

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.

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 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:

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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 (2) To create a more stable business environment for
51 providing outsourced human services related to mental health,
52 substance abuse, child welfare, or juvenile justice and to
53 ensure accountability, eliminate duplication, and improve
54 efficiency with respect to the provision of such services:

55 (a) Each state agency shall annually submit to the
56 Legislature a list of mandated requirements, forms, and other

57 monitoring requirements that are satisfied through accreditation
 58 by appropriate national accreditation organizations.

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

61 1. Shall coordinate with other state agencies that provide
 62 funding and designate an agency that will act as the lead agency
 63 in ensuring that monitoring activities are coordinated.

64 2. May delegate monitoring activities to another agency
 65 that is monitoring outsourced services for a particular
 66 population.

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

70 a. Delineate all program, fiscal, and administrative
 71 contract monitoring activities, including all required reporting
 72 mechanisms, to provide required program, fiscal, and
 73 administrative data.

74 b. Provide for a master list of core required documents
 75 for contract monitoring purposes and provide for the collection
 76 of such documents from each service provider.

77 (3) Contracts to outsource human services related to
 78 mental health, substance abuse, child welfare, and juvenile
 79 justice shall:

80 (a) Provide that, in the event that a material change to
 81 the scope of the contract is imposed upon a service provider and
 82 compliance with such change will have a material adverse
 83 financial impact on the service provider, the contracting agency
 84 shall negotiate a contract amendment with the service provider

85 to increase the maximum obligation amount or unit price of the
86 contract to offset the material adverse financial impact of the
87 change, provided the service provider furnishes evidence to the
88 contracting agency of such material adverse financial impact
89 along with a request to renegotiate the contract based on the
90 proposed change.

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

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

98 (d) Include language authorizing, subject to
99 appropriation, an annual cost-of-living adjustment that reflects
100 increases in the consumer price index or, at a minimum, is
101 comparable to any annual salary increase for state employees. In
102 the absence of a cost-of-living adjustment for state employees,
103 the contract must include language that adjusts human services
104 contracts by reducing the number of services or units contracted
105 for or that requires documentation substantiating the reasons a
106 reduction is not possible. This documentation shall be
107 considered by the Social Service Estimating Conference and
108 reported pursuant to s. 216.136.

109 (4) State agencies shall provide an analysis of every new
110 form, procedure, or mandate required of a provider of human
111 services related to mental health, substance abuse, child
112 welfare, or juvenile justice under a contract for the

113 outsourcing of such human services that were not in effect when
114 the contract was originally entered into. The analysis shall
115 identify the cost to the provider of any such new requirements
116 and must be transmitted to the provider before any new form,
117 procedure, or mandate may be utilized or implemented. The
118 analysis shall also include a fiscal impact statement from the
119 provider with respect to each new form, procedure, or mandate
120 required or imposed.

121 (5) Any contractor aggrieved by the refusal or failure of
122 a governmental unit to negotiate a contract amendment to remedy
123 a material adverse impact of a new governmental mandate pursuant
124 to this section constitutes an agency action for the purposes of
125 the Administrative Procedure Act.

126 (6) By December 30 annually, each agency that contracts
127 for the provision of human services shall prepare a
128 comprehensive list of all contract requirements, mandated
129 reports, outcome measures, and other requirements of a provider.
130 The list shall be submitted to the Governor, the President of
131 the Senate, and the Speaker of the House of Representatives.

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

134 216.136 Consensus estimating conferences; duties and
135 principals.--

136 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.--

137 (c) The Social Services Estimating Conference shall be
138 convened quarterly for the purpose of developing information
139 related to mental health, substance abuse, child welfare, or
140 juvenile justice services needs including, but not limited to,

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141 | enrollment, caseload, utilization, expenditures, and
142 | documentation required under s. 287.0575(3)(d), and that
143 | reflects population growth and economic trends.

144 | Section 3. This act shall take effect upon becoming a law.