

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Bean offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (3) of section 394.457, Florida  
6 Statutes, is amended to read:

7 394.457 Operation and administration.--

8 (3) POWER TO CONTRACT.--The department may contract to  
9 provide, and be provided with, services and facilities in order  
10 to carry out its responsibilities under this part with the  
11 following agencies: public and private hospitals; receiving and  
12 treatment facilities; clinics; laboratories; departments,  
13 divisions, and other units of state government; the state  
14 colleges and universities; the community colleges; private  
15 colleges and universities; counties, municipalities, and any  
16 other governmental unit, including facilities of the United  
17 States Government; and any other public or private entity which  
18 provides or needs facilities or services. Baker Act funds for  
19 community inpatient, crisis stabilization, short-term  
20 residential treatment, and screening services must be allocated  
21 to each county pursuant to the department's funding allocation  
22 methodology. Notwithstanding the provisions of s. 287.057(5)(f),  
584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

23 | contracts for community-based Baker Act services for inpatient,  
24 | crisis stabilization, short-term residential treatment, and  
25 | screening provided under this part, other than those with other  
26 | units of government, to be provided for the department must be  
27 | awarded using competitive sealed bids when the county commission  
28 | of the county receiving the services makes a request to the  
29 | department's district office by January 15 of the contracting  
30 | year. The district shall not enter into a competitively bid  
31 | contract under this provision if such action will result in  
32 | increases of state or local expenditures for Baker Act services  
33 | within the district. Contracts for these Baker Act services  
34 | using competitive sealed bids will be effective for 3 years.  
35 | ~~Services contracted for by the department may be reimbursed by~~  
36 | ~~the state at a rate up to 100 percent.~~ The department shall  
37 | adopt rules establishing minimum standards for such contracted  
38 | services and facilities and shall make periodic audits and  
39 | inspections to assure that the contracted services are provided  
40 | and meet the standards of the department.

41 | Section 2. Section 394.908, Florida Statutes, is amended  
42 | to read:

43 | 394.908 Substance abuse and mental health funding equity;  
44 | distribution of appropriations.--In recognition of the  
45 | historical inequity ~~among service districts of the former~~  
46 | ~~Department of Health and Rehabilitative Services~~ in the funding  
47 | of substance abuse and mental health services for the  
48 | department's districts and regions, and ~~in order~~ to rectify this  
49 | inequity and provide for equitable funding in the future  
50 | throughout the state, the following funding process shall be  
51 | used ~~adhered to~~:

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

52 (1) Funding thresholds for substance abuse and mental  
53 health services in each of the current districts, statewide,  
54 shall be established based on the current number of persons in  
55 need per district of substance abuse and mental health services,  
56 respectively.

57 (2) "Persons in need" means those persons who fit the  
58 profile of the respective target populations and require mental  
59 health or substance abuse services.

60 (3) ~~Seventy-five percent of~~ Any additional funding beyond  
61 the 2005-2006 ~~1996-1997~~ fiscal year base appropriation for  
62 alcohol, drug abuse, and mental health services shall be  
63 allocated to districts for substance abuse and mental health  
64 services based on:

65 (a) Epidemiological estimates of disabilities that ~~which~~  
66 apply to the respective target populations.

67 (b) A pro rata share distribution that ensures districts  
68 below the statewide average funding level per person in each  
69 target population of "persons in need" receive funding necessary  
70 to achieve equity.

71 ~~(4) The remaining 25 percent shall be allocated based on~~  
72 ~~the number of persons in need of substance abuse and mental~~  
73 ~~health services per district without regard to current funding~~  
74 ~~levels.~~

75 (4)(5) Target populations for persons in need shall be  
76 displayed for each district and distributed concurrently with  
77 the approved operating budget. The display by target population  
78 shall show: The annual number of persons served based on prior  
79 year actual numbers, the annual cost per person served, ~~the~~  
80 ~~number of persons served by service cost center,~~ and the

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

81 estimated number of the total target population for persons in  
82 need.

