

By Senator Smith

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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

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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

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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

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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.

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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

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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

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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.