

1 A bill to be entitled
2 An act relating to foster care and related services;
3 amending s. 409.1671, F.S.; requiring the Department of
4 Children and Family Services to develop a statewide plan
5 for outsourcing foster care and related services; removing
6 certain plan requirements; removing an obsolete date;
7 authorizing the expenditure of certain funds; removing a
8 requirement to issue certain loans; removing certain
9 provisions relative to the sources of future funding;
10 making conforming changes; removing authority of the
11 Florida Coalition for Children, Inc., or its
12 subcontractors to manage certain risk pool funds;
13 authorizing the department to issue an interest-free loan
14 to the Florida Coalition for Children, Inc., to establish
15 a self-insurance program based on certain appropriations;
16 establishing a 3-year pilot program in Miami-Dade, Monroe,
17 and Broward Counties; providing for the transfer of
18 certain responsibilities from the Department of Children
19 and Family Services to specified community-based care lead
20 agencies; providing for funding the pilot program from
21 grants and federal funds; requiring that the department
22 enter into fixed-payment contracts; requiring that annual
23 financial statements regarding the pilot program be
24 provided to the Governor, the department, and the
25 Legislature; requiring that an independent arbitrator
26 resolve certain disputes related to contracts; requiring
27 that contract management and oversight be conducted by
28 third-party entities; providing an exemption from s.

29 287.057, F.S.; requiring such entities to submit reports
 30 to the Governor and the Legislature; requiring that the
 31 department, the lead agencies implementing the pilot
 32 program, and the Agency for Health Care Administration
 33 develop a plan for integrating certain Medicaid mental
 34 health services; specifying that the annual evaluation
 35 required in s. 409.1671, F.S., include an evaluation of
 36 the pilot program; directing the Office of Program Policy
 37 Analysis and Government Accountability and the Office of
 38 the Auditor General to complete an evaluation of the pilot
 39 program and to report to the Legislature; providing
 40 effective dates.

41

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

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44 Section 1. Subsection (7) of section 409.1671, Florida
 45 Statutes, is amended to read:

46 409.1671 Foster care and related services; outsourcing.--

47 (7) ~~The Florida Coalition for Children, Inc., in~~
 48 ~~consultation with the department,~~ shall develop a plan, in
 49 consultation with the Florida Coalition for Children, Inc.,
 50 ~~based on an independent actuarial study~~ regarding the long-term
 51 use and structure of a statewide community-based care risk pool
 52 for the protection of eligible lead community-based providers,
 53 their subcontractors, and providers of other social services who
 54 contract directly with the department. ~~The plan must also~~
 55 ~~outline strategies to maximize federal earnings as they relate~~
 56 ~~to the community based care risk pool. At a minimum, the plan~~

57 ~~must allow for the use of federal earnings received from child~~
58 ~~welfare programs to be allocated to the community-based care~~
59 ~~risk pool by the department, which earnings are determined by~~
60 ~~the department to be in excess of the amount appropriated in the~~
61 ~~General Appropriations Act. The plan must specify the necessary~~
62 ~~steps to ensure the financial integrity and industry-standard~~
63 ~~risk management practices of the community based care risk pool~~
64 ~~and the continued availability of funding from federal, state,~~
65 ~~and local sources. The plan must also include recommendations~~
66 ~~that permit the program to be available to entities of the~~
67 ~~department providing child welfare services until full~~
68 ~~conversion to community based care takes place. The final plan~~
69 ~~shall be submitted to the department and then to the Executive~~
70 ~~Office of the Governor and the Legislative Budget Commission for~~
71 ~~formal adoption before January 1, 2005. Upon approval of the~~
72 ~~plan by all parties, the department is authorized to expend~~
73 ~~funds from the community-based care risk pool pursuant to the~~
74 ~~provisions of the plan shall issue an interest free loan that is~~
75 ~~secured by the cumulative contractual revenue of the community-~~
76 ~~based care risk pool membership, and the amount of the loan~~
77 ~~shall equal the amount appropriated by the Legislature for this~~
78 ~~purpose. The plan shall provide for a governance structure that~~
79 ~~assures the department the ability to oversee the operation of~~
80 ~~the community-based care risk pool at least until this loan is~~
81 ~~repaid in full.~~

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

84 1. Significant changes in the number or composition of
85 clients eligible to receive services.

