

By Senator Smith

29-00302-11

2011226

1                   A bill to be entitled  
2           An act relating to human services; creating s.  
3           287.0576, F.S.; providing definitions; allowing the  
4           national accreditation of human service providers to  
5           substitute for certain agency licensure and monitoring  
6           requirements; providing exceptions; requiring a single  
7           lead agency to be responsible for monitoring human  
8           services delivery for designated populations;  
9           requiring the lead agency to develop monitoring  
10          protocols, develop a plan for coordinating monitoring  
11          activities, adopt rules, provide a list of required  
12          documents, and develop forms by a certain date;  
13          providing that background screening conducted for one  
14          agency satisfies the screening requirements of other  
15          agencies; requiring the agency to accept all mandated  
16          reports and invoices electronically and to allow all  
17          core documents to be posted in secure electronic  
18          storage; requiring agencies to provide an analysis of  
19          every new governmental mandate to an affected  
20          contractor before the mandate may be required or  
21          imposed; requiring a contracting agency to negotiate a  
22          contract amendment for any material change to a  
23          contract that will have a financial impact on a  
24          contractor; requiring human service contracts to  
25          include a cost-of-living adjustment or allow the  
26          contractor to reduce services; providing an exception  
27          under certain circumstances; requiring a contract to  
28          ensure payment for undisputed issues, not allow a  
29          private entity performing contract monitoring to

29-00302-11

2011226

30 impose additional requirements, and allow unexpended  
31 funds to be carried forward; providing that failure by  
32 an agency to negotiate a contract amendment or provide  
33 a remedy to a material adverse impact of a new  
34 governmental mandate constitutes an agency action for  
35 the purposes of ch. 120, F.S.; requiring each agency  
36 to compile a list of contractor requirements and  
37 submit such list to the Governor; amending s. 216.136,  
38 F.S.; requiring the Social Services Estimating  
39 Conference to determine mental health, substance  
40 abuse, child welfare, and juvenile justice services  
41 needs; providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Section 287.0576, Florida Statutes, is created  
46 to read:

47 287.0576 Outsourced human services.—

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

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

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

54 (c) "New governmental mandate" means a statutory  
55 requirement, administrative rule, regulation, assessment,  
56 executive order, judicial order, or other governmental  
57 requirement, or an agency policy, that was not in effect when a  
58 contract for the outsourcing of human services was originally

29-00302-11

2011226

59 entered into and that directly imposes an obligation on the  
60 contractor to take, or to refrain from taking, an action in  
61 order to fulfill its contractual obligation.

62 (2) Notwithstanding any other provision of law, in order to  
63 create a more stable business environment for contractors  
64 providing outsourced human services and to ensure  
65 accountability, eliminate duplication, and improve efficiency  
66 with respect to the provision of such services, national  
67 accreditation of human services providers by the Joint  
68 Commission on Accreditation of Healthcare Organizations, the  
69 Commission on Accreditation of Rehabilitation Facilities, and  
70 the Council on Accreditation shall be accepted by an agency in  
71 lieu of the agency's facility licensure onsite review and  
72 administrative requirements, and as a substitute for the  
73 agency's licensure, administrative, and program monitoring  
74 requirements. Accreditation for administrative requirements  
75 satisfies the administrative requirements for licensure during  
76 the time period that the accreditation is effective.

77 Notwithstanding a survey or inspection by an accreditation  
78 organization, the agency may continue to inspect and monitor the  
79 contractor as necessary with respect to:

80 (a) Reimbursement matters for any contract.

81 (b) Complaint investigations, suspected problems, or the  
82 implementation of the terms of consent decrees or other orders.

83 (c) Ensuring compliance with federal or state laws and  
84 rules that are not covered by the accreditation.

85 (3) To facilitate service delivery and compliance with the  
86 provisions of this part, a single agency shall take the lead  
87 with respect to developing policies and monitoring requirements

29-00302-11

2011226

88 for specified human services. The agency that has been  
89 designated by the Federal Government or state law as the  
90 authorized state entity with respect to a defined human service  
91 population shall be the lead agency for the provision of all  
92 related human services.

93 (a) By October 1, 2011, each lead agency shall:

94 1. Develop a common monitoring protocol to be used by all  
95 agencies serving the same population;

96 2. Develop and implement a plan that coordinates monitoring  
97 activities related to the delivery of services to the  
98 populations being served by multiple agencies. Monitoring by  
99 multiple agencies shall be combined so that interruptions to the  
100 contractor and to the services provided are minimized;

101 3. Adopt rules that guide the delivery of services across  
102 the jurisdictions of multiple agencies serving the same  
103 population and coordinate all monitoring activities;

104 4. Provide a master list of core documents required for  
105 contract monitoring purposes and provide for the submission or  
106 posting of such documentation by each contractor; and

107 5. If the same information or documentation is required by  
108 more than one agency, develop a common form to be used by all  
109 agencies requesting that information or documentation.

110 (b) Level 2 background screening conducted for one lead  
111 agency shall satisfy the screening requirements for all agencies  
112 requiring such screening.

113 (4) The department or agency must accept all mandated  
114 reports and invoices from human services contractors  
115 electronically, and allow all core documents required under  
116 subparagraph (3) (a) 4. to be posted in secure electronic storage.

29-00302-11

2011226

117 The department shall recognize electronic document vaults  
118 established for the purpose of storing, delivering, and  
119 retrieving documents required in monitoring and regulatory  
120 review processes. To the greatest extent possible, the  
121 department shall promote the development, implementation, and  
122 maintenance of such vaults by service providers or provider  
123 trade associations. If a contractor uses such storage, the  
124 department or agency must have access to the electronic storage  
125 in order to monitor required documents, and shall by rule or  
126 contract require the contractor to deposit documents requested  
127 by the agency in such storage.

128 (5) Agencies shall provide to the contractor an analysis of  
129 every new governmental mandate affecting the human services  
130 contractor. The analysis must identify the estimated cost of the  
131 mandate to the contractor and must be transmitted to the  
132 contractor before the mandate may be required or imposed.

133 (6) Contracts to outsource human services must:

134 (a) Provide that if a material change to the scope of the  
135 contract is imposed upon a contractor and compliance with such  
136 change will have a financial impact on the contractor, the  
137 contracting agency shall negotiate a contract amendment to  
138 increase the maximum obligation amount or unit price of the  
139 contract to offset the financial impact of the change if the  
140 contractor furnishes evidence of such impact along with a  
141 request to renegotiate the contract based on the proposed change  
142 to the agency. The contractor may not be held to requirements or  
143 obligations that are not required by law or are not included in  
144 the original contract or by negotiated amendment to the  
145 contract. The agency may issue emergency requirements to ensure

29-00302-11

2011226

146 the continued safety of the population served by the contractor  
147 for up to 90 days, during which the agency shall negotiate  
148 contract changes as described in this paragraph.

149 (b) Provide, subject to appropriations, an annual cost-of-  
150 living adjustment that reflects increases in the consumer price  
151 index. In the absence of a cost-of-living adjustment, the  
152 contract must allow the contractor to reduce the number of  
153 services or units contracted for, or require the agency to  
154 provide documentation substantiating the reasons a reduction is  
155 not possible.

156 (c) Ensure that:

157 1. Payment will be made on all items not under dispute and  
158 that payment will not be withheld on undisputed issues pending  
159 the resolution of disputed issues.

160 2. If the agency engages a private entity to conduct  
161 contract monitoring or otherwise delegates any contract  
162 administration functions to an outside entity, such entity shall  
163 uniformly administer the contract and not impose any  
164 requirements that exceed law, rule, or the contract terms.

165 3. Notwithstanding s. 216.301, any dispersed funds that  
166 remain unexpended during the contract term are approved as  
167 authorized revenue and carry over into the next year for the  
168 purposes of cash flow and continuation of the contract.

169 (7) Any material change to a human services contract  
170 imposed pursuant to paragraph (6) (a) constitutes an agency  
171 action pursuant to chapter 120. Any contractor aggrieved by the  
172 refusal or failure of an agency to negotiate a contract  
173 amendment to provide a remedy for the fiscal impact of a  
174 material change to the scope of the contract may seek a remedy

29-00302-11

2011226

175 pursuant to chapter 120.

176 (8) Each agency shall annually compile and list all  
177 contract requirements, mandated reports, outcome measures, and  
178 other requirements imposed on its human services contractors.  
179 The list must provide a law, rule, contract, or policy citation  
180 for each requirement. The list shall be submitted to the  
181 Governor.

182 Section 2. Paragraph (a) of subsection (6) of section  
183 216.136, Florida Statutes, is amended to read:

184 216.136 Consensus estimating conferences; duties and  
185 principals.—

186 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.—

187 (a) The Social Services Estimating Conference shall develop  
188 such official information relating to the social services system  
189 of the state, including forecasts of social services caseloads,  
190 utilization, and expenditures, as the conference determines is  
191 needed for the state planning and budgeting system. Such  
192 official information shall include, but not be limited to, cash  
193 assistance and Medicaid caseloads, as well as mental health,  
194 substance abuse, child welfare, and juvenile justice services  
195 needs given current and estimated population growth and economic  
196 trends.

197 Section 3. This act shall take effect July 1, 2011.