

CHAMBER ACTION

1 The Health Care Appropriations Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to the Department of Children and Family
8 Services; providing legislative intent with respect to
9 establishing a structure by which the department shall
10 monitor and manage contracts with external service
11 providers; providing definitions; requiring the department
12 to competitively procure certain commodities and
13 contractual services; requiring the department to allow
14 all public postsecondary institutions to bid on contracts
15 intended for any public postsecondary institution;
16 authorizing the department to competitively procure and
17 contract for systems of treatment or service that involve
18 multiple providers; providing requirements if other
19 governmental entities contribute matching funds; requiring
20 that an entity providing matching funds must comply with
21 certain procurement procedures; authorizing the department
22 to independently procure and contract for treatment
23 services; requiring that the department develop a business

24 | case before outsourcing any service or function; providing
25 | requirements for the business case; requiring that the
26 | business case be submitted to the Legislature for
27 | approval; requiring that a contractual service that has
28 | previously been outsourced be subject to the requirements
29 | for a business case; requiring that a procurement of
30 | contractual services equal to or in excess of the
31 | threshold amount for CATEGORY FIVE comply with specified
32 | requirements, including a scope of work and performance
33 | standards; authorizing the department to adopt incremental
34 | penalties by rule; authorizing the department to include
35 | cost-neutral, performance-based incentives in a contract;
36 | requiring that a contract in excess of \$1 million be
37 | negotiated by a contract negotiator who is certified
38 | according to standards established by the Department of
39 | Management Services; limiting circumstances under which
40 | the department may amend a contract; requiring that a
41 | proposed contract amendment be submitted to the Executive
42 | Office of the Governor for approval; requiring approval of
43 | a contract amendment by the Administration Commission
44 | under certain circumstances; requiring the department to
45 | verify that contractual terms have been satisfied before
46 | renewing a contract; requiring certain documentation;
47 | requiring the department to develop, in consultation with
48 | the Department of Management Services, contract templates
49 | and guidelines; requiring that the department establish a
50 | contract-management process; specifying the requirements
51 | for and components of the contract-management process;

52 providing requirements for resolving performance
53 deficiencies and terminating a contract; requiring a
54 corrective-action plan under certain circumstances;
55 requiring the department to develop standards of conduct
56 and disciplinary actions; requiring that the department
57 establish contract-monitoring units and a contract-
58 monitoring process; requiring written reports; requiring
59 on-site visits for contracts involving the provision of
60 direct client services; requiring the department to make
61 certain documents available to the Legislature; requiring
62 the department to create an electronic database to store
63 the documents; amending s. 402.73, F.S.; requiring the
64 Agency for Persons with Disabilities to implement systems
65 to ensure quality and fiscal integrity of programs in the
66 developmental services Medicaid waiver system; providing
67 an exemption for health services from competitive bidding
68 requirements; amending s. 409.1671, F.S.; conforming
69 provisions to changes made by the act; requiring that the
70 Office of Program Policy Analysis and Government
71 Accountability conduct two reviews of the contract-
72 management and accountability structures of the department
73 and report to the Legislature and the Auditor General;
74 repealing s. 402.72, F.S., relating to contract-management
75 requirements for the Department of Children and Family
76 Services; providing an appropriation; providing an
77 effective date.

78
79 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Department of Children and Family Services; procurement of contractual services; outsourcing or privatization; contract management.--

(1) LEGISLATIVE INTENT.--The Legislature intends that the Department of Children and Family Services obtain services in the manner that is most efficient and cost-effective for the state, that provides the greatest long-term benefits to the clients receiving services, and that minimizes the disruption of client services. In order to meet these legislative goals, the department shall comply with legislative policy guidelines that require compliance with uniform procedures for procuring contractual services, prescribe how the department must outsource its programmatic and administrative services to external service providers rather than having them provided by the department or another state agency, and establish a contract-management and contract-monitoring process.

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

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

108 (b) "Contract monitor" means the department employee who
 109 is responsible for observing, recording, and reporting to the
 110 contract manager and other designated entities the information
 111 necessary to assist the contract manager and program management
 112 in determining whether the contractor is in compliance with the
 113 administrative and programmatic terms and conditions of the
 114 contract.

115 (c) "Department" means the Department of Children and
 116 Family Services.

117 (d) "Outsourcing" means the process of contracting with an
 118 external service provider to provide a service, in whole or in
 119 part, while the department retains the responsibility and
 120 accountability for the service.

121 (e) "Performance measure" means the quantitative
 122 indicators used to assess if the service the external provider
 123 is performing is achieving the desired results. Measures of
 124 performance include outputs, direct counts of program
 125 activities, and outcomes or results of program activities in the
 126 lives of the clients served.

127 (f) "Performance standard" means the quantifiable,
 128 specified, and desired level to be achieved for a particular
 129 performance measure.

130 (g) "Privatize" means any process aimed at transferring
 131 the responsibility for a service, in whole or in part, from the
 132 department to the private sector such that the private sector is
 133 solely and fully responsible for the performance of the specific
 134 service.

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135 (h) "Service" means all or any portion of a program or
 136 program component as defined in section 216.011, Florida
 137 Statutes.

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

139 (a) For the purchase of commodities and contractual
 140 services in excess of the threshold amount established in
 141 section 287.017, Florida Statutes, for CATEGORY TWO, the
 142 department shall comply with the requirements set forth in
 143 section 287.057, Florida Statutes.

144 (b) Notwithstanding section 287.057(5)(f)13., Florida
 145 Statutes, whenever the department intends to contract with a
 146 public postsecondary institution to provide a service, the
 147 department must allow all public postsecondary institutions in
 148 this state that are accredited by the Southern Association of
 149 Colleges and Schools to bid on the contract. Thereafter,
 150 notwithstanding any other provision to the contrary, if a public
 151 postsecondary institution intends to subcontract for any service
 152 awarded in the contract, the subcontracted service must be
 153 procured by competitive procedures.

