

26 methodology for allocating certain funding to lead
27 agencies; providing requirements for the methodology;
28 requiring lead agencies and providers to submit
29 certain data to the department for a specified
30 purpose; providing reporting requirements; providing
31 construction; providing duties for the Legislature
32 relating to funding for lead agencies; prohibiting the
33 department from changing allocations of funds to lead
34 agencies without legislative approval; authorizing the
35 department to approve certain risk pool funding for
36 lead agencies; amending s. 409.992, F.S.; revising
37 requirements for lead agency practices in the
38 procurement of commodities and contractual services;
39 requiring the department to impose certain penalties
40 for a lead agency's noncompliance with applicable
41 procurement law; requiring lead agencies to comply
42 with established purchasing practices for the
43 procurement of real property and professional
44 services; requiring the department to retain all
45 rights to and ownership of real property procured upon
46 termination of contracts; requiring certain funds to
47 be returned to the department; providing applicability
48 of certain limitations on the salaries of community-
49 based care lead agency administrative employees;
50 amending s. 409.994, F.S.; revising the conditions

51 under which the department may petition a court for
 52 the appointment of a receiver for a community-based
 53 care lead agency; amending s. 409.996, F.S.; revising
 54 requirements for contracts between the department and
 55 lead agencies; revising the actions the department may
 56 take under certain circumstances; making a technical
 57 change; providing duties of the department; providing
 58 reporting requirements; providing an effective date.

59

60 Be It Enacted by the Legislature of the State of Florida:

61

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

66 409.987 Lead agency procurement; boards; conflicts of
 67 interest.—

68 (3) Notwithstanding s. 287.057, the department shall use
 69 5-year contracts with lead agencies. The 5-year contract must be
 70 reprocured at the end of each 5-year contract term. The contract
 71 may be extended at the discretion of the department for up to 1
 72 year, based on department needs.

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

74 (a) Be organized as a Florida corporation or a
 75 governmental entity.

76 (b) Be governed by a board of directors or a board
 77 committee composed of board members. Board members shall provide
 78 oversight and ensure accountability and transparency for the
 79 system of care. The board of directors shall provide fiduciary
 80 oversight to prevent conflicts of interest, promote
 81 accountability and transparency, and protect state and federal
 82 funding from misuse. The board of directors shall act in
 83 accordance with s. 617.0830. The membership of the board of
 84 directors or board committee must be described in the bylaws or
 85 articles of incorporation of each lead agency, which must
 86 provide that at least 75 percent of the membership of the board
 87 of directors or board committee must be composed ~~consist~~ of
 88 persons residing in this state, and at least 51 percent of the
 89 state residents on the board of directors must reside within the
 90 service area of the lead agency. The lead agency shall ensure
 91 that board members participate in annual training related to
 92 their responsibilities. However, for procurements of lead agency
 93 contracts initiated on or after July 1, 2014:

94 1. At least 75 percent of the membership of the board of
 95 directors must be composed ~~consist~~ of persons residing in this
 96 state, and at least 51 percent of the membership of the board of
 97 directors must be composed ~~consist~~ of persons residing within
 98 the service area of the lead agency. If a board committee
 99 governs the lead agency, 100 percent of its membership must be
 100 composed ~~consist~~ of persons residing within the service area of

101 the lead agency.

102 2. The powers of the board of directors or board committee
 103 include, but are not limited to, approving the lead agency's
 104 budget and setting the lead agency's operational policy and
 105 procedures. A board of directors must additionally have the
 106 power to hire the lead agency's executive director, unless a
 107 board committee governs the lead agency, in which case the board
 108 committee must have the power to confirm the selection of the
 109 lead agency's executive director.

110 (c) Demonstrate financial responsibility through an
 111 organized plan for regular fiscal audits and the posting of a
 112 performance bond.

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

114 1. "Activity" includes, but is not limited to, a contract
 115 for goods and services, a contract for the purchase of any real
 116 or tangible property, or an agreement to engage with a lead
 117 agency for the benefit of a third party in exchange for an
 118 interest in real or tangible property, a monetary benefit, or an
 119 in-kind contribution.

120 2. "Conflict of interest" means when a board member,
 121 director, or ~~an~~ officer, or a relative of a board member,
 122 director, or ~~an~~ officer, of a lead agency does any of the
 123 following:

124 a. Enters into a contract or other transaction for goods
 125 or services with the lead agency.

