

Tab 2	SB 860 by Stargel (CO-INTRODUCERS) Gibson; (Compare to CS/H 00449) Alzheimer's Disease					
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Tab 3	SB 838 by Powell; (Similar to H 00363) Public Records/Mental Health Treatment and Services					
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222020	A	S	RCS	CF, Powell	Delete L.102 - 105:	03/12 10:49 AM
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Tab 4	SB 900 by Harrell; (Similar to CS/H 00369) Substance Abuse Services					
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115700	A	S	RCS	CF, Harrell	Delete L.230 - 260:	03/12 10:49 AM
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818690	A	S	RCS	CF, Harrell	btw L.300 - 301:	03/12 10:49 AM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Book, Chair
Senator Mayfield, Vice Chair

MEETING DATE: Monday, March 11, 2019

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Book, Chair; Senator Mayfield, Vice Chair; Senators Bean, Harrell, Rader, Torres, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on Alzheimer's Disease Initiative		Presented
2	SB 860 Stargel (Compare CS/H 449)	Alzheimer's Disease; Revising representative requirements of the Alzheimer's Disease Advisory Committee membership; requiring the Department of Elderly Affairs to review and update the Alzheimer's disease state plan every 3 years in collaboration with certain parties; providing that certain clinics shall not receive decreased funding for a specified reason, etc. CF 03/11/2019 Favorable AHS AP	Favorable Yeas 7 Nays 0
3	SB 838 Powell (Similar H 363, Compare H 361, Linked S 1418)	Public Records/Mental Health Treatment and Services; Providing an exemption from public records requirements for petitions for voluntary and involuntary admission for mental health treatment, court orders, related records, and personal identifying information regarding persons seeking mental health treatment and services; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 03/11/2019 Fav/CS GO RC	Fav/CS Yeas 7 Nays 0
4	SB 900 Harrell (Similar CS/H 369, Compare H 1187, CS/S 528)	Substance Abuse Services; Authorizing the Department of Children and Families and the Agency for Health Care Administration to grant exemptions from disqualification for certain service provider personnel; requiring individuals screened on or after a specified date to undergo specified background screening; increasing the criminal penalty for certain unlawful activities relating to personnel; prohibiting an individual who is not a certified peer specialist from advertising or providing recovery services unless the person is exempt, etc. CF 03/11/2019 Fav/CS AHS AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Monday, March 11, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Presentation on Human Trafficking		Presented

Other Related Meeting Documents

Department of
ELDER AFFAIRS

STATE OF FLORIDA



FLORIDA SENATE

CHILDREN, FAMILIES & ELDER AFFAIRS COMMITTEE

Update on Alzheimer's Disease and Related Dementias

Richard Prudom, Secretary

Alzheimer's Disease in Florida

- Florida has the second highest incidence rate of Alzheimer's Disease in the nation – only behind California.
- There are approximately 560,000 individuals currently living with Alzheimer's disease in Florida.
- By 2025, it is estimated to increase nearly 30%.
- There are approximately 1.1 million unpaid caregivers in Florida that care for loved ones with Alzheimer's disease or a related dementia.
- Alzheimer's disease is the 6th leading cause of death across all ages in Florida.
- 1 in 3 seniors die of Alzheimer's disease or another dementia.



Source: Alzheimer's Association, 2019 Alzheimer's disease Facts and Figures

• **\$26.8 million** funded for:

- Caregiver respite
- 15 Memory Disorder Clinics
- Adult Day Care Centers
- Brain Bank



BUT

“...support, care and understanding in the community is often falling short of the needs and aspirations of many people living with dementia.”

Goals

- Increase **awareness** of dementia
- Provide **assistance** to dementia-caring communities
- Continue **advocacy** for care and cure programs

Dementia Care and Cure Initiative

A statewide effort to become more dementia aware and more dementia caring – taking action to support those diagnosed with dementia, their families, and their caregivers.



Participating DCCI Communities



What is a Dementia-Caring Community?

Your Dementia-Caring Community



- Education and awareness of what dementia is, as well as inclusive and respectful Dementia-Caring practices.
- Input from and advocacy roles for individuals living with dementia.
- Appropriate community engagement activities for those living with dementia and their caregivers.
- Examining current resources and advocating for their continued funding while spreading awareness of services to those in need.
- Explanation of and encouragement to participate in research.



