



26 creating s. 409.9915, F.S.; providing implementation  
27 of the tiered payment model; providing reporting  
28 requirements; providing an expiration date; amending  
29 s. 409.992, F.S.; revising requirements for lead  
30 agency practices in the procurement of commodities and  
31 contractual services; requiring the department to  
32 impose certain penalties for a lead agency's  
33 noncompliance with applicable procurement law;  
34 requiring lead agencies to comply with established  
35 purchasing practices for the procurement of real  
36 property and professional services; requiring the  
37 department to retain all rights to and ownership of  
38 real property procured upon termination of contracts;  
39 requiring certain funds to be returned to the  
40 department; providing applicability of certain  
41 limitations on the salaries of community-based care  
42 lead agency administrative employees; amending s.  
43 409.994, F.S.; revising the conditions under which the  
44 department may petition a court for the appointment of  
45 a receiver for a community-based care lead agency;  
46 amending s. 409.996, F.S.; revising requirements for  
47 contracts between the department and lead agencies;  
48 revising the actions the department may take under  
49 certain circumstances; making a technical change;  
50 providing duties of the department; providing

51 reporting requirements; providing an effective date.

52

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

54

55 Section 1. Subsections (3) and (4) and paragraphs (a) and  
 56 (b) of subsection (7) of section 409.987, Florida Statutes, are  
 57 amended, and paragraph (g) is added to subsection (7) of that  
 58 section, to read:

59 409.987 Lead agency procurement; boards; conflicts of  
 60 interest.—

61 (3) Notwithstanding s. 287.057, the department shall use  
 62 5-year contracts with lead agencies. The 5-year contract must be  
 63 reprocured at the end of each 5-year contract term. The contract  
 64 may be extended at the discretion of the department for up to 1  
 65 year, based on department needs.

66 (4) In order to serve as a lead agency, an entity must:

67 (a) Be organized as a Florida corporation or a  
 68 governmental entity.

69 (b) Be governed by a board of directors or a board  
 70 committee composed of board members. Board members shall provide  
 71 oversight and ensure accountability and transparency for the  
 72 system of care. The board of directors shall provide fiduciary  
 73 oversight to prevent conflicts of interest, promote  
 74 accountability and transparency, and protect state and federal  
 75 funding from misuse. The board of directors shall act in

76 | accordance with s. 617.0830. The membership of the board of  
77 | directors or board committee must be described in the bylaws or  
78 | articles of incorporation of each lead agency, which must  
79 | provide that at least 75 percent of the membership of the board  
80 | of directors or board committee must be composed ~~consist~~ of  
81 | persons residing in this state, and at least 51 percent of the  
82 | state residents on the board of directors must reside within the  
83 | service area of the lead agency. The lead agency shall ensure  
84 | that board members participate in annual training related to  
85 | their responsibilities. However, for procurements of lead agency  
86 | contracts initiated on or after July 1, 2014:

87 |       1. At least 75 percent of the membership of the board of  
88 | directors must be composed ~~consist~~ of persons residing in this  
89 | state, and at least 51 percent of the membership of the board of  
90 | directors must be composed ~~consist~~ of persons residing within  
91 | the service area of the lead agency. If a board committee  
92 | governs the lead agency, 100 percent of its membership must be  
93 | composed ~~consist~~ of persons residing within the service area of  
94 | the lead agency.

95 |       2. The powers of the board of directors or board committee  
96 | include, but are not limited to, approving the lead agency's  
97 | budget and setting the lead agency's operational policy and  
98 | procedures. A board of directors must additionally have the  
99 | power to hire the lead agency's executive director, unless a  
100 | board committee governs the lead agency, in which case the board

101 | committee must have the power to confirm the selection of the  
 102 | lead agency's executive director.

103 | (c) Demonstrate financial responsibility through an  
 104 | organized plan for regular fiscal audits and the posting of a  
 105 | performance bond.

