

1                   A bill to be entitled  
2           An act relating to the Department of Children and Family  
3           Services; providing legislative intent with respect to  
4           establishing a structure by which the department shall  
5           monitor and manage contracts with external service  
6           providers; providing definitions; requiring the department  
7           to competitively procure certain commodities and  
8           contractual services; requiring the department to allow  
9           all public postsecondary institutions to bid on contracts  
10          intended for any public postsecondary institution;  
11          authorizing the department to competitively procure and  
12          contract for systems of treatment or service that involve  
13          multiple providers; providing requirements if other  
14          governmental entities contribute matching funds; requiring  
15          that an entity providing matching funds must comply with  
16          certain procurement procedures; authorizing the department  
17          to independently procure and contract for treatment  
18          services; requiring that the department develop a business  
19          case before outsourcing any service or function; providing  
20          requirements for the business case; requiring that the  
21          business case be submitted to the Legislature for  
22          approval; requiring that a contractual service that has  
23          previously been outsourced be subject to the requirements  
24          for a business case; requiring that a procurement of  
25          contractual services equal to or in excess of the  
26          threshold amount for CATEGORY FIVE comply with specified  
27          requirements, including a scope of work and performance  
28          standards; authorizing the department to adopt incremental

29 penalties by rule; authorizing the department to include  
30 cost-neutral, performance-based incentives in a contract;  
31 requiring that a contract in excess of \$1 million be  
32 negotiated by a contract negotiator who is certified  
33 according to standards established by the Department of  
34 Management Services; limiting circumstances under which  
35 the department may amend a contract; requiring that a  
36 proposed contract amendment be submitted to the Executive  
37 Office of the Governor for approval; requiring approval of  
38 a contract amendment by the Administration Commission  
39 under certain circumstances; requiring the department to  
40 verify that contractual terms have been satisfied before  
41 renewing a contract; requiring certain documentation;  
42 requiring the department to develop, in consultation with  
43 the Department of Management Services, contract templates  
44 and guidelines; requiring that the department establish a  
45 contract-management process; specifying the requirements  
46 for and components of the contract-management process;  
47 providing requirements for resolving performance  
48 deficiencies and terminating a contract; requiring a  
49 corrective-action plan under certain circumstances;  
50 requiring the department to develop standards of conduct  
51 and disciplinary actions; requiring that the department  
52 establish contract-monitoring units and a contract-  
53 monitoring process; requiring written reports; requiring  
54 on-site visits for contracts involving the provision of  
55 direct client services; requiring the department to make  
56 certain documents available to the Legislature; requiring

57 | the department to create an electronic database to store  
 58 | the documents; amending s. 402.73, F.S.; requiring the  
 59 | Agency for Persons with Disabilities to implement systems  
 60 | to ensure quality and fiscal integrity of programs in the  
 61 | developmental services Medicaid waiver system; providing  
 62 | an exemption for health services from competitive bidding  
 63 | requirements; amending s. 409.1671, F.S.; conforming  
 64 | provisions to changes made by the act; requiring that the  
 65 | Office of Program Policy Analysis and Government  
 66 | Accountability conduct two reviews of the contract-  
 67 | management and accountability structures of the department  
 68 | and report to the Legislature and the Auditor General;  
 69 | repealing s. 402.72, F.S., relating to contract-management  
 70 | requirements for the Department of Children and Family  
 71 | Services; providing an effective date.

72 |  
 73 | Be It Enacted by the Legislature of the State of Florida:

74 |  
 75 | Section 1. Department of Children and Family Services;  
 76 | procurement of contractual services; outsourcing or  
 77 | privatization; contract management.--

78 | (1) LEGISLATIVE INTENT.--The Legislature intends that the  
 79 | Department of Children and Family Services obtain services in  
 80 | the manner that is most efficient and cost-effective for the  
 81 | state, that provides the greatest long-term benefits to the  
 82 | clients receiving services, and that minimizes the disruption of  
 83 | client services. In order to meet these legislative goals, the  
 84 | department shall comply with legislative policy guidelines that

85 require compliance with uniform procedures for procuring  
 86 contractual services, prescribe how the department must  
 87 outsource its programmatic and administrative services to  
 88 external service providers rather than having them provided by  
 89 the department or another state agency, and establish a  
 90 contract-management and contract-monitoring process.

91 (2) DEFINITIONS.--As used in this section, the term:

92 (a) "Contract manager" means the department employee who  
 93 is responsible for enforcing the compliance with administrative  
 94 and programmatic terms and conditions of a contract. The  
 95 contract manager is the primary point of contact through which  
 96 all contracting information flows between the department and the  
 97 contractor. The contract manager is responsible for day-to-day  
 98 contract oversight, including approval of contract deliverables  
 99 and invoices. All actions related to the contract shall be  
 100 initiated by or coordinated with the contract manager. The  
 101 contract manager maintains the official contract files.

102 (b) "Contract monitor" means the department employee who  
 103 is responsible for observing, recording, and reporting to the  
 104 contract manager and other designated entities the information  
 105 necessary to assist the contract manager and program management  
 106 in determining whether the contractor is in compliance with the  
 107 administrative and programmatic terms and conditions of the  
 108 contract.

109 (c) "Department" means the Department of Children and  
 110 Family Services.

111 (d) "Outsourcing" means the process of contracting with an  
 112 external service provider to provide a service, in whole or in

113 part, while the department retains the responsibility and  
 114 accountability for the service.

115 (e) "Performance measure" means the quantitative  
 116 indicators used to assess if the service the external provider  
 117 is performing is achieving the desired results. Measures of  
 118 performance include outputs, direct counts of program  
 119 activities, and outcomes or results of program activities in the  
 120 lives of the clients served.

121 (f) "Performance standard" means the quantifiable,  
 122 specified, and desired level to be achieved for a particular  
 123 performance measure.

124 (g) "Privatize" means any process aimed at transferring  
 125 the responsibility for a service, in whole or in part, from the  
 126 department to the private sector such that the private sector is  
 127 solely and fully responsible for the performance of the specific  
 128 service.

129 (h) "Service" means all or any portion of a program or  
 130 program component as defined in section 216.011, Florida  
 131 Statutes.

132 (3) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.--

133 (a) For the purchase of commodities and contractual  
 134 services in excess of the threshold amount established in  
 135 section 287.017, Florida Statutes, for CATEGORY TWO, the  
 136 department shall comply with the requirements set forth in  
 137 section 287.057, Florida Statutes.

138 (b) Notwithstanding section 287.057(5)(f)13., Florida  
 139 Statutes, whenever the department intends to contract with a  
 140 public postsecondary institution to provide a service, the

141 department must allow all public postsecondary institutions in  
142 this state that are accredited by the Southern Association of  
143 Colleges and Schools to bid on the contract. Thereafter,  
144 notwithstanding any other provision to the contrary, if a public  
145 postsecondary institution intends to subcontract for any service  
146 awarded in the contract, the subcontracted service must be  
147 procured by competitive procedures.

