

Senate Bill 350

By: Senators Unterman of the 45th, Millar of the 40th, Beach of the 21st, Shafer of the 48th and Sims of the 12th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the
2 Department of Human Services, so as to provide for the bidding out of child welfare services
3 state wide through contracts with community based providers; to provide for definitions; to
4 provide for qualifications for contractors; to provide for contract standards; to provide for a
5 review; to provide for procedures; to provide for related matters; to provide for a contingent
6 effective date; to provide for an effective date; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the Department
11 of Human Services, is amended by adding a new article to read as follows:

12 **"ARTICLE 3**

13 49-2-30.

14 (a) As used in this article, the term:

15 (1) 'Applicant' means a faith based or community based organization that seeks to
16 provide child welfare services under this article.

17 (2) 'Child welfare services' means adoption, family preservation, independent living,
18 emergency shelter, residential group care, foster care, therapeutic foster care, intensive
19 residential treatment, foster care supervision, case management, post-placement
20 supervision, and family reunification.

21 (3) 'Division' means the Division of Family and Children Services.

22 (4) 'Lead agency' means a faith based or community based agency selected under this
23 article to manage and provide child welfare services.

24 (b) The division shall submit a plan to the Governor and General Assembly to
25 competitively bid the provision of child welfare services through fixed price contracts with
26 a limited number of lead agencies. Each lead agency shall represent a community equal
27 to one or more service regions of the division. The plan shall be developed with local
28 community participation, including, but not limited to, input from community based
29 providers, foster parents, members of the faith community, adults who were provided care
30 in Georgia's foster care system, and child advocacy organizations that are currently under
31 contract with the division to furnish foster care and adoption services.

32 (c) The plan shall be submitted by January 1, 2015, and shall be phased in over a two-year
33 period beginning July 1, 2015.

34 (d) No later than April 1, 2014, the division shall seek approval of a child welfare
35 demonstration project through the federal Administration for Children and Families to
36 implement and receive fixed funding to accomplish the purposes of this article.

37 49-2-31.

38 (a) To qualify to seek a contract under this article, an applicant shall have:

39 (1) The ability to manage and directly provide, and contract for through a local network
40 of providers, all necessary child welfare services. The lead agency shall directly provide
41 no more than 35 percent of all child welfare services provided in the region;

42 (2) The ability to ensure continuity of care from entry to exit for all children referred
43 from the protective investigation and court systems;

44 (3) The capability and willingness to accept and demonstrate accountability for meeting
45 the outcomes and performance standards related to child welfare services established by
46 the General Assembly;

47 (4) The capability and willingness to serve all children referred from the protective
48 investigation and court systems;

49 (5) The willingness to ensure that each individual who provides child welfare services
50 completes the training required by the division;

51 (6) The ability to assist the division in maintaining the state's eligibility to receive all
52 federal child welfare funds currently being used by the division; and

53 (7) The ability to ensure, directly or through contracts and collaboration with appropriate
54 entities, that children served by the lead agency receive all services necessary to the
55 child's health, well-being, and safety.

56 (b) Such contract shall be for five years, after which the division shall competitively rebid
57 the contract. The division may extend the contract for an additional three-year period.

58 49-2-32.

59 (a) The contract between the division and lead agencies shall require the following:

60 (1) Recording of lead agency and all subcontractor activities in client case records for
61 all cases;

62 (2) Use of procedures by the parties to resolve differences in interpreting the contract or
63 to resolve disputes as to the adequacy of the parties' compliance with their respective
64 obligations under the contract;

65 (3) Payment by the division to the lead agency of a reasonable monthly administrative
66 rate to operate the lead agency and a case rate per child calculated as the monthly average
67 number of children served in the prior fiscal year divided by the total appropriated funds
68 allocated for child welfare services during the same fiscal year. The case rate shall be
69 paid in equal monthly payments over a period of time no greater than six months, starting
70 the month the lead agency takes the child into care. Children who return to the lead
71 agency for foster care within 12 months of achieving permanency, either through
72 reunification, permanent guardianship, or adoption, shall be served by the lead agency
73 but shall not be eligible for the rate per child per month reimbursement. The method of
74 payment in the contract shall provide for a two-month advance payment of the monthly
75 administrative rate at the beginning of each fiscal year and equal monthly payments
76 thereafter;

77 (4) Adherence to nationally recognized child welfare performance outcome measures;

78 (5) Inclusion of a case transfer process to determine the date that the lead agency will
79 initiate services for a child and family. At the point of case transfer, the division shall
80 provide a complete summary of its involvement with the child to include the reasons for
81 referral to the lead agency; and

82 (6) Authorization for the lead agency or a lead agency subcontractor with case
83 management responsibilities to act as the child's guardian for the purposes of enrolling
84 in school and seeking emergency medical treatment for a child who has been sheltered
85 or found to be dependent; provided, however, that if the child's parent's rights have been
86 terminated, such lead agency or lead agency subcontractor shall act as the guardian of the
87 child in all circumstances.

88 (b) In contracting for the delivery of child welfare services, the division shall retain
89 responsibility for the quality of contracted services and programs and shall ensure that
90 services are delivered in accordance with applicable federal and state statutes and
91 regulations. The department shall provide for uniform lead agency contracts and may
92 encourage lead agencies to use uniform subcontracts.

93 (c) The division shall adopt written policies and procedures for monitoring the contract for
94 delivery of services by lead agencies. Such policies and procedures shall address, at a
95 minimum, the following:

96 (1) Evaluation of fiscal accountability and program operations, including lead agency
97 achievement of performance standards, lead agency monitoring of subcontractors, and
98 timely follow-up of corrective actions for significant monitoring findings related to lead
99 agencies and subcontractors;

100 (2) Reduction of the duplication of the division's program monitoring activities both
101 internally and with other agencies, to the extent possible; and

102 (3) Communication of the written findings, conclusions, and recommendations from
103 monitoring the contract for services of lead community based providers to the director
104 of the lead agency, as expeditiously as possible.

