

By Senator Diaz de la Portilla

36-1760-07

See HB 1181

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

1 Program Policy Analysis and Government
2 Accountability and the Auditor General to
3 evaluate the program annually and provide a
4 report to the Legislature; requiring certain
5 statutory provisions to be included in the
6 contract; requiring the contracts to be funded
7 in fixed-price installments; authorizing
8 increased contract payments under certain
9 circumstances; requiring fiscal reporting;
10 providing for certain expenditures by lead
11 agencies; providing for a compliance supplement
12 applicable to all community-based care lead
13 agencies; providing for first-year expenditures
14 for community resource development; requiring a
15 report; amending s. 409.175, F.S.; transferring
16 certain authority for establishing health
17 standards from the Department of Health to the
18 Department of Children and Family Services;
19 repealing s. 2 of chapter 2006-30, Laws of
20 Florida, relating to a pilot program in
21 Miami-Dade, Monroe, and Broward Counties;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraphs (h) and (j) of subsection (1) of
27 section 409.1671, Florida Statutes, are amended, and
28 subsections (12) and (13) are added to that section, to read:

29 409.1671 Foster care and related services;
30 outsourcing.--

31 (1)

1 (h) Other than an entity to which s. 768.28 applies,
2 any eligible lead community-based provider, as defined in
3 paragraph (e), or its employees or officers, except as
4 otherwise provided in paragraph (i), must, as a part of its
5 contract, obtain a minimum of \$1 million per claim/\$3 million
6 per incident in general liability insurance coverage. That
7 general liability insurance coverage shall extend to and
8 include bodily injury liability coverage for the personal
9 automobiles of the provider's staff when used to transport the
10 provider's client children or families, including while en
11 route to and returning from transporting the provider's client
12 children or families. The eligible lead community based
13 ~~provider must also require that staff who transport client~~
14 ~~children and families in their personal automobiles in order~~
15 ~~to carry out their job responsibilities obtain minimum bodily~~
16 ~~injury liability insurance in the amount of \$100,000 per~~
17 ~~claim, \$300,000 per incident, on their personal automobiles.~~
18 In any tort action brought against such an eligible lead
19 community-based provider or employee, net economic damages
20 shall be limited to \$1 million per liability claim and
21 \$100,000 per automobile claim, including, but not limited to,
22 past and future medical expenses, wage loss, and loss of
23 earning capacity, offset by any collateral source payment paid
24 or payable. In any tort action brought against such an
25 eligible lead community-based provider, noneconomic damages
26 shall be limited to \$200,000 per claim. A claims bill may be
27 brought on behalf of a claimant pursuant to s. 768.28 for any
28 amount exceeding the limits specified in this paragraph. Any
29 offset of collateral source payments made as of the date of
30 the settlement or judgment shall be in accordance with s.
31 768.76. The lead community-based provider shall not be liable

1 | in tort for the acts or omissions of its subcontractors or the
2 | officers, agents, or employees of its subcontractors.
3 | (j) Any subcontractor of an eligible lead
4 | community-based provider, as defined in paragraph (e), that
5 | ~~which~~ is a direct provider of foster care and related services
6 | to children and families, and its employees or officers,
7 | except as otherwise provided in paragraph (i), must, as a part
8 | of its contract, obtain a minimum of \$1 million per claim/\$3
9 | million per incident in general liability insurance coverage.
10 | That general liability insurance coverage shall extend to and
11 | include bodily injury liability coverage for the personal
12 | automobiles of the provider's staff when used to transport the
13 | provider's client children or families, including while en
14 | route to and returning from transporting the provider's client
15 | children or families. The subcontractor of an eligible lead
16 | ~~community based provider must also require that staff who~~
17 | ~~transport client children and families in their personal~~
18 | ~~automobiles in order to carry out their job responsibilities~~
19 | ~~obtain minimum bodily injury liability insurance in the amount~~
20 | ~~of \$100,000 per claim, \$300,000 per incident, on their~~
21 | ~~personal automobiles.~~ In any tort action brought against such
22 | subcontractor or employee, net economic damages shall be
23 | limited to \$1 million per liability claim and \$100,000 per
24 | automobile claim, including, but not limited to, past and
25 | future medical expenses, wage loss, and loss of earning
26 | capacity, offset by any collateral source payment paid or
27 | payable. In any tort action brought against such
28 | subcontractor, noneconomic damages shall be limited to
29 | \$200,000 per claim. A claims bill may be brought on behalf of
30 | a claimant pursuant to s. 768.28 for any amount exceeding the
31 | limits specified in this paragraph. Any offset of collateral

1 source payments made as of the date of the settlement or
2 judgment shall be in accordance with s. 768.76.

3 (12) The long-term contracting and third-party
4 oversight program is established to allow for the transfer of
5 the current lead agency oversight responsibilities from the
6 department to independent nongovernmental third-party entities
7 and for funding the program through a grant that enhances
8 funding flexibility. The program shall expand the
9 responsibilities and services provided by participating lead
10 agencies.

11 (a) The department shall enter into contracts with
12 participating community-based care lead agencies established
13 in accordance with this section.

14 (b) The lead agencies shall annually provide certified
15 audited financial statements to the Governor, the department,
16 the appropriations committees of the Legislature, and local
17 community-based care alliances.

18 (c) Fiscal monitoring, administrative monitoring, and
19 programmatic monitoring shall be conducted by independent,
20 nongovernmental third-party entities under contract with the
21 department and shall be conducted in a manner jointly agreed
22 to by the lead agencies and the department. The department
23 shall fund the cost of contracting with these entities.
24 Notwithstanding any other provision to the contrary, the
25 program may not be implemented until the parties have agreed
26 to the selection of these entities and the manner in which
27 they are to carry out their responsibilities.

