383 ~~department shall submit a detailed operational plan, which must~~  
384 ~~identify the sources of specific trust funds to be used. The~~  
385 ~~release of the trust fund shall be subject to the notice and~~  
386 ~~review provisions of s. 216.177. However, the release shall not~~  
387 ~~require approval of the Legislative Budget Commission.~~

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

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

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