

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee
 3 Representative McFarland offered the following:

Amendment

Remove everything after the enacting clause and insert:

7 Section 1. Subsections (3) and (4) and paragraphs (a) and
 8 (b) of subsection (7) of section 409.987, Florida Statutes, are
 9 amended, and paragraph (g) is added to subsection (7) of that
 10 section, to read:

11 409.987 Lead agency procurement; boards; conflicts of
 12 interest.-

13 (3) Notwithstanding s. 287.057, the department shall use
 14 5-year contracts with lead agencies. The 5-year contract must be
 15 reprocured at the end of each 5-year contract term. The contract
 16 may be extended at the discretion of the department for up to 1

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17 year, based on department needs.

18 (4) In order to serve as a lead agency, an entity must:

19 (a) Be organized as a Florida corporation or a
20 governmental entity.

21 (b) Be governed by a board of directors or a board
22 committee composed of board members. Board members shall provide
23 oversight and ensure accountability and transparency for the
24 system of care. The board of directors shall provide fiduciary
25 oversight to prevent conflicts of interest, promote
26 accountability and transparency, and protect state and federal
27 funding from misuse. The board of directors must act in
28 accordance with s. 617.0830. The membership of the board of
29 directors or board committee must be described in the bylaws or
30 articles of incorporation of each lead agency, which must
31 provide that at least 75 percent of the membership of the board
32 of directors or board committee must be composed ~~consist~~ of
33 persons residing in this state, and at least 51 percent of the
34 state residents on the board of directors must reside within the
35 service area of the lead agency. The lead agency shall ensure
36 that board members participate in annual training related to
37 their responsibilities. However, for procurements of lead agency
38 contracts initiated on or after July 1, 2014:

39 1. At least 75 percent of the membership of the board of
40 directors must be composed ~~consist~~ of persons residing in this
41 state, and at least 51 percent of the membership of the board of

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42 directors must be composed ~~consist~~ of persons residing within
43 the service area of the lead agency. If a board committee
44 governs the lead agency, 100 percent of its membership must be
45 composed ~~consist~~ of persons residing within the service area of
46 the lead agency.

47 2. The powers of the board of directors or board committee
48 include, but are not limited to, approving the lead agency's
49 budget and setting the lead agency's operational policy and
50 procedures. A board of directors must additionally have the
51 power to hire the lead agency's executive director, unless a
52 board committee governs the lead agency, in which case the board
53 committee must have the power to confirm the selection of the
54 lead agency's executive director.

55 (c) Demonstrate financial responsibility through an
56 organized plan for regular fiscal audits and the posting of a
57 performance bond.

58 (7)(a) As used in this subsection, the term:

59 1. "Activity" includes, but is not limited to, a contract
60 for goods and services, a contract for the purchase of any real
61 or tangible property, or an agreement to engage with a lead
62 agency for the benefit of a third party in exchange for an
63 interest in real or tangible property, a monetary benefit, or an
64 in-kind contribution.

65 2. "Conflict of interest" means when a board member, a
66 director, or an officer, or a relative of a board member,

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67 director, or an officer, of a lead agency does any of the
68 following:

69 a. Enters into a contract or other transaction for goods
70 or services with the lead agency.

71 b. Holds a direct or indirect interest in a corporation,
72 limited liability corporation, partnership, limited liability
73 partnership, or other business entity that conducts business
74 with the lead agency or proposes to enter into a contract or
75 other transaction with the lead agency. For purposes of this
76 paragraph, the term "indirect interest" has the same meaning as
77 in s. 112.312.

78 c. Knowingly obtains a direct or indirect personal,
79 financial, professional, or other benefit as a result of the
80 relationship of such board member, director, or officer, or
81 relative of the board member, director, or officer, with the
82 lead agency. For purposes of this paragraph, the term "benefit"
83 does not include per diem and travel expenses paid or reimbursed
84 to board members or officers of the lead agency in connection
85 with their service on the board.

86 3. "Related party" means any entity of which a director or
87 an officer of the entity is also directly or indirectly related
88 to, or has a direct or indirect financial or other material
89 interest in, the lead agency. The term also includes any
90 subsidiary, parent entity, associate firm, or joint venture, or
91 any entity that is controlled, influenced, or managed by another

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92 entity or an individual related to such entity, including an
93 individual who is, or was within the immediately preceding 3
94 years, an executive officer or a board member of the entity.

