

CHAPTER 98-180

House Bill No. 3217

An act relating to the privatization of foster care and related services; amending s. 409.1671, F.S.; providing legislative intent; defining the terms “privatize,” “related services,” and “eligible lead community-based provider”; requiring the Department of Children and Family Services to develop a plan to accomplish statewide privatization within a specified time period and to submit the plan to the Governor and to designated legislative officials by a specified date; providing plan requirements; requiring the department to state whether and why privatization cannot be accomplished in a particular district or portion of a district and how the department will address the obstacles to privatization; providing for legal services; requiring that child welfare legal services be provided by specified providers; providing for case management responsibilities; providing for quality assurance; providing requirements for and restrictions upon funding for privatization; creating s. 415.5071, F.S.; providing for a model program for child protective investigative services, to be initiated in specified districts; requiring the department to contract with sheriffs in those districts; providing responsibilities of the department; requiring a report; providing for funding; providing for the creation of a specified committee which shall submit a required report; providing an effective date.

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

Section 1. Section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; privatization.—

(1)(a) It is the intent of the Legislature ~~that to encourage~~ the Department of Children and Family Services ~~shall privatize the provision of to contract with competent community-based agencies to provide~~ foster care and related services statewide. As used in this section, the term “privatize” means to contract with competent, community-based agencies. The department shall submit a plan to accomplish privatization statewide, through a competitive process, phased in over a 3-year period beginning January 1, 2000. This plan is to be submitted by July 1, 1999, to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the minority leaders of both houses. This plan must be developed with local community participation, including, but not limited to, input from community-based providers that are currently under contract with the department to furnish community-based foster care and related services, and must include a methodology for determining and transferring all available funds, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract. The methodology must provide for the transfer of funds appropriated and budgeted for all services and programs that have been incorporated into the project, including all

management, capital (including current furniture and equipment), and administrative funds to accomplish the transfer of these programs. This methodology must address expected workload and at least the 3 previous years' experience in expenses and workload. With respect to any district or portion of a district in which privatization cannot be accomplished within the 3-year timeframe, the department must clearly state in its plan the reasons the timeframe cannot be met and the efforts that should be made to remediate the obstacles, which may include alternatives to total privatization, such as public private partnerships. As used in this section, the term "related services" means ~~By privatizing these services, the support and commitment of communities to the reunification of families and care of children and their families will be strengthened, and efficiencies as well as increased accountability will be gained. These services may include family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, postadjudication legal services, foster care supervision, postadjudication case management, postplacement supervision, permanent foster care, and family reunification, the filing of a petition for the termination of parental rights, and adoption.~~ Unless otherwise provided for, beginning in fiscal year 1999-2000, either the state attorney or the Office of the Attorney General shall provide child welfare legal services, pursuant to chapter 39 and other relevant provisions, in Sarasota, Pinellas, Pasco, and Manatee Counties. Such legal services shall commence and be effective, as soon as determined reasonably feasible by the respective state attorney or the Office of the Attorney General, after the privatization of associated programs and child protective investigations has occurred. When a private nonprofit agency has received case management responsibilities, transferred from the state under this section, for a child who is sheltered or found to be dependent and who is assigned to the care of the privatization project, the agency may act as the child's guardian for the purpose of registering the child in school if a parent or guardian of the child is unavailable and his or her whereabouts cannot reasonably be ascertained. The private nonprofit agency may also seek emergency medical attention for such a child, but only if a parent or guardian of the child is unavailable, his or her whereabouts cannot reasonably be ascertained, and a court order for such emergency medical services cannot be obtained because of the severity of the emergency or because it is after normal working hours. However, the provider may not consent to sterilization, abortion, or termination of life support. If a child's parents' rights have been terminated, the nonprofit agency shall act as guardian of the child in all circumstances.

