



433858

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/17/2024	.	
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	.	

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (3) and (4) and paragraphs (a) and (b) of subsection (7) of section 409.987, Florida Statutes, are amended to read:

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

(3) Notwithstanding s. 287.057, the department shall use 5-



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11 year contracts with lead agencies. The 5-year contract must be
12 reprocured at the end of each 5-year contract term. The contract
13 may be extended at the discretion of the department for up to 1
14 year, based on department needs.

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

16 (a) Be organized as a Florida corporation or a governmental
17 entity.

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

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



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

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

52 (c) Demonstrate financial responsibility through an
53 organized plan for regular fiscal audits and the posting of a
54 performance bond.

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

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

62 2. "Conflict of interest" means when a board member,
63 director, or ~~an~~ officer, or a relative of a board member,
64 director, or ~~an~~ officer, of a lead agency does any of the
65 following:

66 a. Enters into a contract or other transaction for goods or
67 services with the lead agency.

68 b. Holds a direct or indirect interest in a corporation,



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

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

83 3. "Related party" means any entity of which a director or
84 an executive of the entity is also directly or indirectly
85 related to, or has a direct or indirect financial or other
86 material interest in, the lead agency. The term also includes
87 any subsidiary, parent entity, associate firm, or joint venture,
88 or any entity that is controlled, influenced, or managed by
89 another entity or an individual related to such entity,
90 including an individual who is, or was within the immediately
91 preceding 3 years, an executive officer or a board member of the
92 entity.

93 ~~4.3.~~ "Relative" means a relative within the third degree of
94 consanguinity by blood or marriage.

95 (b)1. For any activity that is presented to the board of a
96 lead agency for its initial consideration and approval ~~after~~
97 ~~July 1, 2021~~, or any activity that involves a contract that is



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

108 2. A lead agency may not enter into a contract or be a
109 party to any transaction that creates a conflict of interest,
110 including with related parties for the provision of management
111 or administrative services or oversight. The lead agency shall
112 competitively procure all contracts with related parties in
113 excess of \$35,000 ~~For contracts with a lead agency which are in~~
114 ~~existence on July 1, 2021, and are not subject to renewal before~~
115 ~~January 1, 2022, a board member or an officer of the lead agency~~
116 ~~shall disclose to the board any activity that may reasonably be~~
117 ~~construed to be a conflict of interest under this section by~~
118 ~~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.

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

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



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127 offense.

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

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

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

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

142 Section 2. Paragraphs (c), (i), (j), (k), and (l) of
143 subsection (1) of section 409.988, Florida Statutes, are amended
144 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 its financial audit must ~~Such financial~~
155 ~~information shall~~ be provided to the community alliance



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156 established under s. 20.19(5).

157 (i) Shall comply with federal and state statutory
158 requirements and agency rules in the provision of contractual
159 services. Any subcontract in excess of \$250,000 must comply with
160 the competitive procurement process.

161 (j) May subcontract for the provision of services,
162 excluding administrative and management functions, required by
163 the contract with the lead agency and the department; however,
164 the subcontracts must specify how the provider will contribute
165 to the lead agency meeting the performance standards established
166 pursuant to the child welfare results-oriented accountability
167 system required by s. 409.997. The lead agency shall directly
168 provide no more than 35 percent of all child welfare services
169 provided unless it can demonstrate a need, within the lead
170 agency's geographic service area where there is a lack of viable
171 providers available to perform the necessary services. The
172 approval period to exceed the threshold must be limited to 2
173 years. The lead agency shall reprocure for these services before
174 the end of the 2-year period, to exceed this threshold. The
175 local community alliance in the geographic service area in which
176 the lead agency is seeking to exceed the threshold shall review
177 the lead agency's justification for need and recommend to the
178 department whether the department should approve or deny the
179 lead agency's request for an exemption from the services
180 threshold. If there is not a community alliance operating in the
181 geographic service area in which the lead agency is seeking to
182 exceed the threshold, such review and approval or denial of the
183 lead agency's request for an exemption from the services
184 threshold recommendation shall be made by the department. by



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185 ~~representatives of local stakeholders, including at least one~~
186 ~~representative from each of the following:~~

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



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214 7. The percentage and trends for foster parent and group
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 pervious
218 month; and