154 (c) When it is in the best interest of a defined segment
 155 of its consumer population, the department may competitively
 156 procure and contract for systems of treatment or service that
 157 involve multiple providers, rather than procuring and
 158 contracting for treatment or services separately from each
 159 participating provider. The department must ensure that all
 160 providers that participate in the treatment or service system
 161 meet all applicable statutory, regulatory, service-quality, and
 162 cost-control requirements. If other governmental entities or

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163 units of special purpose government contribute matching funds to
 164 the support of a given system of treatment or service, the
 165 department shall formally request information from those funding
 166 entities in the procurement process and may take the information
 167 received into account in the selection process. If a local
 168 government contributes matching funds to support the system of
 169 treatment or contracted service and if the match constitutes at
 170 least 25 percent of the value of the contract, the department
 171 shall afford the governmental match contributor an opportunity
 172 to name an employee as one of the persons required by section
 173 287.057(17), Florida Statutes, to evaluate or negotiate certain
 174 contracts, unless the department sets forth in writing the
 175 reason why the inclusion would be contrary to the best interest
 176 of the state. Any employee so named by the governmental match
 177 contributor shall qualify as one of the persons required by
 178 section 287.057(17), Florida Statutes. A governmental entity or
 179 unit of special purpose government may not name an employee as
 180 one of the persons required by section 287.057(17), Florida
 181 Statutes, if it, or any of its political subdivisions, executive
 182 agencies, or special districts, intends to compete for the
 183 contract to be awarded. The governmental funding entity or
 184 contributor of matching funds must comply with all procurement
 185 procedures set forth in section 287.057, Florida Statutes, when
 186 appropriate and required.

187 (d) The department may procure and contract for or provide
 188 assessment and case-management services independently from
 189 treatment services.

190 (4) SOURCING STANDARDS AND REQUIREMENTS.--If the
 191 department proposes to outsource a service, the department must
 192 comply with the requirements of this section prior to the
 193 procurement process provided for in section 287.057, Florida
 194 Statutes.

195 (a) The department shall develop a business case
 196 describing and analyzing the service proposed for outsourcing. A
 197 business case is part of the solicitation process and is not a
 198 rule subject to challenge pursuant to section 120.54, Florida
 199 Statutes. The business case must include, but need not be
 200 limited to:

201 1. A detailed description of the services to be
 202 outsourced, a description and analysis of the department's
 203 current performance of the service, and a rationale documenting
 204 how outsourcing the service would be in the best interest of the
 205 state, the department, and its clients.

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

215 3. A description of the specific performance measures and
 216 standards that must be achieved through the outsourcing
 217 proposal.

218 4. A statement of the potential effect on applicable
 219 federal, state, and local revenues and expenditures. The
 220 statement must specifically describe the effect on general
 221 revenue, trust funds, general revenue service charges, and
 222 interest on trust funds, together with the potential direct or
 223 indirect effect on federal funding and cost allocations.

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

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

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

230 c. Meet all legal requirements for record retention.

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

234 6. A department transition and implementation plan for
 235 addressing changes in the number of agency personnel, affected
 236 business processes, and employee-transition issues. Such a plan
 237 must also specify the mechanism for continuing the operation of
 238 the service if the contractor fails to perform and comply with
 239 the performance measures and standards and provisions of the
 240 contract. Within this plan, the department shall identify all
 241 resources, including full-time equivalent positions, which are
 242 subject to outsourcing. All full-time equivalent positions
 243 identified in the plan shall be placed in reserve by the
 244 Executive Office of the Governor until the end of the second
 245 year of the contract. Notwithstanding the provisions of section

246 216.262, Florida Statutes, the Executive Office of the Governor
 247 shall request authority from the Legislative Budget Commission
 248 to reestablish full-time positions above the number fixed by the
 249 Legislature when a contract is terminated and the outsourced
 250 service must be returned to the department.

251 7. A listing of assets proposed for transfer to or use by
 252 the external service provider, a description of the proposed
 253 requirements for maintenance of those assets by the external
 254 service provider or the department in accordance with chapter
 255 273, Florida Statutes, a plan for their disposition upon
 256 termination of the contract, and a description of how the
 257 planned asset transfer or use by the contractor is in the best
 258 interest of the department and the state.

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

269 2. If a proposed outsourcing initiative would require
 270 integration with, or would in any way affect other state
 271 information technology systems, the department shall submit the
 272 feasibility study documentation required by the legislative

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273 budget request instructions under section 216.023, Florida
 274 Statutes.

275 (c) If the department proposes to outsource a service
 276 during a fiscal year and the outsourcing provision was not
 277 included in the approved operating budget of the department, the
 278 department must provide to the Governor, the President of the
 279 Senate, the Speaker of the House of Representatives, the chairs
 280 of the legislative appropriations committees, and the chairs of
 281 the relevant substantive committees the business case that
 282 complies with the requirements of paragraph (a) at least 45 days
 283 before the release of any solicitation documents, as provided
 284 for in section 287.057, Florida Statutes. Any budgetary changes
 285 that are inconsistent with the department's approved budget may
 286 not be made to existing programs unless the changes are
 287 recommended to the Legislative Budget Commission by the Governor
 288 and the Legislative Budget Commission expressly approves the
 289 program changes.

290 (d) The department may not privatize a service without
 291 specific authority provided in general law, the General
 292 Appropriations Act, legislation implementing the General
 293 Appropriations Act, or a special appropriations act.

294 (5) CONTRACTING AND PERFORMANCE MEASURES.--In addition to
 295 the requirements of section 287.058, Florida Statutes, every
 296 procurement of contractual services by the department which
 297 meets or is in excess of the threshold amount provided in
 298 section 287.017, Florida Statutes, for CATEGORY FIVE, must
 299 comply with the requirements of this subsection.

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

303 1. A detailed scope of work that clearly specifies each
 304 service and deliverable to be provided, including a description
 305 of each deliverable or activity that is quantifiable,
 306 measurable, and verifiable by the department and the contractor.

307 2. Associated costs and savings, specific payment terms
 308 and payment schedules, including incentive and penalty
 309 provisions, criteria governing payment, and a clear and specific
 310 schedule to complete all required activities needed to transfer
 311 the service from the state to the contractor.