Dementia-Caring Designation

Designed by Art for the Disabled

- To be prominently displayed at businesses that have completed training
- To be used as badge of identity for those who have completed training
- To show advocacy and completion of training for establishments in the community
- To tell consumers that the business is a dementia-supportive and safe place to take their loved ones with ADRD.



**Any
Questions?**



The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 860

INTRODUCER: Senators Stargel and Gibson

SUBJECT: Alzheimer's Disease

DATE: March 8, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 860 adds a law enforcement officer to the state's Alzheimer's Disease Advisory Committee. The bill requires the committee to make an annual report to the Governor and Legislature and make recommendations for updating the Alzheimer's Disease State Plan. The bill requires the Department of Elder Affairs to update the state plan every three years.

The bill is not expected to have a fiscal impact and has an effective date of July 1, 2019.

II. Present Situation:

Alzheimer's Disease is the most common type of dementia. It is a progressive disease beginning with mild memory loss possibly leading to loss of the ability to carry on a conversation and respond to the environment. Alzheimer's Disease involves parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, it is still not known what causes Alzheimer's disease.¹

In the state of Florida there are an estimated 560,000 individuals living with Alzheimer's Disease.² By 2025, it is anticipated that 720,000 individuals will be living with it. Nearly 12% of Florida senior population has been diagnosed with Alzheimer's Disease. Many Alzheimer's patients require care 24 hours a day, especially in the late stages of the disease.

The Legislature created the Alzheimer's Disease Initiative in 1985 to provide a continuum of services to meet the needs of individuals with Alzheimer's disease, and similar memory

¹ Centers for Disease Control and Prevention, Alzheimer's Disease and Healthy Aging website. See <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease?>, last visited March 6, 2019.

² Department of Elder Affairs website. See <http://elderaffairs.state.fl.us/doea/alz.php>, last visited March 6, 2019.

disorders, and their families.³ The Department of Elder Affairs coordinates and develops policy to carry out the statutory requirements for the Alzheimer's Disease Initiative. In conjunction with a ten-member advisory committee appointed by the Governor, the program includes three components:

- Supportive services to offer counseling, consumable medical supplies, and respite for caregiver relief;
- Memory Disorder Clinics to provide diagnosis, research, treatment, education, and referrals; and
- A brain bank to support research.

During fiscal year 2017-2018, 5,228 individuals received respite and support services, including case management; specialized medical equipment, services, and supplies; and caregiver counseling, support groups, and training.⁴ The Memory Disorder Clinics provide comprehensive diagnostic and referral services for persons with Alzheimer's disease and related disorders. The clinics had over 18,321 office visits during fiscal year 2017-2018 and provided telephone counseling, information, and support 16,283 times.⁵ The clinics routinely conduct community memory screening events that are free to the public. Individuals are screened, provided a score with an explanation of the results, and advised to follow up with their own physicians. A total of 1,411 memory screens were recorded fiscal year 2017-2018, and 25,601 referrals were made on the behalf of clients and caregivers.⁶

Chapter 2012-172, Laws of Florida, created a Purple Ribbon Task Force within the Department of Elder Affairs to address Alzheimer's disease. The task force reviewed trends in the disease, assessed the disease's impact on the state, examined needs and services, and developed a state response to Alzheimer's disease. The findings and recommendations of the task force formed the Alzheimer's Disease State Plan. The task force ended with its report and plan August 1, 2013.

III. Effect of Proposed Changes:

Section 1 amends s. 430.501, F.S., establishing the Alzheimer's Disease Advisory Committee, to add a law enforcement officer to the committee. The bill requires the committee to submit an annual report to the Governor, President of the Senate, and Speaker of the House of Representatives with information and recommendations on Alzheimer's Disease. The bill also requires the Department of Elder Affairs to update its Alzheimer's Disease Plan every three years. The department must use reports and information from the state's Alzheimer's Disease organizations in updating the plan.

Section 2 amends s. 430.52, F.S., creating the Alzheimer's Disease Memory Disorder Clinics, to remove outdated language.

