

CHAMBER ACTION

1 The Health & Families Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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

79

80 Be It Enacted by the Legislature of the State of Florida:

81

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

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

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

99 (a) "Contract manager" means the department employee who
100 is responsible for enforcing the compliance with administrative
101 and programmatic terms and conditions of a contract. The
102 contract manager is the primary point of contact through which
103 all contracting information flows between the department and the
104 contractor. The contract manager is responsible for day-to-day
105 contract oversight, including approval of contract deliverables
106 and invoices. All actions related to the contract shall be

107 initiated by or coordinated with the contract manager. The
 108 contract manager maintains the official contract files.

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

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

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

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

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

131 (g) "Privatize" means any process aimed at transferring
 132 the responsibility for a service, in whole or in part, from the
 133 department to the private sector such that the private sector is

134 solely and fully responsible for the performance of the specific
 135 service.

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

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

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

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

155 (c) When it is in the best interest of a defined segment
 156 of its consumer population, the department may competitively
 157 procure and contract for systems of treatment or service that
 158 involve multiple providers, rather than procuring and
 159 contracting for treatment or services separately from each
 160 participating provider. The department must ensure that all
 161 providers that participate in the treatment or service system

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

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

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

196 (a) The department shall develop a business case
 197 describing and analyzing the service proposed for outsourcing. A
 198 business case is part of the solicitation process and is not a
 199 rule subject to challenge pursuant to section 120.54, Florida
 200 Statutes. The business case submitted by the department pursuant
 201 to this section for a service shall be sufficient for all
 202 contracts executed by the department for that service. The
 203 business case must include, but need not be limited to:

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

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

216 Secretary of Children and Family Services shall verify that all
 217 costs, savings, and benefits are valid and achievable.

218 3. A description of the specific performance measures and
 219 standards that must be achieved through the outsourcing
 220 proposal.

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

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

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

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

233 c. Meet all legal requirements for record retention.

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

237 6. A department transition and implementation plan for
 238 addressing changes in the number of agency personnel, affected
 239 business processes, and employee-transition issues. Such a plan
 240 must also specify the mechanism for continuing the operation of
 241 the service if the contractor fails to perform and comply with
 242 the performance measures and standards and provisions of the
 243 contract. Within this plan, the department shall identify all

244 resources, including full-time equivalent positions, which are
 245 subject to outsourcing. All full-time equivalent positions
 246 identified in the plan shall be placed in reserve by the
 247 Executive Office of the Governor until the end of the second
 248 year of the contract. Notwithstanding the provisions of section
 249 216.262, Florida Statutes, the Executive Office of the Governor
 250 shall request authority from the Legislative Budget Commission
 251 to reestablish full-time positions above the number fixed by the
 252 Legislature when a contract is terminated and the outsourced
 253 service must be returned to the department.

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

262 (b)1. If the department proposes to outsource the service
 263 in the next fiscal year, the department shall submit the
 264 business case with the department's final legislative budget
 265 request, in the manner and form prescribed in the legislative
 266 budget request instructions under section 216.023, Florida
 267 Statutes. Prior to approval in the General Appropriations Act,
 268 the agency may initiate the procurement process pursuant to
 269 section 287.057, Florida Statutes. The agency may complete
 270 contract execution pursuant to section 287.057, Florida
 271 Statutes, only upon approval in the General Appropriations Act.

272 2. If a proposed outsourcing initiative would require
 273 integration with, or would in any way affect other state
 274 information technology systems, the department shall submit the
 275 feasibility study documentation required by the legislative
 276 budget request instructions under section 216.023, Florida
 277 Statutes.

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

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

297 (5) CONTRACTING AND PERFORMANCE MEASURES.--In addition to
 298 the requirements of section 287.058, Florida Statutes, every
 299 procurement of contractual services by the department which

300 meets or is in excess of the threshold amount provided in
 301 section 287.017, Florida Statutes, for CATEGORY FIVE, must
 302 comply with the requirements of this subsection.

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

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

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

315 3. Clear and specific identification of all required
 316 performance measures and standards, which must, at a minimum,
 317 include:

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

324 b. A method for monitoring and reporting progress in
 325 achieving specified performance standards and levels.

326 c. The sanctions or penalties that shall be assessed for
 327 contract or state nonperformance. The department may adopt, by

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

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356 4. A requirement that the contractor maintain adequate
 357 accounting records that comply with all applicable federal and
 358 state laws and generally accepted accounting principles.

359 5. A requirement authorizing the department and state to
 360 have access to and conduct audits of all records related to the
 361 contract and outsourced services.

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

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

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

374 a. Keep and maintain the public records that ordinarily
 375 and necessarily would be required by the department to perform
 376 the service.

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

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

383 d. Meet all legal and auditing requirements for record
384 retention, and transfer to the state, at no cost to the state,
385 all public records in possession of the contractor upon
386 termination of the contract. All records stored electronically
387 must be provided to the state in the format compatible with
388 state information technology systems.

