



543594

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: WD   | . |       |
| 04/23/2014 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Appropriations (Latvala) recommended the following:

**Senate Amendment**

Delete lines 2583 - 3329

and insert:

Section 31. Section 409.988, Florida Statutes, is created to read:

409.988 Lead agency duties; general provisions.-

(1) DUTIES.-A lead agency:

(a) Shall serve all children referred as a result of a report of abuse, neglect, or abandonment to the department's



543594

11 central abuse hotline, including, but not limited to, children  
12 who are the subject of verified reports and children who are not  
13 the subject of verified reports but who are at moderate to  
14 extremely high risk of abuse, neglect, or abandonment, as  
15 determined using the department's risk assessment instrument,  
16 regardless of the level of funding allocated to the lead agency  
17 by the state if all related funding is transferred. The lead  
18 agency may also serve children who have not been the subject of  
19 reports of abuse, neglect, or abandonment, but who are at risk  
20 of abuse, neglect, or abandonment, to prevent their entry into  
21 the child protection and child welfare system.

22 (b) Shall provide accurate and timely information necessary  
23 for oversight by the department pursuant to the child welfare  
24 results-oriented accountability system required by s. 409.997.

25 (c) Shall follow the financial guidelines developed by the  
26 department and provide for a regular independent auditing of its  
27 financial activities. Such financial information shall be  
28 provided to the community alliance established under s. 409.998.

29 (d) Shall post on its website the current budget for the  
30 lead agency, including the salaries, bonuses, and other  
31 compensation paid, by position, for the agency's chief executive  
32 officer, chief financial officer, chief operating officer, or  
33 their equivalents.

34 (e) Shall prepare all judicial reviews, case plans, and  
35 other reports necessary for court hearings for dependent  
36 children, except those related to the investigation of a  
37 referral from the department's child abuse hotline, and shall  
38 submit these documents timely to the department's attorneys for  
39 review, any necessary revision, and filing with the court. The



543594

40 lead agency shall make the necessary staff available to  
41 department attorneys for preparation for dependency proceedings,  
42 and shall provide testimony and other evidence required for  
43 dependency court proceedings in coordination with the  
44 department's attorneys. This duty does not include the  
45 preparation of legal pleadings or other legal documents, which  
46 remain the responsibility of the department.

47 (f) Shall ensure that all individuals providing care for  
48 dependent children receive appropriate training and meet the  
49 minimum employment standards established by the department.

50 (g) Shall maintain eligibility to receive all available  
51 federal child welfare funds.

52 (h) Shall maintain written agreements with Healthy Families  
53 Florida lead entities in its service area pursuant to s. 409.153  
54 to promote cooperative planning for the provision of prevention  
55 and intervention services.

56 (i) Shall comply with federal and state statutory  
57 requirements and agency rules in the provision of contractual  
58 services.

59 (j) May subcontract for the provision of services required  
60 by the contract with the lead agency and the department;  
61 however, the subcontracts must specify how the provider will  
62 contribute to the lead agency meeting the performance standards  
63 established pursuant to the child welfare results-oriented  
64 accountability system required by s. 409.997. The lead agency  
65 shall directly provide no more than 35 percent of all child  
66 welfare services provided.

67 (k) Shall post on its website by the 15th day of each month  
68 at a minimum the information contained in subparagraphs 1.-4.



543594

69 for the preceding calendar month regarding its case management  
70 services. The following information shall be reported by each  
71 individual subcontracted case management provider, by the lead  
72 agency, if the lead agency provides case management services,  
73 and in total for all case management services subcontracted or  
74 directly provided by the lead agency:

75 1. The average caseload of case managers, including only  
76 filled positions;

77 2. The turnover rate for case managers and case management  
78 supervisors for the previous 12 months;

79 3. The percentage of required home visits completed; and

80 4. Performance on outcome measures required pursuant to s.  
81 409.997 for the previous 12 months.

82 (2) LICENSURE.—

83 (a) A lead agency must be licensed as a child-caring or  
84 child-placing agency by the department under this chapter.

85 (b) Each foster home, therapeutic foster home, emergency  
86 shelter, or other placement facility operated by the lead agency  
87 must be licensed by the department under chapter 402 or this  
88 chapter.

89 (c) Substitute care providers who are licensed under s.  
90 409.175 and who have contracted with a lead agency are also  
91 authorized to provide registered or licensed family day care  
92 under s. 402.313 if such care is consistent with federal law and  
93 if the home has met the requirements of s. 402.313.

94 (d) In order to eliminate or reduce the number of duplicate  
95 inspections by various program offices, the department shall  
96 coordinate inspections required for licensure of agencies under  
97 this subsection.