148 (c) When it is in the best interest of a defined segment  
149 of its consumer population, the department may competitively  
150 procure and contract for systems of treatment or service that  
151 involve multiple providers, rather than procuring and  
152 contracting for treatment or services separately from each  
153 participating provider. The department must ensure that all  
154 providers that participate in the treatment or service system  
155 meet all applicable statutory, regulatory, service-quality, and  
156 cost-control requirements. If other governmental entities or  
157 units of special purpose government contribute matching funds to  
158 the support of a given system of treatment or service, the  
159 department shall formally request information from those funding  
160 entities in the procurement process and may take the information  
161 received into account in the selection process. If a local  
162 government contributes matching funds to support the system of  
163 treatment or contracted service and if the match constitutes at  
164 least 25 percent of the value of the contract, the department  
165 shall afford the governmental match contributor an opportunity  
166 to name an employee as one of the persons required by section  
167 287.057(17), Florida Statutes, to evaluate or negotiate certain  
168 contracts, unless the department sets forth in writing the

169 reason why the inclusion would be contrary to the best interest  
 170 of the state. Any employee so named by the governmental match  
 171 contributor shall qualify as one of the persons required by  
 172 section 287.057(17), Florida Statutes. A governmental entity or  
 173 unit of special purpose government may not name an employee as  
 174 one of the persons required by section 287.057(17), Florida  
 175 Statutes, if it, or any of its political subdivisions, executive  
 176 agencies, or special districts, intends to compete for the  
 177 contract to be awarded. The governmental funding entity or  
 178 contributor of matching funds must comply with all procurement  
 179 procedures set forth in section 287.057, Florida Statutes, when  
 180 appropriate and required.

181 (d) The department may procure and contract for or provide  
 182 assessment and case-management services independently from  
 183 treatment services.

184 (4) SOURCING STANDARDS AND REQUIREMENTS.--If the  
 185 department proposes to outsource a service, the department must  
 186 comply with the requirements of this section prior to the  
 187 procurement process provided for in section 287.057, Florida  
 188 Statutes.

189 (a) The department shall develop a business case  
 190 describing and analyzing the service proposed for outsourcing. A  
 191 business case is part of the solicitation process and is not a  
 192 rule subject to challenge pursuant to section 120.54, Florida  
 193 Statutes. The business case must include, but need not be  
 194 limited to:

195 1. A detailed description of the services to be  
 196 outsourced, a description and analysis of the department's

197 current performance of the service, and a rationale documenting  
198 how outsourcing the service would be in the best interest of the  
199 state, the department, and its clients.

200 2. A cost-benefit analysis documenting the estimated  
201 specific direct and indirect costs, savings, performance  
202 improvements, risks, and qualitative and quantitative benefits  
203 involved in or resulting from outsourcing the service. The cost-  
204 benefit analysis must include a detailed plan and timeline  
205 identifying all actions that must be implemented to realize  
206 expected benefits. Under section 92.525, Florida Statutes, the  
207 Secretary of Children and Family Services shall verify that all  
208 costs, savings, and benefits are valid and achievable.

209 3. A description of the specific performance measures and  
210 standards that must be achieved through the outsourcing  
211 proposal.

212 4. A statement of the potential effect on applicable  
213 federal, state, and local revenues and expenditures. The  
214 statement must specifically describe the effect on general  
215 revenue, trust funds, general revenue service charges, and  
216 interest on trust funds, together with the potential direct or  
217 indirect effect on federal funding and cost allocations.

218 5. A plan to ensure compliance with public-record laws,  
219 which must include components that:

220 a. Provide public access to public records at a cost that  
221 does not exceed that provided in chapter 119, Florida Statutes.

222 b. Ensure the confidentiality of records that are exempt  
223 from disclosure or confidential under law.

224 c. Meet all legal requirements for record retention.



225 d. Allow for transfer to the state, at no cost, all public  
226 records in possession of the external service provider upon  
227 termination of the contract.

228 6. A department transition and implementation plan for  
229 addressing changes in the number of agency personnel, affected  
230 business processes, and employee-transition issues. Such a plan  
231 must also specify the mechanism for continuing the operation of  
232 the service if the contractor fails to perform and comply with  
233 the performance measures and standards and provisions of the  
234 contract. Within this plan, the department shall identify all  
235 resources, including full-time equivalent positions, which are  
236 subject to outsourcing. All full-time equivalent positions  
237 identified in the plan shall be placed in reserve by the  
238 Executive Office of the Governor until the end of the second  
239 year of the contract. Notwithstanding the provisions of section  
240 216.262, Florida Statutes, the Executive Office of the Governor  
241 shall request authority from the Legislative Budget Commission  
242 to reestablish full-time positions above the number fixed by the  
243 Legislature when a contract is terminated and the outsourced  
244 service must be returned to the department.

245 7. A listing of assets proposed for transfer to or use by  
246 the external service provider, a description of the proposed  
247 requirements for maintenance of those assets by the external  
248 service provider or the department in accordance with chapter  
249 273, Florida Statutes, a plan for their disposition upon  
250 termination of the contract, and a description of how the  
251 planned asset transfer or use by the contractor is in the best  
252 interest of the department and the state.

253        (b)1. If the department proposes to outsource the service  
254 in the next fiscal year, the department shall submit the  
255 business case with the department's final legislative budget  
256 request, in the manner and form prescribed in the legislative  
257 budget request instructions under section 216.023, Florida  
258 Statutes. Upon approval in the General Appropriations Act, the  
259 department may initiate and complete the procurement process  
260 under section 287.057, Florida Statutes, and shall have the  
261 authority to enter into contracts with the external service  
262 provider.

263        2. If a proposed outsourcing initiative would require  
264 integration with, or would in any way affect other state  
265 information technology systems, the department shall submit the  
266 feasibility study documentation required by the legislative  
267 budget request instructions under section 216.023, Florida  
268 Statutes.

269        (c) If the department proposes to outsource a service  
270 during a fiscal year and the outsourcing provision was not  
271 included in the approved operating budget of the department, the  
272 department must provide to the Governor, the President of the  
273 Senate, the Speaker of the House of Representatives, the chairs  
274 of the legislative appropriations committees, and the chairs of  
275 the relevant substantive committees the business case that  
276 complies with the requirements of paragraph (a) at least 45 days  
277 before the release of any solicitation documents, as provided  
278 for in section 287.057, Florida Statutes. Any budgetary changes  
279 that are inconsistent with the department's approved budget may  
280 not be made to existing programs unless the changes are

281 recommended to the Legislative Budget Commission by the Governor  
 282 and the Legislative Budget Commission expressly approves the  
 283 program changes.

284 (d) The department may not privatize a service without  
 285 specific authority provided in general law, the General  
 286 Appropriations Act, legislation implementing the General  
 287 Appropriations Act, or a special appropriations act.

288 (5) CONTRACTING AND PERFORMANCE MEASURES.--In addition to  
 289 the requirements of section 287.058, Florida Statutes, every  
 290 procurement of contractual services by the department which  
 291 meets or is in excess of the threshold amount provided in  
 292 section 287.017, Florida Statutes, for CATEGORY FIVE, must  
 293 comply with the requirements of this subsection.