106 | (7)(a) As used in this subsection, the term:

107 | 1. "Activity" includes, but is not limited to, a contract  
 108 | for goods and services, a contract for the purchase of any real  
 109 | or tangible property, or an agreement to engage with a lead  
 110 | agency for the benefit of a third party in exchange for an  
 111 | interest in real or tangible property, a monetary benefit, or an  
 112 | in-kind contribution.

113 | 2. "Conflict of interest" means when a board member,  
 114 | director, or ~~an~~ officer, or a relative of a board member,  
 115 | director, or ~~an~~ officer, of a lead agency does any of the  
 116 | following:

117 | a. Enters into a contract or other transaction for goods  
 118 | or services with the lead agency.

119 | b. Holds a direct or indirect interest in a corporation,  
 120 | limited liability corporation, partnership, limited liability  
 121 | partnership, or other business entity that conducts business  
 122 | with the lead agency or proposes to enter into a contract or  
 123 | other transaction with the lead agency. For purposes of this  
 124 | paragraph, the term "indirect interest" has the same meaning as  
 125 | in s. 112.312.

126 c. Knowingly obtains a direct or indirect personal,  
127 financial, professional, or other benefit as a result of the  
128 relationship of such board member, director, or officer, or  
129 relative of the board member, director, or officer, with the  
130 lead agency. For purposes of this paragraph, the term "benefit"  
131 does not include per diem and travel expenses paid or reimbursed  
132 to board members or officers of the lead agency in connection  
133 with their service on the board.

134 3. "Related party" means any entity of which a director or  
135 an officer of the entity is also directly or indirectly related  
136 to, or has a direct or indirect financial or other material  
137 interest in, the lead agency. The term also includes any  
138 subsidiary, parent entity, associate firm, or joint venture, or  
139 any entity that is controlled, influenced, or managed by another  
140 entity or an individual related to such entity, including an  
141 individual who is, or was within the immediately preceding 3  
142 years, an executive officer or a board member of the entity.

143 4.3. "Relative" means a relative within the third degree  
144 of consanguinity by blood or marriage.

145 (b)1. For any activity that is presented to the board of a  
146 lead agency for its initial consideration and approval ~~after~~  
147 ~~July 1, 2021~~, or any activity that involves a contract that is  
148 being considered for renewal ~~on or after July 1, 2021, but~~  
149 ~~before January 1, 2022~~, a board member, a director, or an  
150 officer of a lead agency shall disclose to the board any

151 activity that may reasonably be construed to be a conflict of  
152 interest before such activity is initially considered and  
153 approved or a contract is renewed by the board. A rebuttable  
154 presumption of a conflict of interest exists if the activity was  
155 acted on by the board without prior notice as required under  
156 paragraph (c). The board shall disclose any known actual or  
157 potential conflicts to the department.

158 2. A lead agency may not enter into a contract or be a  
159 party to any transaction that creates a conflict of interest,  
160 including with related parties for the provision of management  
161 or administrative services or oversight ~~For contracts with a~~  
162 ~~lead agency which are in existence on July 1, 2021, and are not~~  
163 ~~subject to renewal before January 1, 2022, a board member or an~~  
164 ~~officer of the lead agency shall disclose to the board any~~  
165 ~~activity that may reasonably be construed to be a conflict of~~  
166 ~~interest under this section by December 31, 2021.~~

167 (g)1. Civil penalties in the amount of \$5,000 per  
168 occurrence shall be imposed for each known and potential  
169 conflict of interest, as described in paragraph (b), which is  
170 not disclosed to the department. Civil penalties shall be paid  
171 by the board and not from any state or federal funds.

172 2. If a contract is executed for which a conflict of  
173 interest was not disclosed to the department before execution of  
174 the contract, the following penalties apply:

175 a. A civil penalty in the amount of \$50,000 for a first

176 offense.

177 b. A civil penalty in the amount of \$100,000 for a second  
 178 or subsequent offense.

179 3. The civil penalties for failure to disclose a conflict  
 180 of interest under subparagraphs 1. and 2. apply to any contract  
 181 entered into, regardless of the method of procurement,  
 182 including, but not limited to, formal procurement, single-source  
 183 contracts, and contracts that do not meet the minimum threshold  
 184 for formal procurement.

