

Committee Substitute for  
Committee Substitute for Senate Bill No. 1214

An act relating to foster care; amending s. 20.19, F.S.; modifying the authority for lead agencies to provide services; amending s. 39.402, F.S.; requiring department recommend visitation schedule; requiring that participation in services not be considered admission of allegations; amending s. 39.521, F.S., relating to disposition hearings; providing that certain children must be assessed for placement and placed in licensed residential group care; requiring results of an assessment to be reviewed by the court; requiring certain residential group care facilities to establish permanency teams; requiring that the Department of Children and Family Services report to the Legislature each year on the number of children placed in residential group care and the number of children for whom placement was unavailable; amending s. 409.1671, F.S.; redefining the term "related services"; providing for a plan to be used as an alternative to procuring foster care services through an eligible lead community-based provider; creating s. 409.1676, F.S.; providing for comprehensive residential services to children who have extraordinary needs; defining terms; providing for the Department of Children and Family Services to contract with specified entities for such services; specifying duties of the contracting entity; providing legal authority of the contracting entity to authorize specified activities for children served; prescribing departmental duties; creating s. 409.1677, F.S.; providing for model comprehensive residential services programs in specified counties; defining terms; providing for the programs to be established through contracts between the department and specified entities; prescribing the content of each model program; establishing responsibilities of the contracting private entity; providing legal authority of the contracting private entity to authorize certain activities for children served; prescribing departmental duties; creating s. 409.1679, F.S.; prescribing additional requirements for the programs established under ss. 409.1676, 409.1677, F.S., including requirements relating to reimbursement methodology and program evaluation; requiring the department to provide progress reports to the Legislature; amending s. 409.175, F.S.; allowing a family foster home license to be valid for an extended period in specified circumstances; amending s. 409.176, F.S.; providing for compliance with uniform fire safety standards; amending s. 435.045, F.S., relating to placement of dependent children, authorizing department to conduct criminal records checks; amending s. 784.081, F.S., relating to upgrading the seriousness of the offense if a person commits an assault or a battery against specified officials or employees; including on the list of such officials and employees an employee of a lead community-based provider and its direct-service contract providers; requiring the Office of Program Policy Analysis and Government Accountability to provide the Legislature with a report on the status of the child protection program; providing an effective date.

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

Section 1. Paragraph (c) of subsection (7) of section 20.19, Florida Statutes, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(7) PROTOTYPE REGION.—

(c) The department is authorized to contract for children's services with a lead agency in each county of the prototype area, except that the lead agency contract may cover more than one county when it is determined that such coverage will provide more effective or efficient services. The duties of the lead agency shall include, but not necessarily be limited to:

1. Directing and coordinating the program and children's services within the scope of its contract.

2. Providing or contracting for the provision of core services, including intake and eligibility, assessment, service planning, and case management. ~~However, a lead agency may obtain approval from the department to provide core services, including intake and eligibility, assessment, service planning, and case management, upon a finding by the department that such lead agency is the only appropriate organization within the service district capable of providing such service or services within the department's quality assurance and performance standards.~~

3. Creating a service provider network capable of delivering the services contained in client service plans, which shall include identifying the necessary services, the necessary volume of services, and possible utilization patterns and negotiating rates and expectations with providers.

4. Managing and monitoring of provider contracts and subcontracts.

5. Developing and implementing an effective bill payment mechanism to ensure all providers are paid in a timely fashion.

6. Providing or arranging for administrative services necessary to support service delivery.

7. Utilizing departmentally approved training and meeting departmentally defined credentials and standards.

8. Providing for performance measurement in accordance with the department's quality assurance program and providing for quality improvement and performance measurement.

9. Developing and maintaining effective interagency collaboration to optimize service delivery.

10. Ensuring that all federal and state reporting requirements are met.

11. Operating a consumer complaint and grievance process.

12. Ensuring that services are coordinated and not duplicated with other major payors, such as the local schools and Medicaid.