294 (a) The department shall execute a contract containing all  
 295 provisions and conditions, which must include, but need not be  
 296 limited to:

297 1. A detailed scope of work that clearly specifies each  
 298 service and deliverable to be provided, including a description  
 299 of each deliverable or activity that is quantifiable,  
 300 measurable, and verifiable by the department and the contractor.

301 2. Associated costs and savings, specific payment terms  
 302 and payment schedules, including incentive and penalty  
 303 provisions, criteria governing payment, and a clear and specific  
 304 schedule to complete all required activities needed to transfer  
 305 the service from the state to the contractor.

306 3. Clear and specific identification of all required  
 307 performance measures and standards, which must, at a minimum,  
 308 include:

309 a. Acceptance criteria for each deliverable and service to  
310 be provided to the department under the terms of the contract  
311 which document, to the greatest extent possible, the required  
312 performance level. Acceptance criteria must be detailed, clear,  
313 and unambiguous and shall be used to measure deliverables and  
314 services to be provided under the contract.

315 b. A method for monitoring and reporting progress in  
316 achieving specified performance standards and levels.

317 c. The sanctions or penalties that shall be assessed for  
318 contract or state nonperformance. The department may adopt, by  
319 rule, provisions for including in its contracts incremental  
320 penalties to be imposed by its contract managers on a contractor  
321 due to the contractor's failure to comply with a requirement for  
322 corrective action. Any financial penalty that is imposed upon a  
323 contractor may not be paid from funds being used to provide  
324 services to clients, and the contractor may not reduce the  
325 amount of services being delivered to clients as a method for  
326 offsetting the effect of the penalty. If a financial penalty is  
327 imposed upon a contractor that is a corporation, the department  
328 shall notify, at a minimum, the board of directors of the  
329 corporation. The department may notify any additional parties  
330 that the department believes may be helpful in obtaining the  
331 corrective action that is being sought. In addition, the rules  
332 adopted by the department must include provisions that permit  
333 the department to deduct the financial penalties from funds that  
334 would otherwise be due to the contractor, not to exceed 10  
335 percent of the amount that otherwise would be due to the  
336 contractor for the period of noncompliance. If the department

337 imposes a financial penalty, it shall advise the contractor in  
338 writing of the cause for the penalty. A failure to include such  
339 deductions in a request for payment constitutes grounds for the  
340 department to reject that request for payment. The remedies  
341 identified in this paragraph do not limit or restrict the  
342 department's application of any other remedy available to it in  
343 the contract or under law. The remedies described in this  
344 paragraph may be cumulative and may be assessed upon each  
345 separate failure to comply with instructions from the department  
346 to complete corrective action.

347 4. A requirement that the contractor maintain adequate  
348 accounting records that comply with all applicable federal and  
349 state laws and generally accepted accounting principles.

350 5. A requirement authorizing the department and state to  
351 have access to and conduct audits of all records related to the  
352 contract and outsourced services.

353 6. A requirement that ownership of any intellectual  
354 property developed in the course of, or as a result of, work or  
355 services performed under the contract shall transfer to the  
356 state if the contractor ceases to provide the outsourced  
357 service.

358 7. A requirement describing the timing and substance of  
359 all plans and status or progress reports that are to be  
360 provided. All plans and status or progress reports must comply  
361 with any relevant state and federal standards for planning,  
362 implementation, operations, and oversight.

363 8. A requirement that the contractor shall comply with  
364 public-record laws. The contractor shall:

365 a. Keep and maintain the public records that ordinarily  
366 and necessarily would be required by the department to perform  
367 the service.

368 b. Provide public access to such public records on the  
369 same terms and conditions that the department would and at a  
370 cost that does not exceed that provided in chapter 119, Florida  
371 Statutes.

372 c. Ensure the confidentiality of records that are exempt  
373 from disclosure or confidential under law.

374 d. Meet all legal and auditing requirements for record  
375 retention, and transfer to the state, at no cost to the state,  
376 all public records in possession of the contractor upon  
377 termination of the contract. All records stored electronically  
378 must be provided to the state in the format compatible with  
379 state information technology systems.

380 9. A requirement that any state funds provided for the  
381 purchase of or improvements to real property are contingent upon  
382 the contractor granting to the state a security interest in the  
383 property which is at least equal to the amount of the state  
384 funds provided for at least 5 years following the date of  
385 purchase or the completion of the improvements or as further  
386 required by law. The contract must include a provision that, as  
387 a condition of receipt of state funding for this purpose, the  
388 contractor agrees that, if it disposes of the property before  
389 the department's interest is vacated, the contractor must refund  
390 the proportionate share of the state's initial investment, as  
391 adjusted by depreciation.

392 10. A provision that the contractor annually submit and

393 verify, under section 92.525, Florida Statutes, all required  
 394 financial statements.

395 11. A provision that the contractor will be held  
 396 responsible and accountable for all work covered under the  
 397 contract including any work performed by subcontractors. The  
 398 contract must state that the department may monitor the  
 399 performance of any subcontractor.

400 (b) A contract may include cost-neutral, performance-based  
 401 incentives that may vary according to the extent a contractor  
 402 achieves or surpasses the performance standards set forth in the  
 403 contract. The incentives may be weighted proportionally to  
 404 reflect the extent to which the contractor has demonstrated that  
 405 it has consistently met or exceeded the contractual requirements  
 406 and the performance standards.

407 (c) The department shall review the time period for which  
 408 it executes contracts and, to the greatest extent practicable,  
 409 shall execute multiyear contracts to make the most efficient use  
 410 of the resources devoted to contract processing and execution.

411 (d) When the annualized value of a contract is in excess  
 412 of \$1 million, at least one of the persons conducting  
 413 negotiations must be certified as a contract negotiator based  
 414 upon standards established by the Department of Management  
 415 Services.

416 (e) The department may not amend a contract without first  
 417 submitting the proposed contract amendment to the Executive  
 418 Office of the Governor for approval if the effect of the  
 419 amendment would be to increase:

420 1. The value of the contract by \$250,000 for those

421 contracts with a total value of at least \$250,000 but less than  
 422 \$1 million;

423 2. The value of the contract by \$1 million for those  
 424 contracts with a total value of at least \$1 million but less  
 425 than \$10 million;

426 3. The value of the contract by 10 percent for those  
 427 contracts with a total value of \$10 million or more; or

428 4. The term of the contract by 1 year or more.