543594

98           (e) The department may adopt rules to administer this  
99 subsection.

100           (3) SERVICES.—A lead agency must serve dependent children  
101 through services that are supported by research or are best  
102 child welfare practices. The agency may also provide innovative  
103 services, including, but not limited to, family-centered,  
104 cognitive-behavioral, trauma-informed interventions designed to  
105 mitigate out-of-home placements.

106           (4) LEAD AGENCY ACTING AS GUARDIAN.—

107           (a) If a lead agency or other provider has accepted case  
108 management responsibilities for a child who is sheltered or  
109 found to be dependent and who is assigned to the care of the  
110 lead agency or other provider, the agency or provider may act as  
111 the child's guardian for the purpose of registering the child in  
112 school if a parent or guardian of the child is unavailable and  
113 his or her whereabouts cannot reasonably be ascertained.

114           (b) The lead agency or other provider may also seek  
115 emergency medical attention for the child, but only if a parent  
116 or guardian of the child is unavailable, the parent or  
117 guardian's whereabouts cannot reasonably be ascertained, and a  
118 court order for such emergency medical services cannot be  
119 obtained because of the severity of the emergency or because it  
120 is after normal working hours.

121           (c) A lead agency or other provider may not consent to  
122 sterilization, abortion, or termination of life support.

123           (d) If a child's parents' rights have been terminated, the  
124 lead agency shall act as guardian of the child in all  
125 circumstances.

126           Section 32. Section 409.990, Florida Statutes, is created



543594

127 to read:

128 409.990 Funding for lead agencies.—A contract established  
129 between the department and a lead agency must be funded by a  
130 grant of general revenue, other applicable state funds, or  
131 applicable federal funding sources.

132 (1) The method of payment for a fixed-price contract with a  
133 lead agency must provide for a 2-month advance payment at the  
134 beginning of each fiscal year and equal monthly payments  
135 thereafter.

136 (2) Notwithstanding s. 215.425, all documented federal  
137 funds earned for the current fiscal year by the department and  
138 lead agencies which exceed the amount appropriated by the  
139 Legislature shall be distributed to all entities that  
140 contributed to the excess earnings based on a schedule and  
141 methodology developed by the department and approved by the  
142 Executive Office of the Governor.

143 (a) Distribution shall be pro rata, based on total  
144 earnings, and shall be made only to those entities that  
145 contributed to excess earnings.

146 (b) Excess earnings of lead agencies shall be used only in  
147 the service district in which they were earned.

148 (c) Additional state funds appropriated by the Legislature  
149 for lead agencies or made available pursuant to the budgetary  
150 amendment process described in s. 216.177 shall be transferred  
151 to the lead agencies.

152 (d) The department shall amend a lead agency's contract to  
153 permit expenditure of the funds.

154 (3) Notwithstanding any other provision of this section,  
155 the amount of the annual contract for a lead agency may be



543594

156 increased by excess federal funds earned in accordance with s.  
157 216.181(11).

158 (4) Each contract with a lead agency shall provide for the  
159 payment by the department to the lead agency of a reasonable  
160 administrative cost in addition to funding for the provision of  
161 services.

162 (5) A lead agency may carry forward documented unexpended  
163 state funds from one fiscal year to the next; however, the  
164 cumulative amount carried forward may not exceed 8 percent of  
165 the total contract. Any unexpended state funds in excess of that  
166 percentage must be returned to the department.

167 (a) The funds carried forward may not be used in any way  
168 that would create increased recurring future obligations, and  
169 such funds may not be used for any type of program or service  
170 that is not currently authorized by the existing contract with  
171 the department.

172 (b) Expenditures of funds carried forward must be  
173 separately reported to the department.

174 (c) Any unexpended funds that remain at the end of the  
175 contract period shall be returned to the department.

176 (d) Funds carried forward may be retained through any  
177 contract renewals and any new procurements as long as the same  
178 lead agency is retained by the department.

179 (6) It is the intent of the Legislature to improve services  
180 and local participation in community-based care initiatives by  
181 fostering community support and providing enhanced prevention  
182 and in-home services, thereby reducing the risk otherwise faced  
183 by lead agencies. A community partnership matching grant program  
184 is established and shall be operated by the department to



543594

185 encourage local participation in community-based care for  
186 children in the child welfare system. A children's services  
187 council or another local entity that makes a financial  
188 commitment to a community-based care lead agency may be eligible  
189 for a matching grant. The total amount of the local contribution  
190 may be matched on a one-to-one basis up to a maximum annual  
191 amount of \$500,000 per lead agency. Awarded matching grant funds  
192 may be used for any prevention or in-home services that can be  
193 reasonably expected to reduce the number of children entering  
194 the child welfare system. Funding available for the matching  
195 grant program is subject to legislative appropriation of  
196 nonrecurring funds provided for this purpose.