312 3. Clear and specific identification of all required
 313 performance measures and standards, which must, at a minimum,
 314 include:

315 a. Acceptance criteria for each deliverable and service to
 316 be provided to the department under the terms of the contract
 317 which document, to the greatest extent possible, the required
 318 performance level. Acceptance criteria must be detailed, clear,
 319 and unambiguous and shall be used to measure deliverables and
 320 services to be provided under the contract.

321 b. A method for monitoring and reporting progress in
 322 achieving specified performance standards and levels.

323 c. The sanctions or penalties that shall be assessed for
 324 contract or state nonperformance. The department may adopt, by
 325 rule, provisions for including in its contracts incremental
 326 penalties to be imposed by its contract managers on a contractor
 327 due to the contractor's failure to comply with a requirement for

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328 corrective action. Any financial penalty that is imposed upon a
329 contractor may not be paid from funds being used to provide
330 services to clients, and the contractor may not reduce the
331 amount of services being delivered to clients as a method for
332 offsetting the effect of the penalty. If a financial penalty is
333 imposed upon a contractor that is a corporation, the department
334 shall notify, at a minimum, the board of directors of the
335 corporation. The department may notify any additional parties
336 that the department believes may be helpful in obtaining the
337 corrective action that is being sought. In addition, the rules
338 adopted by the department must include provisions that permit
339 the department to deduct the financial penalties from funds that
340 would otherwise be due to the contractor, not to exceed 10
341 percent of the amount that otherwise would be due to the
342 contractor for the period of noncompliance. If the department
343 imposes a financial penalty, it shall advise the contractor in
344 writing of the cause for the penalty. A failure to include such
345 deductions in a request for payment constitutes grounds for the
346 department to reject that request for payment. The remedies
347 identified in this paragraph do not limit or restrict the
348 department's application of any other remedy available to it in
349 the contract or under law. The remedies described in this
350 paragraph may be cumulative and may be assessed upon each
351 separate failure to comply with instructions from the department
352 to complete corrective action.

353 4. A requirement that the contractor maintain adequate
354 accounting records that comply with all applicable federal and
355 state laws and generally accepted accounting principles.

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

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356 5. A requirement authorizing the department and state to
 357 have access to and conduct audits of all records related to the
 358 contract and outsourced services.

359 6. A requirement that ownership of any intellectual
 360 property developed in the course of, or as a result of, work or
 361 services performed under the contract shall transfer to the
 362 state if the contractor ceases to provide the outsourced
 363 service.

364 7. A requirement describing the timing and substance of
 365 all plans and status or progress reports that are to be
 366 provided. All plans and status or progress reports must comply
 367 with any relevant state and federal standards for planning,
 368 implementation, operations, and oversight.

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

371 a. Keep and maintain the public records that ordinarily
 372 and necessarily would be required by the department to perform
 373 the service.

374 b. Provide public access to such public records on the
 375 same terms and conditions that the department would and at a
 376 cost that does not exceed that provided in chapter 119, Florida
 377 Statutes.

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

380 d. Meet all legal and auditing requirements for record
 381 retention, and transfer to the state, at no cost to the state,
 382 all public records in possession of the contractor upon
 383 termination of the contract. All records stored electronically

384 must be provided to the state in the format compatible with
385 state information technology systems.

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

398 10. A provision that the contractor annually submit and
399 verify, under section 92.525, Florida Statutes, all required
400 financial statements.

401 11. A provision that the contractor will be held
402 responsible and accountable for all work covered under the
403 contract including any work performed by subcontractors. The
404 contract must state that the department may monitor the
405 performance of any subcontractor.

406 (b) A contract may include cost-neutral, performance-based
407 incentives that may vary according to the extent a contractor
408 achieves or surpasses the performance standards set forth in the
409 contract. The incentives may be weighted proportionally to
410 reflect the extent to which the contractor has demonstrated that

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411 it has consistently met or exceeded the contractual requirements
412 and the performance standards.

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

417 (d) When the annualized value of a contract is in excess
418 of \$1 million, at least one of the persons conducting
419 negotiations must be certified as a contract negotiator based
420 upon standards established by the Department of Management
421 Services.

422 (e) The department may not amend a contract without first
423 submitting the proposed contract amendment to the Executive
424 Office of the Governor for approval if the effect of the
425 amendment would be to increase:

426 1. The value of the contract by \$250,000 for those
427 contracts with a total value of at least \$250,000 but less than
428 \$1 million;

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

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

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

435
436 When the department proposes any contract amendment that meets
437 the criteria described in this paragraph, it shall submit the
438 proposed contract amendment to the Executive Office of the

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439 Governor for approval and shall immediately notify the chairs of
440 the legislative appropriations committees. The Executive Office
441 of the Governor may not approve the proposed contract amendment
442 until 14 days following receipt of the notification to the
443 legislative appropriations chairs. If either chair of the
444 legislative appropriations committees objects in writing to a
445 proposed contract amendment within 14 days following
446 notification and specifies the reasons for the objection, the
447 Executive Office of the Governor shall disapprove the proposed
448 contract amendment or shall submit the proposed contract
449 amendment to the Administration Commission. The proposed
450 contract amendment may be approved by the Administration
451 Commission by a two-thirds vote of the members present with the
452 Governor voting in the affirmative. In the absence of approval
453 by the commission, the proposed contract amendment shall be
454 automatically disapproved. Otherwise, upon approval by the
455 Governor or Administration Commission, the department may
456 execute the contract amendment.

457 (f) An amendment that is issued under legislative
458 direction, including funding adjustments annually provided for
459 in the General Appropriations Act or the federal appropriations
460 acts, need not be submitted for approval in accordance with
461 paragraph (d).