126 b. Holds a direct or indirect interest in a corporation,
 127 limited liability corporation, partnership, limited liability
 128 partnership, or other business entity that conducts business
 129 with the lead agency or proposes to enter into a contract or
 130 other transaction with the lead agency. For purposes of this
 131 paragraph, the term "indirect interest" has the same meaning as
 132 in s. 112.312.

133 c. Knowingly obtains a direct or indirect personal,
 134 financial, professional, or other benefit as a result of the
 135 relationship of such board member, director, or officer, or
 136 relative of the board member, director, or officer, with the
 137 lead agency. For purposes of this paragraph, the term "benefit"
 138 does not include per diem and travel expenses paid or reimbursed
 139 to board members or officers of the lead agency in connection
 140 with their service on the board.

141 3. "Related party" means any entity of which a director or
 142 an officer of the entity is also directly or indirectly related
 143 to, or has a direct or indirect financial or other material
 144 interest in, the lead agency. The term also includes any
 145 subsidiary, parent entity, associate firm, or joint venture, or
 146 any entity that is controlled, influenced, or managed by another
 147 entity or an individual related to such entity, including an
 148 individual who is, or was within the immediately preceding 3
 149 years, an executive officer or a board member of the entity.

150 ~~4.3.~~ "Relative" means a relative within the third degree

151 of consanguinity by blood or marriage.

152 (b)1. For any activity that is presented to the board of a
 153 lead agency for its initial consideration and approval ~~after~~
 154 ~~July 1, 2021,~~ or any activity that involves a contract that is
 155 being considered for renewal ~~on or after July 1, 2021, but~~
 156 ~~before January 1, 2022,~~ a board member, a director, or an
 157 officer of a lead agency shall disclose to the board any
 158 activity that may reasonably be construed to be a conflict of
 159 interest before such activity is initially considered and
 160 approved or a contract is renewed by the board. A rebuttable
 161 presumption of a conflict of interest exists if the activity was
 162 acted on by the board without prior notice as required under
 163 paragraph (c). The board shall disclose any known actual or
 164 potential conflicts to the department.

165 2. A lead agency may not enter into a contract or be a
 166 party to any transaction that creates a conflict of interest,
 167 including with related parties for the provision of management
 168 or administrative services or oversight ~~For contracts with a~~
 169 ~~lead agency which are in existence on July 1, 2021, and are not~~
 170 ~~subject to renewal before January 1, 2022, a board member or an~~
 171 ~~officer of the lead agency shall disclose to the board any~~
 172 ~~activity that may reasonably be construed to be a conflict of~~
 173 ~~interest under this section by December 31, 2021.~~

174 (g)1. Civil penalties in the amount of \$5,000 per
 175 occurrence shall be imposed for each known and potential

176 conflict of interest, as described in paragraph (b), which is
177 not disclosed to the department. Civil penalties shall be paid
178 by the board and not from any state or federal funds.

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

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

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

186 3. The civil penalties for failure to disclose a conflict
187 of interest under subparagraphs 1. and 2. apply to any contract
188 entered into, regardless of the method of procurement,
189 including, but not limited to, formal procurement, single-source
190 contracts, and contracts that do not meet the minimum threshold
191 for formal procurement.

192 4. A contract procured for which a conflict of interest
193 was not disclosed to the department before execution of the
194 contract shall be reprocured.

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

198 Section 2. Paragraphs (c), (j), and (k) of subsection (1)
199 of section 409.988, Florida Statutes, are amended to read:

200 409.988 Community-based care lead agency duties; general

201 provisions.-

202 (1) DUTIES.—A lead agency:

203 (c) Shall follow the financial guidelines developed by the
 204 department and shall comply with regular, independent auditing
 205 of its financial activities, including any requests for records
 206 associated with such financial audits within the timeframe
 207 established by the department or its contracted vendors provide
 208 ~~for a regular independent auditing of its financial activities.~~
 209 The results of the financial audit must ~~Such financial~~
 210 ~~information shall~~ be provided to the community alliance
 211 established under s. 20.19(5).