197 (7) (a) The department, in consultation with the Florida  
198 Coalition for Children, Inc., shall develop and implement a  
199 community-based care risk pool initiative to mitigate the  
200 financial risk to eligible lead agencies. This initiative must  
201 include:

202 1. A risk pool application and protocol developed by the  
203 department which outlines submission criteria, including, but  
204 not limited to, financial and program management, descriptive  
205 data requirements, and timeframes for submission of  
206 applications. Requests for funding from risk pool applicants  
207 must be based on relevant and verifiable service trends and  
208 changes that have occurred during the current fiscal year. The  
209 application must confirm that expenditure of approved risk pool  
210 funds by the lead agency will be completed within the current  
211 fiscal year.

212 2. A risk pool peer review committee, appointed by the  
213 secretary and consisting of department staff and representatives





543594

214 from at least three nonapplicant lead agencies, which reviews  
215 and assesses all risk pool applications. Upon completion of each  
216 application review, the peer review committee shall report its  
217 findings and recommendations to the secretary, providing, at a  
218 minimum, the following information:

219 a. Justification for the specific funding amount required  
220 by the risk pool applicant based on the current year's service  
221 trend data, including validation that the applicant's financial  
222 need was caused by circumstances beyond the control of the lead  
223 agency management;

224 b. Verification that the proposed use of risk pool funds  
225 meets at least one of the purposes specified in paragraph (c);  
226 and

227 c. Evidence of technical assistance provided in an effort  
228 to avoid the need to access the risk pool and recommendations  
229 for technical assistance to the lead agency to ensure that risk  
230 pool funds are expended effectively and that the agency's need  
231 for future risk pool funding is diminished.

232 (b) Upon approval by the secretary of a risk pool  
233 application, the department may request funds from the risk pool  
234 in accordance with s. 216.181(6) (a).

235 (c) The purposes for which the community-based care risk  
236 pool shall be used include:

237 1. Significant changes in the number or composition of  
238 clients eligible to receive services.

239 2. Significant changes in the services that are eligible  
240 for reimbursement.

241 3. Continuity of care in the event of failure,  
242 discontinuance of service, or financial misconduct by a lead



543594

243 agency.

244 4. Significant changes in the mix of available funds.

245 (d) The department may also request in its annual  
246 legislative budget request, and the Governor may recommend, that  
247 the funding necessary to effect paragraph (c) be appropriated to  
248 the department. In addition, the department may request the  
249 allocation of funds from the community-based care risk pool in  
250 accordance with s. 216.181(6) (a). Funds from the pool may be  
251 used to match available federal dollars.

252 1. Such funds shall constitute partial security for  
253 contract performance by lead agencies and shall be used to  
254 offset the need for a performance bond.

255 2. The department may separately require a bond to mitigate  
256 the financial consequences of potential acts of malfeasance or  
257 misfeasance or criminal violations by the service provider.

258 Section 33. Section 409.16713, Florida Statutes, is  
259 transferred, renumbered as section 409.991, Florida Statutes,  
260 and paragraph (a) of subsection (1) of that section is amended  
261 to read:

262 409.991 ~~409.16713~~ Allocation of funds for community-based  
263 care lead agencies.—

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

265 (a) "Core services funding" means all funds allocated to  
266 community-based care lead agencies operating under contract with  
267 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the  
268 following exceptions:

- 269 1. Funds appropriated for independent living;  
270 2. Funds appropriated for maintenance adoption subsidies;  
271 3. Funds allocated by the department for protective



543594

272 investigations training;  
273 4. Nonrecurring funds;  
274 5. Designated mental health wrap-around services funds; and  
275 6. Funds for special projects for a designated community-  
276 based care lead agency.

277 Section 34. Section 409.992, Florida Statutes, is created  
278 to read:

279 409.992 Lead agency expenditures.—

280 (1) The procurement of commodities or contractual services  
281 by lead agencies shall be governed by the financial guidelines  
282 developed by the department and must comply with applicable  
283 state and federal law and follow good business practices.

284 Pursuant to s. 11.45, the Auditor General may provide technical  
285 advice in the development of the financial guidelines.

286 (2) Notwithstanding any other provision of law, a  
287 community-based care lead agency may make expenditures for staff  
288 cellular telephone allowances, contracts requiring deferred  
289 payments and maintenance agreements, security deposits for  
290 office leases, related agency professional membership dues other  
291 than personal professional membership dues, promotional  
292 materials, and grant writing services. Expenditures for food and  
293 refreshments, other than those provided to clients in the care  
294 of the agency or to foster parents, adoptive parents, and  
295 caseworkers during training sessions, are not allowable.