429  
 430 When the department proposes any contract amendment that meets  
 431 the criteria described in this paragraph, it shall submit the  
 432 proposed contract amendment to the Executive Office of the  
 433 Governor for approval and shall immediately notify the chairs of  
 434 the legislative appropriations committees. The Executive Office  
 435 of the Governor may not approve the proposed contract amendment  
 436 until 14 days following receipt of the notification to the  
 437 legislative appropriations chairs. If either chair of the  
 438 legislative appropriations committees objects in writing to a  
 439 proposed contract amendment within 14 days following  
 440 notification and specifies the reasons for the objection, the  
 441 Executive Office of the Governor shall disapprove the proposed  
 442 contract amendment or shall submit the proposed contract  
 443 amendment to the Administration Commission. The proposed  
 444 contract amendment may be approved by the Administration  
 445 Commission by a two-thirds vote of the members present with the  
 446 Governor voting in the affirmative. In the absence of approval  
 447 by the commission, the proposed contract amendment shall be  
 448 automatically disapproved. Otherwise, upon approval by the



449 Governor or Administration Commission, the department may  
450 execute the contract amendment.

451 (f) An amendment that is issued under legislative  
452 direction, including funding adjustments annually provided for  
453 in the General Appropriations Act or the federal appropriations  
454 acts, need not be submitted for approval in accordance with  
455 paragraph (d).

456 (g) In addition to the requirements of section 287.057(13)  
457 and (14), Florida Statutes, the department shall verify that all  
458 specific direct and indirect costs, savings, performance  
459 measures and standards, and qualitative and quantitative  
460 benefits identified in the original contract have been satisfied  
461 by a contractor or the department before the contract is  
462 extended or renewed. The documentation must include an  
463 explanation of any differences between the required performance  
464 as identified in the contract and the actual performance of the  
465 contractor. The documentation must be included in the official  
466 contract file.

467 (h) The department shall, in consultation with the  
468 Department of Management Services, develop contract templates  
469 and guidelines that define the mandatory contract provisions and  
470 other requirements identified in this subsection and that must  
471 be used for all contractual service contracts meeting the  
472 requirements of this subsection. All contract templates and  
473 guidelines shall be developed by September 30, 2005.

474 (6) CONTRACT-MANAGEMENT REQUIREMENTS AND  
475 PROCESS.--Notwithstanding section 287.057(15), Florida Statutes,  
476 the department is responsible for establishing a contract-

477 management process that requires a member of the department's  
478 Senior Management Service to assign in writing the  
479 responsibility of a contract to a contract manager. The  
480 department shall maintain a set of procedures describing its  
481 contract-management process which must minimally include the  
482 following requirements:

483 (a) The contract manager shall maintain the official  
484 contract file throughout the duration of the contract and for a  
485 period not less than 6 years after the termination of the  
486 contract.

487 (b) The contract manager shall review all invoices for  
488 compliance with the criteria and payment schedule provided for  
489 in the contract and shall approve payment of all invoices before  
490 their transmission to the Department of Financial Services for  
491 payment. Only the contract manager shall approve the invoices  
492 for a specific contract, unless the contract manager is  
493 temporarily unavailable to review an invoice. The contract file  
494 must contain an explanation for any periods of temporary  
495 unavailability of the assigned contract manager. For any  
496 individual invoice in excess of \$500,000, a member of the  
497 Selected Exempt Service or Senior Management Service shall also  
498 sign payment approval of the invoice. For any individual invoice  
499 in excess of \$1 million, a member of the Senior Management  
500 Service shall also sign payment approval of the invoice.

501 (c) The contract manager shall maintain a schedule of  
502 payments and total amounts disbursed and shall periodically  
503 reconcile the records with the state's official accounting  
504 records.

505        (d) For contracts involving the provision of direct client  
506 services, the contract manager shall periodically visit the  
507 physical location where the services are delivered and speak  
508 directly to clients receiving the services and the staff  
509 responsible for delivering the services.

510        (e) For contracts for which the contractor is a  
511 corporation, the contract manager shall attend at least one  
512 board meeting semiannually, if held and if within 100 miles of  
513 the contract manager's official headquarters.

514        (f) The contract manager shall meet at least once a month  
515 directly with the contractor's representative and maintain  
516 records of such meetings.

517        (g) The contract manager shall periodically document any  
518 differences between the required performance measures and the  
519 actual performance measures. If a contractor fails to meet and  
520 comply with the performance measures established in the  
521 contract, the department may allow a reasonable period for the  
522 contractor to correct performance deficiencies. If performance  
523 deficiencies are not resolved to the satisfaction of the  
524 department within the prescribed time, and if no extenuating  
525 circumstances can be documented by the contractor to the  
526 department's satisfaction, the department must terminate the  
527 contract. The department may not enter into a new contract with  
528 that same contractor for the services for which the contract was  
529 previously terminated for a period of at least 24 months after  
530 the date of termination. The contract manager shall obtain and  
531 enforce corrective-action plans, if appropriate, and maintain  
532 records regarding the completion or failure to complete

533 corrective-action items.

534 (h) The contract manager shall document any contract  
 535 modifications, which shall include recording any contract  
 536 amendments as provided for in this section.

537 (i) The contract manager shall be properly trained before  
 538 being assigned responsibility for any contract.

539  
 540 The department shall develop standards of conduct and a range of  
 541 disciplinary actions for its employees which are specifically  
 542 related to carrying out contract-management responsibilities.

543 (7) CONTRACT-MONITORING REQUIREMENTS AND PROCESS.--The  
 544 department shall establish contract-monitoring units staffed by  
 545 full-time career service employees who report to a member of the  
 546 Select Exempt Service or Senior Management Service and who have  
 547 been properly trained to perform contract monitoring. A member  
 548 of the Senior Management Service shall assign in writing a  
 549 specific contract to a contract-monitoring unit, with at least  
 550 one member of the contract-monitoring unit possessing specific  
 551 knowledge and experience in the contract's program area. The  
 552 department shall establish a contract-monitoring process that  
 553 must include, but need not be limited to, the following  
 554 requirements:

555 (a) Performing a risk assessment at the start of each  
 556 fiscal year and preparing an annual contract-monitoring schedule  
 557 that includes consideration for the level of risk assigned. The  
 558 department may monitor any contract at any time regardless of  
 559 whether such monitoring was originally included in the annual  
 560 contract-monitoring schedule.

561        (b) Preparing a contract-monitoring plan, including  
562 sampling procedures, before performing on-site monitoring at  
563 external locations of a service provider. The plan must include  
564 a description of the programmatic, fiscal, and administrative  
565 components that will be monitored on-site. If appropriate,  
566 clinical and therapeutic components may be included.

567        (c) Conducting analyses of the performance and compliance  
568 of an external service provider by means of desk reviews if the  
569 external service provider will not be monitored on-site during a  
570 fiscal year.

571        (d) Unless the department sets forth in writing the need  
572 for an extension, providing a written report presenting the  
573 results of the monitoring within 30 days after the completion of  
574 the on-site monitoring or desk review. Report extensions may not  
575 exceed 30 days after the original completion date. The  
576 department shall develop and use a standard contract-monitoring  
577 report format and shall provide access to the reports by means  
578 of a website that is available to the Legislature.

579        (e) For contracts involving the provision of direct client  
580 services, requiring the contract monitor to visit the physical  
581 location where the services are being delivered and to speak  
582 directly to the clients receiving the services and with the  
583 staff responsible for delivering the services.

584        (f) Developing and maintaining a set of procedures  
585 describing the contract-monitoring process.

586  
587 The department shall develop standards of conduct and a range of  
588 disciplinary actions for its employees which are specifically

589 related to carrying out contract-monitoring responsibilities.