Section 3 provides an effective date of July 1, 2019.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 430.501 and 430.502 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Stargel

22-01113-19

2019860__

1 A bill to be entitled
 2 An act relating to Alzheimer's disease; amending s.
 3 430.501, F.S.; revising representative requirements of
 4 the Alzheimer's Disease Advisory Committee membership;
 5 requiring the committee to submit an annual report to
 6 specified parties that includes certain information
 7 and recommendations; requiring the Department of
 8 Elderly Affairs to review and update the Alzheimer's
 9 disease state plan every 3 years in collaboration with
 10 certain parties; amending s. 430.502, F.S.; providing
 11 that certain clinics shall not receive decreased
 12 funding for a specified reason; providing an effective
 13 date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (3) of section 430.501, Florida
 18 Statutes, is amended to read:

19 430.501 Alzheimer's Disease Advisory Committee; research
 20 grants.—

21 (3) (a) The committee membership shall be representative as
 22 follows:

23 1. At least 4 of the 10 members must be licensed pursuant
 24 to chapter 458 or chapter 459 or hold a Ph.D. degree and be
 25 currently involved in the research of Alzheimer's disease.

26 2. The 10 members must include at least 4 persons who have
 27 been caregivers of persons living with ~~victims of~~ Alzheimer's
 28 disease.

29 3. Whenever possible, the 10 members shall include 1 each

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 of the following professionals: a gerontologist, a geriatric
 31 psychiatrist, a geriatrician, a neurologist, a social worker,
 32 ~~and a registered nurse, and a law enforcement officer.~~

33 (b)1. The Governor shall appoint members from a broad
 34 cross-section of public, private, and volunteer sectors. All
 35 nominations shall be forwarded to the Governor by the Secretary
 36 of Elderly Affairs in accordance with this subsection.

37 2. Members shall be appointed to 4-year staggered terms in
 38 accordance with s. 20.052.

39 3. The Secretary of Elderly Affairs shall serve as an ex
 40 officio member of the committee.

41 4. The committee shall elect one of its members to serve as
 42 chair for a term of 1 year.

43 5. The committee may establish subcommittees as necessary
 44 to carry out the functions of the committee.

45 6. The committee shall meet quarterly, or as frequently as
 46 needed.

47 7. The committee shall submit an annual report to the
 48 Governor, the President of the Senate, the Speaker of the House
 49 of Representatives, and the Secretary of Elderly Affairs. The
 50 annual report shall include information and recommendations on
 51 Alzheimer's disease policy; all state-funded efforts in
 52 Alzheimer's disease research, clinical care, institutional,
 53 home-based and community-based programs, and the outcomes of
 54 such efforts; and any proposed updates to the Alzheimer's
 55 disease state plan created pursuant to chapter 2012-172, Laws of
 56 Florida, and maintained by the Department of Elderly Affairs.

57 8. Every 3 years, the Department of Elderly Affairs shall
 58 review and update the Alzheimer's disease state plan created

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59 pursuant to chapter 2012-172, Laws of Florida. The Department of
 60 Elderly Affairs shall utilize the annual reports submitted by
 61 the committee and collaborate with state Alzheimer's disease
 62 organizations and professionals when considering such updates to
 63 the Alzheimer's disease state plan.

64 ~~9.7-~~ The Department of Elderly Affairs shall provide staff
 65 support to assist the committee in the performance of its
 66 duties.

67 ~~10.8-~~ Members of the committee and subcommittees shall
 68 receive no salary, but are entitled to reimbursement for travel
 69 and per diem expenses, as provided in s. 112.061, while
 70 performing their duties under this section.

71 Section 2. Subsection (1) of section 430.502, Florida
 72 Statutes, is amended to read:

73 430.502 Alzheimer's disease; memory disorder clinics and
 74 day care and respite care programs.—

75 (1) There is established:

76 (a) A memory disorder clinic at each of the three medical
 77 schools in this state;

78 (b) A memory disorder clinic at a major private nonprofit
 79 research-oriented teaching hospital, and may fund a memory
 80 disorder clinic at any of the other affiliated teaching
 81 hospitals;

82 (c) A memory disorder clinic at the Mayo Clinic in
 83 Jacksonville;

84 (d) A memory disorder clinic at the West Florida Regional
 85 Medical Center;

86 (e) A memory disorder clinic operated by Health First in
 87 Brevard County;

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88 (f) A memory disorder clinic at the Orlando Regional
 89 Healthcare System, Inc.;