86 2. Significant changes in the services that are eligible
87 for reimbursement.

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

90 4. Proposals to participate in optional Medicaid services
91 or other federal grant opportunities.

92 5. Appropriate incentive structures.

93 6. Continuity of care in the event of failure,
94 discontinuance of service, or financial misconduct by a lead
95 agency.

96 7. Payment for time-limited technical assistance and
97 consultation to lead agencies in the event of serious
98 performance or management problems.

99 8. Payment for meeting all traditional and nontraditional
100 insurance needs of eligible members.

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

102 (b) After approval of the plan in the 2004-2005 fiscal
103 year and annually thereafter, the department may also request in
104 its annual legislative budget request, and the Governor may
105 recommend, that the funding necessary to carry out paragraph (a)
106 be appropriated to the department. ~~Subsequent funding of the~~
107 ~~community-based care risk pool shall be supported by premiums~~
108 ~~assessed to members of the community based care risk pool on a~~
109 ~~recurring basis. The community based care risk pool may invest~~
110 ~~and retain interest earned on these funds.~~ In addition, the
111 department may transfer funds to the community-based care risk

112 pool as available in order to ensure an adequate funding level
113 if the fund is declared to be insolvent and approval is granted
114 by the Legislative Budget Commission. ~~Such payments for~~
115 ~~insolvency shall be made only after a determination is made by~~
116 ~~the department or its actuary that all participants in the~~
117 ~~community based care risk pool are current in their payments of~~
118 ~~premiums and that assessments have been made at an actuarially~~
119 ~~sound level. Such payments by participants in the community-~~
120 ~~based care risk pool may not exceed reasonable industry~~
121 ~~standards, as determined by the actuary. Money from this fund~~
122 ~~may be used to match available federal dollars. Dividends or~~
123 ~~other payments, with the exception of legitimate claims, may not~~
124 ~~be paid to members of the community based care risk pool until~~
125 ~~the loan issued by the department is repaid in full. Dividends~~
126 ~~or other payments, with the exception of legitimate claims and~~
127 ~~other purposes contained in the approved plan, may not be paid~~
128 ~~to members of the community based care risk pool unless, at the~~
129 ~~time of distribution, the community based care risk pool is~~
130 ~~deemed actuarially sound and solvent. Solvency shall be~~
131 ~~determined by an independent actuary contracted by the~~
132 ~~department. The plan shall be developed in consultation with the~~
133 ~~Office of Insurance Regulation.~~

134 1. Such funds shall constitute partial security for
135 contract performance by lead agencies and shall be used to
136 offset the need for a performance bond. ~~Subject to the approval~~
137 ~~of the plan, the community based care risk pool shall be managed~~
138 ~~by the Florida Coalition for Children, Inc., or the designated~~
139 ~~contractors of the Florida Coalition for Children, Inc.~~

140 ~~Nonmembers of the community based care risk pool may continue to~~
 141 ~~contract with the department but must provide a letter of credit~~
 142 ~~equal to one-twelfth of the annual contract amount in lieu of~~
 143 ~~membership in the community based care risk pool.~~

144 2. The department may separately require a bond to
 145 mitigate the financial consequences of potential acts of
 146 malfeasance, misfeasance, or criminal violations by the
 147 provider.

148 (c) The department may issue an interest-free loan to the
 149 Florida Coalition for Children, Inc., for the purpose of
 150 creating a self-insurance program. The loan shall be secured by
 151 the cumulative contractual revenue of the community-based care
 152 lead agencies participating in the self-insurance program. The
 153 amount of the loan shall be in an amount equal to the amount
 154 appropriated by the Legislature for this purpose.

155 Section 2. Effective upon this act becoming a law:

156 (1) A 3-year pilot program is established for the
 157 community-based care lead agencies serving Miami-Dade, Monroe,
 158 and Broward Counties. This pilot program shall allow for the
 159 transfer of the current lead agency oversight responsibilities
 160 of the Department of Children and Family Services to independent
 161 agents and for funding the program through a grant that enhances
 162 funding flexibility. The pilot program shall expand the
 163 responsibilities and services provided by these lead agencies.

