

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

586-02856-11

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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; providing an  
38 effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Section 287.0576, Florida Statutes, is created  
43 to read:

44 287.0576 Outsourced human services.-

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

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

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

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

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

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

77       (a) Reimbursement matters for any contract.

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

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

82       (3) To facilitate service delivery and compliance with the  
83 provisions of this part, a single agency shall take the lead  
84 with respect to developing policies and monitoring requirements  
85 for specified human services. The agency that has been  
86 designated by the Federal Government or state law as the  
87 authorized state entity with respect to a defined human service

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88 population shall be the lead agency for the provision of all  
89 related human services.

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

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

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

98 3. Adopt rules that guide the delivery of services across  
99 the jurisdictions of multiple agencies serving the same  
100 population and coordinate all monitoring activities;

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

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

107 (b) Level 2 background screening conducted for one lead  
108 agency shall satisfy the screening requirements for all agencies  
109 requiring such screening.

110 (4) The department or agency must accept all mandated  
111 reports and invoices from human services contractors  
112 electronically, and allow all core documents required under  
113 subparagraph (3)(a)4. to be posted in secure electronic storage.  
114 The department shall recognize electronic document vaults  
115 established for the purpose of storing, delivering, and  
116 retrieving documents required in monitoring and regulatory

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117 review processes. To the greatest extent possible, the  
118 department shall promote the development, implementation, and  
119 maintenance of such vaults by service providers or provider  
120 trade associations. If a contractor uses such storage, the  
121 department or agency must have access to the electronic storage  
122 in order to monitor required documents, and shall by rule or  
123 contract require the contractor to deposit documents requested  
124 by the agency in such storage.

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

130 (6) Contracts to outsource human services must:

131 (a) Provide that if a material change to the scope of the  
132 contract is imposed upon a contractor and compliance with such  
133 change will have a financial impact on the contractor, the  
134 contracting agency shall negotiate a contract amendment to  
135 increase the maximum obligation amount or unit price of the  
136 contract to offset the financial impact of the change if the  
137 contractor furnishes evidence of such impact along with a  
138 request to renegotiate the contract based on the proposed change  
139 to the agency. The contractor may not be held to requirements or  
140 obligations that are not required by law or are not included in  
141 the original contract or by negotiated amendment to the  
142 contract. The agency may issue emergency requirements to ensure  
143 the continued safety of the population served by the contractor  
144 for up to 90 days, during which the agency shall negotiate  
145 contract changes as described in this paragraph.

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

153       (c) Ensure that:

154       1. Payment will be made on all items not under dispute and  
155 that payment will not be withheld on undisputed issues pending  
156 the resolution of disputed issues.

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

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

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

173       (8) Each agency shall annually compile and list all  
174 contract requirements, mandated reports, outcome measures, and

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175 other requirements imposed on its human services contractors.  
176 The list must provide a law, rule, contract, or policy citation  
177 for each requirement. The list shall be submitted to the  
178 Governor.

179 Section 2. This act shall take effect July 1, 2011.