95 ~~4.3.~~ "Relative" means a relative within the third degree
96 of consanguinity by blood or marriage.

97 (b)1. For any activity that is presented to the board of a
98 lead agency for its initial consideration and approval ~~after~~
99 ~~July 1, 2021,~~ or any activity that involves a contract that is
100 being considered for renewal ~~on or after July 1, 2021, but~~
101 ~~before January 1, 2022,~~ a board member, a director, or an
102 officer of a lead agency shall disclose to the board any
103 activity that may reasonably be construed to be a conflict of
104 interest before such activity is initially considered and
105 approved or a contract is renewed by the board. A rebuttable
106 presumption of a conflict of interest exists if the activity was
107 acted on by the board without prior notice as required under
108 paragraph (c). The board shall disclose any known actual or
109 potential conflicts to the department.

110 2. A lead agency may not enter into a contract or be a
111 party to any transaction that creates a conflict of interest,
112 including with related parties for the provision of management
113 or administrative services or oversight. ~~For contracts with a~~
114 ~~lead agency which are in existence on July 1, 2021, and are not~~
115 ~~subject to renewal before January 1, 2022, a board member or an~~
116 ~~officer of the lead agency shall disclose to the board any~~

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117 ~~activity that may reasonably be construed to be a conflict of~~
118 ~~interest under this section by December 31, 2021.~~

119 (g)1. Civil penalties in the amount of \$5,000 per
120 occurrence shall be imposed for each known and potential
121 conflict of interest, as described in paragraph (b), which is
122 not disclosed to the department. Civil penalties are to be paid
123 by the board and not from any state or federal funds.

124 2. If a contract is executed for which a conflict of
125 interest was not disclosed to the department before execution of
126 the contract, the following penalties apply:

127 a. A civil penalty in the amount of \$50,000 for a first
128 offense.

129 b. A civil penalty in the amount of \$100,000 for a second
130 or subsequent offense.

131 3. The civil penalties for failure to disclose a conflict
132 of interest under subparagraphs 1. and 2. apply to any contract
133 entered into, regardless of the method of procurement,
134 including, but not limited to, formal procurement, single-source
135 contracts, and contracts that do not meet the minimum threshold
136 for formal procurement.

137 4. A contract procured for which a conflict of interest
138 was not disclosed to the department before execution of the
139 contract shall be reprocured.

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140 5. The department may, at its sole discretion, prohibit
141 execution of a contract for which a conflict of interest exists,
142 or will exist after execution.

143 Section 1. Paragraphs (c), (i), (j), and (k) of subsection
144 (1) of section 409.988, Florida Statutes, are amended to read:

145 409.988 Community-based care lead agency duties; general
146 provisions.—

147 (1) DUTIES.—A lead agency:

148 (c) Shall follow the financial guidelines developed by the
149 department and shall comply with regular, independent auditing
150 of its financial activities, including any requests for records
151 associated with such financial audits within the timeframe
152 established by the department or its contracted vendors ~~provide~~
153 ~~for a regular independent auditing of its financial activities.~~
154 The results of the financial audit must ~~Such financial~~
155 ~~information shall~~ be provided to the community alliance
156 established under s. 20.19(5).

157 (j) May subcontract for the provision of services,
158 excluding management and oversight functions, required by the
159 contract with the lead agency and the department; however, the
160 subcontracts must specify how the provider will contribute to
161 the lead agency meeting the performance standards established
162 pursuant to the child welfare results-oriented accountability
163 system required by s. 409.997. The lead agency shall directly
164 provide no more than 35 percent of all child welfare services

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165 provided unless it can demonstrate a need, within the lead
166 agency's geographic service area where there is a lack of
167 qualified providers available to perform the necessary services.
168 The approval period to exceed the threshold shall be limited to
169 2 years. If a lead agency wishes to continue its exemption it
170 must submit a new request with updated evidence to department
171 and the community alliance showing their efforts to recruit
172 providers and that conditions have not changed. , to exceed this
173 ~~threshold.~~ The local community alliance in the geographic
174 service area in which the lead agency is seeking to exceed the
175 threshold shall review the lead agency's justification for need
176 and recommend to the department whether the department should
177 approve or deny the lead agency's request for an exemption from
178 the services threshold. If there is not a community alliance
179 operating in the geographic service area in which the lead
180 agency is seeking to exceed the threshold, such review and
181 approval or denial of the lead agency's request for an exemption
182 from the services threshold must be made ~~recommendation shall be~~
183 ~~made~~ by the department and the department must specify the
184 duration of the exemption. ~~by representatives of local~~
185 ~~stakeholders, including at least one representative from each of~~
186 ~~the following:~~

