

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

29 Coalition for Children, Inc., or its designated contractor;  
 30 specifying the manner by which nonmember entities may be  
 31 authorized to contract with the department; providing an  
 32 exemption from state travel policies for community-based  
 33 providers and subcontractors; creating s. 39.0016, F.S.,  
 34 relating to the education of abused, neglected, and abandoned  
 35 children; creating definitions; providing for interpretation of  
 36 the act; requiring an agreement between the Department of  
 37 Children and Family Services and the Department of Education;  
 38 requiring agreements between the Department of Children and  
 39 Family Services and district school boards or other local  
 40 educational entities; specifying provisions of such agreements;  
 41 requiring access to certain information; requiring education  
 42 training components; amending s. 1002.22, F.S., relating to  
 43 access to student records; authorizing the release of records to  
 44 the Department of Children and Family Services or a community-  
 45 based care lead agency; providing effective dates.

46  
 47 Be It Enacted by the Legislature of the State of Florida:

48  
 49 Section 1. Subsection (6) of section 20.19, Florida  
 50 Statutes, is amended to read:

51 20.19 Department of Children and Family Services.--There  
 52 is created a Department of Children and Family Services.

53 (6) COMMUNITY ALLIANCES.--

54 (a) The department shall, in consultation with local  
 55 communities, establish a community alliance of the stakeholders,  
 56 community leaders, client representatives and funders of human

57 | services in each county to provide a focal point for community  
58 | participation and governance of community-based services. An  
59 | alliance may cover more than one county when such arrangement is  
60 | determined to provide for more effective representation. The  
61 | community alliance shall represent the diversity of the  
62 | community.

63 | (b) The duties of the community alliance shall include,  
64 | but not necessarily be limited to:

65 | 1. Joint planning for resource utilization in the  
66 | community, including resources appropriated to the department  
67 | and any funds that local funding sources choose to provide.

68 | 2. Needs assessment and establishment of community  
69 | priorities for service delivery.

70 | 3. Determining community outcome goals to supplement  
71 | state-required outcomes.

72 | 4. Serving as a catalyst for community resource  
73 | development.

74 | 5. Providing for community education and advocacy on  
75 | issues related to delivery of services.

76 | 6. Promoting prevention and early intervention services.

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

81 | (d) The initial membership of the community alliance in a  
82 | county shall be composed of the following:

83 | 1. The district administrator.

84 | 2. A representative from county government.

- 85 |           3. A representative from the school district.
- 86 |           4. A representative from the county United Way.
- 87 |           5. A representative from the county sheriff's office.
- 88 |           6. A representative from the circuit court corresponding
- 89 | to the county.
- 90 |           7. A representative from the county children's board, if
- 91 | one exists.

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

106 |           (f) A member of the community alliance, other than a  
 107 | member specified in paragraph (d), may not receive payment for  
 108 | contractual services from the department or a community-based  
 109 | care lead agency.

110 |           (g)~~(f)~~ Members of the community alliances shall serve  
 111 | without compensation, but are entitled to receive reimbursement  
 112 | for per diem and travel expenses, as provided in s. 112.061.

113 Payment may also be authorized for preapproved child care  
 114 expenses or lost wages for members who are consumers of the  
 115 department's services and for preapproved child care expenses  
 116 for other members who demonstrate hardship.

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

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

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

128 (k)~~(j)~~ All alliance meetings are open to the public  
 129 pursuant to s. 286.011 and the public records provision of s.  
 130 119.07(1).

131 Section 2. Paragraph (e) of subsection (1) and subsections  
 132 (4), (7), and (8) of section 409.1671, Florida Statutes, as  
 133 amended by section 27 of chapter 2003-399, Laws of Florida, are  
 134 amended, paragraph (e) is added to subsection (3) of that  
 135 section, and subsection (10) is added to that section, to read:

136 409.1671 Foster care and related services; privatization.-  
 137 -

138 (1)

139 (e) As used in this section, the term "eligible lead  
 140 community-based provider" means a single agency with which the

141 department shall contract for the provision of child protective  
142 services in a community that is no smaller than a county. The  
143 secretary of the department may authorize more than one eligible  
144 lead community-based provider within a single county when to do  
145 so will result in more effective delivery of foster care and  
146 related services. To compete for a privatization project, such  
147 agency must have:

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

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

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

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

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

167 6. The willingness to ensure that each individual who  
168 provides child protective services completes the training

169 required of child protective service workers by the Department  
170 of Children and Family Services.