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

401 10. A provision that the contractor annually submit and
402 verify, under section 92.525, Florida Statutes, all required
403 financial statements.

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

409 (b) A contract may include cost-neutral, performance-based
410 incentives that may vary according to the extent a contractor

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411 achieves or surpasses the performance standards set forth in the
412 contract. The incentives may be weighted proportionally to
413 reflect the extent to which the contractor has demonstrated that
414 it has consistently met or exceeded the contractual requirements
415 and the performance standards.

416 (c) The department shall review the time period for which
417 it executes contracts and shall execute multiyear contracts to
418 make the most efficient use of the resources devoted to contract
419 processing and execution. Whenever the department chooses not to
420 use a multiyear contract, a justification for that decision must
421 be contained in the contract.

422 (d) When the annualized value of a contract is in excess
423 of \$1 million, at least one of the persons conducting
424 negotiations must be certified as a contract negotiator based
425 upon standards established by the Department of Management
426 Services.

427 (e) The department may not amend a contract without first
428 submitting the proposed contract amendment to the Executive
429 Office of the Governor for approval if the effect of the
430 amendment would be to increase:

431 1. The value of the contract by \$250,000 for those
432 contracts with a total value of at least \$250,000 but less than
433 \$1 million;

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

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

439 4. The term of the contract by 1 year or more.
 440
 441 When the department proposes any contract amendment that meets
 442 the criteria described in this paragraph, it shall submit the
 443 proposed contract amendment to the Executive Office of the
 444 Governor for approval and shall immediately notify the chairs of
 445 the legislative appropriations committees. The Executive Office
 446 of the Governor may not approve the proposed contract amendment
 447 until 14 days following receipt of the notification to the
 448 legislative appropriations chairs. If either chair of the
 449 legislative appropriations committees objects in writing to a
 450 proposed contract amendment within 14 days following
 451 notification and specifies the reasons for the objection, the
 452 Executive Office of the Governor shall disapprove the proposed
 453 contract amendment or shall submit the proposed contract
 454 amendment to the Administration Commission. The proposed
 455 contract amendment may be approved by the Administration
 456 Commission by a two-thirds vote of the members present with the
 457 Governor voting in the affirmative. In the absence of approval
 458 by the commission, the proposed contract amendment shall be
 459 automatically disapproved. Otherwise, upon approval by the
 460 Governor or Administration Commission, the department may
 461 execute the contract amendment.

462 (f) An amendment that is issued under legislative
 463 direction, including funding adjustments annually provided for
 464 in the General Appropriations Act or the federal appropriations
 465 acts, need not be submitted for approval in accordance with
 466 paragraph (d).

467 (g) In addition to the requirements of section 287.057(13)
 468 and (14), Florida Statutes, the department shall verify, based
 469 upon the best available data at the point of contract
 470 renegotiations, that all specific direct and indirect costs,
 471 savings, performance measures and standards, and qualitative and
 472 quantitative benefits identified in the original contract have
 473 been satisfied by a contractor or the department before the
 474 contract is extended or renewed. The documentation must include
 475 an explanation of any differences between the required
 476 performance as identified in the contract and the actual
 477 performance of the contractor. The documentation must be
 478 included in the official contract file.

479 (h) The department shall, in consultation with the
 480 Department of Management Services, develop contract templates
 481 and guidelines that define the mandatory contract provisions and
 482 other requirements identified in this subsection and that must
 483 be used for all contractual service contracts meeting the
 484 requirements of this subsection. All contract templates and
 485 guidelines shall be developed by September 30, 2005.

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

495 (a) The contract manager shall maintain the official
496 contract file throughout the duration of the contract and for a
497 period not less than 6 years after the termination of the
498 contract.

499 (b) The contract manager shall review all invoices for
500 compliance with the criteria and payment schedule provided for
501 in the contract and shall approve payment of all invoices before
502 their transmission to the Department of Financial Services for
503 payment. Only the contract manager shall approve the invoices
504 for a specific contract, unless the contract manager is
505 temporarily unavailable to review an invoice. The contract file
506 must contain an explanation for any periods of temporary
507 unavailability of the assigned contract manager. For any
508 individual invoice in excess of \$500,000, a member of the
509 Selected Exempt Service or Senior Management Service shall also
510 sign payment approval of the invoice. For any individual invoice
511 in excess of \$1 million, a member of the Senior Management
512 Service shall also sign payment approval of the invoice.

513 (c) The contract manager shall maintain a schedule of
514 payments and total amounts disbursed and shall periodically
515 reconcile the records with the state's official accounting
516 records.

517 (d) For contracts involving the provision of direct client
518 services, the contract manager shall periodically visit the
519 physical location where the services are delivered and speak
520 directly to clients receiving the services and the staff
521 responsible for delivering the services.

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

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

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

546 (h) The contract manager shall document any contract
 547 modifications, which shall include recording any contract
 548 amendments as provided for in this section.

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

551
 552 The department shall develop standards of conduct and a range of
 553 disciplinary actions for its employees which are specifically
 554 related to carrying out contract-management responsibilities.

