

By the Committee on Children and Families; and Senator Peadar

300-1776-02

1                                   A bill to be entitled  
2           An act relating to out-of-home care; repealing  
3           s. 39.521(5), F.S., relating to the mandatory  
4           assessment of specified children for placement  
5           in licensed residential group care; creating s.  
6           39.523, F.S.; prescribing procedures for the  
7           mandatory assessment of certain children for  
8           placement in licensed residential group care;  
9           providing for reports; providing for a  
10          residential group care appropriations category  
11          in the General Appropriations Act; providing  
12          for funding increases to be appropriated in a  
13          lump-sum category; specifying that the release  
14          of certain funds is contingent on the approval  
15          of a spending plan; prescribing elements of the  
16          plan; authorizing one-time startup funding;  
17          amending s. 409.1671, F.S.; specifying  
18          timeframes for initiating and for completing  
19          privatization of foster care and related  
20          services; providing for the establishment of a  
21          model comprehensive residential services  
22          program in specified counties; providing that  
23          community-based providers and subcontractors  
24          require employees to obtain bodily injury  
25          liability insurance on personal automobiles;  
26          providing certain immunity from liability when  
27          transporting clients in privately owned  
28          automobiles; directing the Department of  
29          Children and Family Services to adopt written  
30          policies and procedures for contract monitoring  
31          of community-based providers; modifying the

1 requirement for community-based providers to  
2 furnish information to the department;  
3 modifying the conditions under which a provider  
4 may close a case; modifying the requirements  
5 concerning dual licensure of foster homes;  
6 eliminating the authority for a risk pool;  
7 requiring the development of a proposal for a  
8 shared-earnings program; providing direction  
9 for the development of the proposal; providing  
10 for submission of the proposal to the  
11 Legislative Budget Commission and for  
12 submission to the Legislature under certain  
13 conditions; expanding the program relating to  
14 excess federal earnings and certain additional  
15 state funds to additional entities; eliminating  
16 a specified expiration for this program;  
17 eliminating an obsolete review requirement;  
18 amending s. 409.1676, F.S.; removing a  
19 reference to specific districts and regions of  
20 the department; amending s. 409.175, F.S.;  
21 defining the term "family foster group home";  
22 amending s. 409.906, F.S.; expanding the  
23 authority for the establishment of child  
24 welfare targeted case management projects;  
25 eliminating reference to a pilot project;  
26 eliminating the requirement to report to the  
27 Child Welfare Estimating Conference regarding  
28 targeted case management; directing the Office  
29 of Program Policy Analysis and Government  
30 Accountability, in consultation with the Agency  
31 for Health Care Administration, to conduct a

1 review of the process for placing children for  
2 residential mental health treatment; providing  
3 for a report to the Governor and Legislature;  
4 requiring that the Legislature appropriate a  
5 lump sum in the Administered Funds Program each  
6 year for a specified purpose; providing an  
7 effective date.

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

10

11 Section 1. Subsection (5) of section 39.521, Florida  
12 Statutes, is repealed.

13 Section 2. Section 39.523, Florida Statutes, is  
14 created to read:

15 39.523 Placement in residential group care.--

16 (1) Except as provided in s. 39.407, any child 11  
17 years of age or older who has been in licensed family foster  
18 care for 6 months or longer and who is then moved more than  
19 once must be assessed for placement in licensed residential  
20 group care. The assessment procedures shall be conducted by  
21 the department or its agent and shall incorporate and address  
22 current and historical information from any psychological  
23 testing or evaluation that has occurred; current and  
24 historical information from the guardian ad litem, if one has  
25 been assigned; current and historical information from any  
26 current therapist, teacher, or other professional who has  
27 knowledge of the child and has worked with the child;  
28 information regarding the placement of any siblings of the  
29 child and the impact of the child's placement in residential  
30 group care on the child's siblings; the circumstances  
31 necessitating the moves of the child while in family foster

1 care and the recommendations of the former foster families, if  
2 available; the status of the child's case plan and a  
3 determination as to the impact of placing the child in  
4 residential group care on the goals of the case plan; the age,  
5 maturity, and desires of the child concerning placement; the  
6 availability of any less restrictive, more family-like setting  
7 for the child in which the foster parents have the necessary  
8 training and skills for providing a suitable placement for the  
9 child; and any other information concerning the availability  
10 of suitable residential group care. If such placement is  
11 determined to be appropriate as a result of this procedure,  
12 the child must be placed in residential group care, if  
13 available.

14 (2) The results of the assessment described in  
15 subsection (1) and the actions taken as a result of the  
16 assessment must be included in the next judicial review of the  
17 child. At each subsequent judicial review, the court must be  
18 advised in writing of the status of the child's placement,  
19 with special reference regarding the stability of the  
20 placement and the permanency planning for the child.

21 (3) Any residential group care facility that receives  
22 children under the provisions of this subsection shall  
23 establish special permanency teams dedicated to overcoming the  
24 special permanency challenges presented by this population of  
25 children. Each facility shall report to the department its  
26 success in achieving permanency for children placed by the  
27 department in its care at intervals that allow the current  
28 information to be provided to the court at each judicial  
29 review for the child.

30 (4) This subsection does not prohibit the department  
31 from assessing and placing children who do not meet the

1 criteria in subsection (1) in residential group care if such  
2 placement is the most appropriate placement for such children.

3 (5)(a) By December 1 of each year, the department  
4 shall report to the Legislature on the placement of children  
5 in licensed residential group care during the year, including  
6 the criteria used to determine the placement of children, the  
7 number of children who were evaluated for placement, the  
8 number of children who were placed based upon the evaluation,  
9 and the number of children who were not placed. The department  
10 shall maintain data specifying the number of children who were  
11 referred to licensed residential child care for whom placement  
12 was unavailable and the counties in which such placement was  
13 unavailable. The department shall include this data in its  
14 report to the Legislature due on December 1, so that the  
15 Legislature may consider this information in developing the  
16 General Appropriations Act.

17 (b) As part of the report required in paragraph (a),  
18 the department shall also provide a detailed account of the  
19 expenditures incurred for "Special Categories: Grants and Aids  
20 - Residential Group Care" for the fiscal year immediately  
21 preceding the date of the report. This section of the report  
22 must include whatever supporting data is necessary to  
23 demonstrate full compliance with paragraph (6)(c). The  
24 document must present the information by district and must  
25 specify, at a minimum, the number of additional beds, the  
26 average rate per bed, the number of additional persons served,  
27 and a description of the enhanced and expanded services  
28 provided.

29 (6)(a) The provisions of this section shall be  
30 implemented to the extent of available appropriations

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1 contained in the annual General Appropriations Act for such  
2 purpose.

3 (b) Each year, funds included in the General  
4 Appropriations Act for Residential Group Care shall be  
5 appropriated in a separately identified special category that  
6 is designated in the act as "Special Categories: Grants and  
7 Aids-Residential Group Care."

