

1                                   A bill to be entitled  
 2           An act relating to procurement of contractual services by  
 3           a state agency; creating s. 287.0575, F.S.; providing  
 4           definitions; providing requirements with respect to the  
 5           provision of outsourced human services related to mental  
 6           health, substance abuse, child welfare, or juvenile  
 7           justice; providing requirements with respect to contracts  
 8           for such services; requiring state agencies to identify  
 9           specified costs to human services providers; requiring a  
 10          fiscal impact statement; providing that failure by a  
 11          governmental entity to negotiate a contract amendment or  
 12          remedy a material adverse impact of a new governmental  
 13          mandate constitutes an agency action or purposes of the  
 14          Administrative Procedure Act; providing for annual reports  
 15          by state agencies; amending s. 216.136, F.S.; requiring  
 16          the Social Services Estimating Conference to convene  
 17          quarterly for the purpose of developing information  
 18          related to mental health, substance abuse, child welfare,  
 19          and juvenile justice services needs; providing an  
 20          effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

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 24           Section 1. Section 287.0575, Florida Statutes, is created  
 25   to read:

26           287.0575 Outsourced human services related to mental  
 27   health, substance abuse, child welfare, or juvenile justice.--

28           (1) For the purposes of this section:

29        (a) "Material adverse financial impact" means:  
 30        1. An increase in reasonable costs to a contractor in  
 31 performing a contract for the outsourcing of human services  
 32 related to mental health, substance abuse, child welfare, or  
 33 juvenile justice that is the lesser of:  
 34        a. Five per cent of the maximum obligation amount or unit  
 35 price of the contract; or  
 36        b. Ten thousand dollars in the aggregate as a result of  
 37 all new governmental mandates taking effect during any calendar  
 38 year of the contract term; or  
 39        2. An action that affects the core purpose and primary  
 40 intent of a contract for the outsourcing of such services.  
 41        (b) "New governmental mandate" means a statutory  
 42 requirement, administrative rule, regulation, assessment,  
 43 executive order, judicial order, or other governmental  
 44 requirement, or an agency policy, that was not in effect when a  
 45 contract for the outsourcing of human services related to mental  
 46 health, substance abuse, child welfare, or juvenile justice was  
 47 originally entered into and that directly imposes an obligation  
 48 on the contractor to take, or to refrain from taking, any action  
 49 in order to fulfill its contractual obligation.  
 50        (c) "Primary funding agency" means the state agency with  
 51 the largest financial contract obligation to a provider of  
 52 services to a particular population.  
 53        (2) To create a more stable business environment for  
 54 providing outsourced human services related to mental health,  
 55 substance abuse, child welfare, or juvenile justice and to

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56 ensure accountability, eliminate duplication, and improve  
57 efficiency with respect to the provision of such services:

58 (a) Each state agency shall annually submit to the  
59 Legislature a list of mandated requirements, forms, and other  
60 monitoring requirements that are satisfied through accreditation  
61 by appropriate national accreditation organizations.

62 (b) Each state agency that provides funding for outsourced  
63 human services contracts under this section:

64 1. Shall coordinate with other state agencies that provide  
65 funding for services to a particular population. The state  
66 agency legally responsible for providing services to a  
67 particular population or the primary funding agency will act as  
68 the lead agency in ensuring that monitoring activities are  
69 coordinated.

70 2. May delegate monitoring activities to another agency  
71 that is monitoring outsourced services for a particular  
72 population.

73 3. Shall develop a common monitoring protocol to be used  
74 when services to a particular population are being funded by two  
75 or more agencies. The protocol, at a minimum, must:

76 a. Delineate all program, fiscal, and administrative  
77 contract monitoring activities, including all required reporting  
78 mechanisms, to provide required program, fiscal, and  
79 administrative data.

80 b. Provide for a master list of core required documents  
81 for contract monitoring purposes and provide for the collection  
82 of such documents from each service provider.

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83       (3) Contracts to outsource human services related to  
84 mental health, substance abuse, child welfare, and juvenile  
85 justice shall:

86       (a) Provide that, in the event that a material change to  
87 the scope of the contract is imposed upon a service provider and  
88 compliance with such change will have a material adverse  
89 financial impact on the service provider, the contracting agency  
90 shall negotiate a contract amendment with the service provider  
91 to increase the maximum obligation amount or unit price of the  
92 contract to offset the material adverse financial impact of the  
93 change, provided the service provider furnishes evidence to the  
94 contracting agency of such material adverse financial impact  
95 along with a request to renegotiate the contract based on the  
96 proposed change.

97       (b) Ensure that payment will be made on all items not  
98 under dispute and that in no event will payment be withheld on  
99 undisputed issues pending the resolution of disputed issues.

100       (c) Provide that any dispersed funds that remain  
101 unexpended during the contract term be considered as authorized  
102 revenue for the purposes of cash flow, program expansion and  
103 development, and administrative costs.

104       (d) Include language authorizing, subject to  
105 appropriation, an annual cost-of-living adjustment that reflects  
106 increases in the consumer price index or, at a minimum, is  
107 comparable to any annual salary increase for state employees. In  
108 the absence of a cost-of-living adjustment for state employees,  
109 the contract must include language that adjusts human services  
110 contracts by reducing the number of services or units contracted

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111 for or that requires documentation substantiating the reasons a  
112 reduction is not possible. This documentation shall be  
113 considered by the Social Service Estimating Conference and  
114 reported pursuant to s. 216.136.

115 (4) State agencies shall provide an analysis of every new  
116 form, procedure, or mandate required of a provider of human  
117 services related to mental health, substance abuse, child  
118 welfare, or juvenile justice under a contract for the  
119 outsourcing of such human services that were not in effect when  
120 the contract was originally entered into. The analysis shall  
121 identify the cost to the provider of any such new requirements  
122 and must be transmitted to the provider before any new form,  
123 procedure, or mandate may be utilized or implemented. The  
124 analysis shall also include a fiscal impact statement from the  
125 provider with respect to each new form, procedure, or mandate  
126 required or imposed.

127 (5) Any contractor aggrieved by the refusal or failure of  
128 a governmental unit to negotiate a contract amendment to remedy  
129 a material adverse impact of a new governmental mandate pursuant  
130 to this section constitutes an agency action for the purposes of  
131 the Administrative Procedure Act.

132 (6) By December 30 annually, each agency that contracts  
133 for the provision of human services shall prepare a  
134 comprehensive list of all contract requirements, mandated  
135 reports, outcome measures, and other requirements of a provider.  
136 The list shall be submitted to the Governor, the President of  
137 the Senate, and the Speaker of the House of Representatives.

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138 Section 2. Paragraph (c) is added to subsection (6) of  
139 section 216.136, Florida Statutes, to read:

140 216.136 Consensus estimating conferences; duties and  
141 principals.--

142 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.--

143 (c) The Social Services Estimating Conference shall be  
144 convened quarterly for the purpose of developing information  
145 related to mental health, substance abuse, child welfare, or  
146 juvenile justice services needs including, but not limited to,  
147 enrollment, caseload, utilization, expenditures, and  
148 documentation required under s. 287.0575(3)(d), and that  
149 reflects population growth and economic trends.

150 Section 3. This act shall take effect July 1, 2009.