555 (7) CONTRACT-MONITORING REQUIREMENTS AND PROCESS.--The
 556 department shall establish contract-monitoring units staffed by
 557 full-time career service employees who report to a member of the
 558 Select Exempt Service or Senior Management Service and who have
 559 been properly trained to perform contract monitoring. A member
 560 of the Senior Management Service shall assign in writing a
 561 specific contract to a contract-monitoring unit, with at least
 562 one member of the contract-monitoring unit possessing specific
 563 knowledge and experience in the contract's program area. The
 564 department shall establish a contract-monitoring process that
 565 must include, but need not be limited to, the following
 566 requirements:

567 (a) Performing a risk assessment at the start of each
 568 fiscal year and preparing an annual contract-monitoring schedule
 569 that includes consideration for the level of risk assigned. The
 570 department may monitor any contract at any time regardless of
 571 whether such monitoring was originally included in the annual
 572 contract-monitoring schedule.

573 (b) Preparing a contract-monitoring plan, including
 574 sampling procedures, before performing on-site monitoring at
 575 external locations of a service provider. The plan must include
 576 a description of the programmatic, fiscal, and administrative

577 components that will be monitored on-site. If appropriate,
578 clinical and therapeutic components may be included.

579 (c) Conducting analyses of the performance and compliance
580 of an external service provider by means of desk reviews if the
581 external service provider will not be monitored on-site during a
582 fiscal year.

583 (d) Unless the department sets forth in writing the need
584 for an extension, providing a written report presenting the
585 results of the monitoring within 30 days after the completion of
586 the on-site monitoring or desk review. Report extensions may not
587 exceed 30 days after the original completion date. The
588 department shall develop and use a standard contract-monitoring
589 report format and shall provide access to the reports by means
590 of a website that is available to the Legislature.

591 (e) For contracts involving the provision of direct client
592 services, requiring the contract monitor to visit the physical
593 location where the services are being delivered and to speak
594 directly to the clients receiving the services and with the
595 staff responsible for delivering the services.

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

598
599 The department shall develop standards of conduct and a range of
600 disciplinary actions for its employees which are specifically
601 related to carrying out contract-monitoring responsibilities.

602 (8) CONTRACTOR PROHIBITIONS.--A contractor, as defined in
603 chapter 287, Florida Statutes, or the employees, agents, or
604 subcontractors of the contractor, may not:

605 (a) Directly or indirectly supervise, direct, or act as an
 606 approving authority over any state employee or the action
 607 committed to the responsibility of state employees.

608 (b) Knowingly participate through decision, approval,
 609 disapproval, recommendation, preparation of any part of a
 610 purchase request, influencing the content of any specification
 611 or procurement standard, rendering of advice, investigation, or
 612 auditing, or in any other advisory capacity, in the procurement
 613 of contractual services from an entity of which the contractor,
 614 or the employees, agents, or subcontractors of the contractor,
 615 has a material interest.

616 (9) REPORTS TO THE LEGISLATURE.--Beginning October 1,
 617 2005, the department shall make available to the Legislature
 618 electronically all documents associated with the procurement and
 619 contracting functions of the department. The documents in the
 620 database must include, but are not limited to, all:

621 (a) Business cases;

622 (b) Procurement documents;

623 (c) Contracts and any related files, attachments, or
 624 amendments;

625 (d) Contract monitoring reports;

626 (e) Corrective action plans and reports of corrective
 627 actions taken when contractor performance deficiencies are
 628 identified; and

629 (f) Status reports on all outsourcing initiatives
 630 describing the progress by the department towards achieving the
 631 business objectives, costs, savings, and quantifiable benefits
 632 identified in the business case.

633 Section 2. Section 402.73, Florida Statutes, is amended to
634 read:

635 402.73 Contracting and performance standards.--

636 ~~(1) The Department of Children and Family Services shall~~
637 ~~establish performance standards for all contracted client~~
638 ~~services. Notwithstanding s. 287.057(5)(f), the department must~~
639 ~~competitively procure any contract for client services when any~~
640 ~~of the following occurs:~~

641 ~~(a) The provider fails to meet appropriate performance~~
642 ~~standards established by the department after the provider has~~
643 ~~been given a reasonable opportunity to achieve the established~~
644 ~~standards.~~

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

648 ~~(c) The department has concluded, after reviewing market~~
649 ~~prices and available treatment options, that there is evidence~~
650 ~~that the department can improve the performance outcomes~~
651 ~~produced by its contract resources. At a minimum, the department~~
652 ~~shall review market prices and available treatment options~~
653 ~~biennially. The department shall compile the results of the~~
654 ~~biennial review and include the results in its annual~~
655 ~~performance report to the Legislature pursuant to chapter 94-~~
656 ~~249, Laws of Florida. The department shall provide notice and an~~
657 ~~opportunity for public comment on its review of market prices~~
658 ~~and available treatment options.~~