296 (3) A lead community-based care agency and its  
297 subcontractors are exempt from state travel policies as provided  
298 in s. 112.061(3)(a) for their travel expenses incurred in order  
299 to comply with the requirements of this section.

300 Section 35. Section 409.993, Florida Statutes, is created



543594

301 to read:

302 409.993 Lead agencies and subcontractor liability.—

303 (1) FINDINGS.—

304 (a) The Legislature finds that the state has traditionally  
305 provided foster care services to children who are the  
306 responsibility of the state. As such, foster children have not  
307 had the right to recover for injuries beyond the limitations  
308 specified in s. 768.28. The Legislature has determined that  
309 foster care and related services should be outsourced pursuant  
310 to this section and that the provision of such services is of  
311 paramount importance to the state. The purpose of such  
312 outsourcing is to increase the level of safety, security, and  
313 stability of children who are or become the responsibility of  
314 the state. One of the components necessary to secure a safe and  
315 stable environment for such children is the requirement that  
316 private providers maintain liability insurance. As such,  
317 insurance needs to be available and remain available to  
318 nongovernmental foster care and related services providers  
319 without the resources of such providers being significantly  
320 reduced by the cost of maintaining such insurance.

321 (b) The Legislature further finds that, by requiring the  
322 following minimum levels of insurance, children in outsourced  
323 foster care and related services will gain increased protection  
324 and rights of recovery in the event of injury than currently  
325 provided in s. 768.28.

326 (2) LEAD AGENCY LIABILITY.—

327 (a) Other than an entity to which s. 768.28 applies, an  
328 eligible community-based care lead agency, or its employees or  
329 officers, except as otherwise provided in paragraph (b), shall,



543594

330 as a part of its contract, obtain general liability insurance  
331 coverage sufficient to pay any successful tort action up to the  
332 liability caps established in this subsection. In a tort action  
333 brought against such an eligible community-based care lead  
334 agency or employee, net economic damages shall be limited to \$2  
335 million per liability claim and \$200,000 per automobile claim,  
336 including, but not limited to, past and future medical expenses,  
337 wage loss, and loss of earning capacity, offset by any  
338 collateral source payment paid or payable. In any tort action  
339 brought against such an eligible community-based care lead  
340 agency, noneconomic damages shall be limited to \$400,000 per  
341 claim. A claims bill may be brought on behalf of a claimant  
342 pursuant to s. 768.28 for any amount exceeding the limits  
343 specified in this paragraph. Any offset of collateral source  
344 payments made as of the date of the settlement or judgment shall  
345 be in accordance with s. 768.76. The community-based care lead  
346 agency is not liable in tort for the acts or omissions of its  
347 subcontractors or the officers, agents, or employees of its  
348 subcontractors.

349 (b) The liability of an eligible community-based care lead  
350 agency described in this section shall be exclusive and in place  
351 of all other liability of such lead agency. The same immunities  
352 from liability enjoyed by such lead agencies shall extend to  
353 each employee of the lead agency if he or she is acting in  
354 furtherance of the lead agency's business, including the  
355 transportation of clients served, as described in this  
356 subsection, in privately owned vehicles. Such immunities are not  
357 applicable to a lead agency or an employee who acts in a  
358 culpably negligent manner or with willful and wanton disregard



543594

359 or unprovoked physical aggression if such acts result in injury  
360 or death or such acts proximately cause such injury or death.  
361 Such immunities are not applicable to employees of the same lead  
362 agency when each is operating in the furtherance of the agency's  
363 business, but they are assigned primarily to unrelated work  
364 within private or public employment. The same immunity  
365 provisions enjoyed by a lead agency also apply to any sole  
366 proprietor, partner, corporate officer or director, supervisor,  
367 or other person who, in the course and scope of his or her  
368 duties, acts in a managerial or policymaking capacity and the  
369 conduct that caused the alleged injury arose within the course  
370 and scope of those managerial or policymaking duties. As used in  
371 this subsection and subsection (3), the term "culpably negligent  
372 manner" means reckless indifference or grossly careless  
373 disregard of human life.