8 (c) Each fiscal year, any funding increases to  
9 "Special Categories: Grants and Aids.--Residential Group Care"  
10 which are included in the General Appropriations Act shall be  
11 appropriated in a lump-sum category as defined in s.  
12 216.011(1)(aa). In accordance with s. 216.181(6)(a), the  
13 Executive Office of the Governor shall require the department  
14 to submit a spending plan that identifies the residential  
15 group care bed capacity shortage throughout the state and  
16 proposes a distribution formula by district which addresses  
17 the reported deficiencies. The spending plan must have as its  
18 first priority the reduction or elimination of any bed  
19 shortage identified and must also provide for program  
20 enhancements to assure that residential group care programs  
21 meet a minimum level of expected performance and provide for  
22 expansion of the comprehensive residential group care services  
23 described in s. 409.1676. Annual appropriation increases  
24 appropriated in the lump-sum appropriation must be used in  
25 accordance with the provisions of the spending plan.

26 (d) Funds from "Special Categories: Grants and Aids -  
27 Residential Group Care" may be used as one-time startup  
28 funding for residential group care purposes that include, but  
29 are not limited to, remodeling or renovation of existing  
30 facilities, construction costs, leasing costs, purchase of  
31 equipment and furniture, site development, and other necessary

1 and reasonable costs associated with the startup of facilities  
2 or programs upon the recommendation of the lead  
3 community-based provider if one exists and upon specific  
4 approval of the terms and conditions by the secretary of the  
5 department.

6 Section 3. Section 409.1671, Florida Statutes, is  
7 amended to read:

8 409.1671 Foster care and related services;  
9 privatization.--

10 (1)(a) It is the intent of the Legislature that the  
11 Department of Children and Family Services shall privatize the  
12 provision of foster care and related services statewide. It is  
13 further the Legislature's intent to encourage communities and  
14 other stakeholders in the well-being of children to  
15 participate in assuring that children are safe and  
16 well-nurtured. However, while recognizing that some local  
17 governments are presently funding portions of certain foster  
18 care and related services programs and may choose to expand  
19 such funding in the future, the Legislature does not intend by  
20 its privatization of foster care and related services that any  
21 county, municipality, or special district be required to  
22 assist in funding programs that previously have been funded by  
23 the state. Nothing in this paragraph prohibits any county,  
24 municipality, or special district from future voluntary  
25 funding participation in foster care and related services. As  
26 used in this section, the term "privatize" means to contract  
27 with competent, community-based agencies. The department shall  
28 submit a plan to accomplish privatization statewide, through a  
29 competitive process, phased in over a 3-year period beginning  
30 January 1, 2000. This plan must be developed with local  
31 community participation, including, but not limited to, input

1 from community-based providers that are currently under  
2 contract with the department to furnish community-based foster  
3 care and related services, and must include a methodology for  
4 determining and transferring all available funds, including  
5 federal funds that the provider is eligible for and agrees to  
6 earn and that portion of general revenue funds which is  
7 currently associated with the services that are being  
8 furnished under contract. The methodology must provide for the  
9 transfer of funds appropriated and budgeted for all services  
10 and programs that have been incorporated into the project,  
11 including all management, capital (including current furniture  
12 and equipment), and administrative funds to accomplish the  
13 transfer of these programs. This methodology must address  
14 expected workload and at least the 3 previous years'  
15 experience in expenses and workload. With respect to any  
16 district or portion of a district in which privatization  
17 cannot be accomplished within the 3-year timeframe, the  
18 department must clearly state in its plan the reasons the  
19 timeframe cannot be met and the efforts that should be made to  
20 remediate the obstacles, which may include alternatives to  
21 total privatization, such as public-private partnerships. As  
22 used in this section, the term "related services" includes,  
23 but is not limited to, family preservation, independent  
24 living, emergency shelter, residential group care, foster  
25 care, therapeutic foster care, intensive residential  
26 treatment, foster care supervision, case management,  
27 postplacement supervision, permanent foster care, and family  
28 reunification. Unless otherwise provided for, beginning in  
29 fiscal year 1999-2000, either the state attorney or the Office  
30 of the Attorney General shall provide child welfare legal  
31 services, pursuant to chapter 39 and other relevant



1 provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee  
2 Counties. Such legal services shall commence and be  
3 effective, as soon as determined reasonably feasible by the  
4 respective state attorney or the Office of the Attorney  
5 General, after the privatization of associated programs and  
6 child protective investigations has occurred. When a private  
7 nonprofit agency has received case management  
8 responsibilities, transferred from the state under this  
9 section, for a child who is sheltered or found to be dependent  
10 and who is assigned to the care of the privatization project,  
11 the agency may act as the child's guardian for the purpose of  
12 registering the child in school if a parent or guardian of the  
13 child is unavailable and his or her whereabouts cannot  
14 reasonably be ascertained. The private nonprofit agency may  
15 also seek emergency medical attention for such a child, but  
16 only if a parent or guardian of the child is unavailable, his  
17 or her whereabouts cannot reasonably be ascertained, and a  
18 court order for such emergency medical services cannot be  
19 obtained because of the severity of the emergency or because  
20 it is after normal working hours. However, the provider may  
21 not consent to sterilization, abortion, or termination of life  
22 support. If a child's parents' rights have been terminated,  
23 the nonprofit agency shall act as guardian of the child in all  
24 circumstances.

25 (b) It is the intent of the Legislature that the  
26 department will continue to work towards full privatization by  
27 initiating the competitive-procurement process in each county  
28 by January 1, 2003. In order to provide for an adequate  
29 transition period to develop the necessary administrative and  
30 service-delivery capacity in each community, the full transfer

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1 of all foster care and related services must be completed  
2 statewide by December 31, 2004.

3 (c) In any county in which the full transfer is not  
4 accomplished by December 31, 2004, the department shall put in  
5 place a model comprehensive residential services program as  
6 described in s. 409.1677.

7 1. The department must begin the process of  
8 establishing the program in any county in which the department  
9 has not entered into a transition contract for community-based  
10 care by December 31, 2003, in order to assure that the program  
11 is operational by December 31, 2004.

12 2. The program must be procured through a competitive  
13 process.

14 3. The Legislature does not intend for the provisions  
15 of this paragraph to substitute for the requirement that full  
16 conversion to community-based care be accomplished.

17 (d)~~(b)~~ As used in this section, the term "eligible  
18 lead community-based provider" means a single agency with  
19 which the department shall contract for the provision of child  
20 protective services in a community that is no smaller than a  
21 county. The secretary of the department may authorize more  
22 than one eligible lead community-based provider within a  
23 single county when to do so will result in more effective  
24 delivery of foster care and related services. To compete for a  
25 privatization project, such agency must have:

26 1. The ability to coordinate, integrate, and manage  
27 all child protective services in the designated community in  
28 cooperation with child protective investigations.

29 2. The ability to ensure continuity of care from entry  
30 to exit for all children referred from the protective  
31 investigation and court systems.

1           3. The ability to provide directly, or contract for  
2 through a local network of providers, all necessary child  
3 protective services.

4           4. The willingness to accept accountability for  
5 meeting the outcomes and performance standards related to  
6 child protective services established by the Legislature and  
7 the Federal Government.

8           5. The capability and the willingness to serve all  
9 children referred to it from the protective investigation and  
10 court systems, regardless of the level of funding allocated to  
11 the community by the state, provided all related funding is  
12 transferred.

