

By the Committee on Children, Families, and Elder Affairs; and  
Senator Smith

586-03224-10

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1                                   A bill to be entitled  
2           An act relating to the procurement of contractual  
3           services by a state agency; creating s. 287.0575,  
4           F.S.; providing definitions; providing for the  
5           national accreditation of human service providers in  
6           lieu of certain licensure requirements; providing for  
7           state agency inspection and monitoring for certain  
8           purposes; requiring the state agency authorized to  
9           provide a specified human service to coordinate all  
10          multiagency monitoring activities; requiring the  
11          Department of Management Services to establish an  
12          electronic document vault for the storage of  
13          administrative documents required in a regulatory  
14          environment; requiring contracts for outsourced human  
15          services to contain certain provisions; requiring  
16          contracting state agencies to provide an analysis of  
17          any costs to providers resulting from mandates that  
18          were not in effect at the time the contract was  
19          entered into; requiring state agencies to accept all  
20          mandated documents electronically; providing that  
21          failure by a governmental entity to negotiate a  
22          contract amendment or remedy a material adverse impact  
23          of a new governmental mandate constitutes an agency  
24          action for purposes of the Administrative Procedures  
25          Act; requiring state agencies to review all provider  
26          requirements and submit a list of such requirements to  
27          the Governor; amending s. 216.136, F.S.; requiring the  
28          Social Services Estimating Conference to convene  
29          annually for the purpose of developing information

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30 related to mental health, substance abuse, child  
31 welfare, and juvenile justice services needs;  
32 providing an effective date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36 Section 1. Section 287.0575, Florida Statutes, is created  
37 to read:

38 287.0575 Outsourced human services.—

39 (1) As used in this section, the term:

40 (a) "Financial impact" means an increase in reasonable  
41 costs of 5 percent or more in the annual aggregate payment to a  
42 contractor performing a contract for outsourced human services.

43 (b) "Human services" means services related to mental  
44 health, substance abuse, child welfare, or juvenile justice.

45 (c) "New governmental mandate" means a statutory  
46 requirement, administrative rule, regulation, assessment,  
47 executive order, judicial order, or other governmental  
48 requirement, or an agency policy, that was not in effect when a  
49 contract for the outsourcing of human services was originally  
50 entered into and that directly imposes an obligation on the  
51 contractor to take, or to refrain from taking, an action in  
52 order to fulfill its contractual obligation.

53 (2) In order to create a more stable business environment  
54 for providing outsourced human services and to ensure  
55 accountability, eliminate duplication, and improve efficiency  
56 with respect to the provision of such services:

57 (a) Notwithstanding any other provision of law, national  
58 accreditation of human services providers by the Joint

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59 Commission on Accreditation of Healthcare Organizations, the  
60 Commission on Accreditation of Rehabilitation Facilities, and  
61 the Council on Accreditation shall be accepted by state agencies  
62 in lieu of the agency's facility licensure onsite review and  
63 administrative requirements, and as a substitute for the state  
64 agency's licensure, administrative, and program monitoring  
65 requirements. Accreditation for administrative requirements  
66 satisfies the administrative requirements for licensure during  
67 the period of time that the accreditation is effective.

68 Notwithstanding the survey or inspection by an accreditation  
69 organization, the department or agency may continue to inspect  
70 and monitor the provider as necessary with respect to:

71 1. Reimbursement matters for any contract.

72 2. Complaint investigation, suspected problems, or the  
73 implementation of the terms of consent decrees or other orders.

74 3. Ensuring compliance with federal or state laws and rules  
75 that are not covered by the accreditation.

76 (b) Each state agency that has been designated by the  
77 Federal Government and state law as the authorized state entity  
78 with respect to the provision of specified human services is the  
79 lead agency for the designated human service population. By July  
80 1, 2011, each lead agency shall:

81 1. Develop a common monitoring protocol that must be used  
82 by all agencies serving the same population.