374 (3) SUBCONTRACTOR LIABILITY.—

375 (a) A subcontractor of an eligible community-based care  
376 lead agency that is a direct provider of foster care and related  
377 services to children and families, and its employees or  
378 officers, except as otherwise provided in paragraph (b), must,  
379 as a part of its contract, obtain general liability insurance  
380 coverage sufficient to pay any successful tort action up to the  
381 liability caps established in this subsection. In a tort action  
382 brought against such subcontractor or employee, net economic  
383 damages shall be limited to \$2 million per liability claim and  
384 \$200,000 per automobile claim, including, but not limited to,  
385 past and future medical expenses, wage loss, and loss of earning  
386 capacity, offset by any collateral source payment paid or  
387 payable. In a tort action brought against such subcontractor,



543594

388 noneconomic damages shall be limited to \$400,000 per claim. A  
389 claims bill may be brought on behalf of a claimant pursuant to  
390 s. 768.28 for any amount exceeding the limits specified in this  
391 paragraph. Any offset of collateral source payments made as of  
392 the date of the settlement or judgment shall be in accordance  
393 with s. 768.76.

394 (b) The liability of a subcontractor of an eligible  
395 community-based care lead agency that is a direct provider of  
396 foster care and related services as described in this section is  
397 exclusive and in place of all other liability of such provider.  
398 The same immunities from liability enjoyed by such subcontractor  
399 provider extend to each employee of the subcontractor when such  
400 employee is acting in furtherance of the subcontractor's  
401 business, including the transportation of clients served, as  
402 described in this subsection, in privately owned vehicles. Such  
403 immunities are not applicable to a subcontractor or an employee  
404 who acts in a culpably negligent manner or with willful and  
405 wanton disregard or unprovoked physical aggression if such acts  
406 result in injury or death or if such acts proximately cause such  
407 injury or death. Such immunities are not applicable to employees  
408 of the same subcontractor who are operating in the furtherance  
409 of the subcontractor's business but are assigned primarily to  
410 unrelated works within private or public employment. The same  
411 immunity provisions enjoyed by a subcontractor also apply to any  
412 sole proprietor, partner, corporate officer or director,  
413 supervisor, or other person who, in the course and scope of his  
414 or her duties, acts in a managerial or policymaking capacity and  
415 the conduct that caused the alleged injury arose within the  
416 course and scope of those managerial or policymaking duties.



543594

417           (4) LIMITATIONS ON DAMAGES.—The Legislature is cognizant of  
418 the increasing costs of goods and services each year and  
419 recognizes that fixing a set amount of compensation has the  
420 effect of a reduction in compensation each year. Accordingly,  
421 the conditional limitations on damages in this section shall be  
422 increased at the rate of 5 percent each year, prorated from July  
423 1, 2014, to the date at which damages subject to such  
424 limitations are awarded by final judgment or settlement.

425           Section 36. Section 409.1675, Florida Statutes, is  
426 transferred, renumbered as section 409.994, Florida Statutes,  
427 and amended to read:

428           409.994 ~~409.1675~~ ~~Lead~~ Community-based care lead agencies  
429 ~~providers~~; receivership.—

430           (1) The Department of Children and Families ~~Family Services~~  
431 may petition a court of competent jurisdiction for the  
432 appointment of a receiver for a ~~lead~~ community-based care lead  
433 agency provider established pursuant to s. 409.987 ~~if s.~~  
434 ~~409.1671~~ ~~when~~ any of the following conditions exist:

435           (a) The lead agency ~~community-based provider~~ is operating  
436 without a license as a child-placing agency.

437           (b) The lead agency ~~community-based provider~~ has given less  
438 than 120 days' notice of its intent to cease operations, and  
439 arrangements have not been made for another lead agency  
440 ~~community-based provider~~ or for the department to continue the  
441 uninterrupted provision of services.

442           (c) The department determines that conditions exist in the  
443 lead agency ~~community-based provider~~ which present an imminent  
444 danger to the health, safety, or welfare of the dependent  
445 children under that agency's ~~provider's~~ care or supervision.





543594

446 Whenever possible, the department shall make a reasonable effort  
447 to facilitate the continued operation of the program.

448 (d) The lead agency ~~community-based provider~~ cannot meet  
449 its current financial obligations to its employees, contractors,  
450 or foster parents. Issuance of bad checks or the existence of  
451 delinquent obligations for payment of salaries, utilities, or  
452 invoices for essential services or commodities shall constitute  
453 prima facie evidence that the lead agency ~~community-based~~  
454 ~~provider~~ lacks the financial ability to meet its financial  
455 obligations.

456 (2) (a) The petition for receivership shall take precedence  
457 over other court business unless the court determines that some  
458 other pending proceeding, having statutory precedence, has  
459 priority.

460 (b) A hearing shall be conducted within 5 days after the  
461 filing of the petition, at which time interested parties shall  
462 have the opportunity to present evidence as to whether a  
463 receiver should be appointed. The department shall give  
464 reasonable notice of the hearing on the petition to the lead  
465 agency ~~community-based provider~~.