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

221 Section 3. Section 409.991, Florida Statutes, is amended to
222 read:

223 409.991 Allocation of funds for community-based care lead
224 agencies.—

225 (1) As used in this section, the term—

226 ~~(a) "core services funds" means all funds allocated to~~
227 ~~community-based care lead agencies operating under contract with~~
228 ~~the department pursuant to s. 409.987. The term does not include~~
229 ~~any of, with the following exceptions:~~

230 (a)1. Funds appropriated for independent living services;

231 (b)2. Funds appropriated for maintenance adoption
232 subsidies;

233 (c)3. Funds allocated by the department for child
234 protective investigation service investigations—training;

235 (d)4. Nonrecurring funds;

236 (e)5. Designated mental health wrap-around service services
237 funds;

238 (f)6. Funds for special projects for a designated
239 ~~community-based care lead agency; and~~

240 (g)7. Funds appropriated for the Guardianship Assistance
241 Program under s. 39.6225.

242 ~~(b) "Equity allocation model" means an allocation model~~



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243 ~~that uses the following factors:~~

- 244 ~~1. Proportion of the child population;~~
245 ~~2. Proportion of child abuse hotline workload; and~~
246 ~~3. Proportion of children in care.~~

247 ~~(c) "Proportion of child population" means the proportion~~
248 ~~of children up to 18 years of age during the previous calendar~~
249 ~~year in the geographic area served by the community-based care~~
250 ~~lead agency.~~

251 ~~(d) "Proportion of child abuse hotline workload" means the~~
252 ~~weighted average of the following subcomponents:~~

253 ~~1. The average number of initial and additional child abuse~~
254 ~~reports received during the month for the most recent 12 months~~
255 ~~based on child protective investigations trend reports as~~
256 ~~determined by the department. This subcomponent shall be~~
257 ~~weighted as 20 percent of the factor.~~

258 ~~2. The average count of children in investigations in the~~
259 ~~most recent 12 months based on child protective investigations~~
260 ~~trend reports as determined by the department. This subcomponent~~
261 ~~shall be weighted as 40 percent of the factor.~~

262 ~~3. The average count of children in investigations with a~~
263 ~~most serious finding of verified abuse in the most recent 12~~
264 ~~months based on child protective investigations trend reports as~~
265 ~~determined by the department. This subcomponent shall be~~
266 ~~weighted as 40 percent of the factor.~~

267 ~~(e) "Proportion of children in care" means the proportion~~
268 ~~of the number of children in care receiving in-home services~~
269 ~~over the most recent 12-month period, the number of children~~
270 ~~whose families are receiving family support services over the~~
271 ~~most recent 12-month period, and the number of children who have~~



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272 ~~entered into out-of-home care with a case management overlay~~
273 ~~during the most recent 24-month period. This subcomponent shall~~
274 ~~be weighted as follows:~~

275 ~~1. Fifteen percent shall be based on children whose~~
276 ~~families are receiving family support services.~~

277 ~~2. Fifty-five percent shall be based on children in out-of-~~
278 ~~home care.~~

279 ~~3. Thirty percent shall be based on children in in-home~~
280 ~~care.~~

281 (2) Effective July 1, 2025, allocation of core services
282 funds must be based on an actuarially sound, tiered payment
283 model. The tiered model's purpose is to achieve the overarching
284 goals of a stable payment model that adjusts to workload and
285 incentivizes prevention, family preservation, and permanency.

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

293 1. Administrative expenditures;

294 2. Lease payments;

295 3. Asset depreciation;

296 4. Utilities;

297 5. Select components of case management, including
298 administrative elements;

299 6. Mandated activities such as training, quality, and
300 contract management; or



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

304 (b) Tier 2 is a per-child, per-month payment designed to
305 provide funding for lead agencies' expenses that vary based on
306 the number of children served for a particular month. The
307 payment rate blends out-of-home rates and in-home rates specific
308 to each lead agency to create a rate that provides a financial
309 incentive to lead agencies to provide service in the least
310 restrictive safe placement. The department shall establish and
311 annually update Tier 2 payment rates to maintain cost
312 expectations that are aligned with the population served,
313 services provided, and environment. Tier 2 rates must be set
314 annually.