185 4. A contract procured for which a conflict of interest  
 186 was not disclosed to the department before execution of the  
 187 contract shall be reprocured.

188 5. The department may, at its sole discretion, prohibit  
 189 execution of a contract for which a conflict of interest exists,  
 190 or will exist after execution.

191 Section 2. Paragraphs (c), (j), and (k) of subsection (1)  
 192 of section 409.988, Florida Statutes, are amended to read:

193 409.988 Community-based care lead agency duties; general  
 194 provisions.—

195 (1) DUTIES.—A lead agency:

196 (c) Shall follow the financial guidelines developed by the  
 197 department and shall comply with regular, independent auditing  
 198 of its financial activities, including any requests for records  
 199 associated with such financial audits within the timeframe  
 200 established by the department or its contracted vendors provide



201 ~~for a regular independent auditing of its financial activities.~~  
202 The results of the financial audit must ~~Such financial~~  
203 ~~information shall~~ be provided to the community alliance  
204 established under s. 20.19(5).

205 (j) May subcontract for the provision of services, excluding management and oversight functions,  
206 required by the  
207 contract with the lead agency and the department; however, the  
208 subcontracts must specify how the provider will contribute to  
209 the lead agency meeting the performance standards established  
210 pursuant to the child welfare results-oriented accountability  
211 system required by s. 409.997. The lead agency shall directly  
212 provide no more than 35 percent of all child welfare services  
213 provided unless it can demonstrate a need, within the lead  
214 agency's geographic service area where there is a lack of  
215 qualified providers available to perform the necessary services.  
216 The approval period to exceed the threshold shall be limited to  
217 2 years. If a lead agency wishes to continue its exemption from  
218 the services threshold, it must submit a new request with  
219 updated evidence to the department and the community alliance  
220 showing its efforts to recruit providers and that conditions  
221 have not changed, ~~to exceed this threshold.~~ The local community  
222 alliance in the geographic service area in which the lead agency  
223 is seeking to exceed the threshold shall review the lead  
224 agency's justification for need and recommend to the department  
225 whether the department should approve or deny the lead agency's

226 request for an exemption from the services threshold. If there  
 227 is not a community alliance operating in the geographic service  
 228 area in which the lead agency is seeking to exceed the  
 229 threshold, such review and approval or denial of the lead  
 230 agency's request for an exemption from the services threshold  
 231 must be made by the department and the department must specify  
 232 the duration of the exemption ~~recommendation shall be made by~~  
 233 ~~representatives of local stakeholders, including at least one~~  
 234 ~~representative from each of the following:~~

- 235 1. ~~The department.~~
- 236 2. ~~The county government.~~
- 237 3. ~~The school district.~~
- 238 4. ~~The county United Way.~~
- 239 5. ~~The county sheriff's office.~~
- 240 6. ~~The circuit court corresponding to the county.~~
- 241 7. ~~The county children's board, if one exists.~~

242 (k) Shall publish on its website by the 15th day of each  
 243 month at a minimum the data specified in subparagraphs 1.-9. ~~1.-~~  
 244 ~~5.~~, calculated using a standard methodology determined by the  
 245 department, for the preceding calendar month regarding its case  
 246 management services. The following information must ~~shall~~ be  
 247 reported by each individual subcontracted case management  
 248 provider, by the lead agency, if the lead agency provides case  
 249 management services, and in total for all case management  
 250 services subcontracted or directly provided by the lead agency:

- 251           1. The average caseload of case managers, including only  
 252 filled positions;
- 253           2. The total number and percentage of case managers who  
 254 have 25 or more cases on their caseloads;
- 255           3. The turnover rate for case managers and case management  
 256 supervisors for the previous 12 months;
- 257           4. The percentage of required home visits completed; ~~and~~  
 258           5. Performance on outcome measures required pursuant to s.  
 259 409.997 for the previous 12 months;~~;~~
- 260           6. The number of unlicensed placements for the previous  
 261 month;
- 262           7. The percentages and trends for foster parent and group  
 263 home recruitment and licensure for the previous month;
- 264           8. The percentage of families being served through family  
 265 support, in-home, and out-of-home services for the previous  
 266 month; and
- 267           9. The percentage of cases that converted from nonjudicial  
 268 to judicial for the previous month.
- 269           Section 3. Section 409.9913, Florida Statutes, is created  
 270 to read:
- 271           409.9913 Actuarially-based tiered model for allocation of  
 272 funds for community-based care lead agencies.-
- 273           (1) As used in this section, the term "core services  
 274 funds" means all funds allocated to lead agencies operating  
 275 under contract with the department pursuant to s. 409.987. The

276 term does not include any of the following:

277 (a) Funds appropriated for independent living services.

278 (b) Funds appropriated for maintenance adoption subsidies.

279 (c) Funds allocated by the department for child protective  
280 investigation service training.

281 (d) Nonrecurring funds.

282 (e) Designated mental health wrap-around service funds.

283 (f) Funds for special projects for a designated lead  
284 agency.

285 (g) Funds appropriated for the Guardianship Assistance  
286 Program established under s. 39.6225.

287 (2) The purpose of the tiered model is to achieve a stable  
288 payment model that adjusts to workload and incentivizes  
289 prevention, family preservation, and permanency. The tiers are  
290 as follows:

291 (a) Tier 1 provides operational base and fixed costs,  
292 which do not vary based on the number of children and families  
293 served. Tier 1 payments may vary by geographic catchment area  
294 and cost-of-living differences. The department shall establish  
295 and annually update Tier 1 payment rates to maintain cost  
296 expectations that are aligned with the population served,  
297 services provided, and environment. Tier 1 expenses may include:

298 1. Administrative expenditures.

299 2. Lease payment.

300 3. Asset depreciation.

301       4. Utilities.

302       5. Select components of case management, including  
303 administrative elements.

304       6. Mandated activities such as training, quality, and  
305 contract management.

306       7. Activities performed for children and families which  
307 are nonjudicial and not candidates for Title IV-E funding,  
308 including true prevention and community-focused activities.

309       (b) Tier 2 is a per-child, per-month payment to provide  
310 funding for lead agencies' expenses that vary based on the  
311 number of children served for a particular month. The payment  
312 rate must blend out-of-home rates and in-home rates specific to  
313 each lead agency to create a rate that provides a financial  
314 incentive to lead agencies to provide services in the least  
315 restrictive safe placement. The department shall establish and  
316 annually update Tier 2 payment rates to maintain cost  
317 expectations that are aligned with the population served,  
318 services provided, and environment. Tier 2 rates must be set  
319 annually.

320       (c) Tier 3 provides financial incentives that the  
321 department shall establish to reward lead agencies that achieve  
322 performance measures aligned with the department's goals of  
323 prevention, family preservation, and permanency.

324       (3) By December 1 of each year, beginning in 2027, the  
325 department shall submit a report to the Governor, the President

326 of the Senate, and the Speaker of the House of Representatives  
327 which includes each lead agency's actual performance in  
328 attaining the previous fiscal year's targets, recommendations  
329 for adjustments to lead agency funding, and adjustments to the  
330 tiered payment model, if necessary.

331 Section 4. Section 409.9915, Florida Statutes, is created  
332 to read:

333 409.9915 Implementation of actuarially-based tiered model  
334 for allocation of funds for community-based care lead agencies.—

335 (1) The model established under s. 409.9913 shall be  
336 implemented as follows:

337 (a) During the 2024-2025 fiscal year, the department  
338 shall:

339 1. Establish the requisite systems and processes to  
340 collect data necessary for system implementation.

341 2. Refine the model in collaboration with the lead  
342 agencies.

