

1 A bill to be entitled
2 An act relating to foster care and related services;
3 amending s. 409.1671, F.S.; providing for general
4 liability insurance coverage for community-based provider
5 staff under certain circumstances; removing requirements
6 that community-based provider staff obtain certain
7 liability insurance coverage; establishing a long-term
8 contracting and third-party oversight program; providing
9 for contracts for the transfer of certain responsibilities
10 from the Department of Children and Family Services to
11 participating community-based care lead agencies;
12 providing for funding the program from grants and federal
13 funds; requiring that annual financial statements
14 regarding the program be provided to the Governor, the
15 Legislature, the department, and local community-based
16 care alliances; requiring that fiscal, administrative, and
17 programmatic monitoring be conducted by third-party
18 entities; requiring the department to fund the cost of the
19 third-party monitoring; requiring such entities to submit
20 reports to the Governor, the Legislature, and local
21 community-based care alliances; defining the term
22 "parties"; requiring that the department, the lead
23 agencies implementing the program, and the Agency for
24 Health Care Administration develop a plan for integrating
25 certain Medicaid health services; directing the Office of
26 Program Policy Analysis and Government Accountability and
27 the Auditor General to evaluate the program annually and
28 provide a report to the Legislature; requiring certain

29 | statutory provisions to be included in the contract;
 30 | requiring the contracts to be funded in fixed-price
 31 | installments; authorizing increased contract payments
 32 | under certain circumstances; requiring fiscal reporting;
 33 | providing for certain expenditures by lead agencies;
 34 | providing for a compliance supplement applicable to all
 35 | community-based care lead agencies; providing for first-
 36 | year expenditures for community resource development;
 37 | requiring a report; amending s. 409.175, F.S.;
 38 | transferring certain authority for establishing health
 39 | standards from the Department of Health to the Department
 40 | of Children and Family Services; repealing s. 2 of chapter
 41 | 2006-30, Laws of Florida, relating to a pilot program in
 42 | Miami-Dade, Monroe, and Broward Counties; providing an
 43 | effective date.

44 |
 45 | Be It Enacted by the Legislature of the State of Florida:

46 |
 47 | Section 1. Paragraphs (h) and (j) of subsection (1) of
 48 | section 409.1671, Florida Statutes, are amended, and subsections
 49 | (12) and (13) are added to that section, to read:

50 | 409.1671 Foster care and related services; outsourcing.--

51 | (1)

52 | (h) Other than an entity to which s. 768.28 applies, any
 53 | eligible lead community-based provider, as defined in paragraph
 54 | (e), or its employees or officers, except as otherwise provided
 55 | in paragraph (i), must, as a part of its contract, obtain a
 56 | minimum of \$1 million per claim/\$3 million per incident in

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57 general liability insurance coverage. That general liability
58 insurance coverage shall extend to and include bodily injury
59 liability coverage for the personal automobiles of the
60 provider's staff when used to transport the provider's client
61 children or families, including while en route to and returning
62 from transporting the provider's client children or families.
63 ~~The eligible lead community based provider must also require~~
64 ~~that staff who transport client children and families in their~~
65 ~~personal automobiles in order to carry out their job~~
66 ~~responsibilities obtain minimum bodily injury liability~~
67 ~~insurance in the amount of \$100,000 per claim, \$300,000 per~~
68 ~~incident, on their personal automobiles. In any tort action~~
69 brought against such an eligible lead community-based provider
70 or employee, net economic damages shall be limited to \$1 million
71 per liability claim and \$100,000 per automobile claim,
72 including, but not limited to, past and future medical expenses,
73 wage loss, and loss of earning capacity, offset by any
74 collateral source payment paid or payable. In any tort action
75 brought against such an eligible lead community-based provider,
76 noneconomic damages shall be limited to \$200,000 per claim. A
77 claims bill may be brought on behalf of a claimant pursuant to
78 s. 768.28 for any amount exceeding the limits specified in this
79 paragraph. Any offset of collateral source payments made as of
80 the date of the settlement or judgment shall be in accordance
81 with s. 768.76. The lead community-based provider shall not be
82 liable in tort for the acts or omissions of its subcontractors
83 or the officers, agents, or employees of its subcontractors.