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

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

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

183 (3)

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

190 (4)(a) The department, in consultation with the community-  
191 based agencies that are undertaking the privatized projects,  
192 shall establish a quality assurance program for privatized  
193 services. The quality assurance program shall be based on  
194 standards established by the Adoption and Safe Families Act as  
195 well as by a national accrediting organization such as the  
196 Council on Accreditation of Services for Families and Children,

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



225 shall abrogate the requirements of s. 215.97. The department  
226 shall submit an annual report regarding quality performance,  
227 outcome measure attainment, and cost efficiency to the President  
228 of the Senate, the Speaker of the House of Representatives, the  
229 minority leader of each house of the Legislature, and the  
230 Governor no later than January 31 of each year for each project  
231 in operation during the preceding fiscal year.

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

235 (7) The Florida Coalition for Children, Inc., in  
236 consultation with the department, shall develop a plan based on  
237 an independent actuarial study regarding the long-term use and  
238 structure of a statewide community-based care risk pool for the  
239 protection of eligible lead community-based providers, their  
240 subcontractors, and providers of other social services who  
241 contract directly with the department. The plan must also  
242 outline strategies to maximize federal earnings as they relate  
243 to the community-based care risk pool. At a minimum, the plan  
244 must allow for the use of federal earnings received from child  
245 welfare programs to be allocated to the community-based care  
246 risk pool by the department, which earnings are determined by  
247 the department to be in excess of the amount appropriated in the  
248 General Appropriations Act. The plan must specify the necessary  
249 steps to ensure the financial integrity and industry-standard  
250 risk management practices of the community-based care risk pool  
251 and the continued availability of funding from federal, state,  
252 and local sources. The plan must also include recommendations

253 that permit the program to be available to entities of the  
254 department providing child welfare services until full  
255 conversion to community-based care takes place. The final plan  
256 shall be submitted to the department and then to the Executive  
257 Office of the Governor and the Legislative Budget Commission for  
258 formal adoption before January 1, 2005. Upon approval of the  
259 plan by all parties, the department shall issue an interest-free  
260 loan that is secured by the cumulative contractual revenue of  
261 the community-based care risk pool membership, and the amount of  
262 the loan shall equal the amount appropriated by the Legislature  
263 for this purpose. The plan shall provide for a governance  
264 structure that assures the department the ability to oversee the  
265 operation of the community-based care risk pool at least until  
266 this loan is repaid in full.

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

269 1. Significant changes in the number or composition of  
270 clients eligible to receive services.

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

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

275 4. Proposals to participate in optional Medicaid services  
276 or other federal grant opportunities.

277 5. Appropriate incentive structures.

278 6. Continuity of care in the event of failure,  
279 discontinuance of service, or financial misconduct by a lead  
280 agency.

281        7. Payment for time-limited technical assistance and  
 282 consultation to lead agencies in the event of serious  
 283 performance or management problems.

284        8. Payment for meeting all traditional and nontraditional  
 285 insurance needs of eligible members.

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

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

309 be paid to members of the community-based care risk pool until  
310 the loan issued by the department is repaid in full. Dividends  
311 or other payments, with the exception of legitimate claims and  
312 other purposes contained in the approved plan, may not be paid  
313 to members of the community-based care risk pool unless, at the  
314 time of distribution, the community-based care risk pool is  
315 deemed actuarially sound and solvent. Solvency shall be  
316 determined by an independent actuary contracted by the  
317 department. The plan shall be developed in consultation with the  
318 Office of Insurance Regulation.

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

329 2. The department may separately require a bond to  
330 mitigate the financial consequences of potential acts of  
331 malfeasance, misfeasance, or criminal violations by the  
332 provider.

