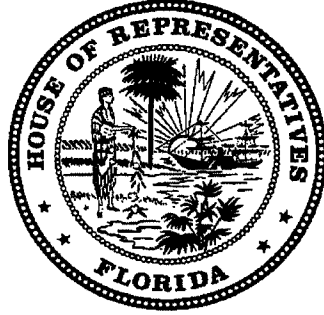




Health Care Appropriations Subcommittee

Meeting Packet

**March 28, 2011
3:00 PM—6:00 PM
Webster Hall**



AGENDA

Health Care Appropriations Subcommittee

March 28, 2011


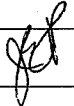
3:00 p.m. – 6:00 p.m.

Webster Hall

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. CS/HB 279—Training and Certification of Child Welfare Personnel by Davis
- IV. HB 1019—Foster Care Providers by Plakon
- V. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 279 Certification of Child Welfare Personnel
SPONSOR(S): Health & Human Services Access Subcommittee; Davis
TIED BILLS: IDEN./SIM. BILLS: SB 380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	12 Y, 0 N, As CS	Batchelor	Schoolfield
2) Health Care Appropriations Subcommittee		Perritti 	Pridgeon 
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill amends legislative intent by eliminating the responsibility of the Department of Children and Family Services (DCF) to establish, maintain and oversee child welfare training academies and by requiring that persons providing child welfare services earn and maintain a certification from a third party credentialing entity that is approved by DCF.

- The bill creates definitions for the terms "child welfare certification," "core competency," "pre-service curriculum," and "professional credentialing entity."
- The bill also provides requirements for a credentialing entity to secure DCF approval and requires the department to approve core competencies and related pre-service curricula.
- The use of the Child Welfare Training Trust Fund is amended, and the child welfare training academies are eliminated.
- The bill provides for entities to contract for training and grants reciprocity to individuals who hold certificates issued by the department for a specified period of time. The bill also eliminates the ability of the department to develop certification programs.

The bill is estimated to have a positive fiscal impact of approximately \$530,194 in the first year and \$423,394 in the out years.

This bill has an effective date of October 1, 2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Statewide Training

Currently, DCF is required to provide a systematic approach to staff development and training for persons providing child welfare services.¹ The department is authorized to create certification programs to ensure that only qualified employees and service providers provide client services.² The department works with various stakeholders to ensure that minimum curriculum standards and core competencies are uniform and that service providers (e.g. Sheriff's Offices and Community Based Care lead agencies (CBC's) can adjust those standards to meet local needs.

The department has the authority to develop rules that include qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.³

The department is also required to establish child welfare training academies to perform one or more of the following: to offer developed training curricula; to administer the certification process; to develop, validate, and periodically evaluate additional training curricula determined to be necessary, including advanced training that is specific to a region or contractor, or that meets a particular training need; or to offer any additional training curricula. The department currently contracts with Florida Atlantic University and the University of South Florida to provide the child welfare training academy.

Child Welfare Certification Process

The certification process requires that each individual demonstrate the knowledge, skills and ability to competently carry out their duties as a Florida Child Protection Professional. Each individual in a position requiring certification must be certified within one year of the date of hire, or within one year of having successfully completed a post-test or a waiver test, whichever is earlier.⁴ Currently, there are 11 types of certification designations for child protection professionals:

- Child Protective Investigator;
- Child Protective Investigations Supervisor;
- Child Protective Investigations Specialist;
- Child Protection Case Manager;
- Child Protection Case Management Supervisor;
- Child Protection Case Management Specialist;
- Child Protection Licensing Counselor;
- Child Protection Licensing Supervisor;
- Child Protection Licensing Specialist;
- Child Protection Specialized Services Professional; and
- Child Welfare Trainer.⁵

Each position classification has a different training, testing and certification requirement depending on the duties they perform. DCF estimates that during calendar year 2010, they initially certified 1,098 and recertified 1,239 child welfare professionals in the investigative, case management, and licensing specialties. There are currently 1,475 child protective investigators (employed either through DCF or

¹s. 402.40(1), F.S.

²s.402.731, F.S.

³ *Id*

⁴ Chapter 65C-33.001, F.A.C.

⁵ Chapter 65C-33.001, F.A.C.

sheriff's offices) and 2,200 case managers (employed by CBCs or subcontractors) statewide. More than half of the state's child welfare professionals (2,377 or 64%) who are required to be certified are currently certified. The remaining individuals are in the process of achieving certification, as newly hired staff or they have not yet met minimum certification requirements.⁶

In addition, there are currently 344 child welfare professionals who have met certification requirements to be a Child Welfare Trainer. These staff are employed by community-based care agencies, sheriff's offices, or the department. Certified child welfare trainers teach the department-approved standard pre-service curriculum, and the content must be delivered in its entirety to all newly-hired child protective investigative and case management staff statewide.⁷ The intent of this model is to ensure that all necessary statutory, policy, procedural and best practice information is conveyed to child welfare personnel by qualified child welfare trainers and that minimum competency requirements are consistent statewide.⁸

Federal Requirements for Child Welfare Training, Child and Family Services Plan

Federal regulations require states to prepare a five-year plan, the Child Family Services Plan (CFSP), which lays out the framework for a system of coordinated, integrated, culturally relevant family focused services in the state child welfare agencies.⁹ All training activities and funding for Title IV-E must be included in the agencies training plan.¹⁰ This plan must be submitted and approved by the federal Administration of Families (ACF). According to DCF, failure to obtain approval prior to changing training requirements could jeopardize federal funding.¹¹

Child Welfare Training Trust Fund

The Child Welfare Training Trust Fund was created to fund a comprehensive system of child welfare training, including the securing of consultants to develop the system and the developing of child welfare training academies that include the participation of persons providing child welfare services.¹² Revenue sources include \$5.00 for each petition for dissolution of marriage, \$1.00 from every non-criminal traffic infraction and a \$1.50 from an additional fee imposed on certification of births.¹³

The Florida Certification Board

According to DCF, The Florida Certification Board (FCB) is currently the only certification board in the state that provides a child welfare certification. The FCB provides a number of certifications, including those for substance abuse counselors, prevention specialists, criminal justice professionals, mental health professionals, and behavioral health technicians in Florida. FCB does not offer or provide child welfare training. However, the FCB does offer a Child Welfare Case Manager (CWCM) certification as one of its professional certification programs. The FCB reports that 193 individuals have an active CWCM certification, and almost all of those individuals are employed by CBCs.