13           6. The willingness to ensure that each individual who  
14 provides child protective services completes the training  
15 required of child protective service workers by the Department  
16 of Children and Family Services.

17           7. The ability to maintain eligibility to receive all  
18 federal child welfare funds, including Title IV-E and IV-A  
19 funds, currently being used by the Department of Children and  
20 Family Services.

21           (e)~~(c)~~1. If attempts to competitively procure services  
22 through an eligible lead community-based provider as defined  
23 in paragraph(d)~~(b)~~ do not produce a capable and willing  
24 agency, the department shall develop a plan in collaboration  
25 with the local community alliance. The plan must detail how  
26 the community will continue to implement privatization through  
27 competitively procuring either the specific components of  
28 foster care and related services or comprehensive services for  
29 defined eligible populations of children and families from  
30 qualified licensed agencies as part of its efforts to develop  
31 the local capacity for a community-based system of coordinated

1 care. The plan must ensure local control over the management  
2 and administration of the service provision in accordance with  
3 the intent of this section and may include recognized best  
4 business practices, including some form of public or private  
5 partnerships. In the absence of a community alliance, the plan  
6 must be submitted to the President of the Senate and the  
7 Speaker of the House of Representatives for their comments.

8         2. The Legislature finds that the state has  
9 traditionally provided foster care services to children who  
10 have been the responsibility of the state. As such, foster  
11 children have not had the right to recover for injuries beyond  
12 the limitations specified in s. 768.28. The Legislature has  
13 determined that foster care and related services need to be  
14 privatized pursuant to this section and that the provision of  
15 such services is of paramount importance to the state. The  
16 purpose for such privatization is to increase the level of  
17 safety, security, and stability of children who are or become  
18 the responsibility of the state. One of the components  
19 necessary to secure a safe and stable environment for such  
20 children is that private providers maintain liability  
21 insurance. As such, insurance needs to be available and remain  
22 available to nongovernmental foster care and related services  
23 providers without the resources of such providers being  
24 significantly reduced by the cost of maintaining such  
25 insurance.

26         3. The Legislature further finds that, by requiring  
27 the following minimum levels of insurance, children in  
28 privatized foster care and related services will gain  
29 increased protection and rights of recovery in the event of  
30 injury than provided for in s. 768.28.

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1           ~~(f)(d)~~ Other than an entity to which s. 768.28  
2 applies, any eligible lead community-based provider, as  
3 defined in paragraph~~(d)(b)~~, or its employees or officers,  
4 except as otherwise provided in paragraph~~(g)(e)~~, must, as a  
5 part of its contract, obtain a minimum of \$1 million per  
6 claim/\$3 million per incident in general liability insurance  
7 coverage. The eligible lead community-based provider must also  
8 require that staff who transport client children and families  
9 in their personal automobiles in order to carry out their job  
10 responsibilities obtain minimum bodily injury liability  
11 insurance in the amount of \$100,000 per claim, \$300,000 per  
12 incident on their personal automobiles.In any tort action  
13 brought against such an eligible lead community-based provider  
14 or employee, net economic damages shall be limited to \$1  
15 million per liability claim and \$100,000 per automobile claim,  
16 including, but not limited to, past and future medical  
17 expenses, wage loss, and loss of earning capacity, offset by  
18 any collateral source payment paid or payable. In any tort  
19 action brought against such an eligible lead community-based  
20 provider, noneconomic damages shall be limited to \$200,000 per  
21 claim. A claims bill may be brought on behalf of a claimant  
22 pursuant to s. 768.28 for any amount exceeding the limits  
23 specified in this paragraph. Any offset of collateral source  
24 payments made as of the date of the settlement or judgment  
25 shall be in accordance with s. 768.76. The lead  
26 community-based provider shall not be liable in tort for the  
27 acts or omissions of its subcontractors or the officers,  
28 agents, or employees of its subcontractors.  
29           ~~(g)(e)~~ The liability of an eligible lead  
30 community-based provider described in this section shall be  
31 exclusive and in place of all other liability of such

1 provider. The same immunities from liability enjoyed by such  
2 providers shall extend as well to each employee of the  
3 provider when such employee is acting in furtherance of the  
4 provider's business, including the transportation of clients  
5 served, as described in this subsection, in privately owned  
6 vehicles. Such immunities shall not be applicable to a  
7 provider or an employee who acts in a culpably negligent  
8 manner or with willful and wanton disregard or unprovoked  
9 physical aggression when such acts result in injury or death  
10 or such acts proximately cause such injury or death; nor shall  
11 such immunities be applicable to employees of the same  
12 provider when each is operating in the furtherance of the  
13 provider's business, but they are assigned primarily to  
14 unrelated works within private or public employment. The same  
15 immunity provisions enjoyed by a provider shall also apply to  
16 any sole proprietor, partner, corporate officer or director,  
17 supervisor, or other person who in the course and scope of his  
18 or her duties acts in a managerial or policymaking capacity  
19 and the conduct that caused the alleged injury arose within  
20 the course and scope of those managerial or policymaking  
21 duties. Culpable negligence is defined as reckless  
22 indifference or grossly careless disregard of human life.

23 (h)~~(f)~~ Any subcontractor of an eligible lead  
24 community-based provider, as defined in paragraph (d)~~(b)~~,  
25 which is a direct provider of foster care and related services  
26 to children and families, and its employees or officers,  
27 except as otherwise provided in paragraph (g)~~(e)~~, must, as a  
28 part of its contract, obtain a minimum of \$1 million per  
29 claim/\$3 million per incident in general liability insurance  
30 coverage. The subcontractor of an eligible lead  
31 community-based provider must also require that staff who

1 transport client children and families in their personal  
2 automobiles in order to carry out their job responsibilities  
3 obtain minimum bodily injury liability insurance in the amount  
4 of \$100,000 per claim, \$300,000 per incident on their personal  
5 automobiles.In any tort action brought against such  
6 subcontractor or employee, net economic damages shall be  
7 limited to \$1 million per liability claim and \$100,000 per  
8 automobile claim, including, but not limited to, past and  
9 future medical expenses, wage loss, and loss of earning  
10 capacity, offset by any collateral source payment paid or  
11 payable. In any tort action brought against such  
12 subcontractor, noneconomic damages shall be limited to  
13 \$200,000 per claim. A claims bill may be brought on behalf of  
14 a claimant pursuant to s. 768.28 for any amount exceeding the  
15 limits specified in this paragraph. Any offset of collateral  
16 source payments made as of the date of the settlement or  
17 judgment shall be in accordance with s. 768.76.

