

1 A bill to be entitled

2 An act relating to foster care and related services;  
3 amending s. 409.1671, F.S.; removing provisions requiring  
4 the Department of Children and Family Services to develop  
5 a statewide plan for outsourcing foster care and related  
6 services; removing certain plan requirements; removing an  
7 obsolete date; removing a requirement to issue certain  
8 loans; requiring a community-based risk pool initiative  
9 for certain purposes; providing for the components of the  
10 initiative; establishing a risk pool peer review  
11 committee; requiring a report to the secretary of the  
12 department; authorizing expenditures from the risk pool  
13 under certain circumstances; providing for uses of the  
14 risk pool; removing certain provisions relating to the  
15 sources of future funding; making conforming changes;  
16 removing authority of the Florida Coalition for Children,  
17 Inc., or its subcontractors to manage certain risk pool  
18 funds; authorizing the department to issue an interest-  
19 free loan to the Florida Coalition for Children, Inc., to  
20 establish a self-insurance program based on certain  
21 appropriations; providing terms for repayment of the loan;  
22 establishing a 3-year pilot program in Miami-Dade, Monroe,  
23 and Broward Counties; providing for the transfer of  
24 certain responsibilities from the Department of Children  
25 and Family Services to specified community-based care lead  
26 agencies; requiring review of the proposed contract by the  
27 Chief Financial Officer by a certain date; providing for  
28 funding the pilot program from grants and federal funds;

29 | requiring that annual financial statements regarding the  
30 | pilot program be provided to the Governor, the  
31 | Legislature, the department, and certain local community-  
32 | based care alliances; prohibiting the department from  
33 | using certain funds; requiring that fiscal,  
34 | administrative, and programmatic monitoring be conducted  
35 | by third-party entities; requiring the department to fund  
36 | the cost of the third-party monitoring; exempting the  
37 | selection of the third-party entities from the provisions  
38 | of s. 287.057, F.S., for a specified period of time;  
39 | requiring such entities to submit reports to the Governor,  
40 | the Legislature, and certain local community-based care  
41 | alliances; defining "parties"; requiring that the  
42 | department, the lead agencies implementing the pilot  
43 | program, and the Agency for Health Care Administration  
44 | develop a plan for integrating certain Medicaid health  
45 | services; specifying that the annual evaluation required  
46 | in s. 409.1671, F.S., include an evaluation of the pilot  
47 | program; directing the Office of Program Policy Analysis  
48 | and Government Accountability and the Office of the  
49 | Auditor General to complete an evaluation of the pilot  
50 | program and to report to the Legislature; providing for  
51 | certain provisions to be included in the contract;  
52 | requiring the department to enter into fixed-price  
53 | contracts; authorizing increased contract payments under  
54 | certain circumstances; requiring fiscal reporting and  
55 | reconciliation; providing for certain expenditures by lead  
56 | agencies; providing for a compliance supplement applicable

57 to all community-based lead agencies; requiring the  
 58 department to submit a plan by July 1, 2006, to the  
 59 Governor and Legislature for the efficient use of  
 60 resources; providing for distribution of savings resulting  
 61 from the plan; providing for future repeal; providing  
 62 effective dates.

63

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

65

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

68 409.1671 Foster care and related services; outsourcing.--

69 ~~(7) The Florida Coalition for Children, Inc., in~~  
 70 ~~consultation with the department, shall develop a plan based on~~  
 71 ~~an independent actuarial study regarding the long term use and~~  
 72 ~~structure of a statewide community based care risk pool for the~~  
 73 ~~protection of eligible lead community based providers, their~~  
 74 ~~subcontractors, and providers of other social services who~~  
 75 ~~contract directly with the department. The plan must also~~  
 76 ~~outline strategies to maximize federal earnings as they relate~~  
 77 ~~to the community based care risk pool. At a minimum, the plan~~  
 78 ~~must allow for the use of federal earnings received from child~~  
 79 ~~welfare programs to be allocated to the community based care~~  
 80 ~~risk pool by the department, which earnings are determined by~~  
 81 ~~the department to be in excess of the amount appropriated in the~~  
 82 ~~General Appropriations Act. The plan must specify the necessary~~  
 83 ~~steps to ensure the financial integrity and industry standard~~  
 84 ~~risk management practices of the community based care risk pool~~