659 ~~(2) The competitive requirements of subsection (1) must be~~
660 ~~initiated for each contract that meets the criteria of this~~

661 ~~subsection, unless the secretary makes a written determination~~
 662 ~~that particular facts and circumstances require deferral of the~~
 663 ~~competitive process. Facts and circumstances must be~~
 664 ~~specifically described for each individual contract proposed for~~
 665 ~~deferral and must include one or more of the following:~~

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

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

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

673
 674 ~~Competitive procurement of client services contracts that meet~~
 675 ~~the criteria in subsection (1) may not be deferred for longer~~
 676 ~~than 1 year.~~

677 ~~(3) The Legislature intends that the department obtain~~
 678 ~~services in the manner that is most cost-effective for the~~
 679 ~~state, that provides the greatest long-term benefits to the~~
 680 ~~clients receiving services, and that minimizes the disruption of~~
 681 ~~client services. In order to meet these legislative goals, the~~
 682 ~~department may adopt rules providing procedures for the~~
 683 ~~competitive procurement of contracted client services which~~
 684 ~~represent an alternative to the request for proposal or~~
 685 ~~invitation to bid process. The alternative competitive~~
 686 ~~procedures shall permit the department to solicit professional~~
 687 ~~qualifications from prospective providers and to evaluate such~~
 688 ~~statements of qualification before requesting service proposals.~~

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689 ~~The department may limit the firms invited to submit service~~
690 ~~proposals to only those firms that have demonstrated the highest~~
691 ~~level of professional capability to provide the services under~~
692 ~~consideration, but may not invite fewer than three firms to~~
693 ~~submit service proposals, unless fewer than three firms~~
694 ~~submitted satisfactory statements of qualification. The~~
695 ~~alternative procedures must, at a minimum, allow the department~~
696 ~~to evaluate competing proposals and select the proposal that~~
697 ~~provides the greatest benefit to the state while considering the~~
698 ~~quality of the services, dependability, and integrity of the~~
699 ~~provider, the dependability of the provider's services, the~~
700 ~~experience of the provider in serving target populations or~~
701 ~~client groups substantially identical to members of the target~~
702 ~~population for the contract in question, and the ability of the~~
703 ~~provider to secure local funds to support the delivery of~~
704 ~~services, including, but not limited to, funds derived from~~
705 ~~local governments. These alternative procedures need not conform~~
706 ~~to the requirements of s. 287.042 or s. 287.057(1) or (2).~~

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

711 ~~(5) When it is in the best interest of a defined segment~~
712 ~~of its consumer population, the department may competitively~~
713 ~~procure and contract for systems of treatment or service that~~
714 ~~involve multiple providers, rather than procuring and~~
715 ~~contracting for treatment or services separately from each~~
716 ~~participating provider. The department must ensure that all~~

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717 ~~providers that participate in the treatment or service system~~
718 ~~meet all applicable statutory, regulatory, service quality, and~~
719 ~~cost control requirements. If other governmental entities or~~
720 ~~units of special purpose government contribute matching funds to~~
721 ~~the support of a given system of treatment or service, the~~
722 ~~department shall formally request information from those funding~~
723 ~~entities in the procurement process and may take the information~~
724 ~~received into account in the selection process. If a local~~
725 ~~government contributes match to support the system of treatment~~
726 ~~or contracted service and if the match constitutes at least 25~~
727 ~~percent of the value of the contract, the department shall~~
728 ~~afford the governmental match contributor an opportunity to name~~
729 ~~an employee as one of the persons required by s. 287.057(17) to~~
730 ~~evaluate or negotiate certain contracts, unless the department~~
731 ~~sets forth in writing the reason why such inclusion would be~~
732 ~~contrary to the best interest of the state. Any employee so~~
733 ~~named by the governmental match contributor shall qualify as one~~
734 ~~of the persons required by s. 287.057(17). No governmental~~
735 ~~entity or unit of special purpose government may name an~~
736 ~~employee as one of the persons required by s. 287.057(17) if it,~~
737 ~~or any of its political subdivisions, executive agencies, or~~
738 ~~special districts, intends to compete for the contract to be~~
739 ~~awarded. The governmental funding entity or match contributor~~
740 ~~shall comply with any deadlines and procurement procedures~~
741 ~~established by the department. The department may also involve~~
742 ~~nongovernmental funding entities in the procurement process when~~
743 ~~appropriate.~~

744 ~~(6) The department may contract for or provide assessment~~
745 ~~and case management services independently from treatment~~
746 ~~services.~~