13. Any other duties or responsibilities defined in s. 409.1671 related to community-based care.

Section 2. Present subsection (15) of section 39.402, Florida Statutes, is redesignated as subsection (16), subsection (9) is amended and a new subsection (15) is added to that section, to read:

39.402 Placement in a shelter.—

(9) At any shelter hearing, the department shall provide to the court a recommendation for scheduled contact between the child and parents, if appropriate. The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. If visitation is ordered but will not commence within 72 hours of the shelter hearing, the department shall provide justification to the court.

(10) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when such services are necessary for the child's health and safety.

(11) If a child is placed in a shelter pursuant to a court order following a shelter hearing, the court shall require in the shelter hearing order that the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate. The shelter order shall also require the parents to provide to the department and any other state agency or party designated by the court, within 28 days after entry of the shelter order, the financial information necessary to accurately calculate child support pursuant to s. 61.30.

(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(13) A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency. A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition has been entered by the court.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem,

if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or legal custodian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents or legal custodians; however, the petitioner shall continue regular efforts to provide notice to the parents or legal custodians during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(15) The department at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking voluntary services, any referral information necessary for participation in such identified services. The parents' or legal custodians' participation in the services shall not be considered an admission or other acknowledgement of the allegations in the shelter petition.

~~(16)~~(15) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and every 15 days thereafter until the child is released from shelter status.

Section 3. Present subsections (5), (6), and (7) of section 39.521, Florida Statutes, are redesignated as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section, to read:

39.521 Disposition hearings; powers of disposition.—

(5)(a) In districts 4, 11, and 12 and in the Suncoast Region of the department and, except as provided in s. 39.407, any child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once must be assessed for placement in licensed residential group care. The assessment procedures shall be conducted by the department or its agent and shall incorporate and address current and

historical information from any psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; information regarding the placement of any siblings of the child and the impact of the child's placement in residential group care on the child's siblings; the circumstances necessitating the moves of the child while in family foster care and the recommendations of the former foster families, if available; the status of the child's case plan and a determination as to the impact of placing the child in residential group care on the goals of the case plan; the age, maturity, and desires of the child concerning placement; the availability of any less restrictive, more family-like setting for the child in which the foster parents have the necessary training and skills for providing a suitable placement for the child; and any other information concerning the availability of suitable residential group care. If such placement is determined to be appropriate as a result of this procedure, the child must be placed in residential group care, if available.

(b) The results of the assessment described in paragraph (a) and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and the permanency planning for the child.

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

(d) This subsection does not prohibit the department from assessing and placing children who do not meet the criteria in paragraph (a) in residential group care if such placement is the most appropriate placement for such children.

(e) By December 1 of each year beginning in 2001, the department shall report to the Legislature on the placement of children in licensed residential group care during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed. The department shall maintain data specifying the number of children who were referred to licensed residential child care for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report to the Legislature due on December 1, so that the Legislature may consider this information in developing the General Appropriations Act.

(f) The provisions of this subsection shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

Section 4. Subsection (1) of 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 the Department of Children and Family Services shall privatize the provision of foster care and related services statewide. It is further the Legislature's intent to encourage communities and other stakeholders in the well-being of children to participate in assuring that children are safe and well-nurtured. However, while recognizing that some local governments are presently funding portions of certain foster care and related services programs and may choose to expand such funding in the future, the Legislature does not intend by its privatization of foster care and related services that any county, municipality, or special district be required to assist in funding programs that previously have been funded by the state. Nothing in this paragraph prohibits any county, municipality, or special district from future voluntary funding participation in foster care and related services. 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 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" includes, but is not limited to, ~~means~~ family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification. 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, Broward, 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. The secretary of the department may authorize more than one eligible lead community-based provider within a single county when to do so will result in more effective delivery of foster care and related services. 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.