164 (2) The Department of Children and Family Services shall
 165 enter into a 3-year contract with the designated community-based
 166 care lead agency serving Miami-Dade and Monroe Counties and with
 167 the designated community-based care lead agency serving Broward

168 County, which have been established in accordance with s.
169 409.1671, Florida Statutes. The contracts must be fixed-payment
170 contracts funded in 36 equal monthly installments. The first 2
171 months shall be paid in advance, and the contract must contain
172 the elements outlined in this section. The initial 2-month
173 advance payment is due July 10, 2006. The contracts shall be
174 funded by general revenue through a grant and by federal Title
175 IV-E funding and other federal funding sources. The amount of
176 federal Title IV-E funding allocated in each year of the 3-year
177 pilot program shall be equal to the amount earned by each of the
178 lead agencies during the 2005-2006 fiscal year. The state shall
179 be held harmless for any shortfall caused by the lead agencies'
180 inability to earn the allocated Title IV-E funding, and each
181 lead agency's contract shall be increased in accordance with any
182 federal overearnings. Funding in excess of the contracted
183 amounts for the lead agencies shall be available only in the
184 event of additional specific legislative appropriations for
185 services provided under s. 409.1671, Florida Statutes; an
186 increase in the population of children served that exceeds 3
187 percent of the population of children served on June 15, 2005,
188 by either lead agency; or unforeseen catastrophic events as
189 determined by the Governor and funded by the Legislature. The
190 lead agencies shall annually provide certified audited financial
191 statements to the Governor, the Department of Children and
192 Family Services, and the appropriations committees of the
193 Legislature. All other required fiscal reporting shall be
194 determined by the independent fiscal monitors selected by the
195 parties. For purposes of this section, the term "parties" means

196 the two lead agencies implementing this pilot program and the
197 Department of Children and Family Services. In order to
198 facilitate and expedite the execution of this section, the
199 parties shall engage an independent arbitrator for purposes of
200 dispute resolution, including any disputes related to the form
201 and substance of the contract to execute the pilot program, with
202 an award of fees and costs to the prevailing party. The
203 arbitrator's role shall be limited to selecting which party's
204 position is more reasonable.

205 (3) Contract management, fiscal oversight, and
206 programmatic oversight shall be conducted by independent,
207 nongovernmental third-party entities under contract to the
208 department and shall be conducted in a manner jointly agreed to
209 by the lead agencies and the department. The cost of contracting
210 with these independent entities shall be funded by the
211 department. Notwithstanding any other provision to the contrary,
212 the pilot program may not be implemented until the parties have
213 agreed to the selection of these entities and the manner in
214 which they are to carry out their responsibilities. Such
215 agreement must be reached by the parties no later than July 1,
216 2006. The selection of the entities for purposes of compliance
217 with this subsection shall be exempt from the provisions of s.
218 287.057, Florida Statutes. Fiscal oversight shall be conducted
219 in a manner similar to the model used by the department during
220 the 2005-2006 fiscal year in Miami-Dade and Monroe Counties. In
221 order to be able to compare the performance of the pilot
222 program's lead agencies with that of other lead agencies, the
223 programmatic performance of the pilot program's lead agencies

224 shall be measured and monitored by outcome measures contained in
225 their contracts with the department that are in effect on the
226 effective date of this section. The independent entities shall
227 submit their reports directly to the Governor, the President of
228 the Senate, and the Speaker of the House of Representatives.

229 (4) The department and the lead agencies implementing the
230 pilot program shall develop an implementation plan with the
231 Agency for Health Care Administration regarding the pending
232 Medicaid mental health reform for the purpose of implementing a
233 local reform model that allows for the integration of services
234 in the current systems of care.

235 (5) The annual evaluation required by s. 409.1671(4)(a),
236 Florida Statutes, shall include an evaluation of the pilot
237 program described in this act that compares performance and
238 fiscal management of the community-based care lead agencies in
239 the pilot program to those that are not in the pilot program. In
240 addition, the Office of Program Policy Analysis and Government
241 Accountability and the Office of the Auditor General shall
242 jointly complete an evaluation of the pilot program and provide
243 an interim report to the President of the Senate and the Speaker
244 of the House of Representatives no later than February 1, 2008,
245 and a final report no later than February 1, 2009.

246 Section 3. Except as otherwise expressly provided in this
247 act, this act shall take effect July 1, 2006.