315 (c) Tier 3 provides financial incentives that the
316 department shall establish to reward lead agencies that achieve
317 performance measures aligned with the department's goals of
318 prevention, family preservation, and permanency. ~~The equity~~
319 ~~allocation of core services funds shall be calculated based on~~
320 ~~the following weights:~~

321 ~~(a) Proportion of the child population shall be weighted as~~
322 ~~5 percent of the total.~~

323 ~~(b) Proportion of child abuse hotline workload shall be~~
324 ~~weighted as 35 percent of the total.~~

325 ~~(c) Proportion of children in care shall be weighted as 60~~
326 ~~percent of the total.~~

327 (3) By December 1 of each year, beginning in 2024, the
328 department shall submit a report to the Governor, the President
329 of the Senate, and the Speaker of the House of Representatives



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330 which includes each lead agency's actual performance in
331 attaining the previous fiscal year's targets, recommendations
332 for adjustments to lead agency funding, and adjustments to the
333 tiered payment model, if necessary ~~Beginning in the 2015-2016~~
334 ~~state fiscal year, 100 percent of the recurring core services~~
335 ~~funding for each community-based care lead agency shall be based~~
336 ~~on the prior year recurring base of core services funds.~~

337 (4) Effective July 1, 2025, unless otherwise specified in
338 the General Appropriations Act, the department shall allocate
339 all funding for core services based on the methodology
340 established in this section ~~any new core services funds shall be~~
341 ~~allocated based on the equity allocation model as follows:~~

342 (a) ~~Seventy percent of new funding shall be allocated among~~
343 ~~all community-based care lead agencies.~~

344 (b) ~~Thirty percent of new funding shall be allocated among~~
345 ~~community-based care lead agencies that are funded below their~~
346 ~~equitable share. Funds allocated pursuant to this paragraph~~
347 ~~shall be weighted based on each community-based care lead~~
348 ~~agency's relative proportion of the total amount of funding~~
349 ~~below the equitable share.~~

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

352 409.992 Lead agency expenditures.—

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



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359 (a) Lead agencies shall competitively procure all
360 contracts, consistent with the simplified acquisition threshold
361 as specified in 2 C.F.R. part 200. Financial penalties or
362 sanctions, as established by the department and incorporated
363 into the contract, shall be imposed by the department for
364 noncompliance with applicable local, state, or federal law for
365 the procurement of commodities or contractual services.

366 (b) Notwithstanding s. 402.73, for procurement of real
367 property or professional services, lead agencies shall comply
368 with established purchasing practices, including the provisions
369 of s. 287.055, as required, for professional services, including
370 engineering or construction design. Upon termination of the
371 contract, the department shall immediately retain all rights to
372 and ownership of real property procured. Any funds from the
373 sale, transfer, or other dispossession of such property during
374 the contract term shall be returned to the department.

375 (3) Notwithstanding any other provision of law, a
376 community-based care lead agency administrative employee may not
377 receive a salary, whether base pay or base pay combined with any
378 bonus or incentive payments from the lead agency or any related
379 party, in excess of 150 percent of the annual salary paid to the
380 secretary of the Department of Children and Families from state-
381 appropriated funds, including state-appropriated federal funds.
382 This limitation applies regardless of the number of contracts a
383 community-based care lead agency may execute with the
384 department. This subsection does not prohibit any party from
385 providing cash that is not from appropriated state funds to a
386 community-based care lead agency administrative employee.

387 Section 5. Paragraphs (c) and (d) of subsection (1) of



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388 section 409.994, Florida Statutes, are amended to read:

389 409.994 Community-based care lead agencies; receivership.-

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

394 (c) The department determines that conditions exist in the
395 lead agency which present a ~~an imminent~~ danger to the health,
396 safety, or welfare of the dependent children under that agency's
397 care or supervision. Whenever possible, the department shall
398 make a reasonable effort to facilitate the continued operation
399 of the program.

400 (d) The lead agency cannot meet, or is unlikely to meet,
401 its current financial obligations to its employees, contractors,
402 or foster parents. Issuance of bad checks or the existence of
403 delinquent obligations for payment of salaries, utilities, or
404 invoices for essential services or commodities constitutes ~~shall~~
405 ~~constitute~~ prima facie evidence that the lead agency lacks the
406 financial ability to meet its financial obligations.