(b) As used in this section, the term "eligible lead community-based provider" means a single agency with which the department shall contract for the provision of child protective services in a community that is no smaller than a county. To compete for a privatization project, such agency must have:

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

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

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

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

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

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

(2) The department may contract for the delivery, administration, or management of protective services, the services specified in subsection (1) relating to foster care, and other related services or programs, as appropriate. The department shall retain responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(3)(a) ~~The department shall establish a quality assurance program for privatized the privatization of services. The quality assurance program may be performed by a national accrediting organization such as the Council on Accreditation of Services for Families and Children, Inc. (COA) or the Council on Accreditation of Rehabilitation Facilities (CARF). The department shall develop a request for proposal for such oversight. This program must be developed and administered at a statewide level. The Legislature intends that the department be permitted to have limited flexibility to use funds for improving quality assurance. To this end, effective January 1, 2000, the department may transfer up to 0.125 percent of the total funds from categories used to pay for these contractually provided services, but the total amount of such transferred funds may not exceed \$300,000 in any fiscal year. When necessary, the department may establish, in accordance with s. 216.177, additional positions that will be exclusively devoted to these functions. Any positions required under this paragraph may be established, notwithstanding ss. 216.262(1)(a) and 216.351. The quality assurance program must include standards for each specific component of these services. The department, in consultation with the community-based agencies that are undertaking the privatized projects, shall establish minimum thresholds for each component of service, consistent with standards established by the Legislature. Each program operated under pursuant to contract with a community-based agency must be evaluated annually by the department, or by an objective competent entity designated by the department under the provisions of the quality assurance program. The evaluation must be financed from cost savings associated with the privatization of services. The department shall submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, and the Governor no later than January 31 of each year~~

for each project in operation during the preceding fiscal year, ~~beginning in 1998. The quality assurance program must be funded through administrative savings generated by this act.~~

(b) ~~The department shall establish and operate a comprehensive system to measure and report annually the outcomes and effectiveness of the services that have been privatized. The department shall use these findings in making recommendations to the Governor and the Legislature for future program and funding priorities in the child welfare system.~~

(4)(a) ~~The community-based agency must comply with statutory requirements and agency rules regulations in the provision of contractual services. Each foster home, therapeutic foster home, emergency shelter, or other placement facility operated by the community-based agency or agencies must be licensed by the Department of Children and Family Services under chapter 402 or this chapter. Each community-based agency must be licensed as a child-caring or child-placing agency by the department under this chapter. The department, in order to eliminate or reduce the number of duplicate inspections by various program offices, shall coordinate inspections required pursuant to licensure of agencies under this section.~~

(b) ~~A community-based agency providing contractual services under this section may be issued a Medicaid provider number pursuant to s. 409.907 to enable the agency to maximize federal support for these services under the state's Medicaid plan. A community-based agency must also participate in and cooperate with any federal program that will assist in the maximization of federal support for those services, as directed by the department.~~

(5) ~~Beginning January 1, 1999, and continuing at least through December 31, 1999, the Department of Children and Family Services shall privatize all foster care and related services in district 5 while continuing to contract with the current model programs in districts 1, 4, and 13, and in subdistrict 8A, and shall expand the subdistrict 8A pilot program to incorporate Manatee County. Planning for the district 5 privatization shall be done by providers that are currently under contract with the department for foster care and related services and shall be done in consultation with the department. A lead provider of the district 5 program shall be competitively selected, must demonstrate the ability to provide necessary comprehensive services through a local network of providers, and must meet criteria established in this section. Beginning in fiscal year 1996-1997, the Department of Children and Family Services shall establish a minimum of five model programs. These models must be established in the department's districts 1, 4, and 13; in subdistrict 8A; and in a fifth district to be determined by the department, with the concurrence of the appropriate district health and human services board. For comparison of privatization savings, the fifth model program must be contracted with a competent for-profit corporation. Providers of these model programs may be selected from a single source pursuant to s. 287.057(3)(c) and must be established, community-based organizations within the district or subdistrict. Contracts with organizations responsible for the model programs must ~~shall~~ include the management and administration of all privatized services specified in subsection (1), ~~except for funds necessary to manage the contract. However, the department may~~~~

use funds for contract management only after obtaining written approval from the Executive Office of the Governor. The request for such approval must include, but is not limited to, a statement of the proposed amount of such funds and a description of the manner in which such funds will be used. If the community-based organization selected for a model program under this subsection is not a Medicaid provider, the organization shall be issued a Medicaid provider number pursuant to s. 409.907 for the provision of services currently authorized under the state Medicaid plan to those children encompassed in this model and in a manner not to exceed the current level of state expenditure.