83 ~~(5)-(6)~~ The annual cost per person served shall be defined  
84 as the total actual funding for each target population divided  
85 by the number of persons served in the target population for  
86 that year.

87 ~~(7) Commencing on July 1, 1998, all additional funding~~  
88 ~~pursuant to this section shall be performance based.~~

89 ~~(8) For fiscal year 2004-2005 only, and notwithstanding~~  
90 ~~the provisions of this section, all new funds received in excess~~  
91 ~~of fiscal year 2003-2004 recurring appropriations shall be~~  
92 ~~allocated in accordance with the provisions of the General~~  
93 ~~Appropriations Act; however, no district shall receive an~~  
94 ~~allocation of recurring funds less than its initial approved~~  
95 ~~operating budget, plus any distributions of lump sum~~  
96 ~~appropriations or reductions in unfunded budget, for fiscal year~~  
97 ~~2003-2004. This subsection expires July 1, 2005.~~

98 Section 3. Subsection (10) of section 402.33, Florida  
99 Statutes, is amended to read:

100 402.33 Department authority to charge fees for services  
101 provided.--

102 ~~(10) (a) Unless otherwise specified by the Legislature, fee~~  
103 ~~collections, including third party reimbursements, in excess of~~  
104 ~~fee supported appropriations may be used in conformance with the~~  
105 ~~provisions of chapter 216 to fund nonrecurring expenditures for~~  
106 ~~direct client services and to fund administrative costs of~~  
107 ~~improving the fee collection program of the department. No more~~  
108 ~~than one sixth of the amount of collections in excess of the~~  
109 ~~amount of appropriations may be used to fund such improvements~~

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

110 ~~to the program. Priority consideration for the expenditure of~~  
111 ~~excess collections shall be given to those districts and~~  
112 ~~programs most responsible for the excess. A plan for the use of~~  
113 ~~excess collections not spent in the fiscal year in which~~  
114 ~~collected shall be subject to approval by the Executive Office~~  
115 ~~of the Governor within 90 days from the end of the state fiscal~~  
116 ~~year in which the excess occurs.~~

117 ~~(b) For the 2005-2006 fiscal year only, the provisions of~~  
118 ~~paragraph (a) shall not apply. This paragraph expires July 1,~~  
119 ~~2006.~~

120 Section 4. Subsection (7) of section 409.1671, Florida  
121 Statutes, is amended to read:

122 409.1671 Foster care and related services; outsourcing.--

123 (7) ~~The Florida Coalition for Children, Inc., in~~  
124 ~~consultation with the department,~~ shall develop a plan, in  
125 consultation with the Florida Coalition for Children, Inc.,  
126 ~~based on an independent actuarial study~~ regarding the long-term  
127 use and structure of a statewide community-based care risk pool  
128 for the protection of eligible lead community-based providers,  
129 their subcontractors, and providers of other social services who  
130 contract directly with the department. ~~The plan must also~~  
131 ~~outline strategies to maximize federal earnings as they relate~~  
132 ~~to the community based care risk pool. At a minimum, the plan~~  
133 ~~must allow for the use of federal earnings received from child~~  
134 ~~welfare programs to be allocated to the community based care~~  
135 ~~risk pool by the department, which earnings are determined by~~  
136 ~~the department to be in excess of the amount appropriated in the~~  
137 ~~General Appropriations Act.~~ The plan must specify the necessary  
138 steps to ensure the financial integrity and industry standard

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

139 ~~risk management practices of the community based care risk pool~~  
140 ~~and the continued availability of funding from federal, state,~~  
141 ~~and local sources. The plan must also include recommendations~~  
142 ~~that permit the program to be available to entities of the~~  
143 ~~department providing child welfare services until full~~  
144 ~~conversion to community based care takes place. The final plan~~  
145 ~~shall be submitted to the department and then to the Executive~~  
146 ~~Office of the Governor and the Legislative Budget Commission for~~  
147 ~~formal adoption before January 1, 2005. Upon approval of the~~  
148 ~~plan by all parties, the department is authorized to expend~~  
149 ~~funds from the community-based care risk pool pursuant to the~~  
150 ~~provisions of the plan shall issue an interest free loan that is~~  
151 ~~secured by the cumulative contractual revenue of the community-~~  
152 ~~based care risk pool membership, and the amount of the loan~~  
153 ~~shall equal the amount appropriated by the Legislature for this~~  
154 ~~purpose. The plan shall provide for a governance structure that~~  
155 ~~assures the department the ability to oversee the operation of~~  
156 ~~the community based care risk pool at least until this loan is~~  
157 ~~repaid in full.~~