462 (g) In addition to the requirements of section 287.057(13)
463 and (14), Florida Statutes, the department shall verify that all
464 specific direct and indirect costs, savings, performance
465 measures and standards, and qualitative and quantitative
466 benefits identified in the original contract have been satisfied

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467 by a contractor or the department before the contract is
468 extended or renewed. The documentation must include an
469 explanation of any differences between the required performance
470 as identified in the contract and the actual performance of the
471 contractor. The documentation must be included in the official
472 contract file.

473 (h) The department shall, in consultation with the
474 Department of Management Services, develop contract templates
475 and guidelines that define the mandatory contract provisions and
476 other requirements identified in this subsection and that must
477 be used for all contractual service contracts meeting the
478 requirements of this subsection. All contract templates and
479 guidelines shall be developed by September 30, 2005.

480 (6) CONTRACT-MANAGEMENT REQUIREMENTS AND
481 PROCESS.--Notwithstanding section 287.057(15), Florida Statutes,
482 the department is responsible for establishing a contract-
483 management process that requires a member of the department's
484 Senior Management Service to assign in writing the
485 responsibility of a contract to a contract manager. The
486 department shall maintain a set of procedures describing its
487 contract-management process which must minimally include the
488 following requirements:

489 (a) The contract manager shall maintain the official
490 contract file throughout the duration of the contract and for a
491 period not less than 6 years after the termination of the
492 contract.

493 (b) The contract manager shall review all invoices for
494 compliance with the criteria and payment schedule provided for

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495 in the contract and shall approve payment of all invoices before
496 their transmission to the Department of Financial Services for
497 payment. Only the contract manager shall approve the invoices
498 for a specific contract, unless the contract manager is
499 temporarily unavailable to review an invoice. The contract file
500 must contain an explanation for any periods of temporary
501 unavailability of the assigned contract manager. For any
502 individual invoice in excess of \$500,000, a member of the
503 Selected Exempt Service or Senior Management Service shall also
504 sign payment approval of the invoice. For any individual invoice
505 in excess of \$1 million, a member of the Senior Management
506 Service shall also sign payment approval of the invoice.

507 (c) The contract manager shall maintain a schedule of
508 payments and total amounts disbursed and shall periodically
509 reconcile the records with the state's official accounting
510 records.

511 (d) For contracts involving the provision of direct client
512 services, the contract manager shall periodically visit the
513 physical location where the services are delivered and speak
514 directly to clients receiving the services and the staff
515 responsible for delivering the services.

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

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

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

540 (h) The contract manager shall document any contract
 541 modifications, which shall include recording any contract
 542 amendments as provided for in this section.

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

545
 546 The department shall develop standards of conduct and a range of
 547 disciplinary actions for its employees which are specifically
 548 related to carrying out contract-management responsibilities.

549 (7) CONTRACT-MONITORING REQUIREMENTS AND PROCESS.--The
 550 department shall establish contract-monitoring units staffed by

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551 full-time career service employees who report to a member of the
552 Select Exempt Service or Senior Management Service and who have
553 been properly trained to perform contract monitoring. A member
554 of the Senior Management Service shall assign in writing a
555 specific contract to a contract-monitoring unit, with at least
556 one member of the contract-monitoring unit possessing specific
557 knowledge and experience in the contract's program area. The
558 department shall establish a contract-monitoring process that
559 must include, but need not be limited to, the following
560 requirements:

561 (a) Performing a risk assessment at the start of each
562 fiscal year and preparing an annual contract-monitoring schedule
563 that includes consideration for the level of risk assigned. The
564 department may monitor any contract at any time regardless of
565 whether such monitoring was originally included in the annual
566 contract-monitoring schedule.

567 (b) Preparing a contract-monitoring plan, including
568 sampling procedures, before performing on-site monitoring at
569 external locations of a service provider. The plan must include
570 a description of the programmatic, fiscal, and administrative
571 components that will be monitored on-site. If appropriate,
572 clinical and therapeutic components may be included.

573 (c) Conducting analyses of the performance and compliance
574 of an external service provider by means of desk reviews if the
575 external service provider will not be monitored on-site during a
576 fiscal year.

577 (d) Unless the department sets forth in writing the need
578 for an extension, providing a written report presenting the

579 results of the monitoring within 30 days after the completion of
 580 the on-site monitoring or desk review. Report extensions may not
 581 exceed 30 days after the original completion date. The
 582 department shall develop and use a standard contract-monitoring
 583 report format and shall provide access to the reports by means
 584 of a website that is available to the Legislature.

585 (e) For contracts involving the provision of direct client
 586 services, requiring the contract monitor to visit the physical
 587 location where the services are being delivered and to speak
 588 directly to the clients receiving the services and with the
 589 staff responsible for delivering the services.

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

592
 593 The department shall develop standards of conduct and a range of
 594 disciplinary actions for its employees which are specifically
 595 related to carrying out contract-monitoring responsibilities.

596 (8) REPORTS TO THE LEGISLATURE.--Beginning October 1,
 597 2005, the department shall make available to the Legislature
 598 electronically all documents associated with the procurement and
 599 contracting functions of the department. The documents in the
 600 database must include, but are not limited to, all:

601 (a) Business cases;

602 (b) Procurement documents;

603 (c) Contracts and any related files, attachments, or
 604 amendments;

605 (d) Contract monitoring reports;

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606 (e) Corrective action plans and reports of corrective
 607 actions taken when contractor performance deficiencies are
 608 identified; and

609 (f) Status reports on all outsourcing initiatives
 610 describing the progress by the department towards achieving the
 611 business objectives, costs, savings, and quantifiable benefits
 612 identified in the business case.

