

**STORAGE NAME:** h2019.cfe

**DATE:** March 9, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CHILDREN AND FAMILY EMPOWERMENT  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 2019 (PCB CFE 97-05)

**RELATING TO:** Programs administration by the Department of Children and Family Services

**SPONSORS(S):** Committee on Children and Family Empowerment and Representative Lacasa

**STATUTE(S) AFFECTED:** Section 20.19, 394.74, 394.76, and Chapter 394-Part III, F.S.

**COMPANION BILL(S):** CS/SB 156 [compare]

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) CHILDREN AND FAMILY EMPOWERMENT YEAS 6 NAYS 0
- (2) GOVERNMENTAL RULES AND REGULATIONS [WITHDRAWN]
- (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS [WITHDRAWN]
- (4)
- (5)

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**I. SUMMARY:**

The bill amends s. 20.19, F.S., to change the way the Department of Children and Family Services procures contract for services, conducts contract negotiations, and monitors and evaluates elements of the contract management process. The bill requires the department to competitively procure any contract for client services under any of the following circumstances:

- If, after a reasonable opportunity, a contract provider fails to meet cost and performance standards established by the department.
- If a new program or service is authorized and funded and the annual contract value is \$300,000 or more.
- If a program or service is expanded based on an increased appropriation of more than 10 percent of the prior year appropriation for that program or service and the annual value of the contract is \$300,000 or more.
- For all contracts, other than those in which the service is provided by a governmental entity, for which the annual contract value exceeds \$500,000 if the contract has been with the same service provider for 3 years or more. The Office of Standards and Evaluation in the Department of Children and Family Services is required to evaluate and report annually to the Legislature on a variety of issues specifically related to client services and contracting.

The Department of Children and Family Services is directed to create contract management units at the district level. The department is authorized to transfer up to 0.25% of the total funds from categories used to pay for contractually provided client services of any budget entity within the department, not to exceed \$3 million annually.

The bill also eliminates a very limited and obsolete statutory framework in Chapter 394, Part III, F.S., established in 1978 that provided the structure for limited children's mental health services. The bill rewrites Part III of Chapter 394 to create a children's mental health system of care. The system as delineated in the bill could increase the probability that children and families will be in programs that minimize duplication and fragmentation of services. The bill will require a reinvestment of existing dollars to fund the key elements of the new system.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

DEPARTMENT STRUCTURE

The Department of Children and Family Services is under the direction of a Secretary. The department is divided into 15 geographic service districts under which all service programs are planned and administered. Each district has an administrator who has direct line authority over all departmental programs assigned to the district. The district administrator is authorized to appoint a district program manager for social services, a district manager for administrative services, and program supervisors for each program area.

The s. 20.19, F.S., creates a headquarters program office to oversee and administer the program offices of the districts. These program offices include:

1. Economic Self-Sufficiency Program Office.--The responsibilities of this office encompass income support programs within the department, WAGES, food stamps, and state supplementation of the supplemental security income (SSI) program.
2. Developmental Services Program Office.--The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063, F.S.
3. Children and Families Program Office.--The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and child protection and sexual abuse treatment teams created under chapter 415.
4. Alcohol, Drug Abuse, and Mental Health Program Office.--The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

The headquarters program offices each are headed by an assistant secretary. The law directs each Tallahassee program office to ensure that family services programs are implemented according to legislative intent and as required by state and federal laws. The program offices also are directed to establish program standards and performance objectives and to review, monitor, and ensure compliance of district program offices with statewide standards and performance objectives. The headquarters program offices also are directed to conduct outcome evaluations and ensure program effectiveness; to develop workload and productivity standards; to develop resource allocation methodologies; and to compile reports, analyses, and assessments of client needs on a statewide basis.

## CONTRACT MANAGEMENT

Between FYs 1985-86 and 1996-97, the amount of services purchased from private service providers in programs under Economic Self-Sufficiency; Developmental Services; Children and Families Programs; and Alcohol, Drug Abuse, and Mental Health by the former Department of Health and Rehabilitative Services increased from \$386 million to \$1.1 billion. The percentage of services that is currently provided by contract in the Department of Children and Family Services varies from about 60 percent to nearly 95 percent, depending upon the program.

Contract management is typically delegated from the Tallahassee headquarters office to the districts. The most conventional organizational structure, as it relates to contract management, places contract managers under the appropriate district program administrator. In such a structure, contract administrators are placed under the district manager for administration and have no direct line authority over contract managers. In some districts there has been an effort to centralize functions and this centralization has resulted, in the opinion of staff from those districts, in increased effectiveness and efficiency.