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

(c)1. If attempts to competitively procure services through an eligible lead community-based provider as defined in paragraph (b) do not produce a capable and willing agency, the department shall develop a plan in collaboration with the local community alliance. The plan must detail how the

community will continue to implement privatization through competitively procuring either the specific components of foster care and related services or comprehensive services for defined eligible populations of children and families from qualified licensed agencies as part of its efforts to develop the local capacity for a community-based system of coordinated care. The plan must ensure local control over the management and administration of the service provision in accordance with the intent of this section and may include recognized best business practices, including some form of public or private partnerships. In the absence of a community alliance, the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives for their comments.

~~2.1.~~ The Legislature finds that the state has traditionally provided foster care services to children who have been the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services need to be privatized pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose for such privatization is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. One of the components necessary to secure a safe and stable environment for such children is that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers without the resources of such providers being significantly reduced by the cost of maintaining such insurance.

~~3.2.~~ The Legislature further finds that, by requiring the following minimum levels of insurance, children in privatized foster care and related services will gain increased protection and rights of recovery in the event of injury than provided for in s. 768.28.

(d) Other than an entity to which s. 768.28 applies, any eligible lead community-based provider, as defined in paragraph (b), or its employees or officers, except as otherwise provided in paragraph (e), must, as a part of its contract, obtain a minimum of \$1 million per claim/\$3 million per incident in general liability insurance coverage. In any tort action brought against such an eligible lead community-based provider, net economic damages shall be limited to \$1 million per claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such an eligible lead community-based provider, noneconomic damages shall be limited to \$200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76. The lead community-based provider shall not be liable in tort for the acts or omissions of its subcontractors or the officers, agents, or employees of its subcontractors.

(e) The liability of an eligible lead community-based provider described in this section shall be exclusive and in place of all other liability of such

provider. The same immunities from liability enjoyed by such providers shall extend as well to each employee of the provider when such employee is acting in furtherance of the provider's business. Such immunities shall not be applicable to a provider or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same provider when each is operating in the furtherance of the provider's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a provider shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(f) Any subcontractor of an eligible lead community-based provider, as defined in paragraph (b), which is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (e), must, as a part of its contract, obtain a minimum of \$1 million per claim/\$3 million per incident in general liability insurance coverage. In any tort action brought against such subcontractor, net economic damages shall be limited to \$1 million per claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such subcontractor, noneconomic damages shall be limited to \$200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

(g) The liability of a subcontractor of an eligible lead community-based provider that is a direct provider of foster care and related services as described in this section shall be exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such subcontractor provider shall extend as well to each employee of the subcontractor when such employee is acting in furtherance of the subcontractor's business. Such immunities shall not be applicable to a subcontractor or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same subcontractor when each is operating in the furtherance of the subcontractor's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a subcontractor shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or

policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

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

Section 5. Section 409.1676, Florida Statutes, is created to read:

409.1676 Comprehensive residential services to children who have extraordinary needs.—

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

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

(a) “Residential group care” means a living environment for children who have been adjudicated dependent and are expected to be in foster care for at least 6 months with 24-hour-awake staff or live-in group home parents or staff. Beginning July 1, 2001, all facilities must be appropriately licensed in this state, and they must be accredited by July 1, 2005.

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

(3) The department, in accordance with a specific appropriation for this program, shall contract with a not-for-profit corporation, a local government entity, or the lead agency that has been established in accordance with s. 409.1671 for the performance of residential group care services described in this section in, at a minimum, districts 4, 11, 12, and the Suncoast Region of the Department of Children and Family Services and with a not-for-profit entity serving children from multiple districts. A lead agency that is currently providing residential care may provide this service directly with the approval of the local community alliance. The department or a lead agency

may contract for more than one site in a county if that is determined to be the most effective way to achieve the goals set forth in this section.

(4) The lead agency, the contracted not-for-profit corporation, or the local government entity is responsible for a comprehensive assessment, residential care, transportation, behavioral health services, recreational activities, clothing, supplies and miscellaneous expenses associated with caring for these children, for necessary arrangement for or provision of educational services, and for assuring necessary and appropriate health and dental care.