343 (b) Funding for lead agencies shall be determined as  
344 follows:

345 1. During the 2024-2025 fiscal year, funding for a lead  
346 agency must be as provided under s. 409.991, unless otherwise  
347 provided in the General Appropriations Act.

348 2. During the 2025-2026 fiscal year, funding for a lead  
349 agency must be the sum of 67 percent of the funding determined  
350 under s. 409.991, unless otherwise provided in the General

351 Appropriations Act, and 33 percent of the funding determined  
352 under s. 409.9913.

353 3. During the 2026-2027 fiscal year, funding for a lead  
354 agency must be the sum of 33 percent of the funding determined  
355 under s. 409.991, unless otherwise provided in the General  
356 Appropriations Act, and 67 percent of the funding determined  
357 under s. 409.9913.

358 4. During the 2027-2028 fiscal year, funding for a lead  
359 agency must be as provided under s. 409.9913.

360 (2) The department shall submit quarterly reports to the  
361 Governor, the President of the Senate, and the Speaker of the  
362 House of Representatives, with the first report due October 31,  
363 2024, and subsequent reports submitted every 3 months  
364 thereafter. Each report must contain, at a minimum, information  
365 regarding the department's actions, determinations, proposals,  
366 and results under this section.

367 (a) The first quarterly report for the 2024-2025 fiscal  
368 year must include a plan for implementation under this section,  
369 which shall be updated in subsequent reports.

370 (b) The second quarterly report for the 2024-2025 fiscal  
371 year must additionally provide details regarding:

372 1. Proposed payments under Tier 3, including, but not  
373 limited to, the proposed goals and justifications for any  
374 incentive payments in the next fiscal year, measures and  
375 targets, and correlating payment amounts, which shall be updated

376 in subsequent reports. The report must describe how the Tier 3  
377 goals and payments relate to the results-oriented accountability  
378 program under s. 409.997.

379 2. Proposed funding for the 2025-2026 fiscal year, as  
380 determined under s. 409.993, by lead agency.

381 (3) This section shall expire on June 30, 2029.

382 Section 5. Subsections (1) and (3) of section 409.992,  
383 Florida Statutes, are amended to read:

384 409.992 Lead agency expenditures.—

385 (1) The procurement of commodities or contractual services  
386 by lead agencies is ~~shall be~~ governed by the financial  
387 guidelines developed by the department and must comply with  
388 applicable state and federal law and follow good business  
389 practices. Pursuant to s. 11.45, the Auditor General may provide  
390 technical advice in the development of the financial guidelines.

391 (a)1. Lead agencies shall competitively procure all  
392 contracts, consistent with the federal simplified acquisition  
393 threshold.

394 2. Lead agencies shall competitively procure all contracts  
395 in excess of \$35,000 with related parties.

396 3. Financial penalties or sanctions, as established by the  
397 department and incorporated into the contract, shall be imposed  
398 by the department for noncompliance with applicable local,  
399 state, or federal law for the procurement of commodities or  
400 contractual services.



401        (b) Notwithstanding s. 402.73, for procurement of real  
 402 property or professional services, lead agencies shall comply  
 403 with established purchasing practices, including the provisions  
 404 of s. 287.055, as required, for professional services, including  
 405 engineering or construction design. Upon termination of the  
 406 contract, the department shall immediately retain all rights to  
 407 and ownership of real property procured. Any funds from the  
 408 sale, transfer, or other dispossession of such property during  
 409 the contract term shall be returned to the department.

410        (3) Notwithstanding any other provision of law, a  
 411 community-based care lead agency administrative employee may not  
 412 receive a salary, whether base pay or base pay combined with any  
 413 bonus or incentive payments from the lead agency or any related  
 414 party, in excess of 150 percent of the annual salary paid to the  
 415 secretary of the Department of Children and Families from state-  
 416 appropriated funds, including state-appropriated federal funds.  
 417 This limitation applies regardless of the number of contracts a  
 418 community-based care lead agency may execute with the  
 419 department. This subsection does not prohibit any party from  
 420 providing cash that is not from appropriated state funds to a  
 421 community-based care lead agency administrative employee.