90 (g) A memory disorder center located in a public hospital
 91 that is operated by an independent special hospital taxing
 92 district that governs multiple hospitals and is located in a
 93 county with a population greater than 800,000 persons;

94 (h) A memory disorder clinic at St. Mary's Medical Center
 95 in Palm Beach County;

96 (i) A memory disorder clinic at Tallahassee Memorial
 97 Healthcare;

98 (j) A memory disorder clinic at Lee Memorial Hospital
 99 created by chapter 63-1552, Laws of Florida, as amended;

100 (k) A memory disorder clinic at Sarasota Memorial Hospital
 101 in Sarasota County;

102 (l) A memory disorder clinic at Morton Plant Hospital,
 103 Clearwater, in Pinellas County;

104 (m) A memory disorder clinic at Florida Atlantic
 105 University, Boca Raton, in Palm Beach County; and

106 (n) A memory disorder clinic at Florida Hospital in Orange
 107 County,

108
 109 for the purpose of conducting research and training in a
 110 diagnostic and therapeutic setting for persons suffering from
 111 Alzheimer's disease and related memory disorders. However,
 112 memory disorder clinics ~~funded as of June 30, 1995,~~ shall not
 113 receive decreased funding due solely to subsequent additions of
 114 memory disorder clinics in this subsection.

115 Section 3. This act shall take effect July 1, 2019.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/11/14

Meeting Date

860

Bill Number (if applicable)

Topic SB 860: Alzheimer's Disease

Name Brian Sullivan

Job Title Director of State Affairs

Address 725 John Knox Ste. 123

Street

Tallahassee

City

FL

State

32308

Zip

Phone 810-335-0150

Email bmsullivan@alz.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Alzheimer's Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/11/19
Meeting Date

SB 828
Bill Number (if applicable)

Topic Alzheimer Disease

Amendment Barcode (if applicable)

Name Doreen Barker

Job Title Assoc. State Director

Address 200 W. College
Street

Phone 228-6387

Jull F 3230
City State Zip

Email dobarker@comp.az

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 838

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Powell

SUBJECT: Public Records/Mental Health Treatment and Services

DATE: March 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 838 creates new exemptions from the public records inspection and access requirements of Art. 1, s. 24(a) of the State Constitution and s. 119.07(1), F.S. This bill makes confidential and exempt pleadings, orders, and personal identifying information on a docket relating to Baker Act proceedings. The information may be disclosed upon request to certain persons involved in the proceedings or when directed by the court.

The exemptions will be repealed on October 2, 2024, unless reenacted by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

The bill has an effective date of July 1, 2019.

II. Present Situation:

Public Records Law

The Florida Constitution provides the public the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act. The Public Records Act states:

[I]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or the method of transmission.⁵ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁶ A violation of the Public Records Act may result in civil or criminal liability.⁷

The Legislature may create an exemption to public records requirements.⁸ An exemption must pass by a two-thirds vote of the House and the Senate.⁹ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A statutory exemption that does not meet these criteria may be unconstitutional and may not be judicially saved.¹¹

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Section 119.01(1), F.S.

⁵ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁸ FLA. CONST., art. I, s. 24(c).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹² Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹³

Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.¹⁴ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting where official acts are taken or public business is transacted or discussed.¹⁵ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.¹⁶

Section 286.011, F.S., which is known as the “Government in the Sunshine Law,”¹⁷ or the “Sunshine Law,”¹⁸ requires all meetings of any board or commission of any state or local agency or authority where official acts are to be taken be open to the public.¹⁹ The board or commission must provide the public reasonable notice of such meetings.²⁰ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or operates in a manner that unreasonably restricts the public’s access to the facility.²¹ Minutes of a public meeting must be promptly recorded and open to public inspection.²² Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²³ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁴

important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹³ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁴ FLA. CONST., art. I, s. 24(b).

¹⁵ *Id.*

¹⁶ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁷ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

¹⁸ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

¹⁹ Section 286.011(1)-(2), F.S.

²⁰ *Id.*

²¹ Section 286.011(6), F.S.

²² Section 286.011(2), F.S.

²³ Section 286.011(1), F.S.

²⁴ Section 286.011(3), F.S.