747 ~~(7) The department shall adopt, by rule, provisions for~~
748 ~~including in its contracts incremental penalties to be imposed~~
749 ~~by its contract managers on a service provider due to the~~
750 ~~provider's failure to comply with a requirement for corrective~~
751 ~~action. Any financial penalty that is imposed upon a provider~~
752 ~~may not be paid from funds being used to provide services to~~
753 ~~clients, and the provider may not reduce the amount of services~~
754 ~~being delivered to clients as a method for offsetting the impact~~
755 ~~of the penalty. If a financial penalty is imposed upon a~~
756 ~~provider that is a corporation, the department shall notify, at~~
757 ~~a minimum, the board of directors of the corporation. The~~
758 ~~department may notify, at its discretion, any additional parties~~
759 ~~that the department believes may be helpful in obtaining the~~
760 ~~corrective action that is being sought. Further, the rules~~
761 ~~adopted by the department must include provisions that permit~~
762 ~~the department to deduct the financial penalties from funds that~~
763 ~~would otherwise be due to the provider, not to exceed 10 percent~~
764 ~~of the amount that otherwise would be due to the provider for~~
765 ~~the period of noncompliance. If the department imposes a~~
766 ~~financial penalty, it shall advise the provider in writing of~~
767 ~~the cause for the penalty. A failure to include such deductions~~
768 ~~in a request for payment constitutes a ground for the department~~
769 ~~to reject that request for payment. The remedies identified in~~
770 ~~this subsection do not limit or restrict the department's~~
771 ~~application of any other remedy available to it in the contract~~

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772 ~~or under law. The remedies described in this subsection may be~~
773 ~~cumulative and may be assessed upon each separate failure to~~
774 ~~comply with instructions from the department to complete~~
775 ~~corrective action.~~

776 ~~(8) The department shall develop standards of conduct and~~
777 ~~a range of disciplinary actions for its employees which are~~
778 ~~specifically related to carrying out contracting~~
779 ~~responsibilities.~~

780 ~~(1)(9)~~ The Agency for Persons with Disabilities ~~department~~
781 ~~must implement systems and controls to ensure financial~~
782 ~~integrity and service provision quality in the developmental~~
783 ~~services Medicaid waiver service system.~~

784 ~~(10) If a provider fails to meet the performance standards~~
785 ~~established in the contract, the department may allow a~~
786 ~~reasonable period for the provider to correct performance~~
787 ~~deficiencies. If performance deficiencies are not resolved to~~
788 ~~the satisfaction of the department within the prescribed time,~~
789 ~~and if no extenuating circumstances can be documented by the~~
790 ~~provider to the department's satisfaction, the department must~~
791 ~~cancel the contract with the provider. The department may not~~
792 ~~enter into a new contract with that same provider for the~~
793 ~~services for which the contract was previously canceled for a~~
794 ~~period of at least 24 months after the date of cancellation. If~~
795 ~~an adult substance abuse services provider fails to meet the~~
796 ~~performance standards established in the contract, the~~
797 ~~department may allow a reasonable period, not to exceed 6~~
798 ~~months, for the provider to correct performance deficiencies. If~~
799 ~~the performance deficiencies are not resolved to the~~

800 ~~satisfaction of the department within 6 months, the department~~
 801 ~~must cancel the contract with the adult substance abuse~~
 802 ~~provider, unless there is no other qualified provider in the~~
 803 ~~service district.~~

804 ~~(11) The department shall include in its standard contract~~
 805 ~~document a requirement that any state funds provided for the~~
 806 ~~purchase of or improvements to real property are contingent upon~~
 807 ~~the contractor or political subdivision granting to the state a~~
 808 ~~security interest in the property at least to the amount of the~~
 809 ~~state funds provided for at least 5 years from the date of~~
 810 ~~purchase or the completion of the improvements or as further~~
 811 ~~required by law. The contract must include a provision that, as~~
 812 ~~a condition of receipt of state funding for this purpose, the~~
 813 ~~provider agrees that, if it disposes of the property before the~~
 814 ~~department's interest is vacated, the provider will refund the~~
 815 ~~proportionate share of the state's initial investment, as~~
 816 ~~adjusted by depreciation.~~

817 ~~(12) The department shall develop and refine contracting~~
 818 ~~and accountability methods that are administratively efficient~~
 819 ~~and that provide for optimal provider performance.~~

820 ~~(13) The department may competitively procure any contract~~
 821 ~~when it deems it is in the best interest of the state to do so.~~
 822 ~~The requirements described in subsection (1) do not, and may not~~
 823 ~~be construed to, limit in any way the department's ability to~~
 824 ~~competitively procure any contract it executes, and the absence~~
 825 ~~of any or all of the criteria described in subsection (1) may~~
 826 ~~not be used as the basis for an administrative or judicial~~

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827 ~~protest of the department's determination to conduct~~
 828 ~~competition, make an award, or execute any contract.~~

829 ~~(14) A contract may include cost neutral, performance-~~
 830 ~~based incentives that may vary according to the extent a~~
 831 ~~provider achieves or surpasses the performance standards set~~
 832 ~~forth in the contract. Such incentives may be weighted~~
 833 ~~proportionally to reflect the extent to which the provider has~~
 834 ~~demonstrated that it has consistently met or exceeded the~~
 835 ~~contractual requirements and the department's performance~~
 836 ~~standards.~~

837 ~~(2)(15)~~ Nothing contained in chapter 287 shall require
 838 competitive bids for health services involving examination,
 839 diagnosis, or treatment.

