

1 A bill to be entitled

2 An act relating to procurement of contractual services by  
3 a state agency; amending s. 287.0571, F.S.; providing that  
4 specified services related to mental health, substance  
5 abuse, child welfare, and juvenile justice are not subject  
6 to the Florida Efficient Government Act; creating s.  
7 287.0575, F.S.; providing agency and contract requirements  
8 with respect to the outsourcing of human services related  
9 to mental health and substance abuse, child welfare, and  
10 juvenile justice by the Department of Juvenile Justice,  
11 the Department of Corrections, the Department of Children  
12 and Family Services, and the Agency for Health Care  
13 Administration; providing an effective date.

14  
15 WHEREAS, in 2006, the Florida Legislature, during the 2006  
16 regular legislative session, passed Committee Substitute for  
17 Committee Substitute for Senate Bill 2518, the "Florida  
18 Efficient Government Act," and

19 WHEREAS, the expressed intent of the Florida Efficient  
20 Government Act is that "each state agency focus on its core  
21 mission and deliver services effectively and efficiently by  
22 leveraging resources and contracting with private sector vendors  
23 whenever vendors can more effectively and efficiently provide  
24 services and reduce the cost of government," and

25 WHEREAS, it is also the expressed intent of the act that  
26 "business cases to outsource be evaluated for feasibility, cost-  
27 effectiveness, and efficiency before a state agency proceeds  
28 with any outsourcing of services," and

29 WHEREAS, as part of the Florida Efficient Government Act,  
30 section 287.0571(4), Florida Statutes, exempts procurements of  
31 certain commodities and contractual services from the provisions  
32 of the act, and

33 WHEREAS, among those exempt commodities and contractual  
34 services are artistic services; academic program reviews;  
35 lectures by individuals; auditing services; legal services;  
36 health services involving examination, diagnosis, treatment,  
37 prevention, medical consultation, or administration; services  
38 provided to persons with mental or physical disabilities by  
39 certain not-for-profit corporations; family placement services;  
40 and prevention services related to mental health, including drug  
41 abuse prevention programs, child abuse prevention programs, and  
42 shelters for runaways, operated by not-for-profit corporations,  
43 and

44 WHEREAS, though the Florida Efficient Government Act makes  
45 great strides in accomplishing its intended purposes, there are  
46 managing entities and service providers who currently provide  
47 human services related to mental health, substance abuse, child  
48 welfare, and juvenile justice under outsourcing contracts with  
49 the Department of Juvenile Justice, the Department of  
50 Corrections, the Department of Children and Family Services, and  
51 the Agency for Health Care Administration who should be included  
52 within the exemption provisions of section 287.0571(4), Florida  
53 Statutes, and

54 WHEREAS, these entities provide critical assistance to the  
55 Department of Juvenile Justice, the Department of Corrections,

56 the Department of Children and Family Services, and the Agency  
 57 for Health Care Administration in fulfilling their missions, and

58 WHEREAS, these managing entities and service providers want  
 59 to ensure full accountability of the managing entity, the  
 60 service provider, and the contracting agency by requiring  
 61 transparency in negotiations and contracting and by instituting  
 62 equitable and reasonable requirements with respect to oversight,  
 63 monitoring, and regulation of the services provided, and

64 WHEREAS, because it is also a primary concern of these  
 65 managing entities and service providers to ensure continuity of  
 66 care, optimal levels of service that are not subject to  
 67 fluctuation, and stability for the client, it is essential that  
 68 such outsourcing contracts be required to define standards of  
 69 performance and measurement that are based upon evidence-based  
 70 best practices and national outcome-related standards or  
 71 measures, and

72 WHEREAS, it is of equal importance that contracts for such  
 73 services contain requirements for stringent, independent, and  
 74 formalized audit procedures and improved reporting to the  
 75 Legislature in order to ensure the continuing efficiency and  
 76 accountability of these contracts, NOW, THEREFORE,

77

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

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80 Section 1. Subsection (4) of section 287.0571, Florida  
 81 Statutes, is amended to read:

82 287.0571 Applicability of ss. 287.0571-287.0574.--

83 (4) Sections 287.0571-287.0574 do not apply to:

84 (a) A procurement of commodities and contractual services  
 85 listed in s. 287.057(5) (e), (f), and (g) and (22).

86 (b) A procurement of contractual services subject to s.  
 87 287.055.

88 (c) A procurement of contractual services subject to s.  
 89 287.0575.

90 (d)~~(e)~~ A contract in support of the planning, development,  
 91 implementation, operation, or maintenance of the road, bridge,  
 92 and public transportation construction program of the Department  
 93 of Transportation.