- 187 ~~1. The department.~~
- 188 ~~2. The county government.~~
- 189 ~~3. The school district.~~

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- 190 ~~4. The county United Way.~~
- 191 ~~5. The county sheriff's office.~~
- 192 ~~6. The circuit court corresponding to the county.~~
- 193 ~~7. The county children's board, if one exists.~~
- 194 (k) Shall publish on its website by the 15th day of each
- 195 month at a minimum the data specified in subparagraphs 1.-9. ~~1.-~~
- 196 ~~5.~~, calculated using a standard methodology determined by the
- 197 department, for the preceding calendar month regarding its case
- 198 management services. The following information must ~~shall~~ be
- 199 reported by each individual subcontracted case management
- 200 provider, by the lead agency, if the lead agency provides case
- 201 management services, and in total for all case management
- 202 services subcontracted or directly provided by the lead agency:
- 203 1. The average caseload of case managers, including only
- 204 filled positions;
- 205 2. The total number and percentage of case managers who
- 206 have 25 or more cases on their caseloads;
- 207 3. The turnover rate for case managers and case management
- 208 supervisors for the previous 12 months;
- 209 4. The percentage of required home visits completed; ~~and~~
- 210 5. Performance on outcome measures required pursuant to s.
- 211 409.997 for the previous 12 months; ~~:-~~
- 212 6. The number of unlicensed placements for the previous
- 213 month;
- 214 7. The percentages and trends for foster parent and group

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215 home recruitment and licensure for the previous month;

216 8. The percentage of families being served through family
217 support, in-home, and out-of-home services for the previous
218 month; and

219 9. The percentage of cases that converted from nonjudicial
220 to judicial for the previous month.

221 Section 2. Section 409.9913, Florida Statutes, is created
222 to read:

223 409.9913 Actuarially-based tiered model for allocation of
224 funds for community-based care lead agencies.-

225 (1) As used in this section, the term
226 "core services funds" means all funds allocated to lead agencies
227 operating under contract with the department pursuant to s.
228 409.987. The term does not include any of, with the following:

229 (a) Funds appropriated for independent living services.

230 (b) Funds appropriated for maintenance adoption subsidies.

231 (c) Funds allocated by the department for child protective
232 investigation service training.

233 (d) Nonrecurring funds.

234 (e) Designated mental health wrap-around service funds.

235 (f) Funds for special projects for a designated lead
236 agency.

237 (g) Funds appropriated for the Guardianship Assistance
238 Program established under s. 39.6225.

239 (2) The purpose of the tiered model is to achieve a stable

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240 payment model that adjusts to workload and incentivizes
241 prevention, family preservation, and permanency. The tiers
242 shall be as follows:

243 (a) Tier 1 provides operational base and fixed costs,
244 which do not vary based on the number of children and families
245 served. Tier 1 payments may vary by geographic catchment area
246 and cost of living differences. The department shall establish
247 and annually update Tier 1 payment rates to maintain cost
248 expectations that are aligned with the population served,
249 services provided, and environment. Tier 1 expenses may include:

250 1. Administrative expenditures.

251 2. Lease payment.

252 3. Asset depreciation.

253 4. Utilities.

254 5. Select components of case management, including
255 administrative elements.

256 6. Mandated activities such as training, quality, and
257 contract management.

258 7. Activities performed for children and families which
259 are nonjudicial and not candidates for Title IV-E funding,
260 including true prevention and community-focused activities.

261 (b) Tier 2 is a per-child, per-month payment to provide
262 funding for lead agencies' expenses that vary based on the
263 number of children served for a particular month. The payment
264 rate shall blend out-of-home rates and in-home rates specific to

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265 each lead agency to create a rate that provides a financial
266 incentive to lead agencies to provide services in the least
267 restrictive safe placement. The department shall establish and
268 annually update Tier 2 payment rates to maintain cost
269 expectations that are aligned with the population served,
270 services provided, and environment. Tier 2 rates must be set
271 annually.