18 (i)~~(g)~~ The liability of a subcontractor of an eligible  
19 lead community-based provider that is a direct provider of  
20 foster care and related services as described in this section  
21 shall be exclusive and in place of all other liability of such  
22 provider. The same immunities from liability enjoyed by such  
23 subcontractor provider shall extend as well to each employee  
24 of the subcontractor when such employee is acting in  
25 furtherance of the subcontractor's business, including the  
26 transportation of clients served, as described in this  
27 subsection, in privately owned vehicles. Such immunities shall  
28 not be applicable to a subcontractor or an employee who acts  
29 in a culpably negligent manner or with willful and wanton  
30 disregard or unprovoked physical aggression when such acts  
31 result in injury or death or such acts proximately cause such

1 injury or death; nor shall such immunities be applicable to  
2 employees of the same subcontractor when each is operating in  
3 the furtherance of the subcontractor's business, but they are  
4 assigned primarily to unrelated works within private or public  
5 employment. The same immunity provisions enjoyed by a  
6 subcontractor shall also apply to any sole proprietor,  
7 partner, corporate officer or director, supervisor, or other  
8 person who in the course and scope of his or her duties acts  
9 in a managerial or policymaking capacity and the conduct that  
10 caused the alleged injury arose within the course and scope of  
11 those managerial or policymaking duties. Culpable negligence  
12 is defined as reckless indifference or grossly careless  
13 disregard of human life.

14 (j)~~(h)~~ The Legislature is cognizant of the increasing  
15 costs of goods and services each year and recognizes that  
16 fixing a set amount of compensation actually has the effect of  
17 a reduction in compensation each year. Accordingly, the  
18 conditional limitations on damages in this section shall be  
19 increased at the rate of 5 percent each year, prorated from  
20 the effective date of this paragraph to the date at which  
21 damages subject to such limitations are awarded by final  
22 judgment or settlement.

23 (2)(a) The department may contract for the delivery,  
24 administration, or management of protective services, the  
25 services specified in subsection (1) relating to foster care,  
26 and other related services or programs, as appropriate. The  
27 department shall retain responsibility for the quality of  
28 contracted services and programs and shall ensure that  
29 services are delivered in accordance with applicable federal  
30 and state statutes and regulations. The department must adopt  
31 written policies and procedures for monitoring the contract



1 for delivery of services by lead community-based providers.  
2 These policies and procedures must, at a minimum, address the  
3 evaluation of fiscal accountability and program operations,  
4 including provider achievement of performance standards,  
5 provider monitoring of subcontractors, and timely followup of  
6 corrective actions for significant monitoring findings related  
7 to providers and subcontractors. These policies and procedures  
8 must also include provisions for reducing the duplication of  
9 the department's program monitoring activities both internally  
10 and with other agencies, to the extent possible. The  
11 department's written procedures must assure that the written  
12 findings, conclusions, and recommendations from monitoring the  
13 contract for services of lead community-based providers are  
14 communicated to the director of the provider agency as  
15 expeditiously as possible.

16 (b) Persons employed by the department in the  
17 provision of foster care and related services whose positions  
18 are being privatized pursuant to this statute shall be given  
19 hiring preference by the provider, if provider qualifications  
20 are met.

21 (3)(a) In order to help ensure a seamless child  
22 protection system, the department shall ensure that contracts  
23 entered into with community-based agencies pursuant to this  
24 section include provisions for a case-transfer process to  
25 determine the date that the community-based agency will  
26 initiate the appropriate services for a child and family. This  
27 case-transfer process must clearly identify the closure of the  
28 protective investigation and the initiation of service  
29 provision. At the point of case transfer, and at the  
30 conclusion of an investigation, the department must provide a  
31

1 complete summary of the findings of the investigation to the  
2 community-based agency.

3 (b) The contracts must also ensure that each  
4 community-based agency shall furnish information on its  
5 activities in all cases in client case records ~~regular status~~  
6 ~~reports of its cases to the department as specified in the~~  
7 ~~contract.~~ A provider may not discontinue services on any  
8 voluntary case without prior written notification to the  
9 department 30 days before planned case closure. If the  
10 department disagrees with the recommended case closure,  
11 written notification to the provider must be provided before  
12 the case-closure date.~~without prior written notification to~~  
13 ~~the department. After discontinuing services to a child or a~~  
14 ~~child and family, the community-based agency must provide a~~  
15 ~~written case summary, including its assessment of the child~~  
16 ~~and family, to the department.~~

17 (c) The contract between the department and  
18 community-based agencies must include provisions that specify  
19 the procedures to be used by the parties to resolve  
20 differences in interpreting the contract or to resolve  
21 disputes as to the adequacy of the parties' compliance with  
22 their respective obligations under the contract.

23 (4)(a) The department shall establish a quality  
24 assurance program for privatized services. The quality  
25 assurance program shall be based on standards established by a  
26 national accrediting organization such as the Council on  
27 Accreditation of Services for Families and Children, Inc.  
28 (COA) or CARF--the Rehabilitation Accreditation Commission.  
29 The department may develop a request for proposal for such  
30 oversight. This program must be developed and administered at  
31 a statewide level. The Legislature intends that the department

1 be permitted to have limited flexibility to use funds for  
2 improving quality assurance. To this end, effective January 1,  
3 2000, the department may transfer up to 0.125 percent of the  
4 total funds from categories used to pay for these  
5 contractually provided services, but the total amount of such  
6 transferred funds may not exceed \$300,000 in any fiscal year.  
7 When necessary, the department may establish, in accordance  
8 with s. 216.177, additional positions that will be exclusively  
9 devoted to these functions. Any positions required under this  
10 paragraph may be established, notwithstanding ss.  
11 216.262(1)(a) and 216.351. The department, in consultation  
12 with the community-based agencies that are undertaking the  
13 privatized projects, shall establish minimum thresholds for  
14 each component of service, consistent with standards  
15 established by the Legislature. Each program operated under  
16 contract with a community-based agency must be evaluated  
17 annually by the department. The department shall submit an  
18 annual report regarding quality performance, outcome measure  
19 attainment, and cost efficiency to the President of the  
20 Senate, the Speaker of the House of Representatives, the  
21 minority leader of each house of the Legislature, and the  
22 Governor no later than January 31 of each year for each  
23 project in operation during the preceding fiscal year.

24 (b) The department shall use these findings in making  
25 recommendations to the Governor and the Legislature for future  
26 program and funding priorities in the child welfare system.

27 (5)(a) The community-based agency must comply with  
28 statutory requirements and agency rules in the provision of  
29 contractual services. Each foster home, therapeutic foster  
30 home, emergency shelter, or other placement facility operated  
31 by the community-based agency or agencies must be licensed by

1 the Department of Children and Family Services under chapter  
2 402 or this chapter. Each community-based agency must be  
3 licensed as a child-caring or child-placing agency by the  
4 department under this chapter. The department, in order to  
5 eliminate or reduce the number of duplicate inspections by  
6 various program offices, shall coordinate inspections required  
7 pursuant to licensure of agencies under this section.