212 (j) May subcontract for the provision of services,
 213 excluding management and oversight functions, required by the
 214 contract with the lead agency and the department; however, the
 215 subcontracts must specify how the provider will contribute to
 216 the lead agency meeting the performance standards established
 217 pursuant to the child welfare results-oriented accountability
 218 system required by s. 409.997. The lead agency shall directly
 219 provide no more than 35 percent of all child welfare services
 220 provided unless it can demonstrate a need⁷ within the lead
 221 agency's geographic service area where there is a lack of
 222 qualified providers available to perform the necessary services.
 223 The approval period to exceed the threshold shall be limited to
 224 2 years. If a lead agency wishes to continue its exemption from
 225 the services threshold, it must submit a new request with

226 updated evidence to the department and the community alliance
 227 showing its efforts to recruit providers and that conditions
 228 have not changed, ~~to exceed this threshold.~~ The local community
 229 alliance in the geographic service area in which the lead agency
 230 is seeking to exceed the threshold shall review the lead
 231 agency's justification for need and recommend to the department
 232 whether the department should approve or deny the lead agency's
 233 request for an exemption from the services threshold. If there
 234 is not a community alliance operating in the geographic service
 235 area in which the lead agency is seeking to exceed the
 236 threshold, such review and approval or denial of the lead
 237 agency's request for an exemption from the services threshold
 238 must be made by the department and the department must specify
 239 the duration of the exemption ~~recommendation shall be made by~~
 240 ~~representatives of local stakeholders, including at least one~~
 241 ~~representative from each of the following:~~

- 242 1. ~~The department.~~
- 243 2. ~~The county government.~~
- 244 3. ~~The school district.~~
- 245 4. ~~The county United Way.~~
- 246 5. ~~The county sheriff's office.~~
- 247 6. ~~The circuit court corresponding to the county.~~
- 248 7. ~~The county children's board, if one exists.~~

249 (k) Shall publish on its website by the 15th day of each
 250 month at a minimum the data specified in subparagraphs 1.-9. ~~1.-~~

251 ~~5.~~, calculated using a standard methodology determined by the
 252 department, for the preceding calendar month regarding its case
 253 management services. The following information must ~~shall~~ be
 254 reported by each individual subcontracted case management
 255 provider, by the lead agency, if the lead agency provides case
 256 management services, and in total for all case management
 257 services subcontracted or directly provided by the lead agency:

- 258 1. The average caseload of case managers, including only
 259 filled positions;
- 260 2. The total number and percentage of case managers who
 261 have 25 or more cases on their caseloads;
- 262 3. The turnover rate for case managers and case management
 263 supervisors for the previous 12 months;
- 264 4. The percentage of required home visits completed; ~~and~~
- 265 5. Performance on outcome measures required pursuant to s.
 266 409.997 for the previous 12 months; ~~;~~
- 267 6. The number of unlicensed placements for the previous
 268 month;
- 269 7. The percentages and trends for foster parent and group
 270 home recruitment and licensure for the previous month;
- 271 8. The percentage of families being served through family
 272 support, in-home, and out-of-home services for the previous
 273 month; and
- 274 9. The percentage of cases that converted from nonjudicial
 275 to judicial for the previous month.

276 Section 3. Section 409.9913, Florida Statutes, is created
 277 to read:

278 409.9913 Funding methodology to allocate funding to lead
 279 agencies.—

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

281 (a) "Core services funding" means all funds allocated to
 282 lead agencies. The term does not include any of the following:

283 1. Funds appropriated for independent living services.

284 2. Funds appropriated for maintenance adoption subsidies.

285 3. Funds allocated by the department for child protective
 286 investigation service training.

287 4. Nonrecurring funds.

288 5. Designated mental health wrap-around service funds.

289 6. Funds for special projects for a designated lead
 290 agency.

291 7. Funds appropriated for the Guardianship Assistance
 292 Program established under s. 39.6225.

293 (b) "Operational and fixed costs" means:

294 1. Administrative expenditures, including, but not limited
 295 to, information technology and human resources functions.

296 2. Lease payments.

297 3. Asset depreciation.

298 4. Utilities.

299 5. Administrative components of case management.

300 6. Mandated activities such as training, quality

301 improvement, or contract management.

302 (2) The department shall develop, in collaboration with
303 lead agencies and providers of child welfare services, a funding
304 methodology for allocating core services funding to lead
305 agencies which, at a minimum:

306 (a) Is actuarially sound.