The delegation of responsibility from the headquarters office of the Department of Children and Families to the district level has diminished the ability of headquarters staff to make contracting decisions, while placing the decision-making responsibility increasingly in the hands of the local district administrator. Thus, the structure of the contracting "office" as well as certain contracting processes varies from district to district.

The department's Assistant Secretary for Administration is responsible for various duties related to administration and management practices in the department. These duties include, among other responsibilities, developing and implementing uniform policies, procedures, and guidelines with respect to finance and accounting, contract administration, and procurement.

## BREACH OF CONTRACT

Generally, when the department identifies either a breach of contract on the part of a provider or shortcomings related to standards of service, the measures that can be taken are limited to either a corrective action plan or cancellation of the contract. Currently, there is no requirement for the department to include provisions related to intermediate penalties, its rules or contracts. This means that the service districts and contract managers currently lack the ability to impose intermediate sanctions in the event a service provider fails to comply with a corrective action plan or in some other manner fails to comply with the terms of his or her contract.

When an employee of the department who is responsible for contracting activities does not make every effort possible to ensure that a provider of contracted client services meets the provisions of the contract, there is no formalized process in place for the department to discipline that employee.

## CONTRACT NEGOTIATION

Historically, employees representing the Department of Children and Family Services rarely are able to match the experience and expertise of the service provider representatives in the contract-negotiation process. Currently, employees of the department who are responsible for negotiating a contract are often individuals who have a human services or social work background, some administrative experience, and generally, little formal education and limited training in contract negotiation. At present, the department is unable to provide its contract managers with legal and fiscal assistance during contract negotiation meetings to adequately represent the interests of the state. In contrast to department staff, individuals who represent service providers during contract negotiations (particularly large providers negotiating large contracts) are often contract attorneys, certified public accountants, or other individuals who have extensive negotiating experience.

## CONTRACT STAFF

Department staff responsible for contract negotiation and contract management are frequently assigned other duties. This means that contracting responsibilities only represent a portion of an employee's total job responsibilities. Although the department provides many educational or training opportunities for its contract managers, those employees indicated during the research for the interim project that they would like more training opportunities.

Employees of the department responsible for contract management and contract administration activities are assigned a variety of job classifications throughout the state that vary among and within districts. Pay grades associated with these positions statewide range from a pay grade 18 (annual salary range \$22,677-\$37,395) to a pay grade 25 (annual salary range \$35,032-\$59,239). This results in significant pay disparity among these employees that is not necessarily related to the individual employee's job responsibilities or to the quality of that person's job performance.

## COMPETITIVE BIDDING

Section 287.057(3)(f), F.S., provides a list of services that are exempted from a competitive procurement process when any agency is contracting for these services. Nearly all client services provided by the Department of Children and Family Services are exempt from the competitive procurement process, although the statute does not prohibit the department from competitively bidding any client-service contract. The department generally takes advantage of the exemption provision, in part because of the workload that would be created in competitively procuring services through the traditional request for proposal process or the invitation to bid process. In FY 1996-97, only about 13 percent of the client services contracts were procured competitively by the Department of Children and Family Services.

Chapter 120, F.S., the Administrative Procedure Act, generally governs the actions of state agencies if the actions affect the substantial interests of citizens or organizations. Section 120.57, F.S., specifies the procedures that are applicable to protests in the award of a contract or the bidding preceding a contract award. According to staff of the

Department of Children and Family Services, bid protests filed under the Administrative Procedure Act can take from 6 months to 2 years to be resolved.

#### NUMBER OF POSITIONS

Section 216.262(1)(a), F.S., specifies that unless otherwise provided in law, the total number of authorized positions in an agency may not exceed the total provided in the General Appropriations Act. If a state agency finds that the number of positions that has been provided is not sufficient to administer its authorized programs, it may request additional positions through an application filed with the Executive Office of the Governor. Section 216.351, F.S., must be referenced in any subsequent inconsistent laws that supersede the provisions of ch. 216, F.S.

#### SALARY RATE

Sections 216.181(7) and 216.251, F.S., tie salary rate to individual positions as appropriated each year in the General Appropriations Act. Subsection 216.8(7)(b), F.S., specifies that salary rate is controlled by budget entity.

#### BUDGET AND PERSONNEL FLEXIBILITY

Chapter 92-142, Laws of Florida, established a budget and personnel flexibility pilot project in the Department of Health and Rehabilitative Services (HRS), notwithstanding the conflicting provisions in ch. 216, F.S., relating to rate and budgeting. The 3-year pilot project, which began July 1, 1992 and ended June 30, 1995, enabled HRS to establish, among other things, a salary rate pool for each district within the district services budget entities. The project was reviewed favorably both by Price Waterhouse and the Office of Program Policy Analysis and Government Accountability (OPPAGA). The Legislature did not authorize continuation of the project after its original June 30, 1995 expiration date.