85 ~~and the continued availability of funding from federal, state,~~  
86 ~~and local sources. The plan must also include recommendations~~  
87 ~~that permit the program to be available to entities of the~~  
88 ~~department providing child welfare services until full~~  
89 ~~conversion to community-based care takes place. The final plan~~  
90 ~~shall be submitted to the department and then to the Executive~~  
91 ~~Office of the Governor and the Legislative Budget Commission for~~  
92 ~~formal adoption before January 1, 2005. Upon approval of the~~  
93 ~~plan by all parties, the department shall issue an interest free~~  
94 ~~loan that is secured by the cumulative contractual revenue of~~  
95 ~~the community-based care risk pool membership, and the amount of~~  
96 ~~the loan shall equal the amount appropriated by the Legislature~~  
97 ~~for this purpose. The plan shall provide for a governance~~  
98 ~~structure that assures the department the ability to oversee the~~  
99 ~~operation of the community based care risk pool at least until~~  
100 ~~this loan is repaid in full.~~

101 (a) The department, in consultation with the Florida  
102 Coalition for Children, Inc., shall develop and implement a  
103 community-based care risk pool initiative to mitigate the  
104 financial risk to eligible lead community-based providers. This  
105 initiative shall include:

106 1. A risk pool application and protocol developed by the  
107 department that outline submission criteria, including, but not  
108 limited to, financial and program management, descriptive data  
109 requirements, and timeframes for submission of applications.  
110 Requests for funding from risk pool applicants shall be based on  
111 relevant and verifiable service trends and changes that have  
112 occurred during the current fiscal year. The application shall

113 confirm that expenditure of approved risk pool funds by the lead  
 114 community-based provider shall be completed within the current  
 115 fiscal year.

116 2. A risk pool peer review committee, appointed by the  
 117 secretary and consisting of department staff and representatives  
 118 from at least three nonapplicant community-based care providers,  
 119 that reviews and assesses all risk pool applications. Upon  
 120 completion of each application review, the peer review committee  
 121 shall report its findings and recommendations to the secretary  
 122 providing, at a minimum, the following information:

123 a. Justification for the specific funding amount required  
 124 by the risk pool applicant based on current year service trend  
 125 data, including validation that the applicant's financial need  
 126 was caused by circumstances beyond the control of the lead  
 127 agency management;

128 b. Verification that the proposed use of risk pool funds  
 129 meets at least one of the criteria in paragraph (c); and

130 c. Evidence of technical assistance provided in an effort  
 131 to avoid the need to access the risk pool and recommendations  
 132 for technical assistance to the lead agency to ensure that risk  
 133 pool funds are expended effectively and that the agency's need  
 134 for future risk pool funding is diminished.

135 (b) Upon approval by the secretary of a risk pool  
 136 application, the department may request funds from the risk pool  
 137 in accordance with s. 216.181(6) (a).

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

140 1. Significant changes in the number or composition of

141 clients eligible to receive services.

142 2. Significant changes in the services that are eligible  
143 for reimbursement.

144 ~~3. Scheduled or unanticipated, but necessary, advances to~~  
145 ~~providers or other cash-flow issues.~~

146 ~~4. Proposals to participate in optional Medicaid services~~  
147 ~~or other federal grant opportunities.~~

148 ~~5. Appropriate incentive structures.~~

149 3.6. Continuity of care in the event of failure,  
150 discontinuance of service, or financial misconduct by a lead  
151 agency.

152 ~~7. Payment for time limited technical assistance and~~  
153 ~~consultation to lead agencies in the event of serious~~  
154 ~~performance or management problems.~~

155 ~~8. Payment for meeting all traditional and nontraditional~~  
156 ~~insurance needs of eligible members.~~

157 4.9. Significant changes in the mix of available funds.

158 ~~(d)(b)~~ After approval of the plan in the 2004-2005 fiscal  
159 year and annually thereafter, The department may also request in  
160 its annual legislative budget request, and the Governor may  
161 recommend, that the funding necessary to carry out paragraph (c)  
162 ~~(a)~~ be appropriated to the department. ~~Subsequent funding of the~~  
163 ~~community based care risk pool shall be supported by premiums~~  
164 ~~assessed to members of the community-based care risk pool on a~~  
165 ~~recurring basis. The community based care risk pool may invest~~  
166 ~~and retain interest earned on these funds. In addition, the~~  
167 department may request the allocation of transfer funds from ~~to~~  
168 the community-based care risk pool in accordance with s.

