

1 **SYNOPSIS:** An act relating to procurement of contractual services by a state
2 agency; creating s. 287.0575, F.S.; providing definitions; providing intent
3 with respect to certain requirements relating to the provision of outsourced
4 human services related to mental health, substance abuse, child welfare, or
5 juvenile justice; requiring the acceptance by state agencies of national
6 accreditation of providers of such human services in lieu of, and as a
7 substitute for, specified agency licensing, administrative, and program
8 requirements; requiring that a state agency designated by the Federal
9 Government as a controlling state authority with respect to the provision of
10 specific human services function as the lead agency for the designated
11 service population; providing requirements of lead agencies; providing
12 requirements with respect to contracts for such services; requiring state
13 agencies to provide an analysis that identifies specified costs to human
14 services providers; requiring a fiscal impact statement; requiring state
15 agencies to accept mandated reports and invoices electronically and establish
16 a procedure that allows for posting of all core documents in secure
17 electronic storage; providing for agency access to such storage for
18 monitoring core documents; providing that failure by a governmental entity to
19 negotiate a contract amendment to remedy a material adverse financial impact
20 of a new governmental mandate constitutes an agency action for purposes of
21 the Administrative Procedure Act; providing for annual reports by state
22 agencies; *amending s. 216.136, F.S.*; requiring the Social Services Estimating
23 Conference to convene annually for the purpose of developing information
24 related to mental health, substance abuse, child welfare, and juvenile
25 justice services needs; providing an effective date.

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

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

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30 287.0575 OUTSOURCED HUMAN SERVICES RELATED TO MENTAL HEALTH, SUBSTANCE ABUSE,
31 CHILD WELFARE, OR JUVENILE JUSTICE.

32 (1) FOR THE PURPOSES OF THIS SECTION:

33 (a) "administrative monitoring" means a review of organization-wide
34 practices via a review of documents, policies, procedures, and official
35 reports in the following areas:

36 1. Governance, including but not limited to, board composition,
37 bylaws, board and committee minutes, organizational documents, organizational
38 charts.

39 2. Finance and accounting, including but not limited to, policies,
40 cash management, payroll, expenditure reports, IRS filings, budgets, financial
41 statements and audits.

42 3. Human resources management, including but not limited to, policies
43 and procedures, training and staff development.

44 4. Information technology, including but not limited to, security
45 procedures, HIPPA compliance, hardware and software configurations and
46 protocols, data management, internet design and management, and transmission
47 protocols.

48 5. Quality management, including but not limited to, client rights,
49 client handbooks, risk management procedures, service standard policies and
50 procedures, and compliance audits or surveys.

51 (b) "financial impact" means an increase in reasonable costs of five
52 percent or more in the annual aggregate payment to a contractor in performing
53 a contract for the outsourcing of human services related to mental health,
54 substance abuse, child welfare, or juvenile justice.

55 (c) "new governmental mandate" means a statutory requirement,
56 administrative rule, regulation, assessment, executive order, judicial order,
57 or other governmental requirement, or an agency policy, that was not in effect
58 when a contract for the outsourcing of human services related to mental
59 health, substance abuse, child welfare, or juvenile justice was originally
60 entered into and that directly imposes an obligation on the contractor.

61 (2) to create a more stable business environment for providing outsourced
62 human services related to mental health, substance abuse, child welfare, or
63 juvenile justice and to ensure accountability, eliminate duplication, and

64 improve efficiency:

65 (a) notwithstanding any provision of law to the contrary, national
66 accreditation of human services providers by the joint commission on
67 accreditation of healthcare organizations, the commission on accreditation of
68 rehabilitation facilities, and the council on accreditation shall be accepted
69 by state agencies in lieu of the agency's facility licensure onsite review
70 requirements and administrative requirements and shall be accepted as a
71 substitute for the state agency's licensure, administrative, and program
72 monitoring requirements. Accreditation for administrative requirements shall
73 satisfy any administrative requirements for licensure during the period of
74 time the accreditation is effective. Notwithstanding the survey or inspection
75 by an accreditation organization, the department or agency may continue to
76 inspect and monitor the provider as necessary with respect to:

- 77 1. Reimbursement matters for any contract.
- 78 2. In connection with any complaint investigation, suspected problems,
79 or to implement the terms of any consent decrees or other orders.
- 80 3. To ensure compliance with federal or state laws and rules to the
81 extent not covered by the accreditation.
- 82 4. Any health or safety requirements or concerns.

83 (b) each state agency that has been designated by the federal government
84 and state law as the controlling state authority with respect to the provision
85 of specific services related to mental health, substance abuse, child welfare,
86 or juvenile justice shall be the lead agency for the designated service
87 population. Each lead agency shall:

- 88 1. Develop a common monitoring protocol by July 1, 2011 that must be
89 utilized by all agencies serving the same population.
- 90 2. Implement a plan by July 1, 2011 to coordinate monitoring activities
91 related to the delivery of services to the populations being served by
92 multiple state agencies.
- 93 3. Promulgate by July 1, 2011 rules that guide delivery of service
94 across the jurisdictions of multiple state agencies serving the same
95 population and coordinate all monitoring activities.

96 4. By July 1, 2011 provide for a master list of core required documents
97 for contract monitoring purposes and provide for the collection of such
98 documents from each service provider. The department shall accept an
99 electronic document vault for storage, delivery and retrieval of
100 administrative monitoring documents required under this section or in the
101 regulatory review processes. To the greatest extent possible the department
102 shall promote the use of the document vault programming and systems developed,
103 implemented, and maintained by providers or trade associations of providers.

104 (3) contracts to outsource human services related to mental health, substance
105 abuse, child welfare, or juvenile justice shall:

106 (a) provide that, in the event that a change to the scope of the contract
107 is imposed upon a service provider and compliance with such change will have a
108 financial impact on the service provider, the contracting agency shall
109 negotiate a contract amendment with the service provider to increase the
110 maximum obligation amount or unit price of the contract to offset the
111 financial impact of the change, provided the service provider furnishes
112 evidence to the contracting agency of such financial impact along with a
113 request to renegotiate the contract based on the proposed change. In no case
114 shall a provider be held to requirements or obligations unless contained in
115 law or the original contract or by negotiated amendment.

116 (b) ensure that:

117 1. Payment will be made on all items not under dispute and that in no
118 event will payment be withheld on undisputed issues pending the resolution of
119 disputed issues.

120 2. In the event that the department engages an outside private entity
121 to engage in contract monitoring or otherwise delegates any contract
122 administration or monitoring functions to an outside private entity, then such
123 private entity shall be required to uniformly administer the contract and
124 cannot impose any requirements that exceed law, rule or the contract terms.

125 (c) provide that in any multi-year contracts any dispersed funds that
126 remain unexpended during any year of the contract term be approved as
127 authorized revenue into the next year for the purposes of cash flow and

128 continuation of the contract, notwithstanding the requirements of section
129 216.301, F.S.

130 (d) include language authorizing, subject to appropriation, an annual
131 adjustment that reflects increases in the consumer price index.

132 (4) state agencies shall provide an analysis of every new form, procedure, or
133 mandate required of a provider of human services related to mental health,
134 substance abuse, child welfare, or juvenile justice under a contract for the
135 outsourcing of such human services that were not in effect when the contract
136 was originally entered into. The analysis shall identify the cost to the
137 provider of any such new requirements and must be transmitted to the provider
138 before any new form, procedure, or mandate may be used or implemented. The
139 analysis shall also include a fiscal impact statement from the provider with
140 respect to each new form, procedure, or mandate required or imposed.

141 (5) state agencies shall be required to accept all mandated reports and
142 invoices from service providers electronically and shall establish a procedure
143 that allows for posting of all core and administrative monitoring documents in
144 secure electronic storage or a document vault. If a service provider utilizes
145 secure electronic storage or a document vault, the state agency shall have
146 access to and accept such secure electronic storage for core and
147 administrative monitoring documents, and shall require that the provider
148 deposit core and administrative monitoring documents after a request by the
149 department or agency.

150 (6) every year each agency shall review all requirements of contracts all
151 contract requirements, mandated reports, outcome measures, and other
152 requirements of a provider. Each agency shall submit a report to the governor,
153 on the actions they have taken to improve efficiency and reduce administrative
154 mandates.

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

156 **SPONSOR:**

157 Zapata