8 (b) Substitute care providers who are licensed under  
9 s. 409.175 and have contracted with a lead agency authorized  
10 under this section shall also be authorized to provide  
11 registered or licensed family day care under s. 402.313, if  
12 consistent with federal law and if the home has met+

13 ~~1. the requirements of s. 402.313, and~~

14 ~~2. The requirements of s. 402.281 and has received~~  
15 ~~Gold Seal Quality Care designation.~~

16 (c) A dually licensed home under this section shall be  
17 eligible to receive both an out-of-home care payment and a  
18 subsidized child care payment for the same child pursuant to  
19 federal law. The department may adopt administrative rules  
20 necessary to administer this paragraph ~~the foster care board~~  
21 ~~rate and the subsidized child care rate for the same child~~  
22 ~~only if care is provided 24 hours a day. The subsidized child~~  
23 ~~care rate shall be no more than the approved full-time rate.~~

24 (6) Beginning January 1, 1999, and continuing at least  
25 through June 30, 2000, the Department of Children and Family  
26 Services shall privatize all foster care and related services  
27 in district 5 while continuing to contract with the current  
28 model programs in districts 1, 4, and 13, and in subdistrict  
29 8A, and shall expand the subdistrict 8A pilot program to  
30 incorporate Manatee County. Planning for the district 5  
31 privatization shall be done by providers that are currently

1 under contract with the department for foster care and related  
2 services and shall be done in consultation with the  
3 department. A lead provider of the district 5 program shall  
4 be competitively selected, must demonstrate the ability to  
5 provide necessary comprehensive services through a local  
6 network of providers, and must meet criteria established in  
7 this section. Contracts with organizations responsible for the  
8 model programs must include the management and administration  
9 of all privatized services specified in subsection (1).  
10 However, the department may use funds for contract management  
11 only after obtaining written approval from the Executive  
12 Office of the Governor. The request for such approval must  
13 include, but is not limited to, a statement of the proposed  
14 amount of such funds and a description of the manner in which  
15 such funds will be used. If the community-based organization  
16 selected for a model program under this subsection is not a  
17 Medicaid provider, the organization shall be issued a Medicaid  
18 provider number pursuant to s. 409.907 for the provision of  
19 services currently authorized under the state Medicaid plan to  
20 those children encompassed in this model and in a manner not  
21 to exceed the current level of state expenditure.

22 (7) The department, in consultation with existing lead  
23 agencies, shall develop a statewide proposal regarding the  
24 long-term use and structure of a shared-earnings program which  
25 addresses ~~is authorized to establish and administer a risk~~  
26 ~~pool to reduce~~ the financial risk to eligible lead  
27 community-based providers resulting from unanticipated  
28 caseload growth or from significant changes in client mixes or  
29 services eligible for federal reimbursement. The  
30 recommendations in the statewide proposal must also be  
31 available to entities of the department until the conversion

1 to community-based care takes place. At a minimum, the  
2 proposal must allow federal earnings received from child  
3 welfare programs that are determined by the department to be  
4 in excess of the amount appropriated in the General  
5 Appropriations Act. These purposes include, but are not  
6 limited to:

7 (a) Significant changes in the number or composition  
8 of clients eligible to receive services.

9 (b) Significant changes in the services that are  
10 eligible for reimbursement.

11 (c) Significant changes in the availability of federal  
12 funds.

13 (d) Shortfalls in state funds available for eligible  
14 or ineligible services.

15 (e) Significant changes in the mix of available funds.

16 (f) Scheduled or unanticipated, but necessary,  
17 advances to providers or other cash-flow issues.

18 (g) Proposals to participate in optional Medicaid  
19 services or other federal grant opportunities.

20 (h) Appropriate incentive structures.

21 (i) Continuity of care in the event of lead-agency  
22 failure, discontinuance of service, or financial misconduct.

23  
24 The department shall further specify the necessary steps to  
25 ensure the financial integrity of these dollars and their  
26 continued availability on an ongoing basis. The final proposal  
27 shall be submitted to the Legislative Budget Commission for  
28 formal adoption before December 31, 2002. If the Legislative  
29 Budget Commission refuses to concur with the adoption of the  
30 proposal, the department shall present its proposal in the  
31 form of recommended legislation to the President of the Senate

1 and the Speaker of the House of Representatives before the  
2 commencement of the next legislative session.

3 (8) Notwithstanding the provisions of s. 215.425, all  
4 documented federal funds earned for the current fiscal year by  
5 the department and community-based agencies which exceed the  
6 amount appropriated by the Legislature shall be distributed to  
7 all entities that contributed to the excess earnings based on  
8 a schedule and methodology developed by the department and  
9 approved by the Executive Office of the Governor. Distribution  
10 shall be pro rata based on total earnings and shall be made  
11 only to those entities that contributed to excess earnings.  
12 Excess earnings of community-based agencies shall be used only  
13 in the service district in which they were earned. Additional  
14 state funds appropriated by the Legislature for  
15 community-based agencies or made available pursuant to the  
16 budgetary amendment process described in s. 216.177 shall be  
17 transferred to the community-based agencies. The department  
18 shall amend a community-based agency's contract to permit  
19 expenditure of the funds. The distribution program applies  
20 only to entities that were under privatization contracts as of  
21 July 1, 2002 ~~1999~~. This program is authorized for a period of  
22 ~~3 years beginning July 1, 1999, and ending June 30, 2002~~. The  
23 ~~Office of Program Policy Analysis and Government~~  
24 ~~Accountability shall review this program and report to the~~  
25 ~~President of the Senate and the Speaker of the House of~~  
26 ~~Representatives by December 31, 2001~~. The review shall assess  
27 ~~the program to determine how the additional resources were~~  
28 ~~used, the number of additional clients served, the~~  
29 ~~improvements in quality of service attained, the performance~~  
30 ~~outcomes associated with the additional resources, and the~~  
31 ~~feasibility of continuing or expanding this program.~~

1           (9) Each district and subdistrict that participates in  
2 the model program effort or any future privatization effort as  
3 described in this section must thoroughly analyze and report  
4 the complete direct and indirect costs of delivering these  
5 services through the department and the full cost of  
6 privatization, including the cost of monitoring and evaluating  
7 the contracted services.

8           Section 4. Section 409.1676, Florida Statutes, is  
9 amended to read:

10           409.1676 Comprehensive residential group care services  
11 to children who have extraordinary needs.--

12           (1) It is the intent of the Legislature to provide  
13 comprehensive residential group care services, including  
14 residential care, case management, and other services, to  
15 children in the child protection system who have extraordinary  
16 needs, such as serious behavioral problems or having been  
17 determined to be without the options of either reunification  
18 with family or adoption. These services are to be provided in  
19 a residential group care setting by a not-for-profit  
20 corporation or a local government entity under a contract with  
21 the Department of Children and Family Services or by a lead  
22 agency as described in s. 409.1671. These contracts should be  
23 designed to provide an identified number of children with  
24 access to a full array of services for a fixed price.

25           (2) As used in this section, the term:

26           (a) "Residential group care" means a living  
27 environment for children who have been adjudicated dependent  
28 and are expected to be in foster care for at least 6 months  
29 with 24-hour-awake staff or live-in group home parents or  
30 staff. Beginning July 1, 2001, all facilities must be  
31



1 appropriately licensed in this state, and they must be  
2 accredited by July 1, 2005.

3 (b) "Serious behavioral problems" means behaviors of  
4 children who have been assessed by a licensed master's-level  
5 human-services professional to need at a minimum intensive  
6 services but who do not meet the criteria of s. 394.492(6) or  
7 (7). A child with an emotional disturbance as defined in s.  
8 394.492(5) may be served in residential group care unless a  
9 determination is made by a mental health professional that  
10 such a setting is inappropriate.