272 (c) Tier 3 shall provide financial incentives that the
273 department shall establish to reward lead agencies that achieve
274 performance measures aligned with the department's goals of
275 prevention, family preservation, and permanency.

276 (3) By December 1 of each year, beginning in 2027, the
277 department shall submit a report to the Governor, the President
278 of the Senate, and the Speaker of the House of Representatives
279 which includes each lead agency's actual performance in
280 attaining the previous fiscal year's targets, recommendations
281 for adjustments to lead agency funding, and adjustments to the
282 tiered payment model, if necessary.

283 Section 3. Section 409.995, Florida Statutes, is created
284 to read:

285 409.995 Implementation of actuarially-based tiered model
286 for allocation of funds for community-based care lead agencies.-

287 (1) The model established under s. 409.9913 shall be
288 implemented as follows:

289 (a) During the 2024-2025 fiscal year, the department

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290 shall:

291 1. establish the requisite systems and processes to
292 collect data necessary for system implementation.

293 2. refine the model in collaboration with the lead
294 agencies.

295 (b) Funding for lead agencies shall be determined as
296 follows:

297 1. During the 2024-2025 fiscal year, funding for a lead
298 agency shall be as provided under s. 409.991, unless otherwise
299 provided in the General Appropriations Act.

300 2. During the 2025-26 fiscal year, funding for a lead
301 agency shall be the sum of 67% of the funding determined under
302 s. 409.991, unless otherwise provided in the General
303 Appropriations Act, and 33% of the funding determined under s.
304 409.9913.

305 3. During the 2026-27 fiscal year, funding for a lead
306 agency shall be the sum of 33% of the funding determined under
307 s. 409.991, unless otherwise provided in the General
308 Appropriations Act, and 67% of the funding determined under s.
309 409.9913.

310 4. During fiscal year 2027-28, funding for a lead agency
311 shall be as provided under s. 409.9913.

312 (2) The department shall submit quarterly reports to the
313 Governor, President of the Senate, and Speaker of the House of
314 Representatives, with the first report due October 31, 2024, and

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315 subsequent reports submitted every three months thereafter.
316 Each report shall contain, at a minimum, information regarding
317 the department's actions, determinations, proposals, and results
318 under this section.

319 (a) The first quarterly report for the 2024-25 fiscal year
320 shall include a plan for implementation under this section,
321 which shall be updated in subsequent reports.

322 (b) The second quarterly report for the 2024-25 fiscal
323 year shall additionally provide details regarding:

324 1. Proposed payments under tier 3, including but not
325 limited to the proposed goals and justifications for any
326 incentive payments in the next fiscal year, measures and
327 targets, and correlating payment amounts, which shall be updated
328 in subsequent reports. The report shall describe how the Tier 3
329 goals and payments relate to the results-oriented accountability
330 program under s. 409.997.

331 2. Proposed funding for the 2025-2026 fiscal year, as
332 determined under s. 409.993, by lead agency.

333 (3) This section shall expire on June 30, 2029.

334 Section 4. Subsections (1) and (3) of section 409.992,
335 Florida Statutes, are amended to read:

336 409.992 Lead agency expenditures.—

337 (1) The procurement of commodities or contractual services
338 by lead agencies is ~~shall be~~ governed by the financial
339 guidelines developed by the department and must comply with

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340 applicable state and federal law and follow good business
341 practices. Pursuant to s. 11.45, the Auditor General may provide
342 technical advice in the development of the financial guidelines.

343 (a)1. Lead agencies shall competitively procure all
344 contracts, consistent with the federal simplified acquisition
345 threshold.

346 2. The lead agency shall competitively procure all
347 contracts with related parties in excess of \$35,000.

348 3. Financial penalties or sanctions, as established by the
349 department and incorporated into the contract, shall be imposed
350 by the department for noncompliance with applicable local,
351 state, or federal law for the procurement of commodities or
352 contractual services.

353 (b) Notwithstanding s. 402.73, for procurement of real
354 property or professional services, lead agencies shall comply
355 with established purchasing practices, including the provisions
356 of s. 287.055, as required, for professional services, including
357 engineering or construction design. Upon termination of the
358 contract, the department shall immediately retain all rights to
359 and ownership of real property procured. Any funds from the
360 sale, transfer, or other dispossession of such property during
361 the contract term shall be returned to the department.