590 (8) REPORTS TO THE LEGISLATURE.--Beginning October 1,  
 591 2005, the department shall make available to the Legislature  
 592 electronically all documents associated with the procurement and  
 593 contracting functions of the department. The documents in the  
 594 database must include, but are not limited to, all:

595 (a) Business cases;

596 (b) Procurement documents;

597 (c) Contracts and any related files, attachments, or  
 598 amendments;

599 (d) Contract monitoring reports;

600 (e) Corrective action plans and reports of corrective  
 601 actions taken when contractor performance deficiencies are  
 602 identified; and

603 (f) Status reports on all outsourcing initiatives  
 604 describing the progress by the department towards achieving the  
 605 business objectives, costs, savings, and quantifiable benefits  
 606 identified in the business case.

607 Section 2. Section 402.73, Florida Statutes, is amended to  
 608 read:

609 402.73 Contracting and performance standards.--

610 ~~(1) The Department of Children and Family Services shall~~  
 611 ~~establish performance standards for all contracted client~~  
 612 ~~services. Notwithstanding s. 287.057(5)(f), the department must~~  
 613 ~~competitively procure any contract for client services when any~~  
 614 ~~of the following occurs:~~

615 ~~(a) The provider fails to meet appropriate performance~~  
 616 ~~standards established by the department after the provider has~~

617 ~~been given a reasonable opportunity to achieve the established~~  
 618 ~~standards.~~

619 ~~(b) A new program or service has been authorized and~~  
 620 ~~funded by the Legislature and the annual value of the contract~~  
 621 ~~for such program or service is \$300,000 or more.~~

622 ~~(c) The department has concluded, after reviewing market~~  
 623 ~~prices and available treatment options, that there is evidence~~  
 624 ~~that the department can improve the performance outcomes~~  
 625 ~~produced by its contract resources. At a minimum, the department~~  
 626 ~~shall review market prices and available treatment options~~  
 627 ~~biennially. The department shall compile the results of the~~  
 628 ~~biennial review and include the results in its annual~~  
 629 ~~performance report to the Legislature pursuant to chapter 94-~~  
 630 ~~249, Laws of Florida. The department shall provide notice and an~~  
 631 ~~opportunity for public comment on its review of market prices~~  
 632 ~~and available treatment options.~~

633 ~~(2) The competitive requirements of subsection (1) must be~~  
 634 ~~initiated for each contract that meets the criteria of this~~  
 635 ~~subsection, unless the secretary makes a written determination~~  
 636 ~~that particular facts and circumstances require deferral of the~~  
 637 ~~competitive process. Facts and circumstances must be~~  
 638 ~~specifically described for each individual contract proposed for~~  
 639 ~~deferral and must include one or more of the following:~~

640 ~~(a) An immediate threat to the health, safety, or welfare~~  
 641 ~~of the department's clients.~~

642 ~~(b) A threat to appropriate use or disposition of~~  
 643 ~~facilities that have been financed in whole, or in substantial~~  
 644 ~~part, through contracts or agreements with a state agency.~~

645 ~~(c) A threat to the service infrastructure of a community~~  
646 ~~which could endanger the well-being of the department's clients.~~

647  
648 ~~Competitive procurement of client services contracts that meet~~  
649 ~~the criteria in subsection (1) may not be deferred for longer~~  
650 ~~than 1 year.~~

651 ~~(3) The Legislature intends that the department obtain~~  
652 ~~services in the manner that is most cost-effective for the~~  
653 ~~state, that provides the greatest long-term benefits to the~~  
654 ~~clients receiving services, and that minimizes the disruption of~~  
655 ~~client services. In order to meet these legislative goals, the~~  
656 ~~department may adopt rules providing procedures for the~~  
657 ~~competitive procurement of contracted client services which~~  
658 ~~represent an alternative to the request for proposal or~~  
659 ~~invitation to bid process. The alternative competitive~~  
660 ~~procedures shall permit the department to solicit professional~~  
661 ~~qualifications from prospective providers and to evaluate such~~  
662 ~~statements of qualification before requesting service proposals.~~  
663 ~~The department may limit the firms invited to submit service~~  
664 ~~proposals to only those firms that have demonstrated the highest~~  
665 ~~level of professional capability to provide the services under~~  
666 ~~consideration, but may not invite fewer than three firms to~~  
667 ~~submit service proposals, unless fewer than three firms~~  
668 ~~submitted satisfactory statements of qualification. The~~  
669 ~~alternative procedures must, at a minimum, allow the department~~  
670 ~~to evaluate competing proposals and select the proposal that~~  
671 ~~provides the greatest benefit to the state while considering the~~  
672 ~~quality of the services, dependability, and integrity of the~~



673 ~~provider, the dependability of the provider's services, the~~  
674 ~~experience of the provider in serving target populations or~~  
675 ~~client groups substantially identical to members of the target~~  
676 ~~population for the contract in question, and the ability of the~~  
677 ~~provider to secure local funds to support the delivery of~~  
678 ~~services, including, but not limited to, funds derived from~~  
679 ~~local governments. These alternative procedures need not conform~~  
680 ~~to the requirements of s. 287.042 or s. 287.057(1) or (2).~~

681 ~~(4) The department shall review the period for which it~~  
682 ~~executes contracts and, to the greatest extent practicable,~~  
683 ~~shall execute multiyear contracts to make the most efficient use~~  
684 ~~of the resources devoted to contract processing and execution.~~

685 ~~(5) When it is in the best interest of a defined segment~~  
686 ~~of its consumer population, the department may competitively~~  
687 ~~procure and contract for systems of treatment or service that~~  
688 ~~involve multiple providers, rather than procuring and~~  
689 ~~contracting for treatment or services separately from each~~  
690 ~~participating provider. The department must ensure that all~~  
691 ~~providers that participate in the treatment or service system~~  
692 ~~meet all applicable statutory, regulatory, service quality, and~~  
693 ~~cost-control requirements. If other governmental entities or~~  
694 ~~units of special purpose government contribute matching funds to~~  
695 ~~the support of a given system of treatment or service, the~~  
696 ~~department shall formally request information from those funding~~  
697 ~~entities in the procurement process and may take the information~~  
698 ~~received into account in the selection process. If a local~~  
699 ~~government contributes match to support the system of treatment~~  
700 ~~or contracted service and if the match constitutes at least 25~~

701 ~~percent of the value of the contract, the department shall~~  
 702 ~~afford the governmental match contributor an opportunity to name~~  
 703 ~~an employee as one of the persons required by s. 287.057(17) to~~  
 704 ~~evaluate or negotiate certain contracts, unless the department~~  
 705 ~~sets forth in writing the reason why such inclusion would be~~  
 706 ~~contrary to the best interest of the state. Any employee so~~  
 707 ~~named by the governmental match contributor shall qualify as one~~  
 708 ~~of the persons required by s. 287.057(17). No governmental~~  
 709 ~~entity or unit of special purpose government may name an~~  
 710 ~~employee as one of the persons required by s. 287.057(17) if it,~~  
 711 ~~or any of its political subdivisions, executive agencies, or~~  
 712 ~~special districts, intends to compete for the contract to be~~  
 713 ~~awarded. The governmental funding entity or match contributor~~  
 714 ~~shall comply with any deadlines and procurement procedures~~  
 715 ~~established by the department. The department may also involve~~  
 716 ~~nongovernmental funding entities in the procurement process when~~  
 717 ~~appropriate.~~