466 (c) The court shall grant the petition upon finding that  
467 one or more of the conditions in subsection (1) exists and the  
468 continued existence of the condition or conditions jeopardizes  
469 the health, safety, or welfare of dependent children. A receiver  
470 may be appointed ex parte when the court determines that one or  
471 more of the conditions in subsection (1) exists. After such  
472 finding, the court may appoint any person, including an employee  
473 of the department who is qualified by education, training, or  
474 experience to carry out the duties of the receiver pursuant to



543594

475 this section, except that the court may ~~shall~~ not appoint any  
476 member of the governing board or any officer of the lead agency  
477 ~~community-based provider~~. The receiver may be selected from a  
478 list of persons qualified to act as receivers which is developed  
479 by the department and presented to the court with each petition  
480 of receivership.

481 (d) A receiver may be appointed for up to 90 days, and the  
482 department may petition the court for additional 30-day  
483 extensions. Sixty days after appointment of a receiver and every  
484 30 days thereafter until the receivership is terminated, the  
485 department shall submit to the court an assessment of the lead  
486 agency's ~~community-based provider's~~ ability to ensure the  
487 health, safety, and welfare of the dependent children under its  
488 supervision.

489 (3) The receiver shall take such steps as are reasonably  
490 necessary to ensure the continued health, safety, and welfare of  
491 the dependent children under the supervision of the lead agency  
492 ~~community-based provider~~ and shall exercise those powers and  
493 perform those duties set out by the court, including, but not  
494 limited to:

495 (a) Taking such action as is reasonably necessary to  
496 protect or conserve the assets or property of the lead agency  
497 ~~community-based provider~~. The receiver may use the assets and  
498 property and any proceeds from any transfer thereof only in the  
499 performance of the powers and duties provided ~~set forth~~ in this  
500 section and by order of the court.

501 (b) Using the assets of the lead agency ~~community-based~~  
502 ~~provider~~ in the provision of care and services to dependent  
503 children.



543594

504 (c) Entering into contracts and hiring agents and employees  
505 to carry out the powers and duties of the receiver under this  
506 section.

507 (d) Having full power to direct, manage, hire, and  
508 discharge employees of the lead agency ~~community-based provider~~.  
509 The receiver shall hire and pay new employees at the rate of  
510 compensation, including benefits, approved by the court.

511 (e) Honoring all leases, mortgages, and contractual  
512 obligations of the lead agency ~~community-based provider~~, but  
513 only to the extent of payments that become due during the period  
514 of the receivership.

515 (4) (a) The receiver shall deposit funds received in a  
516 separate account and shall use this account for all  
517 disbursements.

518 (b) A payment to the receiver of any sum owing to the lead  
519 agency ~~community-based provider~~ shall discharge any obligation  
520 to the provider to the extent of the payment.

521 (5) A receiver may petition the court for temporary relief  
522 from obligations entered into by the lead agency ~~community-based~~  
523 ~~provider~~ if the rent, price, or rate of interest required to be  
524 paid under the agreement was substantially in excess of a  
525 reasonable rent, price, or rate of interest at the time the  
526 contract was entered into, or if any material provision of the  
527 agreement was unreasonable when compared to contracts negotiated  
528 under similar conditions. Any relief in this form provided by  
529 the court shall be limited to the life of the receivership,  
530 unless otherwise determined by the court.

531 (6) The court shall set the compensation of the receiver,  
532 which shall be considered a necessary expense of a receivership



543594

533 and may grant to the receiver such other authority necessary to  
534 ensure the health, safety, and welfare of the children served.

535 (7) A receiver may be held liable in a personal capacity  
536 only for the receiver's own gross negligence, intentional acts,  
537 or breaches of fiduciary duty. This section may ~~shall~~ not be  
538 interpreted to be a waiver of sovereign immunity should the  
539 department be appointed receiver.

540 (8) If the receiver is not the department, the court may  
541 require a receiver to post a bond to ensure the faithful  
542 performance of these duties.

543 (9) The court may terminate a receivership when:

544 (a) The court determines that the receivership is no longer  
545 necessary because the conditions that gave rise to the  
546 receivership no longer exist; or

547 (b) The department has entered into a contract with a new  
548 lead agency ~~community-based provider~~ pursuant to s. 409.987 ~~s.~~  
549 ~~409.1671~~, and that contractor is ready and able to assume the  
550 duties of the previous lead agency ~~provider~~.

551 (10) Within 30 days after the termination, unless this time  
552 period is extended by the court, the receiver shall give the  
553 court a complete accounting of all property of which the  
554 receiver has taken possession, of all funds collected and  
555 disbursed, and of the expenses of the receivership.