The December 1995 OPPAGA evaluation of the pilot project found that "the flexibilities [related to salary rate pool] generally did not result in district salary rate deficits." Similarly, Price Waterhouse reported finding that "the budget and personnel flexibilities were effective to increase productivity. . . . We also found that districts were very cautious in their use of the flexibilities."

#### CHILDREN'S MENTAL HEALTH SERVICES

The statutory framework for children's mental health as delineated in Chapter 394-Part III is limited and has essentially remained unchanged since 1978. During this period, the Department of Children and Families has adopted rules and policy that guides services delivered at the local level. Children's mental health services in Florida is administered by the Alcohol, Drug Abuse and Mental Health (ADM) Program Office and 15 district ADM offices within the Florida Department of Children and Families. The FY 96/97 budget for Children's mental health services is approximately \$74.5 million. In addition to state dollars, Medicaid currently funds about two thirds [\$127 million] of the mental health services for children. Medicaid is a federal health insurance entitlement program which provides payment for certain mental health services to approved providers for enrolled eligible children. The Agency for Health Care Administration administers the Medicaid program.

Children's mental health services are delivered by both private for profit and private nonprofit services providers either under contract or under rate agreements at the district level. Districts also contract with other governmental entities such as school districts. Some additional services are delivered by providers who operate on a fee-for-services basis. Local governments provide matching funds for a portion of the budget. The ADM district program offices are responsible for negotiating contracts and purchase-of-service agreements with mental health centers and private mental health professionals such as psychiatrists, psychologists and clinical social workers. In general, the community mental health centers are the primary service providers. Services that are provided also include an array of contracted nonresidential services as well as services purchased on an individual basis from service providers.

Although each district provides a broad array of services, the availability of services and who gets services varies across districts. Currently, the system serves a broad population of children with mental health problems. The lack of specific parameters to define who needs and who gets services as well as limited funding has created a system where the demand for services is much greater than the supply of services to meet the need. Based on needs assessment information, the department estimates that 35 percent of the children with mental health problems [56,979 out of 159,916] are receiving needed services.

**B. EFFECT OF PROPOSED CHANGES:**

The bill amends s. 20.19, F.S., to change the way the Department of Children and Family Services procures contract for services, conducts contract negotiations, and monitors and evaluates elements of the contract management process. The changes are designed to increase competitiveness in procurement of services and to increase accountability for contract management in the department.

The bill eliminates a very limited and obsolete statutory framework established in 1978 that provided the structure for limited children's mental health services. The bill creates a children's mental health system of care. The system as delineated in the bill could increase the probability that children and families will be in programs that minimize duplication and fragmentation of services and facilitate a more competitive and efficient service market to address the emotional growth and development of children.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. *Does the bill create, increase or reduce, either directly or indirectly:*

i. *Any authority to make rules or adjudicate disputes?*

Yes. It would require the department to adopt rules authorizing intermediate sanctions to be imposed against a service provider that fails to comply with a corrective action plan or that otherwise fails to provide the contracted services.

- ii. *Any new responsibilities, obligations or work for other governmental or private organizations or individuals?*

Yes.

The bill requires increased reporting by the department's Office of Standards and Evaluation in the Department of Children and Family Services. It requires the office to evaluate and report annually to the Legislature on a variety of issues specifically related to client services and contracting, in addition to providing information about the status of the department's compliance with provisions currently in statute.

The Department of Children and Family Services is directed to create contract management units at the district level. The contract management units would be staffed by individuals who are specifically trained to perform the functions related to contract management.

The bill creates the following responsibilities that currently do not exist in all areas of the state.

Information and referral  
Assessment services  
Service planning teams  
Independent case managers  
Market rate reimbursement  
Purchase of service system [in lieu of contract for services]

- iii. *Any entitlement to a government service or benefit?*

No

- b. *If an agency or program is eliminated or reduced:*

- i. *What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?*

N/A

- ii. *What is the cost of such responsibility at the new level/agency?*

N/A

- iii. *How is the new agency accountable to the people governed?*

N/A

- 2. Lower Taxes:

a. *Does the bill increase anyone's taxes?*

No.

b. *Does the bill require or authorize an increase in any fees?*

No.

c. *Does the bill reduce total taxes, both rates and revenues?*

No.

d. *Does the bill reduce total fees, both rates and revenues?*

No.

e. *Does the bill authorize any fee or tax increase by any local government?*

No.

3. Personal Responsibility:

a. *Does the bill reduce or eliminate an entitlement to government services or subsidy?*

No.

b. *Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?*

Individuals may pay a sliding fee for children mental health services depending on income [note: this element already exists in law].