840 Section 3. Paragraphs (a), (b), (e), (f), and (g) of
 841 subsection (1), paragraph (b) of subsection (2), paragraph (a)
 842 of subsection (4), and subsections (6) and (9) of section
 843 409.1671, Florida Statutes, are amended to read:

844 409.1671 Foster care and related services; outsourcing
 845 privatization.--

846 (1)(a) It is the intent of the Legislature that the
 847 Department of Children and Family Services shall outsource
 848 ~~privatize~~ the provision of foster care and related services
 849 statewide. It is further the Legislature's intent to encourage
 850 communities and other stakeholders in the well-being of children
 851 to participate in assuring that children are safe and well-
 852 nurtured. However, while recognizing that some local governments
 853 are presently funding portions of certain foster care and
 854 related services programs and may choose to expand such funding

855 | in the future, the Legislature does not intend by its
 856 | outsourcing ~~privatization~~ of foster care and related services
 857 | that any county, municipality, or special district be required
 858 | to assist in funding programs that previously have been funded
 859 | by the state. Counties that provide children and family services
 860 | with at least 40 licensed residential group care beds by July 1,
 861 | 2003, and provide at least \$2 million annually in county general
 862 | revenue funds to supplement foster and family care services
 863 | shall continue to contract directly with the state and shall be
 864 | exempt from the provisions of this section. Nothing in this
 865 | paragraph prohibits any county, municipality, or special
 866 | district from future voluntary funding participation in foster
 867 | care and related services. As used in this section, the term
 868 | "outsource" ~~"privatize"~~ means to contract with competent,
 869 | community-based agencies. The department shall submit a plan to
 870 | accomplish outsourcing ~~privatization~~ statewide, through a
 871 | competitive process, phased in over a 3-year period beginning
 872 | January 1, 2000. This plan must be developed with local
 873 | community participation, including, but not limited to, input
 874 | from community-based providers that are currently under contract
 875 | with the department to furnish community-based foster care and
 876 | related services, and must include a methodology for determining
 877 | and transferring all available funds, including federal funds
 878 | that the provider is eligible for and agrees to earn and that
 879 | portion of general revenue funds which is currently associated
 880 | with the services that are being furnished under contract. The
 881 | methodology must provide for the transfer of funds appropriated
 882 | and budgeted for all services and programs that have been

883 incorporated into the project, including all management, capital
 884 (including current furniture and equipment), and administrative
 885 funds to accomplish the transfer of these programs. This
 886 methodology must address expected workload and at least the 3
 887 previous years' experience in expenses and workload. With
 888 respect to any district or portion of a district in which
 889 outsourcing ~~privatization~~ cannot be accomplished within the 3-
 890 year timeframe, the department must clearly state in its plan
 891 the reasons the timeframe cannot be met and the efforts that
 892 should be made to remediate the obstacles, which may include
 893 alternatives to total outsourcing ~~privatization~~, such as public-
 894 private partnerships. As used in this section, the term "related
 895 services" includes, but is not limited to, family preservation,
 896 independent living, emergency shelter, residential group care,
 897 foster care, therapeutic foster care, intensive residential
 898 treatment, foster care supervision, case management,
 899 postplacement supervision, permanent foster care, and family
 900 reunification. Unless otherwise provided for, the state attorney
 901 shall provide child welfare legal services, pursuant to chapter
 902 39 and other relevant provisions, in Pinellas and Pasco
 903 Counties. When a private nonprofit agency has received case
 904 management responsibilities, transferred from the state under
 905 this section, for a child who is sheltered or found to be
 906 dependent and who is assigned to the care of the outsourcing
 907 ~~privatization~~ project, the agency may act as the child's
 908 guardian for the purpose of registering the child in school if a
 909 parent or guardian of the child is unavailable and his or her
 910 whereabouts cannot reasonably be ascertained. The private

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911 nonprofit agency may also seek emergency medical attention for
912 such a child, but only if a parent or guardian of the child is
913 unavailable, his or her whereabouts cannot reasonably be
914 ascertained, and a court order for such emergency medical
915 services cannot be obtained because of the severity of the
916 emergency or because it is after normal working hours. However,
917 the provider may not consent to sterilization, abortion, or
918 termination of life support. If a child's parents' rights have
919 been terminated, the nonprofit agency shall act as guardian of
920 the child in all circumstances.

921 (b) It is the intent of the Legislature that the
922 department will continue to work towards full outsourcing
923 ~~privatization~~ in a manner that assures the viability of the
924 community-based system of care and best provides for the safety
925 of children in the child protection system. To this end, the
926 department is directed to continue the process of outsourcing
927 ~~privatizing~~ services in those counties in which signed startup
928 contracts have been executed. The department may also continue
929 to enter into startup contracts with additional counties.
930 However, no services shall be transferred to a community-based
931 care lead agency until the department, in consultation with the
932 local community alliance, has determined and certified in
933 writing to the Governor and the Legislature that the district is
934 prepared to transition the provision of services to the lead
935 agency and that the lead agency is ready to deliver and be
936 accountable for such service provision. In making this
937 determination, the department shall conduct a readiness
938 assessment of the district and the lead agency.