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

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

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

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

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

Section 6. Section 409.1677, Florida Statutes, is created to read:

409.1677 Model comprehensive residential services programs.—

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

(a) "Residential group care" means a living environment for children who have been adjudicated dependent and are expected to be in foster care for a minimum of 6 months with 24-hour-awake staff or live-in group home parents or staff. Beginning July 1, 2001, all facilities must be appropriately licensed in this state, and they must be accredited by July 1, 2005.

(b) "Serious behavioral problems" means behaviors of children who have been assessed by a licensed master's-level human-services professional to need at a minimum intensive services but who do not meet the criteria of

s. 394.492(6) or s. 394.492(7). A child with an emotional disturbance as defined in s. 394.492(5) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate.

(2) The department shall establish a model comprehensive residential services program in Dade and Manatee Counties through a contract with the designated lead agency established in accordance with s. 409.1671 or with a private entity capable of providing residential group care and home-based care and experienced in the delivery of a range of services to foster children, if no lead agency exists. These model programs are to serve that portion of eligible children within each county which is specified in the contract, based on funds appropriated, to include a full array of services for a fixed price. The private entity or lead agency is responsible for all programmatic functions necessary to carry out the intent of this section.

(3) Each model must include:

(a) A focus on serving the full range of children in foster care, including those who have specialized needs, such as children who are unlikely to be reunited with their families or placed in adoptive homes; sibling groups; children who have serious behavioral problems; and children who are victims of sexual abuse.

(b) For each child who is in care, the provision of or arrangements for a comprehensive assessment; residential care; transportation; behavioral health services; recreational activities; clothing, supplies, and miscellaneous expenses associated with caring for these children; educational services; necessary and appropriate health and dental care; legal services; and after-care services.

(c) A commitment and ability to find and use innovative approaches to address the problems in the traditional foster care system, such as high caregiver turnover, disrupted and multiple placements, runaway behavior, and abusive or nontherapeutic care.

(d) The provision of a full range of residential services tailored to the individual needs of each child in care, including group homes for initial assessment and for stabilization; professional and traditional foster homes; residential group care provided in a setting that is homelike and provides care in residences housing no more than 12 children and staffed with full-time, appropriately trained house parents; and independent living apartments. The programs are designed for children who must enter the foster care system, but the use of placement with relatives as part of a child's care is encouraged.

(e) The provision of the full range of administrative services necessary to operate the program.

(f) Specific eligibility criteria established in the contract, including a "no-reject-no-eject" commitment with the described eligible children, unless the court determines that the placement is not in a child's best interest.

(g) An ability, through its trained, multidisciplinary staff, to facilitate the achievement of the permanency goals of the children who are in care.

(h) The design and utilization of a retired-volunteer mentor program that would make use of the skills of retired individuals in helping to meet the needs of both the children in care and their caregivers.

(i) The willingness and ability to assume financial risk for the care of children referred to the program under the contract.

(j) The willingness and ability to serve as a research and teaching laboratory for departmental and community-based care programs throughout the state in an effort to improve the quality of foster care.

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

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

(6) The department shall provide technical assistance as requested and contract-management services.

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

Section 7. Section 409.1679, Florida Statutes, is created to read:

409.1679 Additional requirements, effective date, reimbursement methodology, and evaluation.—

(1) The programs established under ss. 409.1676 and 409.1677 are to be operational within 6 months after those sections take effect, and, beginning 1 month after this section takes effect and continuing until full operation of those programs is realized, the department shall provide to the Legislature monthly written status reports on the progress toward implementing those programs.

(2) The programs established under ss. 409.1676 and 409.1677 must be included as part of the annual evaluation currently required under s. 409.1671. With respect to these specific programs and models, the annual evaluation must be conducted by an independent third party and must include, by specific site, the level of attainment of the targeted outcomes listed in subsection (3). The evaluation of the model programs must include, at a minimum, an assessment of their cost-effectiveness, of their ability to

successfully implement the assigned program elements, and of their attainment of performance standards that include legislatively established standards for similar programs and other standards determined jointly by the department and the providers and stated in a contract.