407 Section 6. Paragraph (d) of subsection (1) of section
408 409.996, Florida Statutes, is amended to read:

409 409.996 Duties of the Department of Children and Families.-
410 The department shall contract for the delivery, administration,
411 or management of care for children in the child protection and
412 child welfare system. In doing so, the department retains
413 responsibility for the quality of contracted services and
414 programs and shall ensure that, at a minimum, services are
415 delivered in accordance with applicable federal and state
416 statutes and regulations and the performance standards and



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417 metrics specified in the strategic plan created under s.
418 20.19(1).

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

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

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

429 ~~1. Enhanced monitoring and reporting.~~

430 a.2. Corrective action plans.

431 ~~b.3.~~ Requirements to accept technical assistance and
432 consultation from the department under subsection (6).

433 ~~c.4.~~ Financial penalties, which ~~shall~~ require a lead agency
434 to direct reallocate funds from administrative costs to the
435 department. The department shall use the funds collected to
436 support service delivery of quality improvement activities for
437 children in the lead agency's care ~~to direct care for children.~~
438 These penalties may be imposed for failure to provide timely,
439 sufficient resolution of deficiencies resulting in a corrective
440 action plan or other performance improvement plan issued by the
441 department. Financial penalties may include liquidated damages.

442 ~~d.5.~~ Early termination of contracts, as provided in s.
443 402.7305(3)(f) ~~s. 402.1705(3)(f).~~

444 2. The department shall include in each lead agency
445 contract executed a provision that requires payment to the



446 department of sanctions or disincentives for failure to comply
447 with contractual obligations. The department shall establish a
448 schedule of daily monetary sanctions or disincentives for lead
449 agencies, which must be incorporated by reference into the
450 contract. The department is solely responsible for determining
451 the monetary value of liquidated damages.

452 Section 7. This act shall take effect July 1, 2024.

453 ===== T I T L E A M E N D M E N T =====

454 And the title is amended as follows:

455 Delete everything before the enacting clause
456 and insert:

457 A bill to be entitled
458 An act relating to community-based child welfare
459 agencies; amending s. 409.987, F.S.; revising
460 requirements for contracts the Department of Children
461 and Families has with community-based care lead
462 agencies; revising requirements for an entity to serve
463 as a lead agency; requiring that lead agencies ensure
464 that board members participate in certain annual
465 training; revising the definition of the term
466 "conflict of interest"; defining the term "related
467 party"; requiring the lead agency's board of directors
468 to disclose any known, actual, or potential conflicts
469 of interest; prohibiting a lead agency from entering
470 into a contract or being a party to a transaction that
471 creates a conflict of interest; requiring a lead
472 agency to competitively procure certain contracts;
473 imposing civil penalties on lead agencies for
474 undisclosed conflicts of interest; providing



475 applicability; amending s. 409.988, F.S.; revising
476 community-based care lead agency duties; amending s.
477 409.991, F.S.; revising the definition of the term
478 "core services funds"; removing definitions; requiring
479 that the allocation of core services funds be based on
480 a three-tiered payment model; providing specifications
481 for the payment model; requiring that reports be
482 submitted annually to the Governor and the Legislature
483 by a specific date; requiring that all funding for
484 core services be based on the statutory methodology;
485 amending s. 409.992, F.S.; revising requirements for
486 lead agency practices in the procurement of
487 commodities and contractual services; requiring the
488 department to impose certain penalties for a lead
489 agency's noncompliance with applicable procurement
490 law; requiring lead agencies to comply with
491 established purchasing practices for the procurement
492 of real property and professional services; requiring
493 the department to retain all right to and ownership of
494 real property procured upon termination of contracts;
495 requiring certain funds to be returned to the
496 department; providing applicability of certain
497 limitations on the salaries of community-based care
498 lead agency administrative employees; amending s.
499 409.994, F.S.; revising the conditions under which the
500 department may petition a court for the appointment of
501 a receiver for a community-based care lead agency;
502 amending s. 409.996, F.S.; revising requirements for
503 contracts between the department and lead agencies;



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504 revising the actions the department may take upon
505 certain circumstances; making a technical change;
506 providing duties to the department; providing an
507 effective date.