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

Section 2. Section 415.5071, Florida Statutes, is created to read:

415.5071 Sheriffs of Pasco, Manatee, and Pinellas Counties to provide child protective investigative services; procedures; funding.—

(1) As described in this section, the Department of Children and Family Services shall, by the end of fiscal year 1999-2000, transfer all responsibility for child protective investigations for Pinellas County, Manatee County, and Pasco County to the sheriff of that county in which the child abuse, neglect, or abandonment is alleged to have occurred. Each sheriff is responsible for the provision of all child protective investigations in his or her county. Each individual who provides these services must complete the training provided to and required of protective investigators employed by the Department of Children and Family Services.

(2) During fiscal year 1998-1999, the Department of Children and Family Services and each sheriff's office shall enter into a contract for the provision of these services. Funding for the services will be appropriated to the Department of Children and Family Services, and the department shall transfer to the respective sheriffs for the duration of fiscal year 1998-1999, funding for the investigative responsibilities assumed by the sheriffs, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract, and including, but not limited to, funding for all investigative, supervisory, and clerical positions; training; all associated equipment; furnishings; and other fixed capital items. The contract must specify whether the department will continue to perform part or none of the child protective investigations during the initial year. The sheriffs may either conduct the investigations themselves or may, in turn, subcontract with law enforcement officials or with properly trained employees of private agencies to conduct investigations related to neglect cases only. If such a subcontract is awarded, the sheriff must take full responsibility for any safety decision made by the subcontractor and must immediately respond with law enforcement staff to any situation that requires removal of a child due to a condition that poses an immediate threat

to the child's life. The contract must specify whether the services are to be performed by departmental employees or by persons determined by the sheriff. During this initial year, the department is responsible for quality assurance, and the department retains the responsibility for the performance of all child protective investigations. The department must identify any barriers to transferring the entire responsibility for child protective services to the sheriffs' offices and must pursue avenues for removing any such barriers by means including, but not limited to, applying for federal waivers. By January 15, 1999, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that describes any remaining barriers, including any that pertain to funding and related administrative issues. Unless the Legislature, on the basis of that report or other pertinent information, acts to block a transfer of the entire responsibility for child protective investigations to the sheriffs' offices, the sheriffs of Pasco County, Manatee County, and Pinellas County, beginning in fiscal year 1999-2000, shall assume the entire responsibility for such services, as provided in subsection (3).

(3)(a) Beginning in fiscal year 1999-2000, the sheriffs of Pasco County, Manatee County, and Pinellas County have the responsibility to provide all child protective investigations in their respective counties.

(b) The sheriffs of Pasco County, Manatee County, and Pinellas County shall operate, at a minimum, in accordance with the performance standards established by the Legislature for protective investigations conducted by the Department of Children and Family Services.

(c) Funds for providing child protective investigations in Pasco County, Manatee County, and Pinellas County must be identified in the annual appropriation made to the Department of Children and Family Services, which shall award grants for the full amount identified to the respective sheriffs' offices. Funds for the child protective investigations may not be integrated into the sheriffs' regular budgets. Budgetary data and other data relating to the performance of child protective investigations must be maintained separately from all other records of the sheriffs' offices.

(d) Program performance evaluation shall be based on criteria mutually agreed upon by the respective sheriffs and a committee of seven persons appointed by the Governor and selected from those persons serving on the Department of Children and Family Services District 5 Health and Human Services Board and District 6 Health and Human Services Board. Two of the Governor's appointees must be residents of Pasco County, two of the Governor's appointees must be residents of Manatee County, and two of the Governor's appointees must be residents of Pinellas County. Such appointees shall serve at the pleasure of the Governor. The individuals appointed must have demonstrated experience in outcome evaluation, social service areas of protective investigation, or child welfare supervision. The committee shall submit an annual report regarding quality performance, outcome-measure attainment and cost efficiency, to the President of the Senate, the Speaker of the House of Representatives, and to the Governor no later than January 31 of each year the sheriffs are receiving general appropriations to provide child protective investigations.

Section 3. This act shall take effect July 1 of the year in which enacted.

Approved by the Governor May 22, 1998.

Filed in Office Secretary of State May 22, 1998.