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁵ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁶ A statutory exemption that does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁷

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records.²⁸ The OGSR provides that an exemption automatically repeals on October 2 of the fifth year after creation or substantial amendment. The Legislature must reenact an exemption in order to save the exemption from repeal.²⁹ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than necessary to accomplish the stated purpose of the exemption.³⁰ The Legislature must find that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption. An exemption serves an identifiable purpose if it meets one of the following criteria:

- Allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;³¹
- Release of sensitive personal information would be defamatory or would jeopardize an individual's safety;^{32,33} or
- Protects trade or business secrets.³⁴

The OGSR requires specific questions be considered during the review process.³⁵ The OGSR asks the Legislature to question carefully the purpose and necessity of reenacting the exemption.

²⁵ FLA. CONST., art. I, s. 24(c).

²⁶ *Id.*

²⁷ *See supra* note 12.

²⁸ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

²⁹ Section 119.15(3), F.S.

³⁰ Section 119.15(6)(b), F.S.

³¹ Section 119.15(6)(b)1., F.S.

³² Section 119.15(6)(b)2., F.S.

³³ Only personal identifying information is exempt if this public purpose is cited as the basis of an exemption.

³⁴ Section 119.15(6)(b)3., F.S.

³⁵ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

A public necessity statement and a two-thirds vote of the members present and voting in each house of the Legislature are required for final passage if the Legislature expands an exemption.³⁶ A public necessity statement and a two-thirds vote of the members present and voting in each house of the Legislature are not required for final passage if the exemption is reenacted without substantive changes or if the exemption is narrowed. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.³⁷

The Baker Act

The Legislature adopted the Florida Mental Health Act, also known as The Baker Act, in 1971.³⁸ It is designed to help people receive treatment who are suffering with mental, emotional, and behavioral disorders. Baker Act proceedings provide people with emergency services, sometimes through temporary detention, to obtain a mental health evaluation and treatment. The treatment may be voluntary or involuntary. The Baker Act requires that programs offer comprehensive services to people who need intensive short-term treatment and continued treatment to aid in their recovery. The Baker Act also provides protections and rights for people examined or treated for mental illness. Legal procedures are established for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Confidentiality of Records under the Baker Act

The concern has been expressed that while “clinical records”³⁹ under the Baker Act are designated and maintained as confidential by the clerk of the court, it is not clear whether other Baker Act records are open to the public for review.⁴⁰ There appears to be a difference of opinion among various clerks of court as to what is and what is not exempt from disclosure. If the petitions, orders, and identifying information in this bill were all classified as confidential and exempt, then there would be uniformity among the clerks of the court in administering these provisions statewide.

III. Effect of Proposed Changes:

Section 1 creates s. 394.464, F.S., to provide that all petitions for voluntary and involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part I of Section 397, F.S., are confidential and exempt from s. 119.071(1), F.S., and s. 24(a), Art. I of the State Constitution. The pleadings and other documents may be disclosed by the clerk of

³⁶ FLA. CONST., art. I, s. 24(c).

³⁷ Section 119.15(7), F.S.

³⁸ Chapter 71-131, s. 1, Laws of Fla. The Baker Act is contained in Part I of chapter 394, Florida Statutes.

³⁹ Section 394.4615, F.S., states that “[a] clinical record is confidential and exempt from the provisions of s. 119.07(1).” The Judicial Administration Rules also provide for the confidentiality of clinical records under the Baker Act. Fla. R. Jud. Admin. 2.420(d)(1)(B)(viii).

⁴⁰ Section 394.455(3), F.S. Clinical records are defined as being all parts of the record required to be maintained, including medical records, progress notes, charts, admission and discharge data, and other information recorded by the facility that pertains to the patient’s hospitalization or treatment. In lay terms, this is often characterized as records requiring a medical signature.

court, upon request, to certain persons or agencies, such as the petitioner, the respondent and their legal representatives, as well as the Department of Corrections. The bill provides that records made confidential and exempt from public disclosure can be submitted by the clerk of the court to the Florida Department of Law Enforcement as required by s. 790.065, F.S.⁴¹

The bill provides that the newly created public records exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides for retroactive application of the public records exemption.

Section 2 provides a statement of public necessity as required by the State Constitution.⁴² The bill provides that making petitions and court records filed under the Baker Act confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution protects a person's personal health information and sensitive personal information which, if released, could cause unwarranted damage to the person's reputation. Additionally, the knowledge that such information could be disclosed could have a chilling effect on the willingness of individuals to seek treatment.