105 (d) Persons employed by the division in the provision of child welfare services whose
106 positions are being privatized under this article shall be given hiring preference by the lead
107 agency if the employee meets the lead agency's qualifications.

108 49-2-33.

109 (a) The division shall not transfer services to a lead agency until the division, in
110 consultation with the local community, has determined and certified in writing to the
111 Governor and General Assembly that the lead agency is prepared to deliver and be
112 accountable for such services. In making such determination, the division shall conduct
113 a readiness assessment of the region and lead agency. The assessment shall evaluate the
114 operational readiness of the region and lead agency based on:

115 (1) A set of uniform criteria developed in consultation with currently operating faith
116 based and community based organizations and reflecting national accreditation standards,
117 which evaluate programmatic, financial, technical assistance, training, and organizational
118 competencies; and

119 (2) Criteria reflective of the priorities of the local community.

120 (b) A joint team of region and lead agency staff with direct experience with the start up
121 and operation of a community based service program and representatives from the
122 appropriate local community shall conduct the readiness assessment.

123 (c) Upon completion of a readiness assessment, the assessment team shall conduct an exit
124 conference with the region and lead agency staff responsible for the transition.

125 (d) Within 30 days following the exit conference with staff of each region and lead agency,
126 the division shall certify in writing to the Governor and General Assembly that both the
127 region and lead agency are prepared to begin the transition of service provision based on
128 the results of the readiness assessment and exit conference. The document of certification

129 shall include specific evidence of readiness on each element of the readiness instrument
130 utilized by the assessment team as well as a description of each element of readiness
131 needing improvement and strategies being implemented to address each such element.

132 (e) The Department of Audits and Accounts, in consultation with experts, shall review and
133 assess the division's process for determining region and lead agency readiness. The review
134 shall, at a minimum, address the appropriateness of the readiness criteria and instruments
135 applied, the appropriateness of the qualifications of participants on each assessment team,
136 the degree to which the division accurately determined each region and lead agency's
137 compliance with the readiness criteria, the quality of the technical assistance provided by
138 the division to a lead agency in correcting any weaknesses identified in the readiness
139 assessment, and the degree to which each lead agency overcame any identified weaknesses.

140 (f) Reports of such reviews shall be submitted to the General Assembly on January 1 and
141 July 1 of each year until full transition to community based care has been accomplished
142 state wide, beginning on January 1, 2016. The perspectives of all participants in the review
143 process shall be included in each report. Within the review, the Department of Audits and
144 Accounts shall allow each lead agency to submit for inclusion responses to findings.

145 (g) In communities where economic or demographic constraints make it impossible or not
146 feasible to competitively contract with a lead agency, the department shall develop an
147 alternative plan in collaboration with the local community alliance, which may include
148 establishing innovative geographical configurations or consortia of agencies. The plan must
149 detail how the community will continue to implement community-based care through
150 competitively procuring either the specific components of foster care and related services
151 or comprehensive services for defined eligible populations of children and families from
152 qualified licensed agencies as part of its efforts to develop the local capacity for a
153 community-based system of coordinated care. The plan must ensure local control over the
154 management and administration of the service provision in accordance with the intent of
155 this subsection and may include recognized best business practices, including some form
156 of public or private partnerships.

157 49-2-34.

158 (a) The division, in consultation with the lead agencies, shall establish a quality assurance
159 program for competitively bid services. The quality assurance program shall be based on
160 nationally recognized standards.

161 (b) The division shall report to the public on a monthly basis each lead agency's
162 performance on federal outcome measures and outcome measures established by the
163 General Assembly. In addition, the report shall include data on the number of families
164 served by the lead agencies in prevention programs, education outcomes of students in

165 foster care, and key health measures for children in foster care. The report shall be made
166 available, at a minimum, in a conspicuous location on the division's website.

167 (c) The division shall, to the extent possible, use independent financial audits provided by
168 the lead agency to eliminate or reduce the ongoing contract and administrative reviews
169 conducted by the division. If the division determines that such independent financial audits
170 are inadequate, other audits may be conducted as necessary by the division. Nothing in this
171 article shall abrogate the requirements of Chapter 20 of Title 50.

172 (d) The division may competitively bid programmatic, administrative, or fiscal oversight
173 of lead agencies. The division shall accept the findings of existing evaluations, reports, and
174 assessments provided by accrediting entities in lieu of requiring a state assessment if such
175 assessments did not find any significant issues.

176 (e) The division shall submit an annual report regarding quality performance, outcome
177 measure attainment, and cost efficiency to the Governor and General Assembly no later
178 than January 31 of each year for each lead agency in operation during the preceding fiscal
179 year. The division shall allow lead agencies to submit comments for inclusion into such
180 report regarding the findings and recommendations contained in the report.

181 (f) Lead agencies shall be permitted to submit all programmatic, administrative, and fiscal
182 materials in digital format.

183 49-2-35.

184 This article shall become effective only if the Administration for Children and Families of
185 the United States Department of Health and Human Services approves a federal title IV-E
186 waiver demonstration project and the resulting fixed funding is received for the purposes
187 of this article. If such approval and funding is received, then this article shall become
188 effective on the date on which such approval and funding becomes effective."

189 **SECTION 2.**

190 This Act shall become effective upon its approval by the Governor or upon its becoming law
191 without such approval.

192 **SECTION 3.**

193 All laws and parts of laws in conflict with this Act are repealed.