556 (11) ~~Nothing in~~ This section does not ~~shall be construed to~~  
557 relieve any employee of the lead agency ~~community-based provider~~  
558 placed in receivership of any civil or criminal liability  
559 incurred, or any duty imposed by law, by reason of acts or  
560 omissions of the employee before ~~prior to~~ the appointment of a  
561 receiver, and; ~~nor shall anything contained in this section~~ does



543594

562 ~~not be construed to~~ suspend during the receivership any  
563 obligation of the employee for payment of taxes or other  
564 operating or maintenance expenses of the lead agency ~~community-~~  
565 ~~based provider~~ or for the payment of mortgages or liens. The  
566 lead agency ~~community-based provider~~ shall retain the right to  
567 sell or mortgage any facility under receivership, subject to the  
568 prior approval of the court that ordered the receivership.

569 Section 37. Section 409.996, Florida Statutes, is created  
570 to read:

571 409.996 Duties of the Department of Children and Families.-  
572 The department shall contract for the delivery, administration,  
573 or management of care for children in the child protection and  
574 child welfare system. In doing so, the department retains  
575 responsibility for the quality of contracted services and  
576 programs and shall ensure that services are delivered in  
577 accordance with applicable federal and state statutes and  
578 regulations.

579 (1) The department shall enter into contracts with lead  
580 agencies for the performance of the duties by the lead agencies  
581 pursuant to s. 409.988. At a minimum, the contracts must:

582 (a) Provide for the services needed to accomplish the  
583 duties established in s. 409.988 and provide information to the  
584 department which is necessary to meet the requirements for a  
585 quality assurance program pursuant to subsection (18) and the  
586 child welfare results-oriented accountability system pursuant to  
587 s. 409.997.

588 (b) Provide for graduated penalties for failure to comply  
589 with contract terms. Such penalties may include financial  
590 penalties, enhanced monitoring and reporting, corrective action



543594

591 plans, and early termination of contracts or other appropriate  
592 action to ensure contract compliance.

593 (c) Ensure that the lead agency shall furnish current and  
594 accurate information on its activities in all cases in client  
595 case records in the state's statewide automated child welfare  
596 information system.

597 (d) Specify the procedures to be used by the parties to  
598 resolve differences in interpreting the contract or to resolve  
599 disputes as to the adequacy of the parties' compliance with  
600 their respective obligations under the contract.

601 (2) The department must adopt written policies and  
602 procedures for monitoring the contract for delivery of services  
603 by lead agencies which must be posted on the department's  
604 website. These policies and procedures must, at a minimum,  
605 address the evaluation of fiscal accountability and program  
606 operations, including provider achievement of performance  
607 standards, provider monitoring of subcontractors, and timely  
608 followup of corrective actions for significant monitoring  
609 findings related to providers and subcontractors. These policies  
610 and procedures must also include provisions for reducing the  
611 duplication of the department's program monitoring activities  
612 both internally and with other agencies, to the extent possible.  
613 The department's written procedures must ensure that the written  
614 findings, conclusions, and recommendations from monitoring the  
615 contract for services of lead agencies are communicated to the  
616 director of the provider agency and the community alliance as  
617 expeditiously as possible.

618 (3) The department shall receive federal and state funds as  
619 appropriated for the operation of the child welfare system and



543594

620 shall transmit these funds to the lead agencies as agreed to in  
621 the contract. The department retains responsibility for the  
622 appropriate spending of these funds. The department shall  
623 monitor lead agencies to assess compliance with the financial  
624 guidelines established pursuant to s. 409.992 and other  
625 applicable state and federal laws.

626 (4) The department shall provide technical assistance and  
627 consultation to lead agencies in the provision of care to  
628 children in the child protection and child welfare system.

629 (5) The department retains the responsibility for the  
630 review, approval or denial, and issuances of all foster home  
631 licenses.

632 (6) The department shall process all applications submitted  
633 by lead agencies for the Interstate Compact on the Placement of  
634 Children and the Interstate Compact on Adoption and Medical  
635 Assistance.

636 (7) The department shall assist lead agencies with access  
637 to and coordination with other service programs within the  
638 department.

639 (8) The department shall determine Medicaid eligibility for  
640 all referred children and shall coordinate services with the  
641 Agency for Health Care Administration.

642 (9) The department shall develop, in cooperation with the  
643 lead agencies and the third-party credentialing entity approved  
644 pursuant to s. 402.40(3), a standardized competency-based  
645 curriculum for certification training for child protection  
646 staff.