333 ~~(7) The department, in consultation with existing lead~~  
334 ~~agencies, shall develop a proposal regarding the long-term use~~  
335 ~~and structure of a statewide shared earnings program which~~  
336 ~~addresses the financial risk to eligible lead community-based~~

337 ~~providers resulting from unanticipated caseload growth or from~~  
 338 ~~significant changes in client mixes or services eligible for~~  
 339 ~~federal reimbursement. The recommendations in the statewide~~  
 340 ~~proposal must also be available to entities of the department~~  
 341 ~~until the conversion to community-based care takes place. At a~~  
 342 ~~minimum, the proposal must allow for use of federal earnings~~  
 343 ~~received from child welfare programs, which earnings are~~  
 344 ~~determined by the department to be in excess of the amount~~  
 345 ~~appropriated in the General Appropriations Act, to be used for~~  
 346 ~~specific purposes. These purposes include, but are not limited~~  
 347 ~~to:~~

- 348 ~~(a) Significant changes in the number or composition of~~  
 349 ~~clients eligible to receive services.~~
- 350 ~~(b) Significant changes in the services that are eligible~~  
 351 ~~for reimbursement.~~
- 352 ~~(c) Significant changes in the availability of federal~~  
 353 ~~funds.~~
- 354 ~~(d) Shortfalls in state funds available for eligible or~~  
 355 ~~ineligible services.~~
- 356 ~~(e) Significant changes in the mix of available funds.~~
- 357 ~~(f) Scheduled or unanticipated, but necessary, advances to~~  
 358 ~~providers or other cash-flow issues.~~
- 359 ~~(g) Proposals to participate in optional Medicaid services~~  
 360 ~~or other federal grant opportunities.~~
- 361 ~~(h) Appropriate incentive structures.~~
- 362 ~~(i) Continuity of care in the event of lead agency~~  
 363 ~~failure, discontinuance of service, or financial misconduct.~~

364

365 | ~~The department shall further specify the necessary steps to~~  
366 | ~~ensure the financial integrity of these dollars and their~~  
367 | ~~continued availability on an ongoing basis. The final proposal~~  
368 | ~~shall be submitted to the Legislative Budget Commission for~~  
369 | ~~formal adoption before December 31, 2002. If the Legislative~~  
370 | ~~Budget Commission refuses to concur with the adoption of the~~  
371 | ~~proposal, the department shall present its proposal in the form~~  
372 | ~~of recommended legislation to the President of the Senate and~~  
373 | ~~the Speaker of the House of Representatives before the~~  
374 | ~~commencement of the next legislative session. For fiscal year~~  
375 | ~~2003-2004 and annually thereafter, the Department of Children~~  
376 | ~~and Family Services may request in its legislative budget~~  
377 | ~~request, and the Governor may recommend, the funding necessary~~  
378 | ~~to carry out paragraph (i) from excess federal earnings. The~~  
379 | ~~General Appropriations Act shall include any funds appropriated~~  
380 | ~~for this purpose in a lump sum in the Administered Funds~~  
381 | ~~Program, which funds constitute partial security for lead agency~~  
382 | ~~contract performance. The department shall use this~~  
383 | ~~appropriation to offset the need for a performance bond for that~~  
384 | ~~year after a comparison of risk to the funds available. In no~~  
385 | ~~event shall this performance bond exceed 2.5 percent of the~~  
386 | ~~annual contract value. The department may separately require a~~  
387 | ~~bond to mitigate the financial consequences of potential acts of~~  
388 | ~~malfeasance, misfeasance, or criminal violations by the~~  
389 | ~~provider. Prior to the release of any funds in the lump sum, the~~  
390 | ~~department shall submit a detailed operational plan, which must~~  
391 | ~~identify the sources of specific trust funds to be used. The~~  
392 | ~~release of the trust fund shall be subject to the notice and~~

393 ~~review provisions of s. 216.177. However, the release shall not~~  
394 ~~require approval of the Legislative Budget Commission.~~

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

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

417 Section 3. Section 39.0016, Florida Statutes, is created  
418 to read:

419 39.0016 Education of abused, neglected, and abandoned  
420 children.--

421           (1) As used in this section, the term:  
 422           (a) "Children known to the department" means children who  
 423 are found to be dependent or children in shelter care.  
 424           (b) "Department" means the Department of Children and  
 425 Family Services or a community-based care lead agency acting on  
 426 behalf of the Department of Children and Family Services, as  
 427 appropriate.  
 428           (2) The provisions of this section establish goals and not  
 429 rights. This section does not require the delivery of any  
 430 particular service or level of service in excess of existing  
 431 appropriations. A person may not maintain a cause of action  
 432 against the state or any of its subdivisions, agencies,  
 433 contractors, subcontractors, or agents based upon this section  
 434 becoming law or failure by the Legislature to provide adequate  
 435 funding for the achievement of these goals. This section does  
 436 not require the expenditure of funds to meet the goals  
 437 established in this section except funds specifically  
 438 appropriated for such purpose.  
 439           (3) The department shall enter into an agreement with the  
 440 Department of Education regarding the education and related care  
 441 of children known to the department. Such agreement shall be  
 442 designed to provide educational access to children known to the  
 443 department for the purpose of facilitating the delivery of  
 444 services or programs to children known to the department. The  
 445 agreement shall avoid duplication of services or programs and  
 446 shall provide for combining resources to maximize the  
 447 availability or delivery of services or programs.