4. Individual Freedom:

a. *Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?*

No.

b. *Does the bill prohibit, or create new government interference with, any presently lawful activity?*

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

I. *Who evaluates the family's needs?*



A child needing mental health services from the state would have to meet the assessment criteria in statute to be eligible for services. This determination is made by individuals approved by the department to screen and make clinical assessment.

ii. *Who makes the decisions?*

For children's mental health services, the screening and assessment process, and the service planning team with participation by the child's parent would determine what services were needed.

iii. *Are private alternatives permitted?*

Yes. The children's mental health services delivery system is operated by private providers.

iv. *Are families required to participate in a program?*

N/A

v. *Are families penalized for not participating in a program?*

N/A

b. *Does the bill directly affect the legal rights and obligations between family members?*

No.

c. *If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:*

i. *Parents and guardians?*

Unless ordered by a court, the parent remains in control of the decision to engage the child in mental health services.

ii. *Services providers?*

N/A

iii. *Government employees/agencies?*

The department controls the children's mental health service delivery system through the approval of providers and several mechanisms [purchase of service, rate agreements, contracts] to secure needed services.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 20.19, F.S.

#### OFFICE OF STANDARDS AND EVALUATION

Requires the Office of Standards and Evaluation in the Department of Children and Family Services to evaluate and report annually to the Legislature on a variety of issues specifically related to client services and contracting, in addition to providing information about the status of the department's compliance with provisions currently in statute. The new issues on which the office would report include:

- The effectiveness of the department's contracts in accomplishing program outcomes and in supporting statewide quality assurance programs.
- The adequacy of resources and internal controls used by the district program offices to ensure the quality of client services through performance standards and other agreements.
- The effectiveness and quality of contracted services for each client target group as determined by annual performance reporting and the results of quality assurance monitoring.
- The effectiveness of the contract evaluation teams.

#### PROGRAM OFFICES

Assigns additional duties relative to contract monitoring and quality assurance. It requires each program office to ensure compliance of the district programs with statewide program standards and performance measures. The Tallahassee program offices also would provide general supervision of the district services in their respective program areas. The duties of headquarters offices would include developing and coordinating additional training; coordinating program-area research; identifying statewide needs and potential solutions and priorities; providing district staff with technical assistance; and monitoring programs and districts to ensure quality throughout the state.

#### ASSISTANT SECRETARY FOR ADMINISTRATION

The bill requires the assistant secretary to evaluate and report to the Legislature by July 1, 1998, and annually thereafter, on the methods used by each district program office to ensure the fiscal accountability of providers of client services with whom the department contracts. The assistant secretary also would be required to evaluate the service district administrative operations and to require corrective action plans of those district administrative functions which do not conform to the uniform operating procedures of the department.

#### COMPETITIVE PROCUREMENT

Requires the department to competitively procure any contract for client services under any of the following circumstances:

- If, after a reasonable opportunity, a contract provider fails to meet cost and performance standards established by the department.

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- If a new program or service is authorized and funded and the annual contract value is \$300,000 or more.
- If a program or service is expanded based on an increased appropriation of more than 10 percent of the prior year appropriation for that program or service and the annual value of the contract is \$300,000 or more.
- For all contracts, other than those in which the service is provided by a governmental entity or special districts as defined in s. 189.402, F.S., for which the annual contract value exceeds \$500,000 if the contract has been with the same service provider for 3 years or more.

It allows the department to phase in the implementation of the competitive procurement provisions over a three year period. The Secretary of the department is given authority to "waive" the competitive procurement process if there is an immediate threat to the health, safety, or welfare of the departments clients. It also gives the department authority to develop rules outlining a competitive-procurement process as an alternative to the request-for-proposal (RFP) or the invitation-to-bid (ITB) process.

#### COMPLIANCE AND ACCOUNTABILITY

Requires the department to adopt rules authorizing intermediate sanctions to be imposed against a service provider that fails to comply with a corrective action plan or that otherwise fails to provide the contracted services. Any fine imposed on a contractor would be paid by the contractor from funds other than those used to pay for client services. The department would notify the board of directors and other responsible parties of any corporate service provider in the event a financial penalty is imposed.

The bill would require that the department implement systems and controls to ensure financial integrity and service quality in the Developmental Services Medicaid Waiver program by December 31, 1997. The Auditor General would be required to audit the Medicaid Waiver program specifically as part of the audit of the Department of Children and Family Services for FY 1997-98. Similarly, the Office of Program Performance and Government Accountability (OPPAGA) would be required to review the Developmental Services Medicaid Waiver program and to submit a report to the Legislature by December 31, 1998.

The department is required to cancel any contract if a service provider fails to meet performance standards set in the contract. The service provider would first be given a reasonable opportunity to address performance deficiencies, however, absent extenuating circumstances, the contract would be canceled and the department would be precluded for 2 years from entering a new contract for the same services with the provider.