⁶ HB 279 (2011) Department of Children and Families Bill Analysis, on file with committee staff.

⁷ F.S.

⁸ s.402.40, F.S.

⁹ 45 CFR 1357.15

¹⁰ 45 CFR 1356.60(b)(2)

¹¹ HB 279 (2011) Department of Children and Families Bill Analysis, on file with committee staff.

¹² Chapter 2008-16, Laws of Florida, Section 20.195(3) and 402.40(4)(a), Florida Statutes

¹³ s. 28.101(1)(a), s. 318.14(10)(b) and s. 382.0255(2)

Effect of Proposed Changes

The bill provides that the department work in collaboration with child welfare stakeholders to ensure that child welfare staff have the knowledge and skills to competently provide child welfare services. Eliminates DCF's child welfare training program established in s. 402.40 and provides that third-party credentialing entities approved by the department provide child welfare personnel certification.

The bill provides definitions for:

- child welfare certification;
- core competency;
- pre-service curriculum;
- third party credentialing entity

The bill establishes that DCF shall approve one or more third-party credentialing entities for awarding child welfare certification. The third-party credentialing agency will:

- establish requirements and standards for obtaining a child welfare certification,
- develop core competencies,
- maintain a code of ethics and disciplinary process for persons holding certification,
- maintain a database accessible to the public of all persons holding certifications and
- require annual continuing education requirements.

The bill provides that community based care agencies, sheriff's offices, and the department may contract for the delivery of pre-service and additional training for persons delivering child welfare services if that training satisfies department approved core competencies.

The bill amends the purpose of the Child Welfare Training Trust Fund, to be used for funding the professional development of persons providing child welfare services.

The bill provides that credentialing entities shall for a period of no less than a year from the implementation of certification programs grant reciprocity and award certification to individuals in good standing who hold certification issued by the department at no cost to the state or the individual.

The bill restores DCF's rulemaking authority and eliminates DCF's the ability to create certification programs.

B. SECTION DIRECTORY:

Section 1: Amends s. 402.40, F.S., relates to certification of child welfare personnel

Section 2: Amends s. 402.731, F.S., providing for approval of third-party credentialing entities

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The estimated first year costs to certify the DCF employed Child Protective Investigators (CPI) would be \$69,806 and the recurring annual cost is estimated to be \$176,606. The bill provides that selected third party certification entities will provide continuing certification for current department and contracted staff at no charge for the first 12 months. The bill eliminates training academies providing a recurring savings as displayed below:

	2011-12	2012-13
Cost of University of South Florida Training Academy	(\$600,000)	(\$600,000)
Initial and Ongoing Certifications Costs for 1,241 Child Protective Investigators	\$69,806	\$176,606
Net Savings	(\$530,194)	(\$423,394)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

There are 234 child protective investigators at various contracted Sherriff's offices that will also require certification. The cost for certifying these staff will be the responsibility of the Sheriffs offices.

	2011-12	2012-13
Cost for Certification of 234 Sheriff Child Protective Investigators	\$13,162	\$30,712

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Currently, the child welfare case managers employed by CBCs and subcontractors receive the training required by s.402.40, F.S. from DCF at no additional cost. With the changes proposed in the bill, certification costs would be the responsibility of the CBC's and or subcontractors to certify 2,200 child welfare case managers.

	2011-12	2012-13
Cost for Certification of 2,200 CBC and subcontractor Child Welfare Case Managers	\$123,750	\$288,750

D. FISCAL COMMENTS:

The cost for certification of CBC and Sheriffs child welfare staff will be transferred to these organizations. DCF currently provides funding for training academies for child welfare through a contract with the University of South Florida at cost of \$600,000. The bill eliminates training academies creating a net savings of approximately \$530,194 in the first year and \$423,394 in recurring years.

DCF also has a contract with Florida International University for pre-service training curriculum development at a cost of \$675,782 and one position that administers the rule development process and reviews and approves preservice curricula for child welfare training. If individual third-party credentialing agencies or CBCs develop preservice curricula for department review and approval the department indicates that additional positions maybe necessary to avoid extended wait times for approval.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS

The department is required to obtain approval from the Administration of Children and Families prior to changing and implementing new training requirements to maintain federal funding.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 16, 2011, the Health and Human Services Access Subcommittee adopted a proposed committee substitute for House Bill 279. The proposed committee substitute made the following changes to HB 279:

- Provides that the department work in collaboration with child welfare stakeholders to ensure that child welfare staff have the knowledge and skills to competently provide child welfare services;
- Changes the definition of child welfare certification to means a professional credential awarded by a department-approved third-party credentialing entity to individuals demonstrating core competency in any child welfare practice.
- Adds a definition for the terms "core competencies" and "preservice curricula";
- Provides for the department to approve core competencies and related pre-service curricula;
- Provides that the development of pre-service curricula be a collaborative effort that includes third-party credentialing entities;

- Provides that community-based care agencies, sheriff's offices, and the department may contract for the delivery of pre-service and any additional child welfare training as long as the curriculum satisfies the approved core competencies;
- Provides that credentialing entities shall for a period of no less than a year from the implementation of certification programs grant reciprocity and award certification to individuals in good standing who hold certification issued by the department at no cost to the state or the individual;
- Restores department's rule making authority;
- Eliminates the ability of DCF to create certification programs.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.