613 Section 2. Section 402.73, Florida Statutes, is amended to
 614 read:

615 402.73 Contracting and performance standards.--

616 ~~(1) The Department of Children and Family Services shall~~
 617 ~~establish performance standards for all contracted client~~
 618 ~~services. Notwithstanding s. 287.057(5)(f), the department must~~
 619 ~~competitively procure any contract for client services when any~~
 620 ~~of the following occurs:~~

621 ~~(a) The provider fails to meet appropriate performance~~
 622 ~~standards established by the department after the provider has~~
 623 ~~been given a reasonable opportunity to achieve the established~~
 624 ~~standards.~~

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

628 ~~(c) The department has concluded, after reviewing market~~
 629 ~~prices and available treatment options, that there is evidence~~
 630 ~~that the department can improve the performance outcomes~~
 631 ~~produced by its contract resources. At a minimum, the department~~
 632 ~~shall review market prices and available treatment options~~
 633 ~~biennially. The department shall compile the results of the~~

634 ~~biennial review and include the results in its annual~~
 635 ~~performance report to the Legislature pursuant to chapter 94-~~
 636 ~~249, Laws of Florida. The department shall provide notice and an~~
 637 ~~opportunity for public comment on its review of market prices~~
 638 ~~and available treatment options.~~

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

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

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

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

653
 654 ~~Competitive procurement of client services contracts that meet~~
 655 ~~the criteria in subsection (1) may not be deferred for longer~~
 656 ~~than 1 year.~~

657 ~~(3) The Legislature intends that the department obtain~~
 658 ~~services in the manner that is most cost-effective for the~~
 659 ~~state, that provides the greatest long-term benefits to the~~
 660 ~~clients receiving services, and that minimizes the disruption of~~
 661 ~~client services. In order to meet these legislative goals, the~~

662 ~~department may adopt rules providing procedures for the~~
 663 ~~competitive procurement of contracted client services which~~
 664 ~~represent an alternative to the request for proposal or~~
 665 ~~invitation to bid process. The alternative competitive~~
 666 ~~procedures shall permit the department to solicit professional~~
 667 ~~qualifications from prospective providers and to evaluate such~~
 668 ~~statements of qualification before requesting service proposals.~~
 669 ~~The department may limit the firms invited to submit service~~
 670 ~~proposals to only those firms that have demonstrated the highest~~
 671 ~~level of professional capability to provide the services under~~
 672 ~~consideration, but may not invite fewer than three firms to~~
 673 ~~submit service proposals, unless fewer than three firms~~
 674 ~~submitted satisfactory statements of qualification. The~~
 675 ~~alternative procedures must, at a minimum, allow the department~~
 676 ~~to evaluate competing proposals and select the proposal that~~
 677 ~~provides the greatest benefit to the state while considering the~~
 678 ~~quality of the services, dependability, and integrity of the~~
 679 ~~provider, the dependability of the provider's services, the~~
 680 ~~experience of the provider in serving target populations or~~
 681 ~~client groups substantially identical to members of the target~~
 682 ~~population for the contract in question, and the ability of the~~
 683 ~~provider to secure local funds to support the delivery of~~
 684 ~~services, including, but not limited to, funds derived from~~
 685 ~~local governments. These alternative procedures need not conform~~
 686 ~~to the requirements of s. 287.042 or s. 287.057(1) or (2).~~
 687 ~~(4) The department shall review the period for which it~~
 688 ~~executes contracts and, to the greatest extent practicable,~~

689 ~~shall execute multiyear contracts to make the most efficient use~~
 690 ~~of the resources devoted to contract processing and execution.~~
 691 ~~(5) When it is in the best interest of a defined segment~~
 692 ~~of its consumer population, the department may competitively~~
 693 ~~procure and contract for systems of treatment or service that~~
 694 ~~involve multiple providers, rather than procuring and~~
 695 ~~contracting for treatment or services separately from each~~
 696 ~~participating provider. The department must ensure that all~~
 697 ~~providers that participate in the treatment or service system~~
 698 ~~meet all applicable statutory, regulatory, service quality, and~~
 699 ~~cost-control requirements. If other governmental entities or~~
 700 ~~units of special purpose government contribute matching funds to~~
 701 ~~the support of a given system of treatment or service, the~~
 702 ~~department shall formally request information from those funding~~
 703 ~~entities in the procurement process and may take the information~~
 704 ~~received into account in the selection process. If a local~~
 705 ~~government contributes match to support the system of treatment~~
 706 ~~or contracted service and if the match constitutes at least 25~~
 707 ~~percent of the value of the contract, the department shall~~
 708 ~~afford the governmental match contributor an opportunity to name~~
 709 ~~an employee as one of the persons required by s. 287.057(17) to~~
 710 ~~evaluate or negotiate certain contracts, unless the department~~
 711 ~~sets forth in writing the reason why such inclusion would be~~
 712 ~~contrary to the best interest of the state. Any employee so~~
 713 ~~named by the governmental match contributor shall qualify as one~~
 714 ~~of the persons required by s. 287.057(17). No governmental~~
 715 ~~entity or unit of special purpose government may name an~~
 716 ~~employee as one of the persons required by s. 287.057(17) if it,~~

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717 ~~or any of its political subdivisions, executive agencies, or~~
718 ~~special districts, intends to compete for the contract to be~~
719 ~~awarded. The governmental funding entity or match contributor~~
720 ~~shall comply with any deadlines and procurement procedures~~
721 ~~established by the department. The department may also involve~~
722 ~~nongovernmental funding entities in the procurement process when~~
723 ~~appropriate.~~

724 ~~(6) The department may contract for or provide assessment~~
725 ~~and case management services independently from treatment~~
726 ~~services.~~

727 ~~(7) The department shall adopt, by rule, provisions for~~
728 ~~including in its contracts incremental penalties to be imposed~~
729 ~~by its contract managers on a service provider due to the~~
730 ~~provider's failure to comply with a requirement for corrective~~
731 ~~action. Any financial penalty that is imposed upon a provider~~
732 ~~may not be paid from funds being used to provide services to~~
733 ~~clients, and the provider may not reduce the amount of services~~
734 ~~being delivered to clients as a method for offsetting the impact~~
735 ~~of the penalty. If a financial penalty is imposed upon a~~
736 ~~provider that is a corporation, the department shall notify, at~~
737 ~~a minimum, the board of directors of the corporation. The~~
738 ~~department may notify, at its discretion, any additional parties~~
739 ~~that the department believes may be helpful in obtaining the~~
740 ~~corrective action that is being sought. Further, the rules~~
741 ~~adopted by the department must include provisions that permit~~
742 ~~the department to deduct the financial penalties from funds that~~
743 ~~would otherwise be due to the provider, not to exceed 10 percent~~
744 ~~of the amount that otherwise would be due to the provider for~~