It allows the department to place a lien against the property [built using state funds] of a provider when there is contract dispute.

#### PROVISIONS RELATING TO EMPLOYEES

The department is directed to develop standards of conduct for its employees and a range of disciplinary actions which are specifically related to an employee's responsibilities relating to contract management.

The department would be required to seek outside assistance in providing training for employees who negotiate contracts. The training would enable contract managers to better represent the state's interests when negotiating contracts for client services. To further improve the negotiating position of the department, the department would be responsible for ensuring that individuals with particular expertise in legal and fiscal matters and staff who are particularly skilled in negotiating are available to the employees who negotiate client services contracts.

Section 2. Amends s. 394.74, F.S.

Requires that all contracts for alcohol, drug abuse and mental health programs be performance-based contracts.

Section 3. Amends s. 394.76, F.S.

For performance-based contracts and purchase-of-service contracts it requires the state to purchase units of services or outcomes at a per-unit rate. The state rate must be a negotiated rate not to exceed the state model rate and model rates must be reevaluated biennially.

For start-up contracts, the state shall reimburse actual expenditures made in accordance with contract specifications that include a description of services to be provided and a detailed line-item budget.

Requires that all contracts for client services must provide for an evaluation of the contractor's performance. The evaluation must be based on contractually agreed-upon outcome performance standards that measure the effectiveness of the services provided.

Section 4. CONTRACT MANAGEMENT UNITS

The Department of Children and Family Services is directed to create contract management units at the district level. The contract management units would be staffed by individuals who are specifically trained to perform the functions related to contract management. These contracting units would be similar to those that have already been created in a few districts in the state. District contract managers would be career service employees, and would be assigned to the same pay grade to the extent possible. These contract management units would be required to be in operation throughout the state no later than March 1, 1998.

The department would report to the Legislature on the efforts that have been made in each of the 15 districts related to centralization of contracting functions. Should a district choose not to centralize contract management activities, the report would explain the reasons for that decision as well as the efforts the district has made to increase efficiency related to the duties associated with contract management activities.

Section 5. BUDGET AND PERSONNEL FLEXIBILITY

Effective October 1, 1997, the department would be authorized to transfer up to 0.25% of the total funds from categories used to pay for contractually provided client services of any budget entity within the department, not to exceed \$3 million annually. The department could use the funds either to establish positions exclusively responsible for contract management activities or to contract for these services, whichever is determined to be more cost-effective. These positions would be created notwithstanding s. 216.262(1)(a) and s. 216.351, F.S.

Section 6. Effective July 1, 1997, designates s. 394.490 through 394.499 as part III of Chapter 394, F.S., "Children's Mental Health."

Section 7. Effective July 1, 1997, creates s. 394.490, F.S.

This section delineates the guiding principles for the children's mental health system. These principles include:

- ▶ Child centered
- ▶ Community based
- ▶ Individualized services
- ▶ Target risk factors
- ▶ Least restrictive services
- ▶ Families full participants in planning and delivery of services
- ▶ Integrated and linked services
- ▶ Early intervention
- ▶ Effective services so that the need for further services and government assistance can end as quickly as possible

Section 8. Effective July 1, 1997, creates s. 394.4905, F.S.

This section defines terms used in Part III.

Section 9. Effective July 1, 1997, creates s. 394.491, F.S.

This section delineates the target population in five priority groups that will be eligible, to the extent the resources are available, for state-funded services. The priority order is as follows:

The children's mental health system of care shall serve in priority order the following target populations:

1. Children under 18 years of age with a serious emotional disturbance, emotional disturbance or mental illness who are living at home under court ordered supervision.
2. Children under 18 years of age with a serious emotional disturbance, emotional disturbance or mental illness in state custody.

3. Children 12 years of age and under with a serious emotional disturbance, emotional disturbance or mental illness living at home and not under court ordered supervision or in state custody.
4. Children under 18 years of age and over 12 years of age with a serious emotional disturbance, emotional disturbance or mental illness living at home and not under court ordered supervision or in state. The child's family income must be equal or below 150 percent of the current federal poverty guidelines.
5. Children 12 years of age and under at risk of emotional disturbance who are living at home and going to school and are not in state custody.

Subsection (6) clarifies that nothing in this section or Part III shall be construed to preclude the delivery of mental health screening, diagnosis and treatment services to Medicaid eligible children as required under federal law and regulations. However, to the extent allowable by federal regulations, children's mental health services funded with Medicaid funds are also subject to the provisions of Part III.

Section 10. Effective July 1, 1997, creates s. 394.4915, F.S.

This section describes the general performance outcomes for the children's mental health system.

