



379156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2010	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 287.0575, Florida Statutes, is created to read:

287.0575 Outsourced human services.-

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

(a) "Financial impact" means an increase in reasonable costs of 5 percent or more in the annual aggregate payment to a contractor performing a contract for outsourced human services.

(b) "Human services" means services related to mental



379156

13 health, substance abuse, child welfare, or juvenile justice.

14 (c) "New governmental mandate" means a statutory
15 requirement, administrative rule, regulation, assessment,
16 executive order, judicial order, or other governmental
17 requirement, or an agency policy, that was not in effect when a
18 contract for the outsourcing of human services was originally
19 entered into and that directly imposes an obligation on the
20 contractor to take, or to refrain from taking, an action in
21 order to fulfill its contractual obligation.

22 (2) In order to create a more stable business environment
23 for providing outsourced human services and to ensure
24 accountability, eliminate duplication, and improve efficiency
25 with respect to the provision of such services:

26 (a) Notwithstanding any other provision of law, national
27 accreditation of human services providers by the Joint
28 Commission on Accreditation of Healthcare Organizations, the
29 Commission on Accreditation of Rehabilitation Facilities, and
30 the Council on Accreditation shall be accepted by state agencies
31 in lieu of the agency's facility licensure onsite review and
32 administrative requirements, and as a substitute for the state
33 agency's licensure, administrative, and program monitoring
34 requirements. Accreditation for administrative requirements
35 satisfies the administrative requirements for licensure during
36 the period of time that the accreditation is effective.

37 Notwithstanding the survey or inspection by an accreditation
38 organization, the department or agency may continue to inspect
39 and monitor the provider as necessary with respect to:

- 40 1. Reimbursement matters for any contract.
- 41 2. Complaint investigation, suspected problems, or the



379156

42 implementation of the terms of consent decrees or other orders.

43 3. Ensuring compliance with federal or state laws and rules
44 that are not covered by the accreditation.

45 (b) Each state agency that has been designated by the
46 Federal Government and state law as the authorized state entity
47 with respect to the provision of specified human services is the
48 lead agency for the designated human service population. By July
49 1, 2011, each lead agency shall:

50 1. Develop a common monitoring protocol that must be used
51 by all agencies serving the same population.

52 2. Implement a plan to coordinate monitoring activities
53 related to the delivery of services to the populations being
54 served by multiple state agencies.

55 3. Adopt rules that guide the delivery of service across
56 the jurisdictions of multiple state agencies serving the same
57 population and coordinate all monitoring activities.

58 4. Provide for a master list of core required documents for
59 contract monitoring purposes and provide for the collection of
60 such documents from each service provider. The department shall
61 establish an electronic document vault for the storage,
62 delivery, and retrieval of administrative documents required in
63 the regulatory review processes. To the greatest extent
64 possible, the department shall promote the development,
65 implementation, and maintenance of the document vault by
66 providers or provider trade associations.

67 (3) Contracts to outsource human services must:

68 (a) Provide that if a material change to the scope of the
69 contract is imposed upon a service provider and compliance with
70 such change will have a financial impact on the provider, the



379156

71 contracting agency must negotiate a contract amendment with the
72 service provider to increase the maximum obligation amount or
73 unit price of the contract to offset the financial impact of the
74 change if the service provider furnishes evidence to the
75 contracting agency of such financial impact along with a request
76 to renegotiate the contract based on the proposed change. The
77 provider may not be held to requirements or obligations that are
78 not required by law or are not included in the original contract
79 or by negotiated amendment.

80 (b) Ensure that:

81 1. Payment will be made on all items not under dispute and
82 that payment will not be withheld on undisputed issues pending
83 the resolution of those issues.

84 2. If the department engages an outside private entity to
85 engage in contract monitoring or otherwise delegates any
86 contract administration functions to an outside private entity,
87 such entity shall uniformly administer the contract and not
88 impose any requirements that exceed law, rule, or the contract
89 terms.

90 (c) Provide that any dispersed funds that remain unexpended
91 during the contract term are approved as authorized revenue and
92 carry over into the next year for the purposes of cash flow and
93 continuation of the contract, notwithstanding s. 216.301.

94 (d) Subject to appropriation, include provisions
95 authorizing an annual cost-of-living adjustment that reflects
96 increases in the consumer price index.

97 (4) State agencies shall provide an analysis of every new
98 governmental mandate, form, or procedure required of a service
99 provider under a contract for the outsourcing of human services



379156

100 which was not in effect when the contract was originally entered
101 into. The analysis must identify the cost to the provider of any
102 new requirements and must be transmitted to the provider before
103 any new mandate, form, or procedure may be used or implemented.
104 The analysis must also include a fiscal impact statement with
105 respect to each new form, procedure, or mandate required or
106 imposed.

107 (5) State agencies must accept all mandated reports and
108 invoices from service providers electronically and shall
109 establish a procedure that allows for posting all core documents
110 in secure electronic storage. If a service provider uses such
111 storage, the state agency must have access to the electronic
112 storage for monitoring core documents, and shall by rule or
113 contract require that the provider deposit administrative
114 documents requested by the department or agency in such storage.

115 (6) Any contractor aggrieved by the refusal or failure of a
116 governmental unit to negotiate a contract amendment to remedy
117 the financial impact of a new governmental mandate constitutes
118 an agency action for the purposes of chapter 120.

119 (7) Each agency shall annually review all contract
120 requirements, mandated reports, outcome measures, and other
121 requirements of a provider. The list must include citations to
122 reference sources for the mandate, such as laws, rules, or
123 policies. The list shall be submitted to the Governor.

124 Section 2. Paragraph (c) is added to subsection (6) of
125 section 216.136, Florida Statutes, to read:

126 216.136 Consensus estimating conferences; duties and
127 principals.—

128 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.—



379156

129 (c) The Social Services Estimating Conference shall be
130 convened annually for the purpose of developing information that
131 is related to mental health, substance abuse, child welfare, or
132 juvenile justice services needs, including, but not limited to,
133 enrollment, caseload, utilization, and expenditures that reflect
134 population growth and economic trends.

135 Section 3. This act shall take effect upon becoming a law.

136
137 ===== T I T L E A M E N D M E N T =====

138 And the title is amended as follows:

139 Delete everything before the enacting clause
140 and insert:

141 A bill to be entitled

142 An act relating to the procurement of contractual
143 services by a state agency; creating s. 287.0575,
144 F.S.; providing definitions; providing for the
145 national accreditation of human service providers in
146 lieu of certain licensure requirements; providing for
147 state agency inspection and monitoring for certain
148 purposes; requiring the state agency authorized to
149 provide a specified human service to coordinate all
150 multiagency monitoring activities; requiring the
151 Department of Management Services to establish an
152 electronic document vault for the storage of
153 administrative documents required in a regulatory
154 environment; requiring contracts for outsourced human
155 services to contain certain provisions; requiring
156 contracting state agencies to provide an analysis of
157 any costs to providers resulting from mandates that



379156

158 were not in effect at the time the contract was
159 entered into; requiring state agencies to accept all
160 mandated documents electronically; providing that
161 failure by a governmental entity to negotiate a
162 contract amendment or remedy a material adverse impact
163 of a new governmental mandate constitutes an agency
164 action for purposes of the Administrative Procedures
165 Act; requiring state agencies to review all provider
166 requirements and submit a list of such requirements to
167 the Governor; amending s. 216.136, F.S.; requiring the
168 Social Services Estimating Conference to convene
169 annually for the purpose of developing information
170 related to mental health, substance abuse, child
171 welfare, and juvenile justice services needs;
172 providing an effective date.