745 ~~the period of noncompliance. If the department imposes a~~
 746 ~~financial penalty, it shall advise the provider in writing of~~
 747 ~~the cause for the penalty. A failure to include such deductions~~
 748 ~~in a request for payment constitutes a ground for the department~~
 749 ~~to reject that request for payment. The remedies identified in~~
 750 ~~this subsection do not limit or restrict the department's~~
 751 ~~application of any other remedy available to it in the contract~~
 752 ~~or under law. The remedies described in this subsection may be~~
 753 ~~cumulative and may be assessed upon each separate failure to~~
 754 ~~comply with instructions from the department to complete~~
 755 ~~corrective action.~~

756 ~~(8) The department shall develop standards of conduct and~~
 757 ~~a range of disciplinary actions for its employees which are~~
 758 ~~specifically related to carrying out contracting~~
 759 ~~responsibilities.~~

760 ~~(1)(9)~~ The Agency for Persons with Disabilities ~~department~~
 761 ~~must implement systems and controls to ensure financial~~
 762 ~~integrity and service provision quality in the developmental~~
 763 ~~services Medicaid waiver service system.~~

764 ~~(10) If a provider fails to meet the performance standards~~
 765 ~~established in the contract, the department may allow a~~
 766 ~~reasonable period for the provider to correct performance~~
 767 ~~deficiencies. If performance deficiencies are not resolved to~~
 768 ~~the satisfaction of the department within the prescribed time,~~
 769 ~~and if no extenuating circumstances can be documented by the~~
 770 ~~provider to the department's satisfaction, the department must~~
 771 ~~cancel the contract with the provider. The department may not~~
 772 ~~enter into a new contract with that same provider for the~~

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773 ~~services for which the contract was previously canceled for a~~
774 ~~period of at least 24 months after the date of cancellation. If~~
775 ~~an adult substance abuse services provider fails to meet the~~
776 ~~performance standards established in the contract, the~~
777 ~~department may allow a reasonable period, not to exceed 6~~
778 ~~months, for the provider to correct performance deficiencies. If~~
779 ~~the performance deficiencies are not resolved to the~~
780 ~~satisfaction of the department within 6 months, the department~~
781 ~~must cancel the contract with the adult substance abuse~~
782 ~~provider, unless there is no other qualified provider in the~~
783 ~~service district.~~

784 ~~(11) The department shall include in its standard contract~~
785 ~~document a requirement that any state funds provided for the~~
786 ~~purchase of or improvements to real property are contingent upon~~
787 ~~the contractor or political subdivision granting to the state a~~
788 ~~security interest in the property at least to the amount of the~~
789 ~~state funds provided for at least 5 years from the date of~~
790 ~~purchase or the completion of the improvements or as further~~
791 ~~required by law. The contract must include a provision that, as~~
792 ~~a condition of receipt of state funding for this purpose, the~~
793 ~~provider agrees that, if it disposes of the property before the~~
794 ~~department's interest is vacated, the provider will refund the~~
795 ~~proportionate share of the state's initial investment, as~~
796 ~~adjusted by depreciation.~~

797 ~~(12) The department shall develop and refine contracting~~
798 ~~and accountability methods that are administratively efficient~~
799 ~~and that provide for optimal provider performance.~~

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

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

817 ~~(2)(15)~~ Nothing contained in chapter 287 shall require
 818 competitive bids for health services involving examination,
 819 diagnosis, or treatment.

820 Section 3. Paragraphs (a), (b), (e), (f), and (g) of
 821 subsection (1), paragraph (b) of subsection (2), paragraph (a)
 822 of subsection (4), and subsections (6) and (9) of section
 823 409.1671, Florida Statutes, are amended to read:

824 409.1671 Foster care and related services; outsourcing
 825 privatization.--

826 (1)(a) It is the intent of the Legislature that the
 827 Department of Children and Family Services shall outsource

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828 | ~~privatize~~ the provision of foster care and related services
 829 | statewide. It is further the Legislature's intent to encourage
 830 | communities and other stakeholders in the well-being of children
 831 | to participate in assuring that children are safe and well-
 832 | nurtured. However, while recognizing that some local governments
 833 | are presently funding portions of certain foster care and
 834 | related services programs and may choose to expand such funding
 835 | in the future, the Legislature does not intend by its
 836 | outsourcing ~~privatization~~ of foster care and related services
 837 | that any county, municipality, or special district be required
 838 | to assist in funding programs that previously have been funded
 839 | by the state. Counties that provide children and family services
 840 | with at least 40 licensed residential group care beds by July 1,
 841 | 2003, and provide at least \$2 million annually in county general
 842 | revenue funds to supplement foster and family care services
 843 | shall continue to contract directly with the state and shall be
 844 | exempt from the provisions of this section. Nothing in this
 845 | paragraph prohibits any county, municipality, or special
 846 | district from future voluntary funding participation in foster
 847 | care and related services. As used in this section, the term
 848 | "outsource" ~~"privatize"~~ means to contract with competent,
 849 | community-based agencies. The department shall submit a plan to
 850 | accomplish outsourcing ~~privatization~~ statewide, through a
 851 | competitive process, phased in over a 3-year period beginning
 852 | January 1, 2000. This plan must be developed with local
 853 | community participation, including, but not limited to, input
 854 | from community-based providers that are currently under contract
 855 | with the department to furnish community-based foster care and