It delineates three broad performance expectations for the system that on annual basis will be further specified in performance outcomes and performance measures. The broad performance expectations include:

1. Stabilization or improvement of the child's behavior or condition in the family so that the child may function in the family with minimum support, minimum government intrusion or no government intrusion.
2. Stabilization or improvement of the child's behavior or condition related to school so that the child may function in the school with minimum support, minimum government intrusion or no government intrusion.
3. Stabilization or improvement of the child's behavior or condition related to the way the child interacts in the community so that a child may avoid violence, substance abuse, unintended pregnancy, delinquency, sexually transmitted disease or other negative consequences.

Section 11. Effective July 1, 1997, creates s. 394.492, F.S.

This section creates a children's mental health information and referral.

It requires the Department of Children and Families to establish in each district a children's mental health information and referral network.

The department and the Agency for Health Care Administration are required to establish a protocol for the information and referral process. The protocol must include procedures to refer a child to screening, assessment, a provider, or emergency services depending on the circumstances, eligibility for services, the child's need, and other factors presented. The information and referral provider is selected based on a request

for proposal and allowed to operate for three years at which time the department must issue another request for proposal.

It require that the information and referral provider not be affiliated with any service provider.

The Information and referral agency must provide the following services:

- ▶ Identification of existing children's mental health services and the development of a resource file of those services.
- ▶ A resource file that contains certain information on each provider of service.
- ▶ Maintain ongoing documentation of requests for service compiled through the internal referral process.

This section also requires the provider of information and referral to advertise the central telephone number that parents may call for information concerning children's mental health services. In addition, the information and referral service must engage in a community public service campaign to inform the public about the service.

It requires that the information and referral process be provided with full recognition of the confidentiality rights of parents.

The Information and referral provider has to provide the department and Agency for Health Care Administration with periodic management reports that allow analysis of sources and frequency of request for information, types and frequency of services requested, types and frequency of referrals made, and other information.

Section 12. Effective July 1, 1997, creates s. 394.4925, F.S.

This section requires the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, the Department of Education and the Department of Juvenile Justice, to establish uniform standards and protocols for the screening, assessment and diagnosis of children with serious emotional disturbance and emotional disturbance who receive mental health services.

The protocol must include procedures and criteria to determine:

- ▶ which children are appropriate for screening, for further assessments, for other diagnostic procedures.
- ▶ which children need a services planning team, case management, a provider, or emergency services depending on the information gathered through the screening and assessment process.
- ▶ which children do not meet the criteria for referral to a services planning team or case management that may be referred directly for needed services.

In addition, the protocol must include a mechanism to provide the department and the Agency for Health Care Administration with periodic management reports

Duplicative and inefficient screening, assessment, diagnostic and planning practices must be eliminated to the extent possible.

It also requires that diagnostic and other information necessary to provide quality services to children must be shared among agencies.

Section 13. Effective July 1, 1997, creates s. 394.493, F.S.

This section requires the department to establish assessment services in each district.

Assessment services provides initial screening of children, including intake and needs assessment, mental health screening, substance abuse screening, physical health screening, and diagnostic testing to determine eligibility, as needed.

It allows a district to contract for these services and establish multiple assessment services functions in a district.

Section 14. Effective July 1, 1997, creates s. 394.4935, F.S.

This section requires the department to establish in each district children's mental health services planning teams. The department must assign a coordinator to each services planning team from a list of approved and qualified coordinators.

The purpose of a services planning team is to assist the family and other caregivers to develop and implement a workable case plan for treating the child's mental health problems by developing a services plan when one is needed and designating an independent case manager when one is needed.

The criteria to determine whether a child needs a services planning team, a services plan, and an independent case manager are established in protocol. If a case manager is assigned to the child, it requires that the case manager be independent and not affiliated with a service provider.

This section specifies that the services planning team have representatives that at a minimum, include the child when the child is over 11 years of age and capable of participation, the child's parent or guardian, the Department of Children and Families or its designee, school representatives, mental health professionals and other individuals or entities from the child's community.

Section 15. Effective July 1, 1997, creates s. 394.494, F.S.

This section defines a services plan and establishes a case management process for children and families receiving services.

It requires the department to determine when a child must have a services plan. The elements of a services plan are described. The major elements include:

- ▶ A behavioral description of the problem being addressed.



- ▶ A description of the services to be provided to the child and family to address the identified problem
- ▶ A description of the measurable objectives of treatment that result in measurable improvements of the child's condition pursuant to s. 394.4915, F.S.

It requires that the services plan be developed in conference with the parent or guardian and allows a parent who believes that the plan is not adequate to request a review of the plan by the department. The independent case manager must purchase or arrange for needed services through a purchase of services system from approved providers. The services plan is reviewed at least every 90 days for programmatic and financial compliance.