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

- 160 1. Significant changes in the number or composition of  
161 clients eligible to receive services.
- 162 2. Significant changes in the services that are eligible  
163 for reimbursement.
- 164 3. Scheduled or unanticipated, but necessary, advances to  
165 providers or other cash-flow issues.
- 166 4. Proposals to participate in optional Medicaid services  
167 or other federal grant opportunities.

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

168 5. Appropriate incentive structures.

169 6. Continuity of care in the event of failure,  
170 discontinuance of service, or financial misconduct by a lead  
171 agency.

172 7. Payment for time-limited technical assistance and  
173 consultation to lead agencies in the event of serious  
174 performance or management problems.

175 8. Payment for meeting all traditional and nontraditional  
176 insurance needs of eligible members.

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

178 (b) After approval of the plan in the 2004-2005 fiscal  
179 year and annually thereafter, the department may also request in  
180 its annual legislative budget request, and the Governor may  
181 recommend, that the funding necessary to carry out paragraph (a)  
182 be appropriated to the department. ~~Subsequent funding of the~~  
183 ~~community based care risk pool shall be supported by premiums~~  
184 ~~assessed to members of the community based care risk pool on a~~  
185 ~~recurring basis. The community based care risk pool may invest~~  
186 ~~and retain interest earned on these funds. In addition, the~~  
187 department may transfer funds to the community-based care risk  
188 pool as available in order to ensure an adequate funding level  
189 if the fund is declared to be insolvent and approval is granted  
190 by the Legislative Budget Commission. ~~Such payments for~~  
191 ~~insolvency shall be made only after a determination is made by~~  
192 ~~the department or its actuary that all participants in the~~  
193 ~~community based care risk pool are current in their payments of~~  
194 ~~premiums and that assessments have been made at an actuarially~~  
195 ~~sound level. Such payments by participants in the community-~~  
196 ~~based care risk pool may not exceed reasonable industry~~

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

197 ~~standards, as determined by the actuary. Money from this fund~~  
198 ~~may be used to match available federal dollars. Dividends or~~  
199 ~~other payments, with the exception of legitimate claims, may not~~  
200 ~~be paid to members of the community based care risk pool until~~  
201 ~~the loan issued by the department is repaid in full. Dividends~~  
202 ~~or other payments, with the exception of legitimate claims and~~  
203 ~~other purposes contained in the approved plan, may not be paid~~  
204 ~~to members of the community based care risk pool unless, at the~~  
205 ~~time of distribution, the community based care risk pool is~~  
206 ~~deemed actuarially sound and solvent. Solvency shall be~~  
207 ~~determined by an independent actuary contracted by the~~  
208 ~~department. The plan shall be developed in consultation with the~~  
209 ~~Office of Insurance Regulation.~~

210 1. Such funds shall constitute partial security for  
211 contract performance by lead agencies and shall be used to  
212 offset the need for a performance bond. ~~Subject to the approval~~  
213 ~~of the plan, the community based care risk pool shall be managed~~  
214 ~~by the Florida Coalition for Children, Inc., or the designated~~  
215 ~~contractors of the Florida Coalition for Children, Inc.~~  
216 ~~Nonmembers of the community based care risk pool may continue to~~  
217 ~~contract with the department but must provide a letter of credit~~  
218 ~~equal to one-twelfth of the annual contract amount in lieu of~~  
219 ~~membership in the community based care risk pool.~~

220 2. The department may separately require a bond to  
221 mitigate the financial consequences of potential acts of  
222 malfeasance, misfeasance, or criminal violations by the  
223 provider.