422        Section 6. Paragraphs (c) and (d) of subsection (1) of  
 423 section 409.994, Florida Statutes, are amended to read:

424        409.994 Community-based care lead agencies; receivership.—

425        (1) The Department of Children and Families may petition a

426 court of competent jurisdiction for the appointment of a  
 427 receiver for a community-based care lead agency established  
 428 pursuant to s. 409.987 if any of the following conditions exist:

429 (c) The department determines that conditions exist in the  
 430 lead agency which present a ~~an imminent~~ danger to the health,  
 431 safety, or welfare of the dependent children under that agency's  
 432 care or supervision. Whenever possible, the department shall  
 433 make a reasonable effort to facilitate the continued operation  
 434 of the program.

435 (d) The lead agency cannot meet, or is unlikely to meet,  
 436 its current financial obligations to its employees, contractors,  
 437 or foster parents. Issuance of bad checks or the existence of  
 438 delinquent obligations for payment of salaries, utilities, or  
 439 invoices for essential services or commodities constitutes ~~shall~~  
 440 ~~constitute~~ prima facie evidence that the lead agency lacks the  
 441 financial ability to meet its financial obligations.

442 Section 7. Paragraph (d) of subsection (1) of section  
 443 409.996, Florida Statutes, is amended to read:

444 409.996 Duties of the Department of Children and  
 445 Families.—The department shall contract for the delivery,  
 446 administration, or management of care for children in the child  
 447 protection and child welfare system. In doing so, the department  
 448 retains responsibility for the quality of contracted services  
 449 and programs and shall ensure that, at a minimum, services are  
 450 delivered in accordance with applicable federal and state

451 statutes and regulations and the performance standards and  
 452 metrics specified in the strategic plan created under s.  
 453 20.19(1).

454 (1) The department shall enter into contracts with lead  
 455 agencies for the performance of the duties by the lead agencies  
 456 established in s. 409.988. At a minimum, the contracts must do  
 457 all of the following:

458 (d) Provide for contractual actions ~~tiered interventions~~  
 459 ~~and graduated penalties~~ for failure to comply with contract  
 460 terms or in the event of performance deficiencies, as determined  
 461 appropriate by the department.

462 1. Such contractual actions must ~~interventions and~~  
 463 ~~penalties shall~~ include, but are not limited to:

464 a.1. Enhanced monitoring and reporting.

465 b.2. Corrective action plans.

466 c.3. Requirements to accept technical assistance and  
 467 consultation from the department under subsection (6).

468 d.4. Financial penalties, which ~~shall~~ require a lead  
 469 agency to direct ~~reallocate~~ funds from administrative costs to  
 470 the department. The department shall use the funds collected to  
 471 support service delivery of quality improvement activities for  
 472 children in the lead agency's care ~~to direct care for children.~~  
 473 These penalties may be imposed for failure to provide timely,  
 474 sufficient resolution of deficiencies resulting in a corrective  
 475 action plan or other performance improvement plan issued by the

476 department. Financial penalties may include liquidated damages.  
 477 e.5. Early termination of contracts, as provided in s.  
 478 402.7305(3)(f) s. 402.1705(3)(f).

479 2. The department shall include in each lead agency  
 480 contract executed a provision that requires payment to the  
 481 department of sanctions or disincentives for failure to comply  
 482 with contractual obligations. The department shall establish a  
 483 schedule of daily monetary sanctions or disincentives for lead  
 484 agencies, which schedule shall be incorporated by reference into  
 485 the contract. The department is solely responsible for  
 486 determining the monetary value of liquidated damages.

487 Section 8. The Department of Children and Families shall  
 488 submit a report to the Governor, the President of the Senate,  
 489 and the Speaker of the House of Representatives on rules and  
 490 policies adopted and other actions taken to implement the  
 491 requirements of this act. The first such report must be due  
 492 September 30, 2024, and the second such report must be due  
 493 February 1, 2025.

494 Section 9. This act shall take effect July 1, 2024.