1 A bill to be entitled
 2 An act relating to the training and certification of child
 3 welfare personnel; amending s. 402.40, F.S.; revising
 4 legislative intent; defining the terms "child welfare
 5 certification," "core competency," "preservice
 6 curriculum," and "third-party credentialing entity";
 7 providing required criteria for the approval of
 8 credentialing entities that develop and administer
 9 certification programs for persons who provide child
 10 welfare services; revising the use of the Child Welfare
 11 Training Trust Fund within the Department of Children and
 12 Family Services; revising provisions relating to
 13 preservice curricula; requiring persons who provide child
 14 welfare services to be certified by a third-party
 15 credentialing entity; allowing entities to add to or
 16 augment preservice curriculum; allowing entities to
 17 contract for training; requiring persons to master core
 18 competencies; providing for recognition for currently
 19 certified persons; deleting requirements relating to
 20 certification and trainer qualifications; deleting
 21 provisions relating to training academies; amending s.
 22 402.731, F.S.; authorizing approval of third-party
 23 credentialing entities; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Section 402.40, Florida Statutes, is amended to
 28 read:

29 402.40 Child welfare training and certification.—
 30 (1) LEGISLATIVE INTENT.—In order to enable the state to
 31 provide a systematic approach to staff development and training
 32 for persons providing child welfare services that will meet the
 33 needs of such staff in their discharge of duties, it is the
 34 intent of the Legislature that the Department of Children and
 35 Family Services work in collaboration with the child welfare
 36 stakeholder community, including department-approved third-party
 37 credentialing entities, to ensure that staff have the knowledge,
 38 skills, and abilities necessary to competently provide child
 39 welfare services establish, maintain, and oversee the operation
 40 of child welfare training academies in the state. It is the
 41 intent of the Legislature that each person providing child
 42 welfare services in this state earns and maintains a
 43 professional certification from a professional credentialing
 44 entity that is approved by the Department of Children and Family
 45 Services. The Legislature further intends that certification ~~the~~
 46 ~~staff development~~ and training programs ~~that are established~~
 47 will aid in the reduction of poor staff morale and of staff
 48 turnover, will positively impact on the quality of decisions
 49 made regarding children and families who require assistance from
 50 programs providing child welfare services, and will afford
 51 better quality care of children who must be removed from their
 52 families.
 53 (2) DEFINITIONS.—As used in this section, the term:
 54 (a) "Child welfare certification" means a professional
 55 credential awarded by a department-approved third-party
 56 credentialing entity to individuals demonstrating core

57 | competency in any child welfare practice area.

58 | **(b)** ~~(a)~~ "Child welfare services" means any intake,
 59 | protective investigations, preprotective services, protective
 60 | services, foster care, shelter and group care, and adoption and
 61 | related services program, including supportive services and~~7~~
 62 | ~~supervision, and legal services,~~ provided to children who are
 63 | alleged to have been abused, abandoned, or neglected~~7~~ or who are
 64 | at risk of becoming, are alleged to be, or have been found
 65 | dependent pursuant to chapter 39.

66 | **(c)** "Core competency" means the minimum knowledge, skills,
 67 | and abilities necessary to carry out work responsibilities.

68 | **(d)** ~~(b)~~ "Person providing child welfare services" means a
 69 | person who has a responsibility for supervisory, ~~legal,~~ direct
 70 | care, or support-related ~~support-related~~ work in the provision
 71 | of child welfare services pursuant to chapter 39.

72 | **(e)** "Preservice curriculum" means the minimum statewide
 73 | training content based upon the core competencies which is made
 74 | available to all persons providing child welfare services.

75 | **(f)** "Third-party credentialing entity" means a department-
 76 | approved nonprofit organization that has met nationally
 77 | recognized standards for developing and administering
 78 | professional certification programs.

79 | **(3)** THIRD-PARTY CREDENTIALING ENTITIES ~~CHILD WELFARE~~
 80 | ~~TRAINING PROGRAM.~~ The department shall approve one or more
 81 | third-party credentialing entities for the purpose of developing
 82 | and administering child welfare certification programs for
 83 | persons who provide child welfare services. A third-party
 84 | credentialing entity shall request such approval in writing from

85 the department. In order to obtain approval, the third-party
 86 credentialing entity must:

87 (a) Establish professional requirements and standards that
 88 applicants must achieve in order to obtain a child welfare
 89 certification and to maintain such certification.

90 (b) Develop and apply core competencies and examination
 91 instruments according to nationally recognized certification and
 92 psychometric standards.

93 (c) Maintain a professional code of ethics and a
 94 disciplinary process that apply to all persons holding child
 95 welfare certification.

96 (d) Maintain a database, accessible to the public, of all
 97 persons holding child welfare certification, including any
 98 history of ethical violations.

99 (e) Require annual continuing education for persons
 100 holding child welfare certification.

101 (f) Administer a continuing education provider program to
 102 ensure that only qualified providers offer continuing education
 103 opportunities for certificateholders ~~establish a program for~~
 104 ~~training pursuant to the provisions of this section, and all~~
 105 ~~persons providing child welfare services shall be required to~~
 106 ~~participate in and successfully complete the program of training~~
 107 ~~pertinent to their areas of responsibility.~~

108 (4) CHILD WELFARE TRAINING TRUST FUND.—

109 (a) There is created within the State Treasury a Child
 110 Welfare Training Trust Fund to be used by the Department of
 111 Children and Family Services for the purpose of funding the
 112 professional development ~~a comprehensive system of child welfare~~

113 ~~training, including the securing of consultants to develop the~~
 114 ~~system and the developing of child welfare training academies~~
 115 ~~that include the participation~~ of persons providing child
 116 welfare services.

117 (b) One dollar from every noncriminal traffic infraction
 118 collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be
 119 deposited into the Child Welfare Training Trust Fund.