448       (4) The department shall enter into agreements with  
449 district school boards or other local educational entities  
450 regarding education and related services for children known to  
451 the department who are of school age and children known to the  
452 department who are younger than school age but who would  
453 otherwise qualify for services from the district school board.  
454 Such agreements shall include, but are not limited to:

455       (a) A requirement that the department shall:

456       1. Enroll children known to the department in school. The  
457 agreement shall provide for continuing the enrollment of a child  
458 known to the department at the same school, if possible, with  
459 the goal of avoiding disruption of education.

460       2. Notify the school and school district in which a child  
461 known to the department is enrolled of the name and phone number  
462 of the child known to the department caregiver and caseworker  
463 for child safety purposes.

464       3. Establish a protocol for the department to share  
465 information about a child known to the department with the  
466 school district, consistent with the Family Educational Rights  
467 and Privacy Act, since the sharing of information will assist  
468 each agency in obtaining education and related services for the  
469 benefit of the child.

470       4. Notify the school district of the department's case  
471 planning for a child known to the department, both at the time  
472 of plan development and plan review. Within the plan development  
473 or review process, the school district may provide information  
474 regarding the child known to the department if the school  
475 district deems it desirable and appropriate.

- 476        (b) A requirement that the district school board shall:  
477        1. Provide the department with a general listing of the  
478 services and information available from the district school  
479 board, including, but not limited to, the current Sunshine State  
480 Standards, the Surrogate Parent Training Manual, and other  
481 resources accessible through the Department of Education or  
482 local school districts to facilitate educational access for a  
483 child known to the department.
- 484        2. Identify all educational and other services provided by  
485 the school and school district which the school district  
486 believes are reasonably necessary to meet the educational needs  
487 of a child known to the department.
- 488        3. Determine whether transportation is available for a  
489 child known to the department when such transportation will  
490 avoid a change in school assignment due to a change in  
491 residential placement. Recognizing that continued enrollment in  
492 the same school throughout the time the child known to the  
493 department is in out-of-home care is preferable unless  
494 enrollment in the same school would be unsafe or otherwise  
495 impractical, the department, the district school board, and the  
496 Department of Education shall assess the availability of  
497 federal, charitable, or grant funding for such transportation.
- 498        4. Provide individualized student intervention or an  
499 individual educational plan when a determination has been made  
500 through legally appropriate criteria that intervention services  
501 are required. The intervention or individual educational plan  
502 must include strategies to enable the child known to the  
503 department to maximize the attainment of educational goals.

504        (c) A requirement that the department and the district  
505 school board shall cooperate in accessing the services and  
506 supports needed for a child known to the department who has or  
507 is suspected of having a disability to receive an appropriate  
508 education consistent with the Individuals with Disabilities  
509 Education Act and state implementing laws, rules, and  
510 assurances. Coordination of services for a child known to the  
511 department who has or is suspected of having a disability may  
512 include:

513            1. Referral for screening.

514            2. Sharing of evaluations between the school district and  
515 the department where appropriate.

516            3. Provision of education and related services appropriate  
517 for the needs and abilities of the child known to the  
518 department.

519            4. Coordination of services and plans between the school  
520 and the residential setting to avoid duplication or conflicting  
521 service plans.

522            5. Appointment of a surrogate parent, consistent with the  
523 Individuals with Disabilities Education Act, for educational  
524 purposes for a child known to the department who qualifies as  
525 soon as the child is determined to be dependent and without a  
526 parent to act for the child. The surrogate parent shall be  
527 appointed by the school district without regard to where the  
528 child known to the department is placed so that one surrogate  
529 parent can follow the education of the child known to the  
530 department during his or her entire time in state custody.

531       6. For each child known to the department 14 years of age  
 532 and older, transition planning by the department and all  
 533 providers, including the department's independent living program  
 534 staff, to meet the requirements of the local school district for  
 535 educational purposes.