28 (d) To compare the performance of the program's lead
29 agencies with that of other lead agencies, the performance of
30 the program's lead agencies shall be measured and monitored by
31 outcome measures contained in their contracts, including

1 outcomes designed to best determine the quality of performance
2 of the lead agencies and developed by the parties in
3 conjunction with the independent, nongovernmental third-party
4 entities as part of the agreement on programmatic monitoring.
5 The independent, nongovernmental third-party entities shall
6 submit their reports directly to the Governor, the President
7 of the Senate, the Speaker of the House of Representatives,
8 and the local community-based care alliances.

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

12 (f) The department and the lead agencies implementing
13 the program shall develop an implementation plan with the
14 Agency for Health Care Administration regarding the pending
15 Medicaid mental health reform for the purpose of implementing
16 a local model that allows for the integration of behavioral
17 health and physical health with the local child welfare
18 systems of care.

19 (g) The annual evaluation required by paragraph (4)(a)
20 shall include an evaluation of the program by the Office of
21 Program Policy Analysis and Government Accountability and the
22 Auditor General that compares the performance and fiscal
23 management of the community-based care lead agencies
24 implementing the program to those that have not implemented
25 the program. The Office of Program Policy Analysis and
26 Government Accountability and the Auditor General shall
27 jointly provide an interim report to the President of the
28 Senate and the Speaker of the House of Representatives no
29 later than February 1, 2008, and a final report no later than
30 February 1, 2009.

31

1 (h) The provisions of this subsection shall be
2 included in contracts with the lead agencies in the program
3 and may be implemented with other community-based care lead
4 agencies established under this section. The contracts must be
5 funded in equal, fixed-price monthly installments. The first
6 two installments shall be paid in advance. The contracts shall
7 be funded by a grant of general revenue and by applicable
8 federal funding sources. The lead agencies are responsible for
9 documenting federal earnings, and federal earnings not
10 documented shall be returned to the department.
11 Notwithstanding subsection (8), the lead agencies' annual
12 contract amounts may be increased by excess federal earnings
13 in accordance with s. 216.181(11). Monthly reporting
14 requirements shall be limited to only the reports required to
15 support monthly federal expenditure reporting and statutorily
16 restricted state expenditures as defined in the lead agencies'
17 approved cost allocation plan. All other required fiscal
18 reporting shall be determined by the independent fiscal
19 monitors. Notwithstanding any other provision of law, the
20 following lead agency expenditures are permissible: staff
21 cellular telephone allowances; contracts requiring deferred
22 payments and maintenance agreements; security deposits for
23 office leases; related professional membership dues and
24 professional state license fees; food and refreshment;
25 promotional materials; and costs associated with fundraising
26 personnel either employed or contracted with by the lead
27 agency.

28 (i) The department, in consultation with the
29 Department of Financial Services, shall develop a compliance
30 supplement for the state financial assistance regarding
31 flexibility of allowable expenditures in accordance with s.

1 215.97, which shall be applicable to all community-based care
2 lead agencies.

3 (13) Community-based care lead agencies shall have
4 authority to expend funds for community resource development
5 during the first year that they enter into a long-term
6 contract with the department pursuant to the provisions of
7 this section and except as prohibited by federal law. A
8 community-based care lead agency using state funds for
9 community resource development shall submit a report to the
10 department describing the expenditures and the purposes for
11 which the funds were expended.

12 Section 2. Paragraph (a) of subsection (5) of section
13 409.175, Florida Statutes, is amended to read:

14 409.175 Licensure of family foster homes, residential
15 child-caring agencies, and child-placing agencies; public
16 records exemption.--

17 (5)(a) The department shall adopt and amend licensing
18 rules for family foster homes, residential child-caring
19 agencies, and child-placing agencies. The department may also
20 adopt rules relating to the screening requirements for summer
21 day camps and summer 24-hour camps. The requirements for
22 licensure and operation of family foster homes, residential
23 child-caring agencies, and child-placing agencies shall
24 include:

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

28 2. The provision of food, clothing, educational
29 opportunities, services, equipment, and individual supplies to
30 assure the healthy physical, emotional, and mental development
31 of the children served.

1 3. The appropriateness, safety, cleanliness, and
2 general adequacy of the premises, including fire prevention
3 and health standards, to provide for the physical comfort,
4 care, and well-being of the children served. Notwithstanding
5 any other provision of law, the department shall have
6 exclusive jurisdiction to adopt rules for health standards.
7 The department shall consult with the Department of Health on
8 the adoption of such rules.

9 4. The ratio of staff to children required to provide
10 adequate care and supervision of the children served and, in
11 the case of foster homes, the maximum number of children in
12 the home.

13 5. The good moral character based upon screening,
14 education, training, and experience requirements for
15 personnel.

16 6. The department may grant exemptions from
17 disqualification from working with children or the
18 developmentally disabled as provided in s. 435.07.

19 7. The provision of preservice and inservice training
20 for all foster parents and agency staff.

21 8. Satisfactory evidence of financial ability to
22 provide care for the children in compliance with licensing
23 requirements.

24 9. The maintenance by the agency of records pertaining
25 to admission, progress, health, and discharge of children
26 served, including written case plans and reports to the
27 department.

28 10. The provision for parental involvement to
29 encourage preservation and strengthening of a child's
30 relationship with the family.

31 11. The transportation safety of children served.

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

3 13. Provisions to safeguard the legal rights of
4 children served.

5 Section 3. Section 2 of chapter 2006-30, Laws of
6 Florida, is repealed.

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

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31