120 (c) In addition to the funds generated by paragraph (b),
 121 the trust fund shall receive funds generated from an additional
 122 fee on birth certificates and dissolution of marriage filings,
 123 as specified in ss. 382.0255 and 28.101, respectively, and may
 124 receive funds from any other public or private source.

125 (d) Funds that are not expended by the end of the budget
 126 cycle or through a supplemental budget approved by the
 127 department shall revert to the trust fund.

128 (5) CORE COMPETENCIES.—

129 (a) The Department of Children and Family Services shall
 130 approve ~~establish~~ the core competencies and related preservice
 131 curricula ~~for a single integrated curriculum~~ that ensures that
 132 each person delivering child welfare services obtains the
 133 knowledge, skills, and abilities to competently carry out his or
 134 her work responsibilities. ~~This curriculum may be a compilation~~
 135 ~~of different development efforts based on specific subsets of~~
 136 ~~core competencies that are integrated for a comprehensive~~
 137 ~~curriculum required in the provision of child welfare services~~
 138 ~~in this state.~~

139 (b) The identification of these core competencies and
 140 development of preservice curricula shall be a collaborative

141 | effort that includes ~~to include~~ professionals who have with
 142 | expertise in child welfare services, department-approved third-
 143 | party credentialing entities, and providers that will be
 144 | affected by the curriculum, including ~~to include,~~ but not be
 145 | limited to, representatives from the community-based care lead
 146 | agencies, sheriffs' offices conducting child protection
 147 | investigations, and child welfare legal services providers.

148 | (c) Community-based care agencies, sheriffs' offices, and
 149 | the department may contract for the delivery of preservice and
 150 | any additional training for persons delivering child welfare
 151 | services if the curriculum satisfies the department-approved
 152 | core competencies. ~~Notwithstanding s. 287.057(3) and (21), the~~
 153 | ~~department shall competitively solicit and contract for the~~
 154 | ~~development, validation, and periodic evaluation of the training~~
 155 | ~~curricula for the established single integrated curriculum. No~~
 156 | ~~more than one training curriculum may be developed for each~~
 157 | ~~specific subset of the core competencies.~~

158 | (d) Department-approved credentialing entities shall, for
 159 | a period of at least 12 months after implementation of the
 160 | third-party child welfare certification programs, grant
 161 | reciprocity and award a child welfare certification to
 162 | individuals who hold current department-issued child welfare
 163 | certification in good standing, at no cost to the department or
 164 | the certificateholder.

165 | ~~(6) ADVANCED TRAINING. The Department of Children and~~
 166 | ~~Family Services shall annually examine the advanced training~~
 167 | ~~that is needed by persons who deliver child welfare services in~~
 168 | ~~the state. This examination shall address whether the current~~

169 ~~advanced training provided should be continued and shall include~~
 170 ~~the development of plans for incorporating any revisions to the~~
 171 ~~advanced training determined necessary. This examination shall~~
 172 ~~be conducted in collaboration with professionals with expertise~~
 173 ~~in child welfare services and providers that will be affected by~~
 174 ~~the curriculum, to include, but not be limited to,~~
 175 ~~representatives from the community-based care lead agencies,~~
 176 ~~sheriffs' offices conducting child protection investigations,~~
 177 ~~and child welfare legal services providers.~~

178 ~~(7) CERTIFICATION AND TRAINER QUALIFICATIONS. The~~
 179 ~~department shall, in collaboration with the professionals and~~
 180 ~~providers described in subsection (5), develop minimum standards~~
 181 ~~for a certification process that ensures that participants have~~
 182 ~~successfully attained the knowledge, skills, and abilities~~
 183 ~~necessary to competently carry out their work responsibilities~~
 184 ~~and shall develop minimum standards for trainer qualifications~~
 185 ~~which must be required of training academies in the offering of~~
 186 ~~the training curricula. Any person providing child welfare~~
 187 ~~services shall be required to master the components of the~~
 188 ~~curriculum that are particular to that person's work~~
 189 ~~responsibilities.~~

190 ~~(8) ESTABLISHMENT OF TRAINING ACADEMIES. The department~~
 191 ~~shall establish child welfare training academies as part of a~~
 192 ~~comprehensive system of child welfare training. In establishing~~
 193 ~~a program of training, the department may contract for the~~
 194 ~~operation of one or more training academies to perform one or~~
 195 ~~more of the following: to offer one or more of the training~~
 196 ~~curricula developed under subsection (5); to administer the~~

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197 | ~~certification process; to develop, validate, and periodically~~
 198 | ~~evaluate additional training curricula determined to be~~
 199 | ~~necessary, including advanced training that is specific to a~~
 200 | ~~region or contractor, or that meets a particular training need;~~
 201 | ~~or to offer the additional training curricula. The number,~~
 202 | ~~location, and timeframe for establishment of training academies~~
 203 | ~~shall be approved by the Secretary of Children and Family~~
 204 | ~~Services who shall ensure that the goals for the core~~
 205 | ~~competencies and the single integrated curriculum, the~~
 206 | ~~certification process, the trainer qualifications, and the~~
 207 | ~~additional training needs are addressed. Notwithstanding s.~~
 208 | ~~287.057(3) and (21), the department shall competitively solicit~~
 209 | ~~all training academy contracts.~~

210 | ~~(6)(9)~~ ADOPTION OF RULES.—The Department of Children and
 211 | Family Services shall adopt rules necessary to carry out the
 212 | provisions of this section.

213 | Section 2. Subsection (1) of section 402.731, Florida
 214 | Statutes, is amended to read:

215 | 402.731 Department of Children and Family Services
 216 | certification programs for employees and service providers;
 217 | employment provisions for transition to community-based care.—

218 | (1) The Department of Children and Family Services is
 219 | authorized to approve third-party credentialing entities, as
 220 | defined in s. 402.40, ~~create certification programs~~ for its
 221 | employees and service providers to ensure that only qualified
 222 | employees and service providers provide client services. ~~The~~
 223 | ~~department is authorized to develop rules that include~~
 224 | ~~qualifications for certification, including training and testing~~

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225 | ~~requirements, continuing education requirements for ongoing~~
226 | ~~certification, and decertification procedures to be used to~~
227 | ~~determine when an individual no longer meets the qualifications~~
228 | ~~for certification and to implement the decertification of an~~
229 | ~~employee or agent.~~

230 | Section 3. This act shall take effect October 1, 2011.

HB 1019
Plakon

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1019 Foster Care Providers
SPONSOR(S): Plakon and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1500

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	11 Y, 4 N	Poche	Schoolfield
2) Civil Justice Subcommittee	9 Y, 5 N	Thomas	Bond
3) Health Care Appropriations Subcommittee		Perritti <i>WP</i>	Pridgeon <i>JEP</i>
4) Health & Human Services Committee			

SUMMARY ANALYSIS

House Bill 1019 reduces the general liability insurance requirement for an eligible lead community-based provider ("lead agency") and a subcontractor of a lead agency involved in the community-based care (CBC) program to provide foster care services to abused and neglected children in Florida.

- The bill caps the economic and noneconomic damages recoverable in a tort action by a claimant or claimant(s) against a lead agency or subcontractor, or against multiple entities involved in the same incident.
- The bill provides that the Department of Children and Families (DCF) is not liable in tort for acts or omissions of a lead agency, or a subcontractor of the lead agency, or the officers, agents, or employees of the lead agency or subcontractor.
- The bill prohibits DCF from requiring a lead agency or a subcontractor to indemnify DCF against the department's own acts or omissions.
- The bill provides that DCF may not require a lead agency or subcontractor to include the department as an additional insured on any insurance policy.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

DCF is one of the state agencies responsible for providing assistance and services to abused and neglected children. Prior to 1996, DCF accomplished its mission by directly delivering child protection services to recipients. In 1996, DCF began to privatize child protection services through a CBC pilot program.¹ Through the CBC program, private companies, known as “lead agencies”, enter into a contract with DCF to provide foster care services, child abuse services, mental health services, and other types of assistance.

Upon evaluating the program, DCF found that the lead agencies were able to have more frequent in-person contact with children in the program, to achieve lower ratios of children per home, to maintain smaller caseloads per case worker, and to have a lower average number of per child placement changes.² Due to the success of the pilot program, the Legislature significantly amended s. 409.1671, F.S., to create the CBC program privatizing foster care services, which remains largely unchanged today.³ There are currently 20 lead agencies providing these and other services across the state.⁴ Lead agencies use subcontractors to deliver services directly to recipients.

Among many other facets of the CBC program, current law requires mandatory liability insurance limits to be maintained by lead agencies and their subcontractors.⁵ In addition to the mandatory insurance limits, current law allows for a yearly increase of 5 percent in the conditional limitation on damages available to claimants to account for the annual increase in the cost of goods and services.⁶ Lead agencies and subcontractors must maintain a minimum level of general liability insurance of \$1 million per claimant and \$3 million per liability incident.⁷ Economic damages⁸ per claimant are capped at \$1,550,000.⁹ Noneconomic damages¹⁰ per claimant are capped at \$310,000.¹¹ In addition, lead agencies and subcontractors must maintain minimum bodily injury liability insurance coverage of \$100,000 per claim and \$300,000 per incident.¹² Also, providers must maintain \$1,000,000 in non-owned automobile insurance coverage.¹³ This coverage is secondary to the primary insurance coverage of \$100,000 per claim and \$300,000 per incident that must be maintained by employees of lead agencies or subcontractors who use their personal vehicles to transport children and families in the course of providing services.¹⁴

¹ State of Florida, Department of Children and Families, *Community-Based Care Implementation Plan*, July 1999, pg. 2.

² *Id.*

³ See s. 2, Ch. 2009-206, L.O.F.

⁴ Lead Agency Map, State of Florida, Department of Children and Families, at http://www.dcf.state.fl.us/programs/cbc/docs/lead_agency_map.pdf (last visited March 21, 2011).

⁵ Section 409.1671(1)(h) and (j), F.S.

⁶ Section 409.1671(1)(l), F.S.

⁷ Section 409.1671(1)(h) and (j), F.S.

⁸ See, e.g., s. 766.202(3), F.S., defining “economic damages” as financial losses that would not have occurred but for the injury giving rise to the cause of action in tort, including, but not limited to, past and future medical expenses, wage loss, loss of future earnings capacity, funeral expenses, and loss of prospective net accumulations of an estate.

⁹ The original limit on economic damages was set at \$1,000,000 in Chapter 2009-206, L.O.F. The current limit on economic damages includes the annual 5 percent increase allowed by law.

¹⁰ See, e.g., s. 766.202(8), F.S., defining “noneconomic damages” as non-financial losses that would not have occurred but for the injury giving rise to the cause of action in tort, including, but not limited to, pain and suffering, loss of support and services, loss of companionship or consortium, inconvenience, physical impairment, mental anguish, disfigurement, and loss of capacity for enjoyment of life.

¹¹ The original limit on noneconomic damages was set at \$200,000 in Chapter 2009-206, L.O.F. The current limit on noneconomic damages includes the annual 5 percent increase allowed by law.

¹² Section 409.1671(h) and (j), F.S.

¹³ Section 409.1671(h), F.S.

¹⁴ Section 409.1671(j), F.S.

The limits on liability provided for lead agencies and their subcontractors are not applicable if the lead agency or the subcontractor “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...”¹⁵ Culpable negligence is defined as “reckless indifference or grossly careless disregard of human life.”¹⁶ Further, the statute authorizes “a claim bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits” provided to lead agencies and their subcontractors.¹⁷

According to industry advocates, lead agencies collectively paid approximately \$2,750,000 in insurance premiums in 2010.¹⁸ While each lead agency contracts with many subcontractors to directly provide services and each subcontractor must maintain the same insurance coverage levels as the lead agency, it is unknown how much the subcontractors are paying in insurance premiums.

It has been reported that tort claims against lead community-based providers, and subcontractors of the providers, are increasing.¹⁹ One possible reason for the increase in claims is the high liability insurance requirement, which guarantees a significant source of recovery for a plaintiff in a tort case, assuming the plaintiff can obtain a favorable verdict. Also, the statute of limitations for intentional torts based on abuse can be lengthy, leaving a lead community-based provider, or subcontractor of the provider, liable for potentially significant damages over an extended period of time.²⁰

Effect of Proposed Changes

The bill reduces the mandatory general liability insurance coverage requirement for lead agencies and subcontractors to \$500,000 per claim and a policy limit aggregate of \$1,500,000. The limit on economic damages available to a claimant is reduced to \$500,000 and capped at \$1,500,000 for all claimants per incident. The total amount of economic damages recoverable by all claimants is limited to \$2,000,000 against a lead agency and all subcontractors involved in the same incident.

The bill also limits noneconomic damages available to a claimant to \$200,000 per claimant and \$500,000 per incident. The total amount of noneconomic damages recoverable by all claimants is limited to \$1,000,000 against a lead agency and all subcontractors involved in the same incident.

The bill repeals s. 409.1671(1)(l), F.S., eliminating the 5 percent annual increase in the conditional limitations on damages.

The bill adds language to s. 409.1671(2)(a), F.S., to state that DCF is not liable in tort for the acts or omissions of a lead agency, or a subcontractor of a lead agency, or the officers, agents, or employees of a lead agency, or subcontractor of a lead agency. The department may not require a lead agency or subcontractor of a lead agency to indemnify the department for its own acts or omissions. Lastly, the department may not require a lead agency or subcontractor to include the department as an additional insured on any insurance policy.

B. SECTION DIRECTORY:

Section 1: Amends s. 409.1671, F.S., relating to foster care and related services; outsourcing.

¹⁵ Section 409.1671(1)(i) and (k), F.S.

¹⁶ *Id.*

¹⁷ Section 409.1671(1)(h) and (j), F.S.

¹⁸ See [A Premium on Care: The Importance of Providing Affordable Insurance Coverage to Florida's Community-Based Care Agencies](#), Cynthia S. Tunnicliff, et al., at pg. 6, citing data provided by the Florida Coalition for Children.

¹⁹ *Id.*

²⁰ Section 95.11, F.S., which, in part, provides for limitations on actions in tort, ranging from four years for actions founded on negligence or statutory liability [s. 95.11(3)(a) and (f), F.S.] to at least seven years, with a possibility of many years beyond, for intentional torts based on abuse [s. 95.11(7), F.S.].

Section 2: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Lower liability limits could encourage insurers to enter, or re-enter, the market in Florida, creating competition for business and allowing lead agencies and subcontractors to maximize their premium dollars. Lead agencies and subcontractors should realize savings on insurance premiums.

The limit on economic damages available to a claimant is reduced to \$500,000 and capped at \$1,500,000 for all claimants per incident. The total amount of economic damages recoverable by all claimants is limited to \$2,000,000 against a lead agency and all subcontractors involved in the same incident. The bill also limits noneconomic damages available to a claimant to \$200,000 per claimant and \$500,000 per incident. The total amount of noneconomic damages recoverable by all claimants is limited to \$1,000,000 against a lead agency and all subcontractors involved in the same incident.

D. FISCAL COMMENTS:

Currently, s. 409.1671(1)(h) and (j), F.S authorizes that "a claim bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits" provided to lead agencies and their subcontractors. As this legislation reduces the limits, the legislature may see an increase in requests to file a "claim bill" and an increase in the amounts of the claims bill. The Speaker of the House of Representatives may appoint a Special Master to review a claim bill or conduct a hearing, if necessary on each of these bills and payment is contingent upon a legislative appropriation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

DAMAGES CAPS - This bill caps the economic and noneconomic damages recoverable in certain tort actions. The Florida Constitution places limits on the Legislature's ability to cap damages in tort cases or otherwise restrict a litigant's access to courts. The "access to courts provision" of the declaration of rights in the Florida Constitution requires that the courts "be open to every person for redress of any injury."²¹

In *Kluger v. White*,²² the Florida Supreme Court considered a statute that abolished causes of action to recover for property damage caused by an automobile accident unless the damage exceeded \$550.²³ The court held that the statute violated the access to courts provision of the state constitution. In *Kluger*, the court held that where a right to access to the courts for redress for a particular injury predates the adoption of the declaration of rights in the 1968 state constitution, the Legislature cannot abolish the right without providing a reasonable alternative unless the Legislature can show (1) an overpowering public necessity to abolish the right and (2) no alternative method of meeting such public necessity.²⁴

The court applied the *Kluger* test in *Smith v. Department of Insurance*.²⁵ In 1986, the Legislature passed comprehensive tort reform legislation that included a cap of \$450,000 on noneconomic damages. The Florida Supreme Court held that the right to sue for unlimited economic damages existed at the time the constitution was adopted.²⁶ The court said that a cap on noneconomic damages must meet the *Kluger* test in order to pass constitutional muster.²⁷ The *Smith* court held that the Legislature did not provide an alternative remedy or commensurate benefit in exchange for limiting the right to recover damages and found that the cap on noneconomic damages violated the access to courts provision of the Florida Constitution.²⁸

The issue of caps on noneconomic damages arose again in *University of Miami v. Echarte*.²⁹ In 1988, the Legislature instituted a voluntary binding arbitration process in medical malpractice cases. The Florida Supreme Court applied the *Kluger* test and found that arbitration statute provided a commensurate benefit for the loss of the right to recover full noneconomic damages.³⁰ In addition, the *Echarte* court found that the Legislature had shown an overpowering public necessity for instituting the caps and that there was no reasonable alternative.³¹

The arbitration statute at issue in *Smith* states that damages are capped at \$250,000 "per incident." In *St. Mary's Hospital, Inc. v. Phillippe*,³² the Florida Supreme Court considered whether the "per incident" language meant that each claimant could recover the full \$250,000 or whether all claimants in a single incident must divide \$250,000. The court held that the statute meant that each claimant was entitled to recover up to \$250,000 per incident.³³ To hold otherwise, the court said, would raise equal protection concerns because a claimant's recovery would be limited simply because there were multiple claimants in a given case.³⁴

Most recently, a federal district court upheld the caps on noneconomic damages in medical malpractice lawsuits put in place in 2003 (against an access to courts challenge and an equal

²¹ Article I, s. 21, FLA. CONST.

²² 281 So.2d 1 (Fla. 1973).

²³ See *Kluger*, 281 So.2d at 2-3.

²⁴ See *Kluger*, 281 So.2d at 4.

²⁵ 507 So.2d 1080 (Fla. 1987).

²⁶ See *Smith*, 507 So.2d at 1087.

²⁷ See *Smith*, 507 So.2d at 1087-1088.

²⁸ See *Smith*, 507 So.2d at 1089.

²⁹ 618 So.2d 189 (Fla. 1993).

³⁰ See *Echarte*, 618 So.2d at 194.

³¹ See *Echarte*, 618 So.2d at 195-97.

³² 769 So.2d 961 (Fla. 2000).

³³ See *St. Mary's*, 769 So.2d at 967-971.

³⁴ See *St. Mary's*, 769 So.2d at 971-973.

protection challenge).³⁵ The court deferred to the Florida Legislature's findings of fact based upon the recommendations of the Governor's Select Task Force on Healthcare Professional Liability Insurance and held that these findings "presented an overpowering public necessity requiring the adoption of the liability caps."³⁶ The findings were extensive and convinced the court that a medical malpractice crisis did exist and the caps were the only means available to address this crisis.³⁷

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

³⁵ *M.D., a Minor, v. United States*, Case No. 8:09-cv-438-EAK-MAP, Sept. 30, 2010; United States District Court, M.D. Florida.

³⁶ *Id.* at 2.

³⁷ *Id.*

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A bill to be entitled
An act relating to foster care providers; amending s. 409.1671, F.S.; decreasing the limits of liability and requisite insurance coverage for lead community-based providers and subcontractors; providing immunity from liability for the Department of Children and Family Services for acts or omissions of a community-based provider or subcontractor, or the officers, agents, or employees thereof; providing an effective date.

WHEREAS, lead community-based providers were established to provide foster care and related services, and

WHEREAS, the goal of establishing these providers was to strengthen the support and commitment of communities to the reunification of families and the care of children and families and to increase the efficiency and accountability of providers, and

WHEREAS, lead community-based providers provide services identical to those previously provided by the Department of Children and Family Services, which was protected when delivering those services by the state's sovereign immunity limits, and

WHEREAS, the costs of litigation and attorney's fees diminishes the resources available to the children and families served by lead community-based providers, and

WHEREAS, the Legislature finds that the limits of liability for lead community-based providers should be reviewed, NOW, THEREFORE,

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

Section 1. Paragraphs (f), (h), (j), and (l) of subsection (1) and paragraph (a) of subsection (2) of section 409.1671, Florida Statutes, are amended to read:

409.1671 Foster care and related services; outsourcing.-

(1)

(f)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 outsourced pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose for such outsourcing 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. To ensure that these resources are not significantly reduced, specified limits of liability are necessary for eligible lead community-based providers and subcontractors engaged in the provision of

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57 services previously performed by the Department of Children and
58 Family Services.

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

64 (h) Other than an entity to which s. 768.28 applies, any
65 eligible lead community-based provider, as defined in paragraph
66 (e), or its employees or officers, except as otherwise provided
67 in paragraph (i), must, as a part of its contract, obtain
68 general liability coverage for a minimum of \$500,000 ~~\$1 million~~
69 per claim with a policy limit aggregate of/ \$1.5 ~~\$3 million per~~
70 ~~incident~~ in general liability insurance coverage. The eligible
71 lead community-based provider must also require that staff who
72 transport client children and families in their personal
73 automobiles in order to carry out their job responsibilities
74 obtain minimum bodily injury liability insurance in the amount
75 of \$100,000 per claim, \$300,000 per incident, on their personal
76 automobiles. In lieu of personal motor vehicle insurance, the
77 lead community-based provider's casualty, liability, or motor
78 vehicle insurance carrier may provide nonowned automobile
79 liability coverage. This insurance provides liability insurance
80 for automobiles that the provider uses in connection with the
81 provider's business but does not own, lease, rent, or borrow.
82 This coverage includes automobiles owned by the employees of the
83 provider or a member of the employee's household but only while
84 the automobiles are used in connection with the provider's

85 business. The nonowned automobile coverage for the provider
86 applies as excess coverage over any other collectible insurance.
87 The personal automobile policy for the employee of the provider
88 shall be primary insurance, and the nonowned automobile coverage
89 of the provider acts as excess insurance to the primary
90 insurance. The provider shall provide a minimum limit of \$1
91 million in nonowned automobile coverage. In any tort action
92 brought against such an eligible lead community-based provider
93 or employee, net economic damages shall be limited to \$500,000
94 ~~\$1 million~~ per liability claim, \$1.5 million per liability
95 incident, and \$100,000 per automobile claim, including, but not
96 limited to, past and future medical expenses, wage loss, and
97 loss of earning capacity, offset by any collateral source
98 payment paid or payable. In any tort action brought against an
99 eligible lead community-based provider, the total economic
100 damages recoverable by all claimants shall be limited to no more
101 than \$2 million against all lead agencies and subcontractors
102 involved in the same incident or occurrence, when totaled
103 together. In any tort action brought against such an eligible
104 lead community-based provider, noneconomic damages shall be
105 limited to \$200,000 per claim and \$500,000 per incident. In any
106 tort action brought against an eligible lead community-based
107 provider, the total noneconomic damages recoverable by all
108 claimants shall be limited to no more than \$1 million against
109 all subcontractors and lead agencies involved in the same
110 incident or occurrence, when totaled together. A claims bill may
111 be brought on behalf of a claimant pursuant to s. 768.28 for any
112 amount exceeding the limits specified in this paragraph. Any

113 | offset of collateral source payments made as of the date of the
 114 | settlement or judgment shall be in accordance with s. 768.76.
 115 | The lead community-based provider is ~~shall~~ not ~~be~~ liable in tort
 116 | for the acts or omissions of its subcontractors or the officers,
 117 | agents, or employees of its subcontractors.

118 | (j) Any subcontractor of an eligible lead community-based
 119 | provider, as defined in paragraph (e), which is a direct
 120 | provider of foster care and related services to children and
 121 | families, and its employees or officers, except as otherwise
 122 | provided in paragraph (i), must, as a part of its contract,
 123 | obtain general liability insurance coverage for a minimum of
 124 | \$500,000 ~~\$1 million~~ per claim with a policy limit aggregate of
 125 | \$1.5 ~~\$3 million per incident~~ in general liability insurance
 126 | coverage. The subcontractor of an eligible lead community-based
 127 | provider must also require that staff who transport client
 128 | children and families in their personal automobiles in order to
 129 | carry out their job responsibilities obtain minimum bodily
 130 | injury liability insurance in the amount of \$100,000 per claim,
 131 | \$300,000 per incident, on their personal automobiles. In lieu of
 132 | personal motor vehicle insurance, the subcontractor's casualty,
 133 | liability, or motor vehicle insurance carrier may provide
 134 | nonowned automobile liability coverage. This insurance provides
 135 | liability insurance for automobiles that the subcontractor uses
 136 | in connection with the subcontractor's business but does not
 137 | own, lease, rent, or borrow. This coverage includes automobiles
 138 | owned by the employees of the subcontractor or a member of the
 139 | employee's household but only while the automobiles are used in
 140 | connection with the subcontractor's business. The nonowned

141 | automobile coverage for the subcontractor applies as excess
 142 | coverage over any other collectible insurance. The personal
 143 | automobile policy for the employee of the subcontractor shall be
 144 | primary insurance, and the nonowned automobile coverage of the
 145 | subcontractor acts as excess insurance to the primary insurance.
 146 | The subcontractor shall provide a minimum limit of \$1 million in
 147 | nonowned automobile coverage. In any tort action brought against
 148 | such subcontractor or employee, net economic damages shall be
 149 | limited to \$500,000 ~~\$1 million~~ per liability claim, \$1.5 million
 150 | per liability incident, and \$100,000 per automobile claim,
 151 | including, but not limited to, past and future medical expenses,
 152 | wage loss, and loss of earning capacity, offset by any
 153 | collateral source payment paid or payable. In any tort action
 154 | brought against such subcontractor or employee, the total
 155 | economic damages recoverable by all claimants shall be limited
 156 | to no more than \$2 million against all subcontractors and lead
 157 | agencies involved in the same incident or occurrence, when
 158 | totaled together. In any tort action brought against such
 159 | subcontractor, noneconomic damages shall be limited to \$200,000
 160 | per claim and \$500,000 per incident. In any tort action brought
 161 | against such subcontractor or employee, the total noneconomic
 162 | damages recoverable by all claimants shall be limited to no more
 163 | than \$1 million against all subcontractors and lead agencies
 164 | involved in the same incident or occurrence, when totaled
 165 | together. A claims bill may be brought on behalf of a claimant
 166 | pursuant to s. 768.28 for any amount exceeding the limits
 167 | specified in this paragraph. Any offset of collateral source
 168 | payments made as of the date of the settlement or judgment shall

169 be in accordance with s. 768.76.

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

178 (2) (a) The department may contract for the delivery,
 179 administration, or management of protective services, the
 180 services specified in subsection (1) relating to foster care,
 181 and other related services or programs, as appropriate. The
 182 department shall use diligent efforts to ensure that ~~retain~~
 183 ~~responsibility for the quality of~~ contracted services and
 184 programs ~~and shall ensure that services are~~ of high quality and
 185 delivered in accordance with applicable federal and state
 186 statutes and regulations. However, the department is not liable
 187 in tort for the acts or omissions of an eligible lead community-
 188 based provider or the officers, agents, or employees of the
 189 provider, nor is the department liable in tort for the acts or
 190 omissions of the subcontractors of eligible lead community-based
 191 providers or the officers, agents, or employees of its
 192 subcontractors. The department may not require an eligible lead
 193 community-based provider or its subcontractors to indemnify the
 194 department for the department's own acts or omissions, nor may
 195 the department require an eligible lead community-based provider
 196 or its subcontractors to include the department as an additional

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197 | insured on any insurance policy. The department must adopt
 198 | written policies and procedures for monitoring the contract for
 199 | delivery of services by lead community-based providers. These
 200 | policies and procedures must, at a minimum, address the
 201 | evaluation of fiscal accountability and program operations,
 202 | including provider achievement of performance standards,
 203 | provider monitoring of subcontractors, and timely followup of
 204 | corrective actions for significant monitoring findings related
 205 | to providers and subcontractors. These policies and procedures
 206 | must also include provisions for reducing the duplication of the
 207 | department's program monitoring activities both internally and
 208 | with other agencies, to the extent possible. The department's
 209 | written procedures must ensure that the written findings,
 210 | conclusions, and recommendations from monitoring the contract
 211 | for services of lead community-based providers are communicated
 212 | to the director of the provider agency as expeditiously as
 213 | possible.

214 | Section 2. This act shall take effect July 1, 2011.