647 (10) The department shall maintain the statewide adoptions  
648 website and provide information and training to the lead



543594

649 agencies relating to the website.

650 (11) The department shall provide training and assistance  
651 to lead agencies regarding the responsibility of lead agencies  
652 relating to children receiving supplemental security income,  
653 social security, railroad retirement, or veterans' benefits.

654 (12) With the assistance of a lead agency, the department  
655 shall develop and implement statewide and local interagency  
656 agreements needed to coordinate services for children and  
657 parents involved in the child welfare system who are also  
658 involved with the Agency for Persons with Disabilities, the  
659 Department of Juvenile Justice, the Department of Education, the  
660 Department of Health, and other governmental organizations that  
661 share responsibilities for children or parents in the child  
662 welfare system.

663 (13) With the assistance of a lead agency, the department  
664 shall develop and implement a working agreement between the lead  
665 agency and the substance abuse and mental health managing entity  
666 to integrate services and supports for children and parents  
667 serviced in the child welfare system.

668 (14) The department shall work with the Agency for Health  
669 Care Administration to provide each Medicaid-eligible child with  
670 early and periodic screening, diagnosis, and treatment,  
671 including 72-hour screening, periodic child health checkups, and  
672 prescribed followup for ordered services, including, but not  
673 limited to, medical, dental, and vision care.

674 (15) The department shall assist lead agencies in  
675 developing an array of services in compliance with the Title IV-  
676 E waiver and shall monitor the provision of such services.

677 (16) The department shall provide a mechanism to allow lead





543594

678 agencies to request a waiver of department policies and  
679 procedures that create inefficiencies or inhibit the performance  
680 of the lead agency's duties.

681 (17) The department shall directly or through contract  
682 provide attorneys to prepare and present cases in dependency  
683 court and shall ensure that the court is provided with adequate  
684 information for informed decisionmaking in dependency cases,  
685 including a fact sheet for each case which lists the names and  
686 contact information for any child protective investigator, child  
687 protective investigation supervisor, case manager, and case  
688 manager supervisor, and the regional department official  
689 responsible for the lead agency contract. For the Sixth Judicial  
690 Circuit, the department shall contract with the state attorney  
691 for the provision of these services.

692 (18) The department, in consultation with lead agencies,  
693 shall establish a quality assurance program for contracted  
694 services to dependent children. The quality assurance program  
695 shall be based on standards established by federal and state law  
696 and national accrediting organizations.

697 (a) The department must evaluate each lead agency under  
698 contract at least annually. These evaluations shall cover the  
699 programmatic, operational, and fiscal operations of the lead  
700 agency and must be consistent with the child welfare results-  
701 oriented accountability system required by s. 409.997. The  
702 department must consult with dependency judges in the circuit or  
703 circuits served by the lead agency on the performance of the  
704 lead agency.

705 (b) The department and each lead agency shall monitor out-  
706 of-home placements, including the extent to which sibling groups



543594

707 are placed together or provisions to provide visitation and  
708 other contacts if siblings are separated. The data shall  
709 identify reasons for sibling separation. Information related to  
710 sibling placement shall be incorporated into the results-  
711 oriented accountability system required pursuant to s. 409.997  
712 and in the evaluation of the outcome specified in s.  
713 409.986(2) (e). The information related to sibling placement  
714 shall also be made available to the institute established  
715 pursuant s. 1004.615 for use in assessing the performance of  
716 child welfare services in relation to the outcome specified in  
717 s. 409.986(2) (e).

718 (c) The department shall, to the extent possible, use  
719 independent financial audits provided by the lead agency to  
720 eliminate or reduce the ongoing contract and administrative  
721 reviews conducted by the department. If the department  
722 determines that such independent financial audits are  
723 inadequate, other audits, as necessary, may be conducted by the  
724 department. This paragraph does not abrogate the requirements of  
725 s. 215.97.

726 (d) The department may suggest additional items to be  
727 included in such independent financial audits to meet the  
728 department's needs.

729 (e) The department may outsource programmatic,  
730 administrative, or fiscal monitoring oversight of lead agencies.

731 (f) A lead agency must assure that all subcontractors are  
732 subject to the same quality assurance activities as the lead  
733 agency.

734 (19) The department and its attorneys have the  
735 responsibility to ensure that the court is fully informed about



543594

736 issues before it, to make recommendations to the court, and to  
737 present competent evidence, including testimony by the  
738 department's employees, contractors, and subcontractors, as well  
739 as other individuals, to support all recommendations made to the  
740 court. The department's attorneys shall coordinate lead agency  
741 or subcontractor staff to ensure that dependency cases are  
742 presented appropriately to the court.