307 (b) Is reimbursement based.

308 (c) Is designed to incentivize efficient and effective
309 lead agency operation, prevention, family preservation, and
310 permanency.

311 (d) Considers variable costs, including, but not limited
312 to, direct costs for in-home and out-of-home care for children
313 served by the lead agencies, prevention services, and
314 operational and fixed costs.

315 (e) Is scaled regionally for cost-of-living factors.

316 (3) The lead agencies and providers shall submit any
317 detailed cost and expenditure data that the department requests
318 for the development of the funding methodology.

319 (4) The department shall submit a report to the Governor,
320 the President of the Senate, and the Speaker of the House of
321 Representatives by December 1, 2024, which, at a minimum:

322 (a) Describes a proposed funding methodology and formula
323 that will provide for the annual budget of each lead agency,
324 including, but not limited to, how the proposed methodology will
325 meet the criteria in subsection (2).

326 (b) Describes the data used to develop the methodology,
327 and the data that will be used to annually calculate the
328 proposed lead agency budget.

329 (c) Specifies proposed rates and total allocations for
330 each lead agency. The allocations must ensure that the total of
331 all amounts allocated to lead agencies under the funding
332 methodology does not exceed the total amount appropriated to
333 lead agencies in the General Appropriations Act in the 2024-2025
334 fiscal year.

335 (d) Provides risk mitigation recommendations that ensure
336 that lead agencies do not experience a reduction in funding that
337 would be detrimental to operations or result in a reduction in
338 services to children.

339 (5) By October 31 of each year, beginning in 2025, the
340 department shall submit a report to the Governor, the President
341 of the Senate, and the Speaker of the House of Representatives
342 which includes recommendations for adjustments to the funding
343 methodology for the next fiscal year, using the criteria in
344 subsection (2) and basing the recommendations on, at a minimum,
345 updated expenditure data, cost-of-living adjustments, market
346 dynamics, or other catchment area variations. The total of all
347 amounts proposed for allocation to lead agencies under the
348 funding methodology for the next fiscal year may not exceed the
349 total amount appropriated for core services funding in the
350 current fiscal year's General Appropriations Act. The funding

351 methodology must include risk mitigation strategies that ensure
352 that lead agencies do not experience a reduction in funding that
353 would be detrimental to operations or result in a reduction in
354 services to children.

355 (6) (a) The requirements of this section do not replace,
356 and must be in addition to, any requirements of chapter 216,
357 including, but not limited to, submission of final legislative
358 budget requests by the department under s. 216.023.

359 (b) The data and reports required under subsections (4)
360 and (5) may also include proposed rates and total allocations
361 for each lead agency which reflect any additional core services
362 funding for lead agencies which is requested by the department
363 under s. 216.023.

364 (7) (a) Beginning with the 2025-2026 fiscal year, the
365 Legislature shall allocate funding to lead agencies through the
366 General Appropriations Act with due consideration of the funding
367 methodology developed under this section.

368 (b) The department may not change the allocation of funds
369 to a lead agency as provided in the General Appropriations Act
370 without legislative approval. The department may approve
371 additional risk pool funding for a lead agency as provided under
372 s. 409.990.

373 (8) The department shall provide to the Governor, the
374 President of the Senate, and the Speaker of the House of
375 Representatives monthly reports from July through October 2024

376 which provide updates on activities and progress in developing
 377 the funding methodology.

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

380 409.992 Lead agency expenditures.—

381 (1) The procurement of commodities or contractual services
 382 by lead agencies is ~~shall be~~ governed by the financial
 383 guidelines developed by the department and must comply with
 384 applicable state and federal law and follow good business
 385 practices. Pursuant to s. 11.45, the Auditor General may provide
 386 technical advice in the development of the financial guidelines.

387 (a)1. Lead agencies shall competitively procure all
 388 contracts, consistent with the federal simplified acquisition
 389 threshold.

390 2. Lead agencies shall competitively procure all contracts
 391 in excess of \$35,000 with related parties.

392 3. Financial penalties or sanctions, as established by the
 393 department and incorporated into the contract, shall be imposed
 394 by the department for noncompliance with applicable local,
 395 state, or federal law for the procurement of commodities or
 396 contractual services.