169 216.181(6)(a) ~~as available in order to ensure an adequate~~  
170 ~~funding level if the fund is declared to be insolvent and~~  
171 ~~approval is granted by the Legislative Budget Commission. Such~~  
172 ~~payments for insolvency shall be made only after a determination~~  
173 ~~is made by the department or its actuary that all participants~~  
174 ~~in the community-based care risk pool are current in their~~  
175 ~~payments of premiums and that assessments have been made at an~~  
176 ~~actuarially sound level. Such payments by participants in the~~  
177 ~~community based care risk pool may not exceed reasonable~~  
178 ~~industry standards, as determined by the actuary. Funds Money~~  
179 ~~from this pool fund may be used to match available federal~~  
180 ~~dollars. Dividends or other payments, with the exception of~~  
181 ~~legitimate claims, may not be paid to members of the community-~~  
182 ~~based care risk pool until the loan issued by the department is~~  
183 ~~repaid in full. Dividends or other payments, with the exception~~  
184 ~~of legitimate claims and other purposes contained in the~~  
185 ~~approved plan, may not be paid to members of the community based~~  
186 ~~care risk pool unless, at the time of distribution, the~~  
187 ~~community-based care risk pool is deemed actuarially sound and~~  
188 ~~solvent. Solvency shall be determined by an independent actuary~~  
189 ~~contracted by the department. The plan shall be developed in~~  
190 ~~consultation with the Office of Insurance Regulation.~~

191 1. Such funds shall constitute partial security for  
192 contract performance by lead agencies and shall be used to  
193 offset the need for a performance bond. Subject to the approval  
194 of the plan, the community based care risk pool shall be managed  
195 by the Florida Coalition for Children, Inc., or the designated  
196 contractors of the Florida Coalition for Children, Inc.

197 ~~Nonmembers of the community based care risk pool may continue to~~  
 198 ~~contract with the department but must provide a letter of credit~~  
 199 ~~equal to one-twelfth of the annual contract amount in lieu of~~  
 200 ~~membership in the community based care risk pool.~~

201 2. The department may separately require a bond to  
 202 mitigate the financial consequences of potential acts of  
 203 malfeasance, misfeasance, or criminal violations by the  
 204 provider.

205 (e) The department may issue an interest-free loan to the  
 206 Florida Coalition for Children, Inc., for the purpose of  
 207 creating a self-insurance program pursuant to law. The loan  
 208 shall be secured by the cumulative contractual revenue of the  
 209 community-based care lead agencies participating in the self-  
 210 insurance program. The amount of the loan shall be in an amount  
 211 equal to the amount appropriated by the Legislature for this  
 212 purpose. The terms of the repayment of the loan shall be based  
 213 on the economic viability of the self-insurance program.

214 Section 2. Pilot project and financial issues.--

215 (1) A 3-year pilot program is established for the  
 216 community-based care lead agencies serving Miami-Dade, Monroe,  
 217 and Broward Counties. This pilot program shall allow for the  
 218 transfer of the current lead agency oversight responsibilities  
 219 of the Department of Children and Family Services to independent  
 220 entities and for funding the program through a grant that  
 221 enhances funding flexibility. The pilot program shall expand the  
 222 responsibilities and services provided by these lead agencies.

223 (2) The Department of Children and Family Services shall  
 224 enter into a 3-year contract with the designated community-based



225 care lead agency serving Miami-Dade and Monroe Counties and with  
226 the designated community-based care lead agency serving Broward  
227 County, which have been established in accordance with s.  
228 409.1671, Florida Statutes. The department and the lead agencies  
229 in this pilot program shall submit to the Chief Financial  
230 Officer proposed contract language no later than June 1, 2006.  
231 The Chief Financial Officer shall review the contracts for  
232 sufficiency and respond to the parties no later than June 15,  
233 2006. This subsection shall take effect upon this act becoming a  
234 law.

235 (3) The amount of federal Title IV-E funding allocated in  
236 each year of the 3-year pilot program shall be equal to the  
237 amount earned by each of the lead agencies and by the  
238 department's district or zone community-based care activities  
239 during the 2005-2006 fiscal year that is transitioned to the  
240 lead agencies as part of this pilot program. The lead agencies  
241 shall annually provide certified audited financial statements to  
242 the Governor, the Department of Children and Family Services,  
243 the appropriations committees of the Legislature, and the local  
244 community-based care alliances of Broward, Miami-Dade, and  
245 Monroe Counties. In implementing the pilot program, the  
246 department shall not use funds appropriated or allocated to  
247 community-based care lead agencies located outside of the pilot  
248 program area.

249 (4) Fiscal monitoring, administrative monitoring, and  
250 programmatic monitoring shall be conducted by independent,  
251 nongovernmental third-party entities under contract with the  
252 department and shall be conducted in a manner jointly agreed to

253 by the lead agencies and the department. The department shall  
254 fund the cost of contracting with these entities.  
255 Notwithstanding any other provision to the contrary, the pilot  
256 program may not be implemented until the parties have agreed to  
257 the selection of these entities and the manner in which they are  
258 to carry out their responsibilities. Such agreement must be  
259 reached by the parties no later than July 1, 2006. The selection  
260 of the third-party entities under this subsection shall be  
261 exempt from s. 287.057, Florida Statutes, from the effective  
262 date of this subsection through June 30, 2007. Fiscal oversight  
263 shall be conducted in a manner similar to the model used by the  
264 department during the 2005-2006 fiscal year in Miami-Dade and  
265 Monroe Counties. This subsection shall take effect upon this act  
266 becoming a law.