718 ~~(6) The department may contract for or provide assessment~~  
 719 ~~and case management services independently from treatment~~  
 720 ~~services.~~

721 ~~(7) The department shall adopt, by rule, provisions for~~  
 722 ~~including in its contracts incremental penalties to be imposed~~  
 723 ~~by its contract managers on a service provider due to the~~  
 724 ~~provider's failure to comply with a requirement for corrective~~  
 725 ~~action. Any financial penalty that is imposed upon a provider~~  
 726 ~~may not be paid from funds being used to provide services to~~  
 727 ~~clients, and the provider may not reduce the amount of services~~  
 728 ~~being delivered to clients as a method for offsetting the impact~~

729 ~~of the penalty. If a financial penalty is imposed upon a~~  
 730 ~~provider that is a corporation, the department shall notify, at~~  
 731 ~~a minimum, the board of directors of the corporation. The~~  
 732 ~~department may notify, at its discretion, any additional parties~~  
 733 ~~that the department believes may be helpful in obtaining the~~  
 734 ~~corrective action that is being sought. Further, the rules~~  
 735 ~~adopted by the department must include provisions that permit~~  
 736 ~~the department to deduct the financial penalties from funds that~~  
 737 ~~would otherwise be due to the provider, not to exceed 10 percent~~  
 738 ~~of the amount that otherwise would be due to the provider for~~  
 739 ~~the period of noncompliance. If the department imposes a~~  
 740 ~~financial penalty, it shall advise the provider in writing of~~  
 741 ~~the cause for the penalty. A failure to include such deductions~~  
 742 ~~in a request for payment constitutes a ground for the department~~  
 743 ~~to reject that request for payment. The remedies identified in~~  
 744 ~~this subsection do not limit or restrict the department's~~  
 745 ~~application of any other remedy available to it in the contract~~  
 746 ~~or under law. The remedies described in this subsection may be~~  
 747 ~~cumulative and may be assessed upon each separate failure to~~  
 748 ~~comply with instructions from the department to complete~~  
 749 ~~corrective action.~~

750 ~~(8) The department shall develop standards of conduct and~~  
 751 ~~a range of disciplinary actions for its employees which are~~  
 752 ~~specifically related to carrying out contracting~~  
 753 ~~responsibilities.~~

754 ~~(1)(9)~~ The Agency for Persons with Disabilities ~~department~~  
 755 must implement systems and controls to ensure financial  
 756 integrity and service provision quality in the developmental

757 services Medicaid waiver service system.

758 ~~(10) If a provider fails to meet the performance standards~~  
759 ~~established in the contract, the department may allow a~~  
760 ~~reasonable period for the provider to correct performance~~  
761 ~~deficiencies. If performance deficiencies are not resolved to~~  
762 ~~the satisfaction of the department within the prescribed time,~~  
763 ~~and if no extenuating circumstances can be documented by the~~  
764 ~~provider to the department's satisfaction, the department must~~  
765 ~~cancel the contract with the provider. The department may not~~  
766 ~~enter into a new contract with that same provider for the~~  
767 ~~services for which the contract was previously canceled for a~~  
768 ~~period of at least 24 months after the date of cancellation. If~~  
769 ~~an adult substance abuse services provider fails to meet the~~  
770 ~~performance standards established in the contract, the~~  
771 ~~department may allow a reasonable period, not to exceed 6~~  
772 ~~months, for the provider to correct performance deficiencies. If~~  
773 ~~the performance deficiencies are not resolved to the~~  
774 ~~satisfaction of the department within 6 months, the department~~  
775 ~~must cancel the contract with the adult substance abuse~~  
776 ~~provider, unless there is no other qualified provider in the~~  
777 ~~service district.~~

778 ~~(11) The department shall include in its standard contract~~  
779 ~~document a requirement that any state funds provided for the~~  
780 ~~purchase of or improvements to real property are contingent upon~~  
781 ~~the contractor or political subdivision granting to the state a~~  
782 ~~security interest in the property at least to the amount of the~~  
783 ~~state funds provided for at least 5 years from the date of~~  
784 ~~purchase or the completion of the improvements or as further~~

785 ~~required by law. The contract must include a provision that, as~~  
786 ~~a condition of receipt of state funding for this purpose, the~~  
787 ~~provider agrees that, if it disposes of the property before the~~  
788 ~~department's interest is vacated, the provider will refund the~~  
789 ~~proportionate share of the state's initial investment, as~~  
790 ~~adjusted by depreciation.~~

791 ~~(12) The department shall develop and refine contracting~~  
792 ~~and accountability methods that are administratively efficient~~  
793 ~~and that provide for optimal provider performance.~~

794 ~~(13) The department may competitively procure any contract~~  
795 ~~when it deems it is in the best interest of the state to do so.~~  
796 ~~The requirements described in subsection (1) do not, and may not~~  
797 ~~be construed to, limit in any way the department's ability to~~  
798 ~~competitively procure any contract it executes, and the absence~~  
799 ~~of any or all of the criteria described in subsection (1) may~~  
800 ~~not be used as the basis for an administrative or judicial~~  
801 ~~protest of the department's determination to conduct~~  
802 ~~competition, make an award, or execute any contract.~~

803 ~~(14) A contract may include cost neutral, performance-~~  
804 ~~based incentives that may vary according to the extent a~~  
805 ~~provider achieves or surpasses the performance standards set~~  
806 ~~forth in the contract. Such incentives may be weighted~~  
807 ~~proportionally to reflect the extent to which the provider has~~  
808 ~~demonstrated that it has consistently met or exceeded the~~  
809 ~~contractual requirements and the department's performance~~  
810 ~~standards.~~

811 ~~(2)~~(15) Nothing contained in chapter 287 shall require  
812 competitive bids for health services involving examination,

813 diagnosis, or treatment.