397 (b) Notwithstanding s. 402.73, for procurement of real
 398 property or professional services, lead agencies shall comply
 399 with established purchasing practices, including the provisions
 400 of s. 287.055, as required, for professional services, including

401 engineering or construction design. Upon termination of the
 402 contract, the department shall immediately retain all rights to
 403 and ownership of real property procured. Any funds from the
 404 sale, transfer, or other dispossession of such property during
 405 the contract term shall be returned to the department.

406 (3) Notwithstanding any other provision of law, a
 407 community-based care lead agency administrative employee may not
 408 receive a salary, whether base pay or base pay combined with any
 409 bonus or incentive payments from the lead agency or any related
 410 party, in excess of 150 percent of the annual salary paid to the
 411 secretary of the Department of Children and Families from state-
 412 appropriated funds, including state-appropriated federal funds.
 413 This limitation applies regardless of the number of contracts a
 414 community-based care lead agency may execute with the
 415 department. This subsection does not prohibit any party from
 416 providing cash that is not from appropriated state funds to a
 417 community-based care lead agency administrative employee.

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

420 409.994 Community-based care lead agencies; receivership.—

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

425 (c) The department determines that conditions exist in the

426 | lead agency which present a ~~an imminent~~ danger to the health,
427 | safety, or welfare of the dependent children under that agency's
428 | care or supervision. Whenever possible, the department shall
429 | make a reasonable effort to facilitate the continued operation
430 | of the program.

431 | (d) The lead agency cannot meet, or is unlikely to meet,
432 | its current financial obligations to its employees, contractors,
433 | or foster parents. Issuance of bad checks or the existence of
434 | delinquent obligations for payment of salaries, utilities, or
435 | invoices for essential services or commodities constitutes ~~shall~~
436 | ~~constitute~~ prima facie evidence that the lead agency lacks the
437 | financial ability to meet its financial obligations.

438 | Section 6. Paragraph (d) of subsection (1) of section
439 | 409.996, Florida Statutes, is amended to read:

440 | 409.996 Duties of the Department of Children and
441 | Families.—The department shall contract for the delivery,
442 | administration, or management of care for children in the child
443 | protection and child welfare system. In doing so, the department
444 | retains responsibility for the quality of contracted services
445 | and programs and shall ensure that, at a minimum, services are
446 | delivered in accordance with applicable federal and state
447 | statutes and regulations and the performance standards and
448 | metrics specified in the strategic plan created under s.
449 | 20.19(1).

450 | (1) The department shall enter into contracts with lead

451 agencies for the performance of the duties by the lead agencies
 452 established in s. 409.988. At a minimum, the contracts must do
 453 all of the following:

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

458 1. Such contractual actions must ~~interventions and~~
 459 ~~penalties shall~~ include, but are not limited to:

460 a.1. Enhanced monitoring and reporting.

461 b.2. Corrective action plans.

462 c.3. Requirements to accept technical assistance and
 463 consultation from the department under subsection (6).

464 d.4. Financial penalties, which ~~shall~~ require a lead
 465 agency to direct ~~reallocate~~ funds from administrative costs to
 466 the department. The department shall use the funds collected to
 467 support service delivery of quality improvement activities for
 468 children in the lead agency's care ~~to direct care for children.~~
 469 These penalties may be imposed for failure to provide timely,
 470 sufficient resolution of deficiencies resulting in a corrective
 471 action plan or other performance improvement plan issued by the
 472 department. Financial penalties may include liquidated damages.

473 e.5. Early termination of contracts, as provided in s.
 474 402.7305(3)(f) ~~s. 402.1705(3)(f).~~

475 2. The department shall include in each lead agency

476 contract executed a provision that requires payment to the
477 department of sanctions or disincentives for failure to comply
478 with contractual obligations. The department shall establish a
479 schedule of daily monetary sanctions or disincentives for lead
480 agencies, which schedule shall be incorporated by reference into
481 the contract. The department is solely responsible for
482 determining the monetary value of liquidated damages.

483 Section 7. The Department of Children and Families shall
484 submit a report to the Governor, the President of the Senate,
485 and the Speaker of the House of Representatives on rules and
486 policies adopted and other actions taken to implement the
487 requirements of this act. The first such report must be due
488 September 30, 2024, and the second such report must be due
489 February 1, 2025.

490 Section 8. This act shall take effect July 1, 2024.