362 (3) Notwithstanding any other provision of law, a
363 community-based care lead agency administrative employee may not
364 receive a salary, whether base pay or base pay combined with any

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365 | bonus or incentive payments from the lead agency or any related
366 | party, in excess of 150 percent of the annual salary paid to the
367 | secretary of the Department of Children and Families from state-
368 | appropriated funds, including state-appropriated federal funds.
369 | This limitation applies regardless of the number of contracts a
370 | community-based care lead agency may execute with the
371 | department. This subsection does not prohibit any party from
372 | providing cash that is not from appropriated state funds to a
373 | community-based care lead agency administrative employee.

374 | Section 5. Paragraphs (c) and (d) of subsection (1) of
375 | section 409.994, Florida Statutes, are amended to read:

376 | 409.994 Community-based care lead agencies; receivership.—

377 | (1) The Department of Children and Families may petition a
378 | court of competent jurisdiction for the appointment of a
379 | receiver for a community-based care lead agency established
380 | pursuant to s. 409.987 if any of the following conditions exist:

381 | (c) The department determines that conditions exist in the
382 | lead agency which present a ~~an imminent~~ danger to the health,
383 | safety, or welfare of the dependent children under that agency's
384 | care or supervision. Whenever possible, the department shall
385 | make a reasonable effort to facilitate the continued operation
386 | of the program.

387 | (d) The lead agency cannot meet, or is unlikely to meet,
388 | its current financial obligations to its employees, contractors,
389 | or foster parents. Issuance of bad checks or the existence of

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390 delinquent obligations for payment of salaries, utilities, or
391 invoices for essential services or commodities constitutes ~~shall~~
392 ~~constitute~~ prima facie evidence that the lead agency lacks the
393 financial ability to meet its financial obligations.

394 Section 6. Paragraph (d) of subsection (1) of section
395 409.996, Florida Statutes, is amended to read:

396 409.996 Duties of the Department of Children and
397 Families.—The department shall contract for the delivery,
398 administration, or management of care for children in the child
399 protection and child welfare system. In doing so, the department
400 retains responsibility for the quality of contracted services
401 and programs and shall ensure that, at a minimum, services are
402 delivered in accordance with applicable federal and state
403 statutes and regulations and the performance standards and
404 metrics specified in the strategic plan created under s.
405 20.19(1).

406 (1) The department shall enter into contracts with lead
407 agencies for the performance of the duties by the lead agencies
408 established in s. 409.988. At a minimum, the contracts must do
409 all of the following:

410 (d) Provide for contractual actions ~~tiered interventions~~
411 ~~and graduated penalties~~ for failure to comply with contract
412 terms or in the event of performance deficiencies, as determined
413 appropriate by the department.

414 1. Such contractual actions must ~~interventions and~~

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415 ~~penalties shall~~ include, but are not limited to:

416 ~~a.1.~~ Enhanced monitoring and reporting.

417 ~~b.2.~~ Corrective action plans.

418 ~~c.3.~~ Requirements to accept technical assistance and
419 consultation from the department under subsection (6).

420 ~~d.4.~~ Financial penalties, which ~~shall~~ require a lead
421 agency to direct ~~reallocate~~ funds from administrative costs to
422 the department. The department shall use the funds collected to
423 support service delivery of quality improvement activities for
424 children in the lead agency's care ~~to direct care for children.~~
425 These penalties may be imposed for failure to provide timely,
426 sufficient resolution of deficiencies resulting in a corrective
427 action plan or other performance improvement plan issued by the
428 department. Financial penalties may include liquidated damages.

429 ~~e.5.~~ Early termination of contracts, as provided in s.
430 402.7305(3)(f) ~~s. 402.1705(3)(f)~~.

431 2. The department shall include in each lead agency
432 contract executed a provision that requires payment to the
433 department of sanctions or disincentives for failure to comply
434 with contractual obligations. The department shall establish a
435 schedule of daily monetary sanctions or disincentives for lead
436 agencies, which schedule shall be incorporated by reference into
437 the contract. The department is solely responsible for
438 determining the monetary value of liquidated damages.

439 Section 7. The Department of Children and Families shall

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440 submit a report to the Governor, President of the Senate, and
441 Speaker of the House of Representatives on rules adopted,
442 policies promulgated, and other actions to implement the
443 requirements of this bill. The first such report shall be due
444 September 30, 2024, and the second such report shall be due
445 February 1, 2025.

446 Section 8. This section shall take effect July 1, 2024.