94 (e)~~(d)~~ A procurement of commodities or contractual  
 95 services which does not constitute an outsourcing of services or  
 96 activities.

97 Section 2. Section 287.0575, Florida Statutes, is created  
 98 to read:

99 287.0575 Requirements for outsourcing of human services  
 100 related to mental health, substance abuse, child welfare, and  
 101 juvenile justice by the Department of Juvenile Justice, the  
 102 Department of Corrections, the Department of Children and Family  
 103 Services, and the Agency for Health Care Administration.--The  
 104 outsourcing of human services related to mental health,  
 105 substance abuse, child welfare, and juvenile justice by the  
 106 Department of Juvenile Justice, the Department of Corrections,  
 107 the Department of Children and Family Services, or the Agency  
 108 for Health Care Administration are subject to the following  
 109 requirements:

110 (1) The Department of Juvenile Justice, the Department of  
 111 Corrections, the Department of Children and Family Services, and

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112 the Agency for Health Care Administration shall, with respect to  
113 a contract to outsource human services related to mental health,  
114 substance abuse, child welfare, and juvenile justice:

115 (a) Recognize and accept accreditation by national  
116 accreditation organizations as providing appropriate credentials  
117 for service providers so as to reduce paperwork, reduce required  
118 monitoring, and otherwise assist in meeting required oversight  
119 functions, where applicable.

120 (b) Establish model rates of payment for services based on  
121 the variable costs of providing services in different  
122 geographical regions of the state.

123 (c) Prohibit cost reimbursement as a method of payment.

124 (d) Implement a mechanism to annually adjust model rates  
125 of payment for services that is based on the Consumer Price  
126 Index.

127 (e)1. Require that negotiations be reopened with providers  
128 in order to make any modifications to the scope of work of an  
129 executed contract;

130 2. Require cost-benefit analysis to be utilized as a part  
131 of any negotiation;

132 3. Provide that amendments to a contract resulting from  
133 negotiations be justified by need; and

134 4. Provide for adequate compensation for any modification.

135 (f) Establish and require a reasonable period of time for  
136 negotiation and execution of a contract after the award.

137 (g) Provide for an ombudsman and a procedure to facilitate  
138 or assist in resolving contract disputes.

139 (h) Provide for an annual report to the Legislature based  
140 upon evidence-based best practices and national outcome-related  
141 standards or measures.

142 (i) Provide for reimbursement for the extra day of  
143 services provided during a leap year.

144 (j)1. Provide for monthly reimbursement within a  
145 prescribed timeframe; and

146 2. Where there are disputed issues, ensure that payment  
147 will be made on all items not under dispute and that in no event  
148 will payment be withheld on undisputed issues pending the  
149 resolution of disputed issues.

150 (k) Provide that funds required to ensure cash flow and  
151 program expansion and development cannot be considered as excess  
152 revenue.

153 (2) A contract to outsource human services related to  
154 mental health, substance abuse, child welfare, and juvenile  
155 justice on behalf of the Department of Juvenile Justice, the  
156 Department of Corrections, the Department of Children and Family  
157 Services, or the Agency for Health Care Administration shall  
158 include provisions that:

159 (a) Require contract deliverables to be based on the  
160 requirements of the contracting agency or, in the case of a  
161 multi-agency contract, the primary contracting agency,  
162 applicable state laws, and national outcome-related standards or  
163 measures. In the event that there are no best practices or  
164 national outcome-related standards or measures upon which to  
165 base the deliverable, the initial contract shall be utilized to  
166 establish baseline measures and deliverables for future

167 contracts, based upon experience and baseline data collected  
168 during the initial contract. Under no circumstances shall  
169 deliverables other than the requirements of the contracting  
170 agency to the state or those requirements specified in state law  
171 be established without data to support them, except when  
172 establishing baseline measures.

173 (b)1. Contain clear measures and specifications when  
174 deliverables are placed in a contract that will allow for  
175 accurate determinations regarding the fulfillment of contract  
176 requirements; and

177 2. Take into consideration the fact that, when dealing  
178 with human health and behavioral issues, a wide range of  
179 variables exist. Therefore, to the extent possible, the contract  
180 shall provide established measures and specifications to be  
181 stated within established parameters.

182 (c) Specify a reasonable number of annual monitoring  
183 visits to ensure that appropriate oversight will occur without  
184 impeding the efficient provision of the services. These may be  
185 modified if the performance of the managing entity or service  
186 provider dictates otherwise. Whenever possible, monitoring shall  
187 be combined so that interruptions to the agency and services are  
188 minimized.

189 (d) Require all financial audits to be conducted in  
190 accordance with generally accepted accounting principles.

191 Section 3. This act shall take effect July 1, 2007.