

By the Committees on Criminal Justice; and Children, Families,
and Elder Affairs; and Senator Smith

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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.

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

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

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

143 (6) Any contractor aggrieved by the refusal or failure of a
144 governmental unit to negotiate a contract amendment to remedy
145 the financial impact of a new governmental mandate constitutes

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146 an agency action for the purposes of chapter 120.

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

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

154 216.136 Consensus estimating conferences; duties and
155 principals.-

156 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.-

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

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