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

941 a. A set of uniform criteria, developed in consultation
942 with currently operating community-based care lead agencies and
943 reflecting national accreditation standards, that evaluate
944 programmatic, financial, technical assistance, training and
945 organizational competencies; and

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

948 2. The readiness assessment shall be conducted by a joint
949 team of district and lead agency staff with direct experience
950 with the start up and operation of a community-based care
951 service program and representatives from the appropriate
952 community alliance. Within resources available for this purpose,
953 the department may secure outside audit expertise when necessary
954 to assist a readiness assessment team.

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

958 4. Within 30 days following the exit conference with staff
959 of each district and lead agency, the secretary shall certify in
960 writing to the Governor and the Legislature that both the
961 district and the lead agency are prepared to begin the
962 transition of service provision based on the results of the
963 readiness assessment and the exit conference. The document of
964 certification must include specific evidence of readiness on
965 each element of the readiness instrument utilized by the
966 assessment team as well as a description of each element of

967 | readiness needing improvement and strategies being implemented
968 | to address each one.

969 | (e) As used in this section, the term "eligible lead
970 | community-based provider" means a single agency with which the
971 | department shall contract for the provision of child protective
972 | services in a community that is no smaller than a county. The
973 | secretary of the department may authorize more than one eligible
974 | lead community-based provider within a single county when to do
975 | so will result in more effective delivery of foster care and
976 | related services. To compete for an outsourcing ~~a privatization~~
977 | project, such agency must have:

978 | 1. The ability to coordinate, integrate, and manage all
979 | child protective services in the designated community in
980 | cooperation with child protective investigations.

981 | 2. The ability to ensure continuity of care from entry to
982 | exit for all children referred from the protective investigation
983 | and court systems.

984 | 3. The ability to provide directly, or contract for
985 | through a local network of providers, all necessary child
986 | protective services. Such agencies should directly provide no
987 | more than 35 percent of all child protective services provided.

988 | 4. The willingness to accept accountability for meeting
989 | the outcomes and performance standards related to child
990 | protective services established by the Legislature and the
991 | Federal Government.

992 | 5. The capability and the willingness to serve all
993 | children referred to it from the protective investigation and
994 | court systems, regardless of the level of funding allocated to

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995 | the community by the state, provided all related funding is
996 | transferred.

997 | 6. The willingness to ensure that each individual who
998 | provides child protective services completes the training
999 | required of child protective service workers by the Department
1000 | of Children and Family Services.

1001 | 7. The ability to maintain eligibility to receive all
1002 | federal child welfare funds, including Title IV-E and IV-A
1003 | funds, currently being used by the Department of Children and
1004 | Family Services.

1005 | 8. Written agreements with Healthy Families Florida lead
1006 | entities in their community, pursuant to s. 409.153, to promote
1007 | cooperative planning for the provision of prevention and
1008 | intervention services.

1009 | 9. A board of directors, of which at least 51 percent of
1010 | the membership is comprised of persons residing in this state.
1011 | Of the state residents, at least 51 percent must also reside
1012 | within the service area of the lead community-based provider.

1013 | (f)1. The Legislature finds that the state has
1014 | traditionally provided foster care services to children who have
1015 | been the responsibility of the state. As such, foster children
1016 | have not had the right to recover for injuries beyond the
1017 | limitations specified in s. 768.28. The Legislature has
1018 | determined that foster care and related services need to be
1019 | outsourced ~~privatized~~ pursuant to this section and that the
1020 | provision of such services is of paramount importance to the
1021 | state. The purpose for such outsourcing ~~privatization~~ is to
1022 | increase the level of safety, security, and stability of

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1023 children who are or become the responsibility of the state. One
 1024 of the components necessary to secure a safe and stable
 1025 environment for such children is that private providers maintain
 1026 liability insurance. As such, insurance needs to be available
 1027 and remain available to nongovernmental foster care and related
 1028 services providers without the resources of such providers being
 1029 significantly reduced by the cost of maintaining such insurance.

1030 2. The Legislature further finds that, by requiring the
 1031 following minimum levels of insurance, children in outsourced
 1032 ~~privatized~~ foster care and related services will gain increased
 1033 protection and rights of recovery in the event of injury than
 1034 provided for in s. 768.28.

1035 (g) In any county in which a service contract has not been
 1036 executed by December 31, 2004, the department shall ensure
 1037 access to a model comprehensive residential services program as
 1038 described in s. 409.1677 which, without imposing undue
 1039 financial, geographic, or other barriers, ensures reasonable and
 1040 appropriate participation by the family in the child's program.