267 (5) To compare the performance of the pilot program's lead  
268 agencies with that of other lead agencies, the programmatic  
269 performance of the pilot program's lead agencies shall be  
270 measured and monitored by outcome measures contained in their  
271 contracts with the department that are in effect on the  
272 effective date of this section and other outcomes designed to  
273 best determine the quality of performance of the lead agencies  
274 and developed by the parties in conjunction with the  
275 independent, nongovernmental third-party entities as part of the  
276 agreement on programmatic monitoring. The independent entities  
277 shall submit their reports directly to the Governor, the  
278 President of the Senate, the Speaker of the House of  
279 Representatives, and the community-based care alliances of  
280 Broward, Miami-Dade, and Monroe Counties.

281       (6) For purposes of this section, the term "parties" means  
282 the two lead agencies implementing this pilot program and the  
283 Department of Children and Family Services.

284       (7) The department and the lead agencies implementing the  
285 pilot program shall develop an implementation plan with the  
286 Agency for Health Care Administration regarding the pending  
287 Medicaid mental health reform for the purpose of implementing a  
288 local model that allows for the integration of behavioral health  
289 and physical health with the local child welfare systems of  
290 care.

291       (8) The annual evaluation required by s. 409.1671(4)(a),  
292 Florida Statutes, shall include an evaluation of the pilot  
293 program described in this section that compares performance and  
294 fiscal management of the community-based care lead agencies in  
295 the pilot program to those that are not in the pilot program. In  
296 addition, the Office of Program Policy Analysis and Government  
297 Accountability and the Office of the Auditor General shall  
298 jointly complete an evaluation of the pilot program and provide  
299 an interim report to the President of the Senate and the Speaker  
300 of the House of Representatives no later than February 1, 2008,  
301 and a final report no later than February 1, 2009.

302       (9) The provisions of this subsection shall be included in  
303 the contracts with the lead agencies in the pilot program and  
304 may be implemented with other community-based care lead agencies  
305 established under s. 409.1671, Florida Statutes. The contracts  
306 must be fixed-price funded in 36 equal monthly installments. The  
307 first 2 months shall be paid in advance on July 10, 2006. The  
308 contracts shall be funded by a grant of general revenue and by

309 applicable federal funding sources. The lead agencies are  
 310 responsible for documenting federal earnings, and federal  
 311 earnings not documented shall be returned to the department.  
 312 Notwithstanding s. 409.1671(8), Florida Statutes, the lead  
 313 agencies' annual contract amounts may be increased by excess  
 314 federal earnings in accordance with s. 216.181(11), Florida  
 315 Statutes. Monthly reporting requirements shall be limited to  
 316 only the reports required to support monthly federal expenditure  
 317 reporting and statutorily restricted state expenditures as  
 318 defined in the lead agencies' approved cost allocation plan.  
 319 Quarterly reconciliation shall be required from the  
 320 participating lead agencies. All other required fiscal reporting  
 321 shall be determined by the independent fiscal monitors.  
 322 Notwithstanding any other provision of law, the following lead  
 323 agency expenditures are permissible: staff cellular telephone  
 324 allowances; contracts requiring deferred payments and  
 325 maintenance agreements; security deposits for office leases;  
 326 related professional membership dues and professional state  
 327 license fees; food and refreshment; promotional materials; and  
 328 costs associated with fundraising personnel either employed or  
 329 contracted with by the lead agency.

330 (10) The department, in consultation with the Department  
 331 of Financial Services, shall develop a compliance supplement for  
 332 the state financial assistance regarding flexibility of  
 333 allowable expenditures in accordance with s. 215.97, Florida  
 334 Statutes, which shall be applicable to all community-based lead  
 335 agencies.

336 (11) The department shall submit a plan to the Executive

337 Office of the Governor, the chair of the Senate Ways and Means  
338 Committee, and the chair of the House of Representatives Fiscal  
339 Council describing the most efficient use of resources relating  
340 to community-based care in the district administration and the  
341 program management and compliance budget entities. Any cost  
342 savings achieved as a result of this plan shall be distributed  
343 to the lead agencies by a methodology described in the plan. The  
344 department's plan shall be submitted no later than July 1, 2006.  
345 This subsection shall take effect upon this act becoming a law.

346 (12) This section is repealed July 1, 2009.

347 Section 3. Except as otherwise expressly provided in this  
348 act and except for this section, which shall take effect upon  
349 this act becoming a law, this act shall take effect July 1,  
350 2006.