84 (j) Any subcontractor of an eligible lead community-based
85 provider, as defined in paragraph (e), that ~~which~~ is a direct
86 provider of foster care and related services to children and
87 families, and its employees or officers, except as otherwise
88 provided in paragraph (i), must, as a part of its contract,
89 obtain a minimum of \$1 million per claim/\$3 million per incident
90 in general liability insurance coverage. That general liability
91 insurance coverage shall extend to and include bodily injury
92 liability coverage for the personal automobiles of the
93 provider's staff when used to transport the provider's client
94 children or families, including while en route to and returning
95 from transporting the provider's client children or families.
96 ~~The subcontractor of an eligible lead community-based provider~~
97 ~~must also require that staff who transport client children and~~
98 ~~families in their personal automobiles in order to carry out~~
99 ~~their job responsibilities obtain minimum bodily injury~~
100 ~~liability insurance in the amount of \$100,000 per claim,~~
101 ~~\$300,000 per incident, on their personal automobiles.~~ In any
102 tort action brought against such subcontractor or employee, net
103 economic damages shall be limited to \$1 million per liability
104 claim and \$100,000 per automobile claim, including, but not
105 limited to, past and future medical expenses, wage loss, and
106 loss of earning capacity, offset by any collateral source
107 payment paid or payable. In any tort action brought against such
108 subcontractor, noneconomic damages shall be limited to \$200,000
109 per claim. A claims bill may be brought on behalf of a claimant
110 pursuant to s. 768.28 for any amount exceeding the limits
111 specified in this paragraph. Any offset of collateral source

112 payments made as of the date of the settlement or judgment shall
 113 be in accordance with s. 768.76.

114 (12) The long-term contracting and third-party oversight
 115 program is established to allow for the transfer of the current
 116 lead agency oversight responsibilities from the department to
 117 independent nongovernmental third-party entities and for funding
 118 the program through a grant that enhances funding flexibility.
 119 The program shall expand the responsibilities and services
 120 provided by participating lead agencies.

121 (a) The department shall enter into contracts with
 122 participating community-based care lead agencies established in
 123 accordance with this section.

124 (b) The lead agencies shall annually provide certified
 125 audited financial statements to the Governor, the department,
 126 the appropriations committees of the Legislature, and local
 127 community-based care alliances.

128 (c) Fiscal monitoring, administrative monitoring, and
 129 programmatic monitoring shall be conducted by independent,
 130 nongovernmental third-party entities under contract with the
 131 department and shall be conducted in a manner jointly agreed to
 132 by the lead agencies and the department. The department shall
 133 fund the cost of contracting with these entities.
 134 Notwithstanding any other provision to the contrary, the program
 135 may not be implemented until the parties have agreed to the
 136 selection of these entities and the manner in which they are to
 137 carry out their responsibilities.

138 (d) To compare the performance of the program's lead
 139 agencies with that of other lead agencies, the performance of

140 the program's lead agencies shall be measured and monitored by
141 outcome measures contained in their contracts, including
142 outcomes designed to best determine the quality of performance
143 of the lead agencies and developed by the parties in conjunction
144 with the independent, nongovernmental third-party entities as
145 part of the agreement on programmatic monitoring. The
146 independent, nongovernmental third-party entities shall submit
147 their reports directly to the Governor, the President of the
148 Senate, the Speaker of the House of Representatives, and the
149 local community-based care alliances.

150 (e) For purposes of this section, the term "parties" means
151 the lead agencies implementing the program and the department.

152 (f) The department and the lead agencies implementing the
153 program shall develop an implementation plan with the Agency for
154 Health Care Administration regarding the pending Medicaid mental
155 health reform for the purpose of implementing a local model that
156 allows for the integration of behavioral health and physical
157 health with the local child welfare systems of care.

158 (g) The annual evaluation required by paragraph (4) (a)
159 shall include an evaluation of the program by the Office of
160 Program Policy Analysis and Government Accountability and the
161 Auditor General that compares the performance and fiscal
162 management of the community-based care lead agencies
163 implementing the program to those that have not implemented the
164 program. The Office of Program Policy Analysis and Government
165 Accountability and the Auditor General shall jointly provide an
166 interim report to the President of the Senate and the Speaker of

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167 the House of Representatives no later than February 1, 2008, and
168 a final report no later than February 1, 2009.