1041 1. In order to ensure that the program is operational by
 1042 December 31, 2004, the department must, by December 31, 2003,
 1043 begin the process of establishing access to a program in any
 1044 county in which the department has not either entered into a
 1045 transition contract or approved a community plan, as described
 1046 in paragraph (d), which ensures full outsourcing ~~privatization~~
 1047 by the statutory deadline.

1048 2. The program must be procured through a competitive
 1049 process.

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1050 3. The Legislature does not intend for the provisions of
1051 this paragraph to substitute for the requirement that full
1052 conversion to community-based care be accomplished.

1053 (2)

1054 (b) Persons employed by the department in the provision of
1055 foster care and related services whose positions are being
1056 outsourced under ~~privatized pursuant to~~ this statute shall be
1057 given hiring preference by the provider, if provider
1058 qualifications are met.

1059 (4)(a) The department, in consultation with the community-
1060 based agencies that are undertaking the outsourced ~~privatized~~
1061 projects, shall establish a quality assurance program for
1062 privatized services. The quality assurance program shall be
1063 based on standards established by the Adoption and Safe Families
1064 Act as well as by a national accrediting organization such as
1065 the Council on Accreditation of Services for Families and
1066 Children, Inc. (COA) or CARF--the Rehabilitation Accreditation
1067 Commission. Each program operated under contract with a
1068 community-based agency must be evaluated annually by the
1069 department. The department shall, to the extent possible, use
1070 independent financial audits provided by the community-based
1071 care agency to eliminate or reduce the ongoing contract and
1072 administrative reviews conducted by the department. The
1073 department may suggest additional items to be included in such
1074 independent financial audits to meet the department's needs.
1075 Should the department determine that such independent financial
1076 audits are inadequate, then other audits, as necessary, may be
1077 conducted by the department. Nothing herein shall abrogate the

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1078 requirements of s. 215.97. The department shall submit an annual
 1079 report regarding quality performance, outcome measure
 1080 attainment, and cost efficiency to the President of the Senate,
 1081 the Speaker of the House of Representatives, the minority leader
 1082 of each house of the Legislature, and the Governor no later than
 1083 January 31 of each year for each project in operation during the
 1084 preceding fiscal year.

1085 (6) Beginning January 1, 1999, and continuing at least
 1086 through June 30, 2000, the Department of Children and Family
 1087 Services shall outsource ~~privatize~~ all foster care and related
 1088 services in district 5 while continuing to contract with the
 1089 current model programs in districts 1, 4, and 13, and in
 1090 subdistrict 8A, and shall expand the subdistrict 8A pilot
 1091 program to incorporate Manatee County. Planning for the district
 1092 5 outsourcing ~~privatization~~ shall be done by providers that are
 1093 currently under contract with the department for foster care and
 1094 related services and shall be done in consultation with the
 1095 department. A lead provider of the district 5 program shall be
 1096 competitively selected, must demonstrate the ability to provide
 1097 necessary comprehensive services through a local network of
 1098 providers, and must meet criteria established in this section.
 1099 Contracts with organizations responsible for the model programs
 1100 must include the management and administration of all outsourced
 1101 ~~privatized~~ services specified in subsection (1). However, the
 1102 department may use funds for contract management only after
 1103 obtaining written approval from the Executive Office of the
 1104 Governor. The request for such approval must include, but is not
 1105 limited to, a statement of the proposed amount of such funds and

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1106 a description of the manner in which such funds will be used. If
 1107 the community-based organization selected for a model program
 1108 under this subsection is not a Medicaid provider, the
 1109 organization shall be issued a Medicaid provider number pursuant
 1110 to s. 409.907 for the provision of services currently authorized
 1111 under the state Medicaid plan to those children encompassed in
 1112 this model and in a manner not to exceed the current level of
 1113 state expenditure.

1114 (9) Each district and subdistrict that participates in the
 1115 model program effort or any future outsourcing ~~privatization~~
 1116 effort as described in this section must thoroughly analyze and
 1117 report the complete direct and indirect costs of delivering
 1118 these services through the department and the full cost of
 1119 outsourcing ~~privatization~~, including the cost of monitoring and
 1120 evaluating the contracted services.

1121 Section 4. The Office of Program Policy Analysis and
 1122 Government Accountability shall conduct two reviews of the
 1123 contract-management and accountability structures of the
 1124 Department of Children and Family Services, including, but not
 1125 limited to, whether the department is adequately monitoring and
 1126 managing its outsourced or privatized functions and services.
 1127 The office shall report its findings and recommendations to the
 1128 President of the Senate, the Speaker of the House of
 1129 Representatives, and the Auditor General by February 1 of 2006
 1130 and 2007, respectively.

1131 Section 5. Section 402.72, Florida Statutes, is repealed.

1132 Section 6. For fiscal year 2005-2006, there is hereby
 1133 appropriated the sum of \$102,232 in nonrecurring General Revenue

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1134 | funds to the Department of Children and Family Services to
1135 | enable the department to comply with the electronic reporting
1136 | requirements of section 1 of this act.

1137 | Section 7. This act shall take effect July 1, 2005.