Section 3 provides that the bill shall take effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the State Constitution may apply because clerks of the court may incur additional costs relating to redacting information made confidential and exempt under this bill. However, an exemption may apply based on the limited fiscal impact that is anticipated to be incurred.

B. Public Records/Open Meetings Issues:

Because the bill creates a public records exemption, the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

The State Constitution requires the exemption to be no broader than necessary to accomplish the stated purpose of the law. The exemption is no broader than the public necessity statement. The public necessity statement appears to support the public policy for the exemption.

⁴¹ Section 790.065, F.S., concerns the sale and delivery of firearms. Clerks of the court are required to transfer the records of certain impaired people to FDLE.

⁴² FLA. CONST. art. I, s. 24(c).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Clerks of court may incur additional costs associated with training court personnel and performing more redactions of personal identifying information from dockets. It is anticipated that these costs will be absorbed within the existing resources of the offices of the clerks of court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 394.464 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 11, 2019:

The CS provides an effective date of July 1, 2019.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



222020

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2019	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 102 - 105

and insert:

Section 3. This act shall take effect July 1, 2019.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 17 - 18

and insert:

1
2
3
4
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10



222020

11

public necessity; providing an effective date.

By Senator Powell

30-01054-19

2019838__

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 394.464, F.S.; providing an exemption from public
 4 records requirements for petitions for voluntary and
 5 involuntary admission for mental health treatment,
 6 court orders, related records, and personal
 7 identifying information regarding persons seeking
 8 mental health treatment and services; providing
 9 exceptions authorizing the release of such petitions,
 10 orders, records, and identifying information to
 11 certain persons and entities; providing applicability;
 12 prohibiting a clerk of court from publishing personal
 13 identifying information on a court docket or in a
 14 publicly accessible file; providing for retroactive
 15 application; providing for future legislative review
 16 and repeal of the exemption; providing a statement of
 17 public necessity; providing a contingent effective
 18 date.
 19
 20 Be It Enacted by the Legislature of the State of Florida:
 21
 22 Section 1. Section 394.464, Florida Statutes, is created to
 23 read:
 24 394.464 Court records; confidentiality.-
 25 (1) All petitions for voluntary and involuntary admission
 26 for mental health treatment, court orders, and related records
 27 that are filed with or by a court under this part are
 28 confidential and exempt from s. 119.071(1) and s. 24(a), Art. I
 29 of the State Constitution. Pleadings and other documents made

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30-01054-19

2019838__

30 confidential and exempt by this section may be disclosed by the
 31 clerk of the court, upon request, to any of the following:
 32 (a) The petitioner.
 33 (b) The petitioner's attorney.
 34 (c) The respondent.
 35 (d) The respondent's attorney.
 36 (e) The respondent's guardian or guardian advocate, if
 37 applicable.
 38 (f) In the case of a minor respondent, the respondent's
 39 parent, guardian, legal custodian, or guardian advocate.
 40 (g) The respondent's treating health care practitioner.
 41 (h) The respondent's health care surrogate or proxy.
 42 (i) The Department of Children and Families, without
 43 charge.
 44 (j) The Department of Corrections, without charge, if the
 45 respondent is committed or is to be returned to the custody of
 46 the Department of Corrections from the Department of Children
 47 and Families.
 48 (k) A person or entity authorized to view records upon a
 49 court order for good cause. In determining if there is good
 50 cause for the disclosure of records, the court must weigh the
 51 person or entity's need for the information against potential
 52 harm to the respondent from the disclosure.
 53 (2) This section does not preclude the clerk of the court
 54 from submitting the information required by s. 790.065 to the
 55 Department of Law Enforcement.
 56 (3) The clerk of the court may not publish personal
 57 identifying information on a court docket or in a publicly
 58 accessible file.

Page 2 of 4

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30-01054-19

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59 (4) A person or entity receiving information pursuant to
 60 this section shall maintain that information as confidential and
 61 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 62 Constitution.

63 (5) The exemption under this section applies to all
 64 documents filed with a court before, on, or after July 1, 2019.

65 (6) This section is subject to the Open Government Sunset
 66 Review Act in accordance with s. 119.15 and shall stand repealed
 67 on October 2, 2024, unless reviewed and saved from repeal
 68 through reenactment by the Legislature.