224 (c) The department may issue an interest-free loan to the  
225 Florida Coalition for Children, Inc., for the purpose of

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

226 creating a self-insurance program. The loan shall be secured by  
227 the cumulative contractual revenue of the community-based care  
228 lead agencies participating in the self-insurance program. The  
229 amount of the loan shall be in an amount equal to the amount  
230 appropriated by the Legislature for this purpose.

231 Section 5. Effective upon this act becoming a law:

232 (1) A 3-year pilot program is established for the  
233 community-based care lead agencies serving Miami-Dade, Monroe,  
234 and Broward Counties. This pilot program shall allow for the  
235 transfer of the current lead agency oversight responsibilities  
236 of the Department of Children and Family Services to independent  
237 agents and for funding the program through a grant that enhances  
238 funding flexibility. The pilot program shall expand the  
239 responsibilities and services provided by these lead agencies.

240 (2) The Department of Children and Family Services shall  
241 enter into a 3-year contract with the designated community-based  
242 care lead agency serving Miami-Dade and Monroe Counties and with  
243 the designated community-based care lead agency serving Broward  
244 County, which have been established in accordance with s.  
245 409.1671, Florida Statutes. The contracts must be fixed-payment  
246 contracts funded in 36 equal monthly installments. The first 2  
247 months shall be paid in advance, and the contract must contain  
248 the elements outlined in this section. The initial 2-month  
249 advance payment is due July 10, 2006. The contracts shall be  
250 funded by general revenue through a grant and by federal Title  
251 IV-E funding and other federal funding sources. The amount of  
252 federal Title IV-E funding allocated in each year of the 3-year  
253 pilot program shall be equal to the amount earned by each of the  
254 lead agencies during the 2005-2006 fiscal year. The state shall

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

255 be held harmless for any shortfall caused by the lead agencies'  
256 inability to earn the allocated Title IV-E funding, and each  
257 lead agency's contract shall be increased in accordance with any  
258 federal overearnings. Funding in excess of the contracted  
259 amounts for the lead agencies shall be available only in the  
260 event of additional specific legislative appropriations for  
261 services provided under s. 409.1671, Florida Statutes; an  
262 increase in the population of children served that exceeds 3  
263 percent of the population of children served on June 15, 2005,  
264 by either lead agency; or unforeseen catastrophic events as  
265 determined by the Governor and funded by the Legislature. The  
266 lead agencies shall annually provide certified audited financial  
267 statements to the Governor, the Department of Children and  
268 Family Services, and the appropriations committees of the  
269 Legislature. All other required fiscal reporting shall be  
270 determined by the independent fiscal monitors selected by the  
271 parties. For purposes of this section, the term "parties" means  
272 the two lead agencies implementing this pilot program and the  
273 Department of Children and Family Services. In order to  
274 facilitate and expedite the execution of this section, the  
275 parties shall engage an independent arbitrator for purposes of  
276 dispute resolution, including any disputes related to the form  
277 and substance of the contract to execute the pilot program, with  
278 an award of fees and costs to the prevailing party. The  
279 arbitrator's role shall be limited to selecting which party's  
280 position is more reasonable.

281 (3) Contract management, fiscal oversight, and  
282 programmatic oversight shall be conducted by independent,  
283 nongovernmental third-party entities under contract to the  
584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

284 department and shall be conducted in a manner jointly agreed to  
285 by the lead agencies and the department. The cost of contracting  
286 with these independent entities shall be funded by the  
287 department. Notwithstanding any other provision to the contrary,  
288 the pilot program may not be implemented until the parties have  
289 agreed to the selection of these entities and the manner in  
290 which they are to carry out their responsibilities. Such  
291 agreement must be reached by the parties no later than July 1,  
292 2006. The selection of the entities for purposes of compliance  
293 with this subsection shall be exempt from the provisions of s.  
294 287.057, Florida Statutes. Fiscal oversight shall be conducted  
295 in a manner similar to the model used by the department during  
296 the 2005-2006 fiscal year in Miami-Dade and Monroe Counties. In  
297 order to be able to compare the performance of the pilot  
298 program's lead agencies with that of other lead agencies, the  
299 programmatic performance of the pilot program's lead agencies  
300 shall be measured and monitored by outcome measures contained in  
301 their contracts with the department that are in effect on the  
302 effective date of this section. The independent entities shall  
303 submit their reports directly to the Governor, the President of  
304 the Senate, and the Speaker of the House of Representatives.