83 2. Implement a plan to coordinate monitoring activities  
84 related to the delivery of services to the populations being  
85 served by multiple state agencies.

86 3. Adopt rules that guide the delivery of service across  
87 the jurisdictions of multiple state agencies serving the same

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88 population and coordinate all monitoring activities.

89 4. Provide for a master list of core required documents for  
90 contract monitoring purposes and provide for the collection of  
91 such documents from each service provider. The department shall  
92 establish an electronic document vault for the storage,  
93 delivery, and retrieval of administrative documents required in  
94 the regulatory review processes. To the greatest extent  
95 possible, the department shall promote the development,  
96 implementation, and maintenance of the document vault by  
97 providers or provider trade associations.

98 (3) Contracts to outsource human services must:

99 (a) Provide that if a material change to the scope of the  
100 contract is imposed upon a service provider and compliance with  
101 such change will have a financial impact on the provider, the  
102 contracting agency must negotiate a contract amendment with the  
103 service provider to increase the maximum obligation amount or  
104 unit price of the contract to offset the financial impact of the  
105 change if the service provider furnishes evidence to the  
106 contracting agency of such financial impact along with a request  
107 to renegotiate the contract based on the proposed change. The  
108 provider may not be held to requirements or obligations that are  
109 not required by law or are not included in the original contract  
110 or by negotiated amendment.

111 (b) Ensure that:

112 1. Payment will be made on all items not under dispute and  
113 that payment will not be withheld on undisputed issues pending  
114 the resolution of those issues.

115 2. If the department engages an outside private entity to  
116 engage in contract monitoring or otherwise delegates any

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117 contract administration functions to an outside private entity,  
118 such entity shall uniformly administer the contract and not  
119 impose any requirements that exceed law, rule, or the contract  
120 terms.

121 (c) Provide that any dispersed funds that remain unexpended  
122 during the contract term are approved as authorized revenue and  
123 carry over into the next year for the purposes of cash flow and  
124 continuation of the contract, notwithstanding s. 216.301.

125 (d) Subject to appropriation, include provisions  
126 authorizing an annual cost-of-living adjustment that reflects  
127 increases in the consumer price index.

128 (4) State agencies shall provide an analysis of every new  
129 governmental mandate, form, or procedure required of a service  
130 provider under a contract for the outsourcing of human services  
131 which was not in effect when the contract was originally entered  
132 into. The analysis must identify the cost to the provider of any  
133 new requirements and must be transmitted to the provider before  
134 any new mandate, form, or procedure may be used or implemented.  
135 The analysis must also include a fiscal impact statement with  
136 respect to each new form, procedure, or mandate required or  
137 imposed.

138 (5) State agencies must accept all mandated reports and  
139 invoices from service providers electronically and shall  
140 establish a procedure that allows for posting all core documents  
141 in secure electronic storage. If a service provider uses such  
142 storage, the state agency must have access to the electronic  
143 storage for monitoring core documents, and shall by rule or  
144 contract require that the provider deposit administrative  
145 documents requested by the department or agency in such storage.

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146       (6) Any contractor aggrieved by the refusal or failure of a  
147 governmental unit to negotiate a contract amendment to remedy  
148 the financial impact of a new governmental mandate constitutes  
149 an agency action for the purposes of chapter 120.

150       (7) Each agency shall annually review all contract  
151 requirements, mandated reports, outcome measures, and other  
152 requirements of a provider. The list must include citations to  
153 reference sources for the mandate, such as laws, rules, or  
154 policies. The list shall be submitted to the Governor.

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

157       216.136 Consensus estimating conferences; duties and  
158 principals.—

159       (6) SOCIAL SERVICES ESTIMATING CONFERENCE.—

160       (c) The Social Services Estimating Conference shall be  
161 convened annually for the purpose of developing information that  
162 is related to mental health, substance abuse, child welfare, or  
163 juvenile justice services needs, including, but not limited to,  
164 enrollment, caseload, utilization, and expenditures that reflect  
165 population growth and economic trends.

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