856 related services, and must include a methodology for determining
 857 and transferring all available funds, including federal funds
 858 that the provider is eligible for and agrees to earn and that
 859 portion of general revenue funds which is currently associated
 860 with the services that are being furnished under contract. The
 861 methodology must provide for the transfer of funds appropriated
 862 and budgeted for all services and programs that have been
 863 incorporated into the project, including all management, capital
 864 (including current furniture and equipment), and administrative
 865 funds to accomplish the transfer of these programs. This
 866 methodology must address expected workload and at least the 3
 867 previous years' experience in expenses and workload. With
 868 respect to any district or portion of a district in which
 869 outsourcing ~~privatization~~ cannot be accomplished within the 3-
 870 year timeframe, the department must clearly state in its plan
 871 the reasons the timeframe cannot be met and the efforts that
 872 should be made to remediate the obstacles, which may include
 873 alternatives to total outsourcing ~~privatization~~, such as public-
 874 private partnerships. As used in this section, the term "related
 875 services" includes, but is not limited to, family preservation,
 876 independent living, emergency shelter, residential group care,
 877 foster care, therapeutic foster care, intensive residential
 878 treatment, foster care supervision, case management,
 879 postplacement supervision, permanent foster care, and family
 880 reunification. Unless otherwise provided for, the state attorney
 881 shall provide child welfare legal services, pursuant to chapter
 882 39 and other relevant provisions, in Pinellas and Pasco
 883 Counties. When a private nonprofit agency has received case

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884 management responsibilities, transferred from the state under
885 this section, for a child who is sheltered or found to be
886 dependent and who is assigned to the care of the outsourcing
887 ~~privatization~~ project, the agency may act as the child's
888 guardian for the purpose of registering the child in school if a
889 parent or guardian of the child is unavailable and his or her
890 whereabouts cannot reasonably be ascertained. The private
891 nonprofit agency may also seek emergency medical attention for
892 such a child, but only if a parent or guardian of the child is
893 unavailable, his or her whereabouts cannot reasonably be
894 ascertained, and a court order for such emergency medical
895 services cannot be obtained because of the severity of the
896 emergency or because it is after normal working hours. However,
897 the provider may not consent to sterilization, abortion, or
898 termination of life support. If a child's parents' rights have
899 been terminated, the nonprofit agency shall act as guardian of
900 the child in all circumstances.

901 (b) It is the intent of the Legislature that the
902 department will continue to work towards full outsourcing
903 ~~privatization~~ in a manner that assures the viability of the
904 community-based system of care and best provides for the safety
905 of children in the child protection system. To this end, the
906 department is directed to continue the process of outsourcing
907 ~~privatizing~~ services in those counties in which signed startup
908 contracts have been executed. The department may also continue
909 to enter into startup contracts with additional counties.
910 However, no services shall be transferred to a community-based
911 care lead agency until the department, in consultation with the

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912 local community alliance, has determined and certified in
 913 writing to the Governor and the Legislature that the district is
 914 prepared to transition the provision of services to the lead
 915 agency and that the lead agency is ready to deliver and be
 916 accountable for such service provision. In making this
 917 determination, the department shall conduct a readiness
 918 assessment of the district and the lead agency.

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

921 a. A set of uniform criteria, developed in consultation
 922 with currently operating community-based care lead agencies and
 923 reflecting national accreditation standards, that evaluate
 924 programmatic, financial, technical assistance, training and
 925 organizational competencies; and

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

928 2. The readiness assessment shall be conducted by a joint
 929 team of district and lead agency staff with direct experience
 930 with the start up and operation of a community-based care
 931 service program and representatives from the appropriate
 932 community alliance. Within resources available for this purpose,
 933 the department may secure outside audit expertise when necessary
 934 to assist a readiness assessment team.

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

938 4. Within 30 days following the exit conference with staff
 939 of each district and lead agency, the secretary shall certify in

940 writing to the Governor and the Legislature that both the
 941 district and the lead agency are prepared to begin the
 942 transition of service provision based on the results of the
 943 readiness assessment and the exit conference. The document of
 944 certification must include specific evidence of readiness on
 945 each element of the readiness instrument utilized by the
 946 assessment team as well as a description of each element of
 947 readiness needing improvement and strategies being implemented
 948 to address each one.

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

958 1. The ability to coordinate, integrate, and manage all
 959 child protective services in the designated community in
 960 cooperation with child protective investigations.

961 2. The ability to ensure continuity of care from entry to
 962 exit for all children referred from the protective investigation
 963 and court systems.

964 3. The ability to provide directly, or contract for
 965 through a local network of providers, all necessary child
 966 protective services. Such agencies should directly provide no
 967 more than 35 percent of all child protective services provided.

968 | 4. The willingness to accept accountability for meeting
969 | the outcomes and performance standards related to child
970 | protective services established by the Legislature and the
971 | Federal Government.

972 | 5. The capability and the willingness to serve all
973 | children referred to it from the protective investigation and
974 | court systems, regardless of the level of funding allocated to
975 | the community by the state, provided all related funding is
976 | transferred.

977 | 6. The willingness to ensure that each individual who
978 | provides child protective services completes the training
979 | required of child protective service workers by the Department
980 | of Children and Family Services.

981 | 7. The ability to maintain eligibility to receive all
982 | federal child welfare funds, including Title IV-E and IV-A
983 | funds, currently being used by the Department of Children and
984 | Family Services.

985 | 8. Written agreements with Healthy Families Florida lead
986 | entities in their community, pursuant to s. 409.153, to promote
987 | cooperative planning for the provision of prevention and
988 | intervention services.

989 | 9. A board of directors, of which at least 51 percent of
990 | the membership is comprised of persons residing in this state.
991 | Of the state residents, at least 51 percent must also reside
992 | within the service area of the lead community-based provider.

993 | (f)1. The Legislature finds that the state has
994 | traditionally provided foster care services to children who have
995 | been the responsibility of the state. As such, foster children

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996 | have not had the right to recover for injuries beyond the
 997 | limitations specified in s. 768.28. The Legislature has
 998 | determined that foster care and related services need to be
 999 | outsourced ~~privatized~~ pursuant to this section and that the
 1000 | provision of such services is of paramount importance to the
 1001 | state. The purpose for such outsourcing ~~privatization~~ is to
 1002 | increase the level of safety, security, and stability of
 1003 | children who are or become the responsibility of the state. One
 1004 | of the components necessary to secure a safe and stable
 1005 | environment for such children is that private providers maintain
 1006 | liability insurance. As such, insurance needs to be available
 1007 | and remain available to nongovernmental foster care and related
 1008 | services providers without the resources of such providers being
 1009 | significantly reduced by the cost of maintaining such insurance.