305 (4) The department and the lead agencies implementing the  
306 pilot program shall develop an implementation plan with the  
307 Agency for Health Care Administration regarding the pending  
308 Medicaid mental health reform for the purpose of implementing a  
309 local reform model that allows for the integration of services  
310 in the current systems of care.

311 (5) The annual evaluation required by s. 409.1671(4)(a),  
312 Florida Statutes, shall include an evaluation of the pilot

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

313 program described in this act that compares performance and  
 314 fiscal management of the community-based care lead agencies in  
 315 the pilot program to those that are not in the pilot program. In  
 316 addition, the Office of Program Policy Analysis and Government  
 317 Accountability and the Office of the Auditor General shall  
 318 jointly complete an evaluation of the pilot program and provide  
 319 an interim report to the President of the Senate and the Speaker  
 320 of the House of Representatives no later than February 1, 2008,  
 321 and a final report no later than February 1, 2009.

322 Section 6. Except as otherwise expressly provided in this  
 323 act, this act shall take effect July 1, 2006.

324

325 ===== T I T L E A M E N D M E N T =====

326 Remove the entire title and insert:

327 A bill to be entitled

328 An act relating to funding for social services; amending  
 329 s. 394.457, F.S.; deleting provisions authorizing a  
 330 reimbursement rate of 100 percent by the Department of  
 331 Children and Family Services for certain services provided  
 332 under the Baker Act; amending s. 394.908, F.S.; revising  
 333 the funding allocation methodology; amending s. 402.33,  
 334 F.S.; eliminating certain authority of the Department of  
 335 Children and Family Services and the Department of Health  
 336 to use fee collections in excess of fee-supported  
 337 appropriations for certain purposes; amending s. 409.1671,  
 338 F.S.; requiring the Department of Children and Family  
 339 Services to develop a statewide plan for outsourcing  
 340 foster care and related services; removing certain plan  
 341 requirements; removing an obsolete date; authorizing the

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

342 expenditure of certain funds; removing a requirement to  
343 issue certain loans; removing certain provisions relative  
344 to the sources of future funding; making conforming  
345 changes; removing authority of the Florida Coalition for  
346 Children, Inc., or its subcontractors to manage certain  
347 risk pool funds; authorizing the department to issue an  
348 interest-free loan to the Florida Coalition for Children,  
349 Inc., to establish a self-insurance program based on  
350 certain appropriations; establishing a 3-year pilot  
351 program in Miami-Dade, Monroe, and Broward Counties;  
352 providing for the transfer of certain responsibilities  
353 from the Department of Children and Family Services to  
354 specified community-based care lead agencies; providing  
355 for funding the pilot program from grants and federal  
356 funds; requiring that the department enter into fixed-  
357 payment contracts; requiring that annual financial  
358 statements regarding the pilot program be provided to the  
359 Governor, the department, and the Legislature; requiring  
360 that an independent arbitrator resolve certain disputes  
361 related to contracts; requiring that contract management  
362 and oversight be conducted by third-party entities;  
363 providing an exemption from s. 287.057, F.S.; requiring  
364 such entities to submit reports to the Governor and the  
365 Legislature; requiring that the department, the lead  
366 agencies implementing the pilot program, and the Agency  
367 for Health Care Administration develop a plan for  
368 integrating certain Medicaid mental health services;  
369 specifying that the annual evaluation required in s.  
370 409.1671, F.S., include an evaluation of the pilot

584845

4/18/2006 10:23:20 AM

Amendment No. (for drafter's use only)

371 program; directing the Office of Program Policy Analysis  
372 and Government Accountability and the Office of the  
373 Auditor General to complete an evaluation of the pilot  
374 program and to report to the Legislature; providing  
375 effective dates.