11 (3) The department, in accordance with a specific  
12 appropriation for this program, shall contract with a  
13 not-for-profit corporation, a local government entity, or the  
14 lead agency that has been established in accordance with s.  
15 409.1671 for the performance of residential group care  
16 services described in this section ~~in, at a minimum, districts~~  
17 ~~4, 11, 12, and the Suncoast Region of the Department of~~  
18 ~~Children and Family Services and with a not-for-profit entity~~  
19 ~~servicing children from multiple districts.~~ A lead agency that  
20 is currently providing residential care may provide this  
21 service directly with the approval of the local community  
22 alliance. The department or a lead agency may contract for  
23 more than one site in a county if that is determined to be the  
24 most effective way to achieve the goals set forth in this  
25 section.

26 (4) The lead agency, the contracted not-for-profit  
27 corporation, or the local government entity is responsible for  
28 a comprehensive assessment, residential care, transportation,  
29 behavioral health services, recreational activities, clothing,  
30 supplies, and miscellaneous expenses associated with caring  
31 for these children; for necessary arrangement for or provision

1 of educational services; and for assuring necessary and  
2 appropriate health and dental care.

3 (5) The department may transfer all casework  
4 responsibilities for children served under this program to the  
5 entity that provides this service, including case management  
6 and development and implementation of a case plan in  
7 accordance with current standards for child protection  
8 services. When the department establishes this program in a  
9 community that has a lead agency as described in s. 409.1671,  
10 the casework responsibilities must be transferred to the lead  
11 agency.

12 (6) This section does not prohibit any provider of  
13 these services from appropriately billing Medicaid for  
14 services rendered, from contracting with a local school  
15 district for educational services, or from earning federal or  
16 local funding for services provided, as long as two or more  
17 funding sources do not pay for the same specific service that  
18 has been provided to a child.

19 (7) The lead agency, not-for-profit corporation, or  
20 local government entity has the legal authority for children  
21 served under this program, as provided in chapter 39 or this  
22 chapter, as appropriate, to enroll the child in school, to  
23 sign for a driver's license for the child, to cosign loans and  
24 insurance for the child, to sign for medical treatment, and to  
25 authorize other such activities.

26 (8) The department shall provide technical assistance  
27 as requested and contract management services.

28 (9) The provisions of this section shall be  
29 implemented to the extent of available appropriations  
30 contained in the annual General Appropriations Act for such  
31 purpose.

1           Section 5. Subsections (2) and (5) of section 409.175,  
2 Florida Statutes, are amended to read:

3           409.175 Licensure of family foster homes, residential  
4 child-caring agencies, and child-placing agencies.--

5           (2) As used in this section, the term:

6           (a) "Agency" means a residential child-caring agency  
7 or a child-placing agency.

8           (b) "Boarding school" means a school which is  
9 registered with the Department of Education as a school. Its  
10 program must follow established school schedules, with holiday  
11 breaks and summer recesses in accordance with other public and  
12 private school programs. The children in residence must  
13 customarily return to their family homes or legal guardians  
14 during school breaks and must not be in residence year-round,  
15 except that this provision does not apply to foreign students.  
16 The parents of these children retain custody and planning and  
17 financial responsibility.

18           (c) "Child" means any unmarried person under the age  
19 of 18 years.

20           (d) "Child-placing agency" means any person,  
21 corporation, or agency, public or private, other than the  
22 parent or legal guardian of the child or an intermediary  
23 acting pursuant to chapter 63, that receives a child for  
24 placement and places or arranges for the placement of a child  
25 in a family foster home, residential child-caring agency, or  
26 adoptive home.

27           (e) "Family foster home" means a private residence in  
28 which children who are unattended by a parent or legal  
29 guardian are provided 24-hour care. Such homes include  
30 emergency shelter family homes, family foster group homes, and  
31 specialized foster homes for children with special needs. A

1 person who cares for a child of a friend for a period not to  
2 exceed 90 days, a relative who cares for a child and does not  
3 receive reimbursement for such care from the state or federal  
4 government, or an adoptive home which has been approved by the  
5 department or by a licensed child-placing agency for children  
6 placed for adoption is not considered a family foster home.

7 1. "Family Foster Group Home" means a licensed private  
8 family home occupied by a married couple or individual who has  
9 demonstrated the interest and special qualifications to care  
10 for preadolescent and adolescent children, including the  
11 family's own children. The family foster group home parent  
12 must be able to work in close cooperation with the department  
13 and the child placing agency. The licensed capacity of each  
14 home shall be based on the recommendation of the child placing  
15 agency based on the needs of each child in care, the ability  
16 of the foster family to meet the individual needs of each  
17 child including any adoptive or biological children living in  
18 the home, the amount of safe physical plant space, the ratio  
19 of active and appropriate adult supervision, and the  
20 background experience and skill of the family foster parents.

21 a. If there are more than five children in a family  
22 foster group home including the family's own children, there  
23 must be an assessment completed by the child placing agency  
24 documented in the licensure file, determining that the home  
25 can appropriately meet the needs of all children living in the  
26 home. The appropriateness of the number of children in that  
27 home must be reassessed annually as part of the relicensure  
28 process.

29 b. In each family foster group home, a plan to address  
30 supervision appropriate to the needs of all children living in  
31 the home must be developed and approved by the child placing

1 agency. The plan may or may not include the requirement for  
2 24-hour-awake supervision, depending on the needs of the  
3 children in the home.

4 c. In a family foster group home, at least one parent  
5 must be a full time foster parent having no employment  
6 commitment outside the home.

7 (f) "License" means "license" as defined in s.  
8 120.52(9). A license under this section is issued to a family  
9 foster home or other facility and is not a professional  
10 license of any individual. Receipt of a license under this  
11 section shall not create a property right in the recipient. A  
12 license under this act is a public trust and a privilege, and  
13 is not an entitlement. This privilege must guide the finder of  
14 fact or trier of law at any administrative proceeding or court  
15 action initiated by the department.

16 (g) "Operator" means any onsite person ultimately  
17 responsible for the overall operation of a child-placing  
18 agency, family foster home, or residential child-caring  
19 agency, whether or not she or he is the owner or administrator  
20 of such an agency or home.

21 (h) "Owner" means the person who is licensed to  
22 operate the child-placing agency, family foster home, or  
23 residential child-caring agency.

24 (i) "Personnel" means all owners, operators,  
25 employees, and volunteers working in a child-placing agency,  
26 family foster home, or residential child-caring agency who may  
27 be employed by or do volunteer work for a person, corporation,  
28 or agency which holds a license as a child-placing agency or a  
29 residential child-caring agency, but the term does not include  
30 those who do not work on the premises where child care is  
31 furnished and either have no direct contact with a child or

1 have no contact with a child outside of the presence of the  
2 child's parent or guardian. For purposes of screening, the  
3 term shall include any member, over the age of 12 years, of  
4 the family of the owner or operator or any person other than a  
5 client, over the age of 12 years, residing with the owner or  
6 operator if the agency or family foster home is located in or  
7 adjacent to the home of the owner or operator or if the family  
8 member of, or person residing with, the owner or operator has  
9 any direct contact with the children. Members of the family of  
10 the owner or operator, or persons residing with the owner or  
11 operator, who are between the ages of 12 years and 18 years  
12 shall not be required to be fingerprinted, but shall be  
13 screened for delinquency records. For purposes of screening,  
14 the term "personnel" shall also include owners, operators,  
15 employees, and volunteers working in summer day camps, or  
16 summer 24-hour camps providing care for children. A volunteer  
17 who assists on an intermittent basis for less than 40 hours  
18 per month shall not be included in the term "personnel" for  
19 the purposes of screening, provided that the volunteer is  
20 under direct and constant supervision by persons who meet the  
21 personnel requirements of this section.

