

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

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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.