814 Section 3. Paragraphs (a), (b), (e), (f), and (g) of  
 815 subsection (1), paragraph (b) of subsection (2), paragraph (a)  
 816 of subsection (4), and subsections (6) and (9) of section  
 817 409.1671, Florida Statutes, are amended to read:

818 409.1671 Foster care and related services; outsourcing  
 819 ~~privatization~~.--

820 (1)(a) It is the intent of the Legislature that the  
 821 Department of Children and Family Services shall outsource  
 822 ~~privatize~~ the provision of foster care and related services  
 823 statewide. It is further the Legislature's intent to encourage  
 824 communities and other stakeholders in the well-being of children  
 825 to participate in assuring that children are safe and well-  
 826 nurtured. However, while recognizing that some local governments  
 827 are presently funding portions of certain foster care and  
 828 related services programs and may choose to expand such funding  
 829 in the future, the Legislature does not intend by its  
 830 outsourcing ~~privatization~~ of foster care and related services  
 831 that any county, municipality, or special district be required  
 832 to assist in funding programs that previously have been funded  
 833 by the state. Counties that provide children and family services  
 834 with at least 40 licensed residential group care beds by July 1,  
 835 2003, and provide at least \$2 million annually in county general  
 836 revenue funds to supplement foster and family care services  
 837 shall continue to contract directly with the state and shall be  
 838 exempt from the provisions of this section. Nothing in this  
 839 paragraph prohibits any county, municipality, or special  
 840 district from future voluntary funding participation in foster

841 care and related services. As used in this section, the term  
842 "outsource" ~~"privatize"~~ means to contract with competent,  
843 community-based agencies. The department shall submit a plan to  
844 accomplish outsourcing ~~privatization~~ statewide, through a  
845 competitive process, phased in over a 3-year period beginning  
846 January 1, 2000. This plan must be developed with local  
847 community participation, including, but not limited to, input  
848 from community-based providers that are currently under contract  
849 with the department to furnish community-based foster care and  
850 related services, and must include a methodology for determining  
851 and transferring all available funds, including federal funds  
852 that the provider is eligible for and agrees to earn and that  
853 portion of general revenue funds which is currently associated  
854 with the services that are being furnished under contract. The  
855 methodology must provide for the transfer of funds appropriated  
856 and budgeted for all services and programs that have been  
857 incorporated into the project, including all management, capital  
858 (including current furniture and equipment), and administrative  
859 funds to accomplish the transfer of these programs. This  
860 methodology must address expected workload and at least the 3  
861 previous years' experience in expenses and workload. With  
862 respect to any district or portion of a district in which  
863 outsourcing ~~privatization~~ cannot be accomplished within the 3-  
864 year timeframe, the department must clearly state in its plan  
865 the reasons the timeframe cannot be met and the efforts that  
866 should be made to remediate the obstacles, which may include  
867 alternatives to total outsourcing ~~privatization~~, such as public-  
868 private partnerships. As used in this section, the term "related

869 services" includes, but is not limited to, family preservation,  
 870 independent living, emergency shelter, residential group care,  
 871 foster care, therapeutic foster care, intensive residential  
 872 treatment, foster care supervision, case management,  
 873 postplacement supervision, permanent foster care, and family  
 874 reunification. Unless otherwise provided for, the state attorney  
 875 shall provide child welfare legal services, pursuant to chapter  
 876 39 and other relevant provisions, in Pinellas and Pasco  
 877 Counties. When a private nonprofit agency has received case  
 878 management responsibilities, transferred from the state under  
 879 this section, for a child who is sheltered or found to be  
 880 dependent and who is assigned to the care of the outsourcing  
 881 ~~privatization~~ project, the agency may act as the child's  
 882 guardian for the purpose of registering the child in school if a  
 883 parent or guardian of the child is unavailable and his or her  
 884 whereabouts cannot reasonably be ascertained. The private  
 885 nonprofit agency may also seek emergency medical attention for  
 886 such a child, but only if a parent or guardian of the child is  
 887 unavailable, his or her whereabouts cannot reasonably be  
 888 ascertained, and a court order for such emergency medical  
 889 services cannot be obtained because of the severity of the  
 890 emergency or because it is after normal working hours. However,  
 891 the provider may not consent to sterilization, abortion, or  
 892 termination of life support. If a child's parents' rights have  
 893 been terminated, the nonprofit agency shall act as guardian of  
 894 the child in all circumstances.

895 (b) It is the intent of the Legislature that the  
 896 department will continue to work towards full outsourcing



897 ~~privatization~~ in a manner that assures the viability of the  
 898 community-based system of care and best provides for the safety  
 899 of children in the child protection system. To this end, the  
 900 department is directed to continue the process of outsourcing  
 901 ~~privatizing~~ services in those counties in which signed startup  
 902 contracts have been executed. The department may also continue  
 903 to enter into startup contracts with additional counties.  
 904 However, no services shall be transferred to a community-based  
 905 care lead agency until the department, in consultation with the  
 906 local community alliance, has determined and certified in  
 907 writing to the Governor and the Legislature that the district is  
 908 prepared to transition the provision of services to the lead  
 909 agency and that the lead agency is ready to deliver and be  
 910 accountable for such service provision. In making this  
 911 determination, the department shall conduct a readiness  
 912 assessment of the district and the lead agency.

913 1. The assessment shall evaluate the operational readiness  
 914 of the district and the lead agency based on:

915 a. A set of uniform criteria, developed in consultation  
 916 with currently operating community-based care lead agencies and  
 917 reflecting national accreditation standards, that evaluate  
 918 programmatic, financial, technical assistance, training and  
 919 organizational competencies; and

920 b. Local criteria reflective of the local community-based  
 921 care design and the community alliance priorities.

922 2. The readiness assessment shall be conducted by a joint  
 923 team of district and lead agency staff with direct experience  
 924 with the start up and operation of a community-based care

925 service program and representatives from the appropriate  
926 community alliance. Within resources available for this purpose,  
927 the department may secure outside audit expertise when necessary  
928 to assist a readiness assessment team.

929 3. Upon completion of a readiness assessment, the  
930 assessment team shall conduct an exit conference with the  
931 district and lead agency staff responsible for the transition.

932 4. Within 30 days following the exit conference with staff  
933 of each district and lead agency, the secretary shall certify in  
934 writing to the Governor and the Legislature that both the  
935 district and the lead agency are prepared to begin the  
936 transition of service provision based on the results of the  
937 readiness assessment and the exit conference. The document of  
938 certification must include specific evidence of readiness on  
939 each element of the readiness instrument utilized by the  
940 assessment team as well as a description of each element of  
941 readiness needing improvement and strategies being implemented  
942 to address each one.

943 (e) As used in this section, the term "eligible lead  
944 community-based provider" means a single agency with which the  
945 department shall contract for the provision of child protective  
946 services in a community that is no smaller than a county. The  
947 secretary of the department may authorize more than one eligible  
948 lead community-based provider within a single county when to do  
949 so will result in more effective delivery of foster care and  
950 related services. To compete for an outsourcing ~~a privatization~~  
951 project, such agency must have:

952 1. The ability to coordinate, integrate, and manage all

953 child protective services in the designated community in  
 954 cooperation with child protective investigations.

955 2. The ability to ensure continuity of care from entry to  
 956 exit for all children referred from the protective investigation  
 957 and court systems.

958 3. The ability to provide directly, or contract for  
 959 through a local network of providers, all necessary child  
 960 protective services. Such agencies should directly provide no  
 961 more than 35 percent of all child protective services provided.

962 4. The willingness to accept accountability for meeting  
 963 the outcomes and performance standards related to child  
 964 protective services established by the Legislature and the  
 965 Federal Government.

966 5. The capability and the willingness to serve all  
 967 children referred to it from the protective investigation and  
 968 court systems, regardless of the level of funding allocated to  
 969 the community by the state, provided all related funding is  
 970 transferred.