536       (5) The department shall incorporate an education  
 537 component into all training programs of the department regarding  
 538 children known to the department. Such training shall be  
 539 coordinated with the Department of Education and the local  
 540 school districts. The department shall offer opportunities for  
 541 education personnel to participate in such training. Such  
 542 coordination shall include, but not be limited to, notice of  
 543 training sessions, opportunities to purchase training materials,  
 544 proposals to avoid duplication of services by offering joint  
 545 training, and incorporation of materials available from the  
 546 Department of Education and local school districts into the  
 547 department training when appropriate. The department training  
 548 components shall include:

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

552       (b) Training for parents in cases in which reunification  
 553 is the goal, or for preadoptive parents when adoption is the  
 554 goal, so that such parents learn how to access the services the  
 555 child known to the department needs and the importance of their  
 556 involvement in the education of the child known to the  
 557 department.

558        (c) Training for caseworkers and foster parents to include  
 559 information on the right of the child known to the department to  
 560 an education, the role of an education in the development and  
 561 adjustment of a child known to the department, the proper ways  
 562 to access education and related services for the child known to  
 563 the department, and the importance and strategies for parental  
 564 involvement in education for the success of the child known to  
 565 the department.

566        (d) Training of caseworkers regarding the services and  
 567 information available through the Department of Education and  
 568 local school districts, including, but not limited to, the  
 569 current Sunshine State Standards, the Surrogate Parent Training  
 570 Manual, and other resources accessible through the Department of  
 571 Education or local school districts to facilitate educational  
 572 access for a child known to the department.

573        Section 4. Paragraph (d) of subsection (3) of section  
 574 1002.22, Florida Statutes, is amended to read:

575        1002.22 Student records and reports; rights of parents and  
 576 students; notification; penalty.--

577        (3) RIGHTS OF PARENT OR STUDENT.--The parent of any  
 578 student who attends or has attended any public school, area  
 579 technical center, or public postsecondary educational  
 580 institution shall have the following rights with respect to any  
 581 records or reports created, maintained, and used by any public  
 582 educational institution in the state. However, whenever a  
 583 student has attained 18 years of age, or is attending a  
 584 postsecondary educational institution, the permission or consent  
 585 required of, and the rights accorded to, the parents of the

586 student shall thereafter be required of and accorded to the  
587 student only, unless the student is a dependent student of such  
588 parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal  
589 Revenue Code of 1954). The State Board of Education shall adopt  
590 rules whereby parents or students may exercise these rights:

591 (d) Right of privacy.--Every student shall have a right of  
592 privacy with respect to the educational records kept on him or  
593 her. Personally identifiable records or reports of a student,  
594 and any personal information contained therein, are confidential  
595 and exempt from the provisions of s. 119.07(1). A ~~No~~ state or  
596 local educational agency, board, public school, technical  
597 center, or public postsecondary educational institution may not  
598 ~~shall~~ permit the release of such records, reports, or  
599 information without the written consent of the student's parent,  
600 or of the student himself or herself if he or she is qualified  
601 as provided in this subsection, to any individual, agency, or  
602 organization. However, personally identifiable records or  
603 reports of a student may be released to the following persons or  
604 organizations without the consent of the student or the  
605 student's parent:

606 1. Officials of schools, school systems, technical  
607 centers, or public postsecondary educational institutions in  
608 which the student seeks or intends to enroll; and a copy of such  
609 records or reports shall be furnished to the parent or student  
610 upon request.

611 2. Other school officials, including teachers within the  
612 educational institution or agency, who have legitimate

613 | educational interests in the information contained in the  
614 | records.

615 |         3. The United States Secretary of Education, the Director  
616 | of the National Institute of Education, the Assistant Secretary  
617 | for Education, the Comptroller General of the United States, or  
618 | state or local educational authorities who are authorized to  
619 | receive such information subject to the conditions set forth in  
620 | applicable federal statutes and regulations of the United States  
621 | Department of Education, or in applicable state statutes and  
622 | rules of the State Board of Education.

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

625 |         5. Individuals or organizations conducting studies for or  
626 | on behalf of an institution or a board of education for the  
627 | purpose of developing, validating, or administering predictive  
628 | tests, administering student aid programs, or improving  
629 | instruction, if such studies are conducted in such a manner as  
630 | will not permit the personal identification of students and  
631 | their parents by persons other than representatives of such  
632 | organizations and if such information will be destroyed when no  
633 | longer needed for the purpose of conducting such studies.