(3) Each program established under ss. 409.1676 and 409.1677 must meet the following expectations, which must be included in its contracts with the department or lead agency:

(a) No more than 10 percent of the children served may move from one living environment to another, unless the child is returned to family members or is moved, in accordance with the treatment plan, to a less-restrictive setting. Each child must have a comprehensive transitional plan that identifies the child's living arrangement upon leaving the program and specific steps and services that are being provided to prepare for that arrangement. Specific expectations as to the time period necessary for the achievement of these permanency goals must be included in the contract.

(b) Each child must receive a full academic year of appropriate educational instruction. No more than 10 percent of the children may be in more than one academic setting in an academic year, unless the child is being moved, in accordance with an educational plan, to a less-restrictive setting. Each child must demonstrate academic progress and must be performing at grade level or at a level commensurate with a valid academic assessment.

(c) Siblings must be kept together in the same living environment 100 percent of the time, unless that is determined by the provider not to be in the children's best interest. When siblings are separated in placement, the decision must be reviewed and approved by the court within 30 days.

(d) The program must experience a caregiver turnover rate and an incidence of child runaway episodes which are at least 50 percent below the rates experienced in the rest of the state.

(e) In addition to providing a comprehensive assessment, the program must provide, 100 percent of the time, any or all of the following services that are indicated through the assessment: residential care; transportation; behavioral health services; recreational activities; clothing, supplies, and miscellaneous expenses associated with caring for these children; necessary arrangements for or provision of educational services; and necessary and appropriate health and dental care.

(f) The children who are served in this program must be satisfied with the services and living environment.

(g) The caregivers must be satisfied with the program.

(4) Notwithstanding the provisions of s. 409.141, the Department of Children and Family Services shall fairly and reasonably reimburse the programs established under ss. 409.1676 and 409.1677 based on a prospective per-diem rate, which must be specified annually in the General Appropriations Act. Funding for these programs shall be made available from resources appropriated and identified in the General Appropriations Act.

Section 8. Present paragraph (j) of subsection (5) of section 409.175, Florida Statutes, is redesignated as paragraph (k), paragraphs (h) and (i) of that subsection are amended, and a new paragraph (j) is added to that subsection, to read:

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

(5)

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

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

(j) The department may issue a license that is valid for longer than 1 year but no longer than 3 years to a family foster home that:

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

2. Remains in good standing with the department; and

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

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

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

Section 9. Paragraph (a) of subsection (2) of section 409.176, Florida Statutes, is amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(1)(a) A residential child-caring agency or family foster home may not receive a child for continuing full-time care or custody, and a residential child-caring agency may not place a child for full-time continuing care or custody in a family foster home, unless it has first registered with an association that is certified by a Florida statewide child care organization which was in existence on January 1, 1984, and which publishes, and requires compliance with, its standards and files copies thereof with the department as provided in paragraph (5)(b). For purposes of this section, such an association shall be referred to as the “qualified association.”

(b) For the purposes of this section, the terms “child,” “family foster home,” “screening,” and “residential child-caring agency” are defined as provided in s. 409.175(2), and the terms “personnel,” “operator,” and “owner” as they pertain to “residential child-caring agency” are defined as provided in s. 409.175.

(c) As used in this section, the term “facility” means a residential child-caring agency or a family foster home.

(2)(a) Registration shall consist of annually filing with the qualified association, on forms provided by the qualified association, the name and address of the facility; the capacity of, and the number of children being cared for in, the facility; the names and addresses of the officers and the board of directors or other governing body of the organization, if applicable; the name of the officer or person in charge of the facility; and proof that the facility is in compliance with the minimum fire, health, sanitary, and safety standards required by applicable state law or local ordinance, and the uniform fire safety standards required by chapter 633, and in compliance with the requirements for screening of personnel in s. 409.175 and chapter 435. A separate registration form shall be filed for each such facility.

(b) As part of the registration application, each child-caring agency and each family foster home shall annually provide to the qualified association the names and ages of children being cared for in the facility; the names of children who have been received from out of state or who have been sent out of state during the past calendar year; the names of children who have left the facility during the past year, the lengths of their stays, and the nature of the placements; the names of all personnel; and proof that the facility is in compliance with published minimum standards that are filed with the department under the provisions of paragraph (5)(b). The agency shall also attest to the good moral character of the personnel of the facility by providing proof of compliance with the screening requirements of s. 409.175 and chapter 435 and provide the name of any member of the staff having a prior felony conviction.

(c) Upon verification that all requirements for registration have been met, the qualified association shall issue without charge a certificate of registration valid for 1 year.

Section 10. Section 435.045, Florida Statutes, is amended to read:

435.045 Requirements for placement of dependent children prospective foster or adoptive parents.—

(1)(a) Unless an election provided for in subsection (2) is made with respect to the state, the department ~~is authorized to shall~~ conduct criminal records checks equivalent to the level 2 screening required in s. 435.04(1) for any person being considered by the department for placement of a child subject to a placement decision pursuant to ch. 39, Florida Statutes, prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments under s. 471 of the Social Security Act, 42 U.S.C. s. 671, are to be made. Approval shall not be granted:

1. In any case in which a record check reveals a felony conviction for child abuse, abandonment, or neglect; for spousal abuse; for a crime against children, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery, if the department finds that a court of competent jurisdiction has determined that the felony was committed at any time; and

2. In any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if the department finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years.

(b) Notwithstanding paragraph (a), the department may place a child in a foster home which otherwise meets licensing requirements if state and local criminal records checks do not disqualify the applicant and the department has submitted fingerprint information to the Florida Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the federal criminal records check.

(c) Prospective and approved foster parents must disclose to the department any prior or pending local, state, or federal criminal proceedings in which they are or have been involved.

(2) For purposes of this section, and ss. 39.401(3) and 39.521(1)(d), the department and its authorized agents or contract providers are hereby designated a criminal justice agency for the purposes of accessing criminal justice information, including National Crime Information Center information, to be used for enforcing Florida's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purposes.

(3) Subsection (2) shall not apply if the Governor has notified the Secretary of the United States Department of Health and Human Services in writing that the state has elected to make subsection (2) inapplicable to the

state, or if the Legislature, by law, has elected to make subsection (2) inapplicable to the state.

Section 11. Section 784.081, Florida Statutes, is amended to read:

784.081 Assault or battery on specified officials or employees; reclassification of offenses.—Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any elected official or employee of: a school district; a private school; the Florida School for the Deaf and the Blind; a university developmental research school; a state university or any other entity of the state system of public education, as defined in s. 228.041; ~~or an employee or protective investigator of the Department of Children and Family Services; or an employee of a lead~~ community-based provider and its direct service contract providers, when the person committing the offense knows or has reason to know the identity or position or employment of the victim, the offense for which the person is charged shall be reclassified as follows:

(1) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(2) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(3) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(4) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

Section 12. Status report on the child protection program.—

(1) The Office of Program Policy Analysis and Government Accountability shall provide the Legislature with a report on the status of the child protection program. The report shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of each house of the Legislature, and the appropriate substantive committees of each house of the Legislature, no later than February 1, 2002.

(2) The status report shall contain, at a minimum:

(a) The most current statistical information from the abuse hotline.

(b) The most current data on the number of abuse and neglect cases that are not closed within 60 days, by district.

(c) Reasons cases are not closed, by district.

(d) The turnover rate of the child protective investigator staff, by district.

(e) Strategies to retain child protective investigator staff.

(f) Factors that are creating caseload increases in district 7 and other districts, including strategies to address these factors.

(g) The most current statistical information concerning the number of foster homes recruited, the number of additional foster homes needed, and the description of the department's effort to recruit foster homes.

(h) The department's progress in implementing the HomeSafeNet information system.

(i) The progress made in implementing the recommendations of the Office of Program Policy Analysis and Government Accountability in the March 2001 justification review of the child protection program.

Section 13. This act shall take effect July 1, 2001.

Approved by the Governor May 29, 2001.

Filed in Office Secretary of State May 29, 2001.