971 6. The willingness to ensure that each individual who  
 972 provides child protective services completes the training  
 973 required of child protective service workers by the Department  
 974 of Children and Family Services.

975 7. The ability to maintain eligibility to receive all  
 976 federal child welfare funds, including Title IV-E and IV-A  
 977 funds, currently being used by the Department of Children and  
 978 Family Services.

979 8. Written agreements with Healthy Families Florida lead  
 980 entities in their community, pursuant to s. 409.153, to promote

981 cooperative planning for the provision of prevention and  
 982 intervention services.

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

987 (f)1. The Legislature finds that the state has  
 988 traditionally provided foster care services to children who have  
 989 been the responsibility of the state. As such, foster children  
 990 have not had the right to recover for injuries beyond the  
 991 limitations specified in s. 768.28. The Legislature has  
 992 determined that foster care and related services need to be  
 993 outsourced ~~privatized~~ pursuant to this section and that the  
 994 provision of such services is of paramount importance to the  
 995 state. The purpose for such outsourcing ~~privatization~~ is to  
 996 increase the level of safety, security, and stability of  
 997 children who are or become the responsibility of the state. One  
 998 of the components necessary to secure a safe and stable  
 999 environment for such children is that private providers maintain  
 1000 liability insurance. As such, insurance needs to be available  
 1001 and remain available to nongovernmental foster care and related  
 1002 services providers without the resources of such providers being  
 1003 significantly reduced by the cost of maintaining such insurance.

1004 2. The Legislature further finds that, by requiring the  
 1005 following minimum levels of insurance, children in outsourced  
 1006 ~~privatized~~ foster care and related services will gain increased  
 1007 protection and rights of recovery in the event of injury than  
 1008 provided for in s. 768.28.

1009 (g) In any county in which a service contract has not been  
 1010 executed by December 31, 2004, the department shall ensure  
 1011 access to a model comprehensive residential services program as  
 1012 described in s. 409.1677 which, without imposing undue  
 1013 financial, geographic, or other barriers, ensures reasonable and  
 1014 appropriate participation by the family in the child's program.

1015 1. In order to ensure that the program is operational by  
 1016 December 31, 2004, the department must, by December 31, 2003,  
 1017 begin the process of establishing access to a program in any  
 1018 county in which the department has not either entered into a  
 1019 transition contract or approved a community plan, as described  
 1020 in paragraph (d), which ensures full outsourcing ~~privatization~~  
 1021 by the statutory deadline.

1022 2. The program must be procured through a competitive  
 1023 process.

1024 3. The Legislature does not intend for the provisions of  
 1025 this paragraph to substitute for the requirement that full  
 1026 conversion to community-based care be accomplished.

1027 (2)

1028 (b) Persons employed by the department in the provision of  
 1029 foster care and related services whose positions are being  
 1030 outsourced under ~~privatized pursuant to~~ this statute shall be  
 1031 given hiring preference by the provider, if provider  
 1032 qualifications are met.

1033 (4)(a) The department, in consultation with the community-  
 1034 based agencies that are undertaking the outsourced ~~privatized~~  
 1035 projects, shall establish a quality assurance program for  
 1036 privatized services. The quality assurance program shall be

1037 based on standards established by the Adoption and Safe Families  
 1038 Act as well as by a national accrediting organization such as  
 1039 the Council on Accreditation of Services for Families and  
 1040 Children, Inc. (COA) or CARF--the Rehabilitation Accreditation  
 1041 Commission. Each program operated under contract with a  
 1042 community-based agency must be evaluated annually by the  
 1043 department. The department shall, to the extent possible, use  
 1044 independent financial audits provided by the community-based  
 1045 care agency to eliminate or reduce the ongoing contract and  
 1046 administrative reviews conducted by the department. The  
 1047 department may suggest additional items to be included in such  
 1048 independent financial audits to meet the department's needs.  
 1049 Should the department determine that such independent financial  
 1050 audits are inadequate, then other audits, as necessary, may be  
 1051 conducted by the department. Nothing herein shall abrogate the  
 1052 requirements of s. 215.97. The department shall submit an annual  
 1053 report regarding quality performance, outcome measure  
 1054 attainment, and cost efficiency to the President of the Senate,  
 1055 the Speaker of the House of Representatives, the minority leader  
 1056 of each house of the Legislature, and the Governor no later than  
 1057 January 31 of each year for each project in operation during the  
 1058 preceding fiscal year.

1059 (6) Beginning January 1, 1999, and continuing at least  
 1060 through June 30, 2000, the Department of Children and Family  
 1061 Services shall outsource ~~privatize~~ all foster care and related  
 1062 services in district 5 while continuing to contract with the  
 1063 current model programs in districts 1, 4, and 13, and in  
 1064 subdistrict 8A, and shall expand the subdistrict 8A pilot

1065 program to incorporate Manatee County. Planning for the district  
 1066 5 outsourcing ~~privatization~~ shall be done by providers that are  
 1067 currently under contract with the department for foster care and  
 1068 related services and shall be done in consultation with the  
 1069 department. A lead provider of the district 5 program shall be  
 1070 competitively selected, must demonstrate the ability to provide  
 1071 necessary comprehensive services through a local network of  
 1072 providers, and must meet criteria established in this section.  
 1073 Contracts with organizations responsible for the model programs  
 1074 must include the management and administration of all outsourced  
 1075 ~~privatized~~ services specified in subsection (1). However, the  
 1076 department may use funds for contract management only after  
 1077 obtaining written approval from the Executive Office of the  
 1078 Governor. The request for such approval must include, but is not  
 1079 limited to, a statement of the proposed amount of such funds and  
 1080 a description of the manner in which such funds will be used. If  
 1081 the community-based organization selected for a model program  
 1082 under this subsection is not a Medicaid provider, the  
 1083 organization shall be issued a Medicaid provider number pursuant  
 1084 to s. 409.907 for the provision of services currently authorized  
 1085 under the state Medicaid plan to those children encompassed in  
 1086 this model and in a manner not to exceed the current level of  
 1087 state expenditure.

1088 (9) Each district and subdistrict that participates in the  
 1089 model program effort or any future outsourcing ~~privatization~~  
 1090 effort as described in this section must thoroughly analyze and  
 1091 report the complete direct and indirect costs of delivering  
 1092 these services through the department and the full cost of

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1093 outsourcing ~~privatization~~, including the cost of monitoring and  
1094 evaluating the contracted services.

1095 Section 4. The Office of Program Policy Analysis and  
1096 Government Accountability shall conduct two reviews of the  
1097 contract-management and accountability structures of the  
1098 Department of Children and Family Services, including, but not  
1099 limited to, whether the department is adequately monitoring and  
1100 managing its outsourced or privatized functions and services.  
1101 The office shall report its findings and recommendations to the  
1102 President of the Senate, the Speaker of the House of  
1103 Representatives, and the Auditor General by February 1 of 2006  
1104 and 2007, respectively.

1105 Section 5. Section 402.72, Florida Statutes, is repealed.

1106 Section 6. This act shall take effect July 1, 2005.