The independent case manager is required to periodically review service utilization for a sample of cases to ascertain compliance with plans approved by the planning team. The agency and the department are authorized to recoup expenditures for unauthorized services and may fine a provider agency for substantial non compliance provider pursuant to existing authority in s. 394.879.

This section establishes legislative intent to limit the number of case managers assigned to a child to no more than one mental health case manager.

Section 16. Effective July 1, 1997, creates s. 394.4945 F.S.

This section describes the general programs and services that, within available resources, should be available in the children's mental health system of care.

The following program and services are described:

Prevention services  
Home-based services  
School-based services  
Respite and family support  
Outpatient treatment  
Day treatment  
Crisis stabilization  
Therapeutic homes  
Residential treatment  
Inpatient hospitalization  
Child sex offender victim service  
Transitional services

Section 17. Effective July 1, 1997, creates s. 394.495, F.S.

This section establishes three important elements of a newly designed children's mental health system. These elements include:

- ▶ A provider qualification process
- ▶ A market rate reimbursement system

- ▶ A purchase of services system

The children's mental health care provider qualification is a process to approve children's mental health providers that meet relevant licensing requirements, qualifications, standards, and training requirements for specific services and programs. It requires that the department shall only purchase services from approved providers or qualified Medicaid providers.

The market rate reimbursement system is a process to reimburse providers for services at cost that reflects the 75th percentile [prevailing market rate] of a reasonable frequency distribution of the cost for a service in a predetermined geographic area at which mental health providers, including community mental health centers and professionals licensed pursuant to chapters 458, 459, 490 or 491, charge for a service or treatment. It requires the department to negotiate with providers for the most competitive rates available and never to reimburse a provider more than the prevailing market rate for services in a predetermined geographic market.

A purchase of services system is a process where the case manager purchases needed services from among providers who have been identified by the department. This method departs from a system currently used that relies heavily on contracts for a predefined service.

It requires the department to develop specific reimbursement, accounting and monitoring system to ensure the validity of charges for services from providers.

Section 18. Effective July 1, 1997, creates s. 394.496, F.S.

This section establishes the Children's Mental Health Partnership Grants.

The purpose of the Children's Mental Health Partnership Grants is to utilize state funds as incentives for matching local funds derived from local governments, charitable foundations, and other sources, so that Florida communities may create local flexible partnerships to serve children 12 years of age and under at risk of emotional disturbance.

The grants' funds provide a dollar-for-dollar match from funds derived from local governments, charitable foundations, and other matching contributors.

The section outlines a grant application process and requires the department to consider the following in awarding the grants:

- ▶ The number of children in the target population within the geographical area to be served by the program.
- ▶ The validity and cost-effectiveness of the program.
- ▶ The validity of the performance outcomes and measures to capture the impact of the program on the target population.

The new provision allows the department to reallocate up to 10 percent of the funds appropriated for children's mental health to fund Children's Mental Health Partnership Grants, if no funds are specifically appropriated for the grants.

Section 19. Effective July 1, 1997, creates s. 394.497, F.S.

This section authorized the department to contract with receiving facilities and crisis stabilization units to provide emergency stabilization for persons in crisis situations.

This section also authorizes that the department use other methods other than the purchase of services by a case manager to secure needed services. It allows the department to essentially waive the "purchase of services" approach and contract for services or preauthorize the purchase of services when they determine that it is necessary. Under this provision, the department can contract or preauthorize the purchase of a services or other functions to address any limitations imposed by:

- ▶ The supply of the service or function.
- ▶ The availability of the service or function.
- ▶ The capacity or capability of a district to implement the provisions of Part III.
- ▶ Other conditions imposed by the service market.

Subsection (3) provides legislative intent stating that the purchase of service system as delineated in s. 394.495, F.S., should be the primary method to acquire needed services for the target population and that other methods [contracts] available to the department to secure services be judiciously applied by the department.

To enforce this intent, the department must provide a report to the Legislature as part of the requirement to report performance outcome and performance measures pursuant to s. 216.0166, F.S., indicating statewide and for each district utilization statistics, service type and monetary value of purchase of service, contracts, performance contract, and preauthorize purchase of services to secure mental health services for children.

Section 20. Effective July 1, 1997, creates s. 394.499, F.S.

This section allows the department to adopt a specific rules for a process to resolve conflict or disagreement that arises regarding the treatment of a child among a provider, case manager, services planning team, and other relevant parties.

Section 21. Effective July 1, 1997, amends subsection (8), creates subsection (9), and renumbers existing subsection of s. 411.203, F.S.

This existing section provides a general framework for the continuum of prevention and early assistance services for high-risk pregnant women and for high-risk and handicapped children and their families.

The continuum is a guide for the comprehensive statewide approach for services for high-risk pregnant women and for high-risk and handicapped children and their families.

Under this continuum, there are support services for all expectant parents and parents of high-risk children.

Parent education and counseling services are amended by the bill too so that parent education includes methods to stimulate brain development in infants and toddlers.

A new component to the continuum of services is created to provide parents and other caregivers family behavioral and skill training to better handle crises and stresses, promote a child's sense of identity and decrease inappropriate or unfavorable childhood behaviors.

Section 22. Effective July 1, 1997, amends paragraph (c) of subsection (5) of section 411.204, F.S.

This section corrects a cross reference to conform to the changes s. 411.203.

Section 23. Effective July 1, 1997, repeals ss. 394.50, 394.56, 394.57, 394.58, 394.59, 394.60, 394.61, and 394.62, F.S. These sections have remained unchanged since 1978 and are considered obsolete.

Section 24. Requires the Department of Children and Families to implement the provisions of Part III as contained in this act in each district by July 1, 1998.

Section 25. Except as otherwise provide in the act, provides an effective date of January 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

CONTRACT MANAGEMENT FY 97/98		
Staff to ensure competition of services contracts	6 positions	\$23,406
Staff to provide negotiation support and to handle bid protests	14 positions	\$56,614
Staff to monitor, provide oversight, and conduct evaluation.	16 positions	\$70,218

2. Recurring Effects:

CONTRACT MANAGEMENT FY 97/98		
Staff to ensure competition of services contracts	6 positions	\$360,001
Staff to provide negotiation support and to handle bid protests	14 positions	\$837,675
Staff to monitor, provide oversight, and conduct evaluation.	16 positions	\$1,098,323

CHILDREN'S MENTAL HEALTH - REINVESTMENT OF EXISTING FUNDS in FY 97/98				
Function	Capacity	Medicaid	General Revenue	Total Cost
Information and Referral		\$0	\$ 600,000	\$ 600,000
Assessment and Screening	8,556	\$ 2,490,989	\$ 1,537,373	\$ 4,028,362
Case management and Services planing teams	17,130	\$ 21,419,439	\$ 1,907,938	\$23,327,377
Community Services	78,132	\$ 64,000,642	\$11,816,905	\$75,817,547
Residential services	1,033	\$ 7,000,000	\$35,216,525	\$42,216,525
Acute Care	5,235	\$ 5,268,148	\$ 7,107,049	\$12,375,197
Total		\$100,179,218	\$56,048,417	\$156,227,635

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

FY 97/98

Non-recurring \$ 150,218

Recurring \$2,295,999

Total \$2,446,217

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

The bill allows local government to compete for Children's Mental Health Partnership Grants. If local government participates, the grant requires a dollar-for-dollar match.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

It is likely that private-sector service providers would incur legal expenses associated with bid disputes since the award of a competitive contract by a state agency may be subject to challenge.

2. Direct Private Sector Benefits:

The provisions of the bill that would require the department to competitively procure certain contracts for services, could result in more businesses competing for the opportunity to provide services.

3. Effects on Competition, Private Enterprise and Employment Markets:

Alternatively, the competitive procurement process could adversely affect those businesses that have been providing contracted services to clients of the department for a number of years without competing for their contract.

The use of an independent case management and purchase of service system in children's mental health should in the long run allow for a more competitive

children's mental health services market that will create more choices for services and will stimulate the growth of the provider market.

**D. FISCAL COMMENTS:**

The total fiscal impact to the department of the new contract procurement process is estimated to be \$3.1 million. This estimate does not include the costs likely to be incurred at the district level relating to creation of the contract management units or the costs associated with assigning the employees in the new units to the same pay grade.

The Department of Children and Family Services estimates that the provision in the bill allowing the department to transfer up to 0.25% of the total funds from categories used to pay for contractually-provided client services of any budget entity within the department, not to exceed \$3 million annually, likely would provide the funds necessary to implement the requirements of this bill.

This children's mental health portion of the bill will be implemented within the dollars currently appropriated for children with mental health problems and requires a reinvestment of existing dollars to fund the key elements of the system.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**V. COMMENTS:**

This bill was introduced in the 1997 Session and did not pass the Legislature. Pursuant to House Rule 96, the bill was carried over to the 1998 Session.

A technical amendment is required to change the effective dates of the bill.

According to the Department of Children and Family Services, requirements in the bill relative to competitive procurement of contracts will ensure that an estimated 70 percent of all contracted client service dollars—approximately \$600 million—are expended using competitive procurement.

**STORAGE NAME:** h2019.cfe

**DATE:** March 9, 1998

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT

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Prepared by:

Legislative Research Director:

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Bob Barrios

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Bob Barrios