634 |         6. Accrediting organizations, in order to carry out their  
635 | accrediting functions.

636 |         7. School readiness coalitions and the Florida Partnership  
637 | for School Readiness in order to carry out their assigned  
638 | duties.

639           8. For use as evidence in student expulsion hearings  
640 conducted by a district school board pursuant to the provisions  
641 of chapter 120.

642           9. Appropriate parties in connection with an emergency, if  
643 knowledge of the information in the student's educational  
644 records is necessary to protect the health or safety of the  
645 student or other individuals.

646           10. The Auditor General and the Office of Program Policy  
647 Analysis and Government Accountability in connection with their  
648 official functions; however, except when the collection of  
649 personally identifiable information is specifically authorized  
650 by law, any data collected by the Auditor General and the Office  
651 of Program Policy Analysis and Government Accountability is  
652 confidential and exempt from the provisions of s. 119.07(1) and  
653 shall be protected in such a way as will not permit the personal  
654 identification of students and their parents by other than the  
655 Auditor General, the Office of Program Policy Analysis and  
656 Government Accountability, and their staff, and such personally  
657 identifiable data shall be destroyed when no longer needed for  
658 the Auditor General's and the Office of Program Policy Analysis  
659 and Government Accountability's official use.

660           11.a. A court of competent jurisdiction in compliance with  
661 an order of that court or the attorney of record pursuant to a  
662 lawfully issued subpoena, upon the condition that the student  
663 and the student's parent are notified of the order or subpoena  
664 in advance of compliance therewith by the educational  
665 institution or agency.



666           b. A person or entity pursuant to a court of competent  
667 jurisdiction in compliance with an order of that court or the  
668 attorney of record pursuant to a lawfully issued subpoena, upon  
669 the condition that the student, or his or her parent if the  
670 student is either a minor and not attending a postsecondary  
671 educational institution or a dependent of such parent as defined  
672 in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of  
673 1954), is notified of the order or subpoena in advance of  
674 compliance therewith by the educational institution or agency.

675           12. Credit bureaus, in connection with an agreement for  
676 financial aid that the student has executed, provided that such  
677 information may be disclosed only to the extent necessary to  
678 enforce the terms or conditions of the financial aid agreement.  
679 Credit bureaus shall not release any information obtained  
680 pursuant to this paragraph to any person.

681           13. Parties to an interagency agreement among the  
682 Department of Juvenile Justice, school and law enforcement  
683 authorities, and other signatory agencies for the purpose of  
684 reducing juvenile crime and especially motor vehicle theft by  
685 promoting cooperation and collaboration, and the sharing of  
686 appropriate information in a joint effort to improve school  
687 safety, to reduce truancy and in-school and out-of-school  
688 suspensions, and to support alternatives to in-school and out-  
689 of-school suspensions and expulsions that provide structured and  
690 well-supervised educational programs supplemented by a  
691 coordinated overlay of other appropriate services designed to  
692 correct behaviors that lead to truancy, suspensions, and  
693 expulsions, and that support students in successfully completing

694 their education. Information provided in furtherance of such  
 695 interagency agreements is intended solely for use in determining  
 696 the appropriate programs and services for each juvenile or the  
 697 juvenile's family, or for coordinating the delivery of such  
 698 programs and services, and as such is inadmissible in any court  
 699 proceedings prior to a dispositional hearing unless written  
 700 consent is provided by a parent or other responsible adult on  
 701 behalf of the juvenile.

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

706  
 707 This paragraph does not prohibit any educational institution  
 708 from publishing and releasing to the general public directory  
 709 information relating to a student if the institution elects to  
 710 do so. However, no educational institution shall release, to  
 711 any individual, agency, or organization that is not listed in  
 712 subparagraphs 1.-14. ~~1.-13.~~, directory information relating to  
 713 the student body in general or a portion thereof unless it is  
 714 normally published for the purpose of release to the public in  
 715 general. Any educational institution making directory  
 716 information public shall give public notice of the categories of  
 717 information that it has designated as directory information with  
 718 respect to all students attending the institution and shall  
 719 allow a reasonable period of time after such notice has been  
 720 given for a parent or student to inform the institution in

HB 723, Engrossed 2

2004

721 | writing that any or all of the information designated should not  
722 | be released.

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