1010 | 2. The Legislature further finds that, by requiring the
 1011 | following minimum levels of insurance, children in outsourced
 1012 | ~~privatized~~ foster care and related services will gain increased
 1013 | protection and rights of recovery in the event of injury than
 1014 | provided for in s. 768.28.

1015 | (g) In any county in which a service contract has not been
 1016 | executed by December 31, 2004, the department shall ensure
 1017 | access to a model comprehensive residential services program as
 1018 | described in s. 409.1677 which, without imposing undue
 1019 | financial, geographic, or other barriers, ensures reasonable and
 1020 | appropriate participation by the family in the child's program.

1021 | 1. In order to ensure that the program is operational by
 1022 | December 31, 2004, the department must, by December 31, 2003,
 1023 | begin the process of establishing access to a program in any

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1024 county in which the department has not either entered into a
 1025 transition contract or approved a community plan, as described
 1026 in paragraph (d), which ensures full outsourcing ~~privatization~~
 1027 by the statutory deadline.

1028 2. The program must be procured through a competitive
 1029 process.

1030 3. The Legislature does not intend for the provisions of
 1031 this paragraph to substitute for the requirement that full
 1032 conversion to community-based care be accomplished.

1033 (2)

1034 (b) Persons employed by the department in the provision of
 1035 foster care and related services whose positions are being
 1036 outsourced under ~~privatized pursuant to~~ this statute shall be
 1037 given hiring preference by the provider, if provider
 1038 qualifications are met.

1039 (4)(a) The department, in consultation with the community-
 1040 based agencies that are undertaking the outsourced ~~privatized~~
 1041 projects, shall establish a quality assurance program for
 1042 privatized services. The quality assurance program shall be
 1043 based on standards established by the Adoption and Safe Families
 1044 Act as well as by a national accrediting organization such as
 1045 the Council on Accreditation of Services for Families and
 1046 Children, Inc. (COA) or CARF--the Rehabilitation Accreditation
 1047 Commission. Each program operated under contract with a
 1048 community-based agency must be evaluated annually by the
 1049 department. The department shall, to the extent possible, use
 1050 independent financial audits provided by the community-based
 1051 care agency to eliminate or reduce the ongoing contract and

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1052 administrative reviews conducted by the department. The
 1053 department may suggest additional items to be included in such
 1054 independent financial audits to meet the department's needs.
 1055 Should the department determine that such independent financial
 1056 audits are inadequate, then other audits, as necessary, may be
 1057 conducted by the department. Nothing herein shall abrogate the
 1058 requirements of s. 215.97. The department shall submit an annual
 1059 report regarding quality performance, outcome measure
 1060 attainment, and cost efficiency to the President of the Senate,
 1061 the Speaker of the House of Representatives, the minority leader
 1062 of each house of the Legislature, and the Governor no later than
 1063 January 31 of each year for each project in operation during the
 1064 preceding fiscal year.

1065 (6) Beginning January 1, 1999, and continuing at least
 1066 through June 30, 2000, the Department of Children and Family
 1067 Services shall outsource ~~privatize~~ all foster care and related
 1068 services in district 5 while continuing to contract with the
 1069 current model programs in districts 1, 4, and 13, and in
 1070 subdistrict 8A, and shall expand the subdistrict 8A pilot
 1071 program to incorporate Manatee County. Planning for the district
 1072 5 outsourcing ~~privatization~~ shall be done by providers that are
 1073 currently under contract with the department for foster care and
 1074 related services and shall be done in consultation with the
 1075 department. A lead provider of the district 5 program shall be
 1076 competitively selected, must demonstrate the ability to provide
 1077 necessary comprehensive services through a local network of
 1078 providers, and must meet criteria established in this section.
 1079 Contracts with organizations responsible for the model programs

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1080 must include the management and administration of all outsourced
 1081 ~~privatized~~ services specified in subsection (1). However, the
 1082 department may use funds for contract management only after
 1083 obtaining written approval from the Executive Office of the
 1084 Governor. The request for such approval must include, but is not
 1085 limited to, a statement of the proposed amount of such funds and
 1086 a description of the manner in which such funds will be used. If
 1087 the community-based organization selected for a model program
 1088 under this subsection is not a Medicaid provider, the
 1089 organization shall be issued a Medicaid provider number pursuant
 1090 to s. 409.907 for the provision of services currently authorized
 1091 under the state Medicaid plan to those children encompassed in
 1092 this model and in a manner not to exceed the current level of
 1093 state expenditure.

1094 (9) Each district and subdistrict that participates in the
 1095 model program effort or any future outsourcing ~~privatization~~
 1096 effort as described in this section must thoroughly analyze and
 1097 report the complete direct and indirect costs of delivering
 1098 these services through the department and the full cost of
 1099 outsourcing ~~privatization~~, including the cost of monitoring and
 1100 evaluating the contracted services.

1101 Section 4. The Office of Program Policy Analysis and
 1102 Government Accountability shall conduct two reviews of the
 1103 contract-management and accountability structures of the
 1104 Department of Children and Family Services, including, but not
 1105 limited to, whether the department is adequately monitoring and
 1106 managing its outsourced or privatized functions and services.
 1107 The office shall report its findings and recommendations to the

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1108 | President of the Senate, the Speaker of the House of
 1109 | Representatives, and the Auditor General by February 1 of 2006
 1110 | and 2007, respectively.

1111 | Section 5. Section 402.72, Florida Statutes, is repealed.

1112 | Section 6. For fiscal year 2005-2006, there is hereby
 1113 | appropriated the sum of \$102,232 in nonrecurring General Revenue
 1114 | funds to the Department of Children and Family Services to
 1115 | enable the department to comply with the electronic reporting
 1116 | requirements of section 1 of this act.

1117 | Section 7. This act shall take effect July 1, 2005.