69 Section 2. The Legislature finds that it is a public
 70 necessity that petitions for voluntary and involuntary admission
 71 for mental health treatment and related court orders and records
 72 that are filed with or by a court under part I of chapter 394,
 73 Florida Statutes, and the personal identifying information of a
 74 person seeking mental health treatment published on a court
 75 docket and maintained by the clerk of the court under part I of
 76 chapter 394, Florida Statutes, be made confidential and exempt
 77 from disclosure under s. 119.07(1), Florida Statutes, and s.
 78 24(a), Article I of the State Constitution. The mental health of
 79 a person, including a minor, is a medical condition, which
 80 should be protected from dissemination to the public. A person's
 81 mental health is also an intensely private matter. The public
 82 stigma associated with a mental health condition may cause
 83 persons in need of treatment to avoid seeking treatment and
 84 related services if the record of such condition is accessible
 85 to the public. Without treatment, a person's condition may
 86 worsen, the person may harm himself or herself or others, and
 87 the person may become a financial burden on the state. The

Page 3 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30-01054-19

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88 content of such records or personal identifying information
 89 should not be made public merely because they are filed with or
 90 by a court or placed on a docket. Making such petitions, orders,
 91 records, and identifying information confidential and exempt
 92 from disclosure will protect such persons from the release of
 93 sensitive, personal information which could damage their and
 94 their families' reputations. The publication of personal
 95 identifying information on a physical or virtual docket,
 96 regardless of whether any other record is published, defeats the
 97 purpose of protections otherwise provided. Further, the
 98 knowledge that such sensitive, personal information is subject
 99 to disclosure could have a chilling effect on a person's
 100 willingness to seek out and comply with mental health treatment
 101 services.

102 Section 3. This act shall take effect on the same date that
 103 SB ____ or similar legislation takes effect, if such legislation
 104 is adopted in the same legislative session or an extension
 105 thereof and becomes a law.

Page 4 of 4

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.11.19

Meeting Date

838

Bill Number (if applicable)

Topic Public Records/Mental Health Treatment

Name Barney Bishop III

Amendment Barcode (if applicable)

Job Title President & CEO

Address 2215 Thomaville Road

Street

Tallahassee

City

FL

State

32308

Zip

Phone 850.510.9922

Email barney@barneybishop.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/11/19

Meeting Date

838

Bill Number (if applicable)

Topic Mental Health Records

Amendment Barcode (if applicable)

Name Carey Haughwout

Job Title Public Defender, 15th Judicial Circuit

Address 421 Third St.

Phone 561-355-7500

Street

West Palm Beach

FI

33401

Email careyPD @pd15.state.fl.us

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/ SB 900

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Harrell

SUBJECT: Substance Abuse Services

DATE: March 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 900 promotes the use of peer specialists in behavioral health care and revises requirements for recovery residences (also known as “sober homes”). Peer specialists are persons who have recovered from a substance use disorder or mental illness who support a person with a current substance use disorder or mental illness. The bill revises background screening requirements and codifies existing training and certification requirements for peer specialists.

The bill also modifies requirements for licensed substance abuse service providers offering treatment to individuals living in recovery residences. The bill provides due process procedures for actions taken by an approved certifying entity on a recovery residence’s certification.

The bill exempts certified recovery residences from landlord/tenant laws in cases where a discharge is deemed necessary to protect the resident at issue, other residents, or staff, provided the recovery residence has an approved discharge policy. The bill also exempts Oxford houses from certification requirements, and treats single and two family recovery residences equal to other residences for purposes of the Florida Fire Prevention Code and Florida Building Code.

The bill addresses individuals who have been disqualified for employment with substance abuse service providers following a failed background screening and adds offenses for which individuals may seek an exemption from such disqualification.

The bill will likely have an indeterminate fiscal impact on the state and has an effective date of July 1, 2019.

II. Present Situation:

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ Substance use disorder occurs when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.² Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.³ Brain imaging studies of persons with substance use disorder show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.⁴

Substance Abuse Treatment in Florida

DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. SAMH programs include a range of prevention, acute interventions (such as crisis stabilization or detoxification), residential, transitional housing, outpatient treatment, and recovery support services.

DCF provides treatