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HB 5305, Engrossed 1

2010 Legislature

1 A bill to be entitled
2 An act relating to child welfare; amending s. 402.302,
3 F.S.; defining the term "child welfare provider"; creating
4 s. 402.7306, F.S.; requiring the Department of Children
5 and Family Services, the Department of Health, the Agency
6 for Persons with Disabilities, the Agency for Health Care
7 Administration, and community-based care lead agencies to
8 adopt policies for the administrative monitoring of child
9 welfare providers; authorizing private-sector entities to
10 establish an Internet-based data warehouse and archive for
11 the maintenance of specified records of child welfare
12 providers; providing agency and provider requirements;
13 providing for access to the data warehouse under certain
14 conditions; amending s. 402.7305, F.S.; providing a
15 limitation on the frequency of monitoring of child-caring
16 and child-placing service providers; prohibiting certain
17 duplicative monitoring; amending s. 409.1451, F.S.;
18 providing the Department of Children and Family Services
19 with rulemaking authority with respect to payments and
20 conditions relating to youth and young adults in the
21 independent living transition services program; repealing
22 s. 409.1663, F.S., relating to adoption benefits for
23 qualifying adoptive employees of state agencies; amending
24 s. 409.1671, F.S.; revising provisions relating to funding
25 for contracts established between the Department of
26 Children and Family Services and community-based care lead
27 agencies; authorizing the department to outsource certain
28 functions; authorizing a community-based care lead agency

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29 to make certain expenditures; amending s. 409.166, F.S.;

30 deleting a reference to conform to changes made by the

31 act; authorizing the Department of Children and Family

32 Services to provide services to certain dependent

33 children; providing exceptions; authorizing the department

34 and the participating dependency court to develop

35 eligibility criteria; providing an effective date.

36

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

38

39 Section 1. Subsections (4) through (16) of section

40 402.302, Florida Statutes, are renumbered as subsections (5)

41 through (17), respectively, and a new subsection (4) is added to

42 that section to read:

43 402.302 Definitions.—

44 (4) "Child welfare provider" means a licensed child-caring

45 or child-placing agency.

46 Section 2. Section 402.7306, Florida Statutes, is created

47 to read:

48 402.7306 Administrative monitoring for child welfare

49 providers.—The Department of Children and Family Services, the

50 Department of Health, the Agency for Persons with Disabilities,

51 the Agency for Health Care Administration, and community-based

52 care lead agencies shall identify and implement changes that

53 improve the efficiency of administrative monitoring of child

54 welfare services. To assist with that goal, each such agency

55 shall adopt the following policies:

56 (1) Limit administrative monitoring to once every 3 years

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57 if the child welfare provider is accredited by the Joint
 58 Commission on Accreditation of Healthcare Organizations, the
 59 Commission on Accreditation of Rehabilitation Facilities, or the
 60 Council on Accreditation of Children and Family Services. If the
 61 accrediting body does not require documentation that the state
 62 agency requires, that documentation shall be requested by the
 63 state agency and may be posted by the provider on the data
 64 warehouse for the agency's review. Notwithstanding the survey or
 65 inspection of an accrediting organization specified in this
 66 subsection, an agency specified in and subject to this section
 67 may continue to monitor the provider as necessary with respect
 68 to:

69 (a) Ensuring that services for which the agency is paying
 70 are being provided.

71 (b) Investigating complaints or suspected problems and
 72 monitoring the provider's compliance with any resulting
 73 negotiated terms and conditions, including provisions relating
 74 to consent decrees that are unique to a specific service and are
 75 not statements of general applicability.

76 (c) Ensuring compliance with federal and state laws,
 77 federal regulations, or state rules if such monitoring does not
 78 duplicate the accrediting organization's review pursuant to
 79 accreditation standards.

80
 81 Medicaid certification and precertification reviews are exempt
 82 from this subsection to ensure Medicaid compliance.

83 (2) Allow private-sector development and implementation of
 84 an Internet-based, secure, and consolidated data warehouse and

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85 archive for maintaining corporate, fiscal, and administrative
 86 records of child welfare providers. A provider shall ensure that
 87 the data is up to date and accessible to the applicable agency
 88 under this section and the appropriate agency subcontractor. A
 89 provider shall submit any revised, updated information to the
 90 data warehouse within 10 business days after receiving the
 91 request. An agency that conducts administrative monitoring of
 92 child welfare providers under this section must use the data
 93 warehouse for document requests. If the information provided to
 94 the agency by the provider's data warehouse is not current or is
 95 unavailable from the data warehouse and archive, the agency may
 96 contact the provider directly. A provider that fails to comply
 97 with an agency's requested documents may be subject to a site
 98 visit to ensure compliance. Access to the data warehouse must be
 99 provided without charge to an applicable agency under this
 100 section. At a minimum, the records must include the provider's:

- 101 (a) Articles of incorporation.
- 102 (b) Bylaws.
- 103 (c) Governing board and committee minutes.
- 104 (d) Financial audits.
- 105 (e) Expenditure reports.
- 106 (f) Compliance audits.
- 107 (g) Organizational charts.
- 108 (h) Governing board membership information.
- 109 (i) Human resource policies and procedures.
- 110 (j) Staff credentials.
- 111 (k) Monitoring procedures, including tools and schedules.
- 112 (l) Procurement and contracting policies and procedures.

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113 (m) Monitoring reports.

114 Section 3. Subsection (4) of section 402.7305, Florida
 115 Statutes, is amended to read:

116 402.7305 Department of Children and Family Services;
 117 procurement of contractual services; contract management.—

118 (4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.—The
 119 department shall establish contract monitoring units staffed by
 120 career service employees who report to a member of the Selected
 121 Exempt Service or Senior Management Service and who have been
 122 properly trained to perform contract monitoring.~~, with~~ At least
 123 one member of the contract monitoring unit must possess
 124 ~~possessing~~ specific knowledge and experience in the contract's
 125 program area. The department shall establish a contract
 126 monitoring process that includes ~~must include~~, but is ~~need~~ not
 127 be limited to, the following requirements:

128 (a) Performing a risk assessment at the start of each
 129 fiscal year and preparing an annual contract monitoring schedule
 130 that considers ~~includes consideration for~~ the level of risk
 131 assigned. The department may monitor any contract at any time
 132 regardless of whether such monitoring was originally included in
 133 the annual contract monitoring schedule.

134 (b) Preparing a contract monitoring plan, including
 135 sampling procedures, before performing onsite monitoring at
 136 external locations of a service provider. The plan must include
 137 a description of the programmatic, fiscal, and administrative
 138 components that will be monitored on site. If appropriate,
 139 clinical and therapeutic components may be included.

140 (c) Conducting analyses of the performance and compliance

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141 of an external service provider by means of desk reviews if the
 142 external service provider will not be monitored on site during a
 143 fiscal year.

144 (d) Unless the department sets forth in writing the need
 145 for an extension, providing a written report presenting the
 146 results of the monitoring within 30 days after the completion of
 147 the onsite monitoring or desk review.

148 (e) Developing and maintaining a set of procedures
 149 describing the contract monitoring process.

150
 151 Notwithstanding any other provision of this section, the
 152 department shall limit monitoring of a child-caring or child-
 153 placing services provider under this subsection to only once per
 154 year. Such monitoring may not duplicate administrative
 155 monitoring that is included in the survey of a child welfare
 156 provider conducted by a national accreditation organization
 157 specified under s. 402.7306(1).

158 Section 4. Subsection (10) of section 409.1451, Florida
 159 Statutes, is amended to read:

160 409.1451 Independent living transition services.—

161 (10) RULEMAKING.—The department shall adopt by rule
 162 procedures to administer this section, including balancing the
 163 goals of normalcy and safety for the youth and providing the
 164 caregivers with as much flexibility as possible to enable the
 165 youth to participate in normal life experiences. ~~The department~~
 166 ~~shall not adopt rules relating to reductions in awards.~~ The
 167 department shall engage in appropriate planning to prevent, to
 168 the extent possible, a reduction in awards after issuance. The

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169 department shall adopt rules to govern the payments and
170 conditions related to payments for services to youth or young
171 adults provided under this section.

172 Section 5. Section 409.1663, Florida Statutes, is
173 repealed.

174 Section 6. Subsections (8), (9), (10), and (11) of section
175 409.1671, Florida Statutes, are renumbered as subsections (10),
176 (14), (15), and (16), respectively, and new subsections (8),
177 (9), (11), (12), and (13) are added to that section to read:

178 409.1671 Foster care and related services; outsourcing.—

179 (8) A contract established between the department and a
180 community-based care lead agency under this section must be
181 funded by a grant of general revenue, other applicable state
182 funds, or applicable federal funding sources. A community-based
183 care lead agency may carry forward documented unexpended state
184 funds from one fiscal year to the next; however, the cumulative
185 amount carried forward may not exceed 8 percent of the total
186 contract. Any unexpended state funds in excess of that
187 percentage must be returned to the department. The funds carried
188 forward may not be used in any way that would create increased
189 recurring future obligations, and such funds may not be used for
190 any type of program or service that is not currently authorized
191 by the existing contract with the department. Expenditures of
192 funds carried forward must be separately reported to the
193 department. Any unexpended funds that remain at the end of the
194 contract period shall be returned to the department. Funds
195 carried forward may be retained through any contract renewals
196 and any new procurements as long as the same community-based

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197 care lead agency is retained by the department.

198 (9) The method of payment for a fixed-price contract with
 199 a community-based care lead agency shall provide for a 2-month
 200 advance payment at the beginning of each fiscal year and equal
 201 monthly payments thereafter.

202 (11) Notwithstanding subsection (10), the amount of the
 203 annual contract for a community-based care lead agency may be
 204 increased by excess federal funds earned in accordance with s.
 205 216.181(11).

206 (12) The department may outsource programmatic,
 207 administrative, or fiscal monitoring oversight of community-
 208 based care lead agencies.

209 (13) Notwithstanding any other provision of law, a
 210 community-based care lead agency may make expenditures for staff
 211 cellular telephone allowances, contracts requiring deferred
 212 payments and maintenance agreements, security deposits for
 213 office leases, related agency professional membership dues other
 214 than personal professional membership dues, promotional
 215 materials, and grant writing services. Expenditures for food and
 216 refreshments, other than those provided to clients in the care
 217 of the agency or to foster parents, adoptive parents, and
 218 caseworkers during training sessions, are not allowable.

219 Section 7. Paragraph (b) of subsection (2) of section
 220 409.166, Florida Statutes, is amended to read:

221 409.166 Children within the child welfare system; adoption
 222 assistance program.—

223 (2) DEFINITIONS.—As used in this section, the term:

224 (b) "Adoption assistance" means financial assistance and

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225 services provided to a child and his or her adoptive family.
226 Such assistance may include a maintenance subsidy, medical
227 assistance, Medicaid assistance, and reimbursement of
228 nonrecurring expenses associated with the legal adoption. The
229 term also includes a tuition exemption at a postsecondary career
230 program, community college, or state university, ~~and a state~~
231 ~~employee adoption benefit under s. 409.1663.~~

232 Section 8. The Department of Children and Family Services
233 may serve dependent children deemed to be in need of family-
234 centered, cognitive-behavioral interventions designed to
235 mitigate out-of-home placements. Treatment services may be
236 evidenced-based with family therapy and group therapy components
237 for youth for whom these services are appropriate. Dependent
238 youth at risk of out-of-home placement or currently within the
239 foster care system are eligible for these family therapy and
240 group therapy services. The services shall be provided as an
241 alternative to specialized therapeutic foster or group care. A
242 child who has been adjudicated delinquent, had adjudication
243 withheld, or committed any violent crime, except for females
244 adjudicated delinquent for domestic violence, any first-degree
245 felony, or any felony direct-filed in adult court, may not be
246 served by the program. The department and each participating
247 dependency court may jointly develop eligibility criteria to
248 identify youth appropriate for services in this program.

249 Section 9. This act shall take effect July 1, 2010.