169 (h) The provisions of this subsection shall be included in
170 contracts with the lead agencies in the program and may be
171 implemented with other community-based care lead agencies
172 established under this section. The contracts must be funded in
173 equal, fixed-price monthly installments. The first two
174 installments shall be paid in advance. The contracts shall be
175 funded by a grant of general revenue and by applicable federal
176 funding sources. The lead agencies are responsible for
177 documenting federal earnings, and federal earnings not
178 documented shall be returned to the department. Notwithstanding
179 subsection (8), the lead agencies' annual contract amounts may
180 be increased by excess federal earnings in accordance with s.
181 216.181(11). Monthly reporting requirements shall be limited to
182 only the reports required to support monthly federal expenditure
183 reporting and statutorily restricted state expenditures as
184 defined in the lead agencies' approved cost allocation plan. All
185 other required fiscal reporting shall be determined by the
186 independent fiscal monitors. Notwithstanding any other provision
187 of law, the following lead agency expenditures are permissible:
188 staff cellular telephone allowances; contracts requiring
189 deferred payments and maintenance agreements; security deposits
190 for office leases; related professional membership dues and
191 professional state license fees; food and refreshment;
192 promotional materials; and costs associated with fundraising
193 personnel either employed or contracted with by the lead agency.

194 (i) The department, in consultation with the Department of
 195 Financial Services, shall develop a compliance supplement for
 196 the state financial assistance regarding flexibility of
 197 allowable expenditures in accordance with s. 215.97, which shall
 198 be applicable to all community-based care lead agencies.

199 (13) Community-based care lead agencies shall have
 200 authority to expend funds for community resource development
 201 during the first year that they enter into a long-term contract
 202 with the department pursuant to the provisions of this section
 203 and except as prohibited by federal law. A community-based care
 204 lead agency using state funds for community resource development
 205 shall submit a report to the department describing the
 206 expenditures and the purposes for which the funds were expended.

207 Section 2. Paragraph (a) of subsection (5) of section
 208 409.175, Florida Statutes, is amended to read:

209 409.175 Licensure of family foster homes, residential
 210 child-caring agencies, and child-placing agencies; public
 211 records exemption.--

212 (5) (a) The department shall adopt and amend licensing
 213 rules for family foster homes, residential child-caring
 214 agencies, and child-placing agencies. The department may also
 215 adopt rules relating to the screening requirements for summer
 216 day camps and summer 24-hour camps. The requirements for
 217 licensure and operation of family foster homes, residential
 218 child-caring agencies, and child-placing agencies shall include:

219 1. The operation, conduct, and maintenance of these homes
 220 and agencies and the responsibility which they assume for
 221 children served and the evidence of need for that service.

222 2. The provision of food, clothing, educational
223 opportunities, services, equipment, and individual supplies to
224 assure the healthy physical, emotional, and mental development
225 of the children served.

226 3. The appropriateness, safety, cleanliness, and general
227 adequacy of the premises, including fire prevention and health
228 standards, to provide for the physical comfort, care, and well-
229 being of the children served. Notwithstanding any other
230 provision of law, the department shall have exclusive
231 jurisdiction to adopt rules for health standards. The department
232 shall consult with the Department of Health on the adoption of
233 such rules.

234 4. The ratio of staff to children required to provide
235 adequate care and supervision of the children served and, in the
236 case of foster homes, the maximum number of children in the
237 home.

238 5. The good moral character based upon screening,
239 education, training, and experience requirements for personnel.

240 6. The department may grant exemptions from
241 disqualification from working with children or the
242 developmentally disabled as provided in s. 435.07.

243 7. The provision of preservice and inservice training for
244 all foster parents and agency staff.

245 8. Satisfactory evidence of financial ability to provide
246 care for the children in compliance with licensing requirements.

247 9. The maintenance by the agency of records pertaining to
248 admission, progress, health, and discharge of children served,
249 including written case plans and reports to the department.

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250 10. The provision for parental involvement to encourage
251 preservation and strengthening of a child's relationship with
252 the family.

253 11. The transportation safety of children served.

254 12. The provisions for safeguarding the cultural,
255 religious, and ethnic values of a child.

256 13. Provisions to safeguard the legal rights of children
257 served.

258 Section 3. Section 2 of chapter 2006-30, Laws of Florida,
259 is repealed.

260 Section 4. This act shall take effect July 1, 2007.