22 (j) "Residential child-caring agency" means any  
23 person, corporation, or agency, public or private, other than  
24 the child's parent or legal guardian, that provides staffed  
25 24-hour care for children in facilities maintained for that  
26 purpose, regardless of whether operated for profit or whether  
27 a fee is charged. Such residential child-caring agencies  
28 include, but are not limited to, maternity homes, runaway  
29 shelters, group homes that are administered by an agency,  
30 emergency shelters that are not in private residences, and  
31 wilderness camps. Residential child-caring agencies do not

1 include hospitals, boarding schools, summer or recreation  
2 camps, nursing homes, or facilities operated by a governmental  
3 agency for the training, treatment, or secure care of  
4 delinquent youth, or facilities licensed under s. 393.067 or  
5 s. 394.875 or chapter 397.

6 (k) "Screening" means the act of assessing the  
7 background of personnel and includes, but is not limited to,  
8 employment history checks as provided in chapter 435, using  
9 the level 2 standards for screening set forth in that chapter.  
10 Screening for employees and volunteers in summer day camps and  
11 summer 24-hour camps and screening for all volunteers included  
12 under the definition of "personnel" shall be conducted as  
13 provided in chapter 435, using the level 1 standards set forth  
14 in that chapter.

15 (l) "Summer day camp" means recreational, educational,  
16 and other enrichment programs operated during summer vacations  
17 for children who are 5 years of age on or before September 1  
18 and older.

19 (m) "Summer 24-hour camp" means recreational,  
20 educational, and other enrichment programs operated on a  
21 24-hour basis during summer vacation for children who are 5  
22 years of age on or before September 1 and older, that are not  
23 exclusively educational.

24 (5)(a) An application for a license shall be made on  
25 forms provided, and in the manner prescribed, by the  
26 department. The department shall make a determination as to  
27 the good moral character of the applicant based upon  
28 screening.

29 (b) Upon application, the department shall conduct a  
30 licensing study based on its licensing rules; shall inspect  
31 the home or the agency and the records, including financial

1 records, of the agency; and shall interview the applicant.  
2 The department may authorize a licensed child-placing agency  
3 to conduct the licensing study of a family foster home to be  
4 used exclusively by that agency and to verify to the  
5 department that the home meets the licensing requirements  
6 established by the department. Upon certification by a  
7 licensed child-placing agency that a family foster home meets  
8 the licensing requirements, the department shall issue the  
9 license.

10 (c) A licensed family foster home, child-placing  
11 agency, or residential child-caring agency which applies for  
12 renewal of its license shall submit to the department a list  
13 of personnel who have worked on a continuous basis at the  
14 applicant family foster home or agency since submitting  
15 fingerprints to the department, identifying those for whom a  
16 written assurance of compliance was provided by the department  
17 and identifying those personnel who have recently begun  
18 working at the family foster home or agency and are awaiting  
19 the results of the required fingerprint check, along with the  
20 date of the submission of those fingerprints for processing.  
21 The department shall by rule determine the frequency of  
22 requests to the Department of Law Enforcement to run state  
23 criminal records checks for such personnel except for those  
24 personnel awaiting the results of initial fingerprint checks  
25 for employment at the applicant family foster home or agency.

26 (d)1. The department may pursue other remedies  
27 provided in this section in addition to denial or revocation  
28 of a license for failure to comply with the screening  
29 requirements. The disciplinary actions determination to be  
30 made by the department and the procedure for hearing for  
31



1 applicants and licensees shall be in accordance with chapter  
2 120.

3           2. When the department has reasonable cause to believe  
4 that grounds for denial or termination of employment exist, it  
5 shall notify, in writing, the applicant, licensee, or summer  
6 or recreation camp, and the personnel affected, stating the  
7 specific record which indicates noncompliance with the  
8 screening requirements.

9           3. Procedures established for hearing under chapter  
10 120 shall be available to the applicant, licensee, summer day  
11 camp, or summer 24-hour camp, and affected personnel, in order  
12 to present evidence relating either to the accuracy of the  
13 basis for exclusion or to the denial of an exemption from  
14 disqualification.

15           4. Refusal on the part of an applicant to dismiss  
16 personnel who have been found not to be in compliance with the  
17 requirements for good moral character of personnel shall  
18 result in automatic denial or revocation of license in  
19 addition to any other remedies provided in this section which  
20 may be pursued by the department.

21           (e) At the request of the department, the local county  
22 health department shall inspect a home or agency according to  
23 the licensing rules promulgated by the department. Inspection  
24 reports shall be furnished to the department within 30 days of  
25 the request. Such an inspection shall only be required when  
26 called for by the licensing agency.

27           (f) All residential child-caring agencies must meet  
28 firesafety standards for such agencies adopted by the Division  
29 of State Fire Marshal of the Department of Insurance and must  
30 be inspected annually. At the request of the department,  
31 firesafety inspections shall be conducted by the Division of

1 State Fire Marshal or a local fire department official who has  
2 been certified by the division as having completed the  
3 training requirements for persons inspecting such agencies.  
4 Inspection reports shall be furnished to the department within  
5 30 days of a request.

6 (g) In the licensing process, the licensing staff of  
7 the department shall provide consultation on request.

8 (h) Upon determination that the applicant meets the  
9 state minimum licensing requirements, the department shall  
10 issue a license without charge to a specific person or agency  
11 at a specific location. A license may be issued if all the  
12 screening materials have been timely submitted; however, a  
13 license may not be issued or renewed if any person at the home  
14 or agency has failed the required screening. The license is  
15 nontransferable. A copy of the license shall be displayed in a  
16 conspicuous place. Except as provided in paragraph (j), the  
17 license is valid for 1 year from the date of issuance, unless  
18 the license is suspended or revoked by the department or is  
19 voluntarily surrendered by the licensee. The license is the  
20 property of the department.

21 (i) A license issued for the operation of a family  
22 foster home or agency, unless sooner suspended, revoked, or  
23 voluntarily returned, will expire automatically 1 year from  
24 the date of issuance except as provided in paragraph (j).  
25 Ninety days prior to the expiration date, an application for  
26 renewal shall be submitted to the department by a licensee who  
27 wishes to have the license renewed. A license shall be  
28 renewed upon the filing of an application on forms furnished  
29 by the department if the applicant has first met the  
30 requirements established under this section and the rules  
31 promulgated hereunder.

1           (j) Except for a family foster group home having a  
2 licensed capacity for more than five children,the department  
3 may issue a license that is valid for longer than 1 year but  
4 no longer than 3 years to a family foster home that:

5           1. Has maintained a license with the department as a  
6 family foster home for at least the 3 previous consecutive  
7 years;

8           2. Remains in good standing with the department; and

9           3. Has not been the subject of a report of child abuse  
10 or neglect with any findings of maltreatment.

11  
12 A family foster home that has been issued a license valid for  
13 longer than 1 year must be monitored and visited as frequently  
14 as one that has been issued a 1-year license. The department  
15 reserves the right to reduce a licensure period to 1 year at  
16 any time.

17           (k) The department may not license summer day camps or  
18 summer 24-hour camps. However, the department shall have  
19 access to the personnel records of such facilities to ensure  
20 compliance with the screening requirements.

21           Section 6. Subsection (24) of section 409.906, Florida  
22 Statutes, is amended to read:

23           409.906 Optional Medicaid services.--Subject to  
24 specific appropriations, the agency may make payments for  
25 services which are optional to the state under Title XIX of  
26 the Social Security Act and are furnished by Medicaid  
27 providers to recipients who are determined to be eligible on  
28 the dates on which the services were provided. Any optional  
29 service that is provided shall be provided only when medically  
30 necessary and in accordance with state and federal law.

31 Optional services rendered by providers in mobile units to

1 Medicaid recipients may be restricted or prohibited by the  
2 agency. Nothing in this section shall be construed to prevent  
3 or limit the agency from adjusting fees, reimbursement rates,  
4 lengths of stay, number of visits, or number of services, or  
5 making any other adjustments necessary to comply with the  
6 availability of moneys and any limitations or directions  
7 provided for in the General Appropriations Act or chapter 216.  
8 If necessary to safeguard the state's systems of providing  
9 services to elderly and disabled persons and subject to the  
10 notice and review provisions of s. 216.177, the Governor may  
11 direct the Agency for Health Care Administration to amend the  
12 Medicaid state plan to delete the optional Medicaid service  
13 known as "Intermediate Care Facilities for the Developmentally  
14 Disabled." Optional services may include:

15           (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The  
16 Agency for Health Care Administration, in consultation with  
17 the Department of Children and Family Services, may establish  
18 a targeted case-management ~~pilot~~ project in those counties  
19 identified by the Department of Children and Family Services  
20 and for all counties with a the community-based child welfare  
21 ~~project in Sarasota and Manatee counties~~, as authorized under  
22 s. 409.1671, which have been specifically approved by the  
23 department. ~~These projects shall be established for the~~  
24 ~~purpose of determining the impact of targeted case management~~  
25 ~~on the child welfare program and the earnings from the child~~  
26 ~~welfare program.~~ Results of targeted case management the pilot  
27 ~~projects shall be reported to the Child Welfare Estimating~~  
28 ~~Conference and the Social Services Estimating Conference~~  
29 ~~established under s. 216.136. The number of projects may not~~  
30 ~~be increased until requested by the Department of Children and~~  
31 ~~Family Services, recommended by the Child Welfare Estimating~~

1 ~~Conference and the Social Services Estimating Conference, and~~  
2 ~~approved by the Legislature.~~The covered group of individuals  
3 who are eligible to receive targeted case management include  
4 children who are eligible for Medicaid; who are between the  
5 ages of birth through 21; and who are under protective  
6 supervision or postplacement supervision, under foster-care  
7 supervision, or in shelter care or foster care. The number of  
8 individuals who are eligible to receive targeted case  
9 management shall be limited to the number for whom the  
10 Department of Children and Family Services has available  
11 matching funds to cover the costs. The general revenue funds  
12 required to match the funds for services provided by the  
13 community-based child welfare projects are limited to funds  
14 available for services described under s. 409.1671. The  
15 Department of Children and Family Services may transfer the  
16 general revenue matching funds as billed by the Agency for  
17 Health Care Administration.

18       Section 7. The Office of Program Policy Analysis and  
19 Government Accountability, in consultation with the Department  
20 of Children and Family Services and the Agency for Health Care  
21 Administration, shall conduct a review of the process for  
22 placing children for residential mental health treatment as  
23 specified in section 39.407(5), Florida Statutes. This review  
24 is to be used to determine whether changes are needed in this  
25 process. The integrity of the examination process that is  
26 intended to assure that only a child with an emotional  
27 disturbance or a serious emotional disturbance is placed in a  
28 residential mental health facility and to assure that a child  
29 who is diagnosed with an emotional disturbance or a serious  
30 emotional disturbance receives the most appropriate mental  
31 health treatment in the least-restrictive setting must be

1 maintained. The review shall analyze and make recommendations  
2 relative to issues pertinent to the process such as the number  
3 of children who are assessed and the outcomes of the  
4 assessments, the costs associated with the suitability  
5 assessments based on geographic differentials, delays in  
6 receiving appropriate mental health treatment services in both  
7 residential and nonresidential settings which can be  
8 attributed to the assessment process, and the need to expand  
9 the mental health professional groups who may conduct the  
10 suitability assessment. The Department of Children and Family  
11 Services shall submit a report of its findings and any  
12 proposed changes to substantive law to the Office of the  
13 Governor, the President of the Senate, and the Speaker of the  
14 House of Representatives by January 1, 2003.

15       Section 8. For fiscal year 2003-2004 and annually  
16 thereafter, the Department of Children and Family Services  
17 shall request, and the Governor shall recommend, the funding  
18 necessary to carry out section 409.1671(7)(i), Florida  
19 Statutes, in its legislative budget request from excess  
20 federal earnings. The General Appropriations Act shall include  
21 any funds appropriated for this purpose in a lump sum in the  
22 Administered Funds Program. The department shall submit a  
23 detailed operational plan, which must include the  
24 identification of the sources of specific trust funds to be  
25 used to cover the costs of the continuation of child welfare  
26 services. The release of the trust fund shall be subject to  
27 the notice and review provisions of section 216.177, Florida  
28 Statutes. However, the release shall not require approval of  
29 the Legislative Budget Commission.

30       Section 9. This act shall take effect July 1, 2002.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 632  
4  
5                   Requires that any funding increases for "Special Categories:  
6                   Grants and Aids-Residential Group Care" be appropriated in a  
7                   "lump-sum" category.  
8                   Specifies a process for appropriating funds in a lump sum in  
9                   the Administered Funds Program, beginning with fiscal year  
10                  2003-2004, to carry out the foster care and related services  
11                  if the community-based provider fails or discontinues to  
12                  provide services or if the community-based provider engages in  
13                  financial misconduct.  
14                  Modifies the provision for dual licensure for foster parents  
15                  who are also licensed as family day care providers by removing  
16                  the requirement for Gold Seal Quality Care designation and  
17                  specifying that the provider may receive both an out-of-home  
18                  care payment and a subsidized child care payment for the same  
19                  child.  
20                  Creates a statutory definition for "family foster group home"  
21                  which would continue to be licensed as a family foster home  
22                  but with the potential for added flexibility in terms of  
23                  capacity and supervision.  
24                  Requires that the Office of Program Policy Analysis and  
25                  Government Accountability rather than the Department of  
26                  Children and Family Services conduct a review of the process  
27                  for placing children who are in the state's custody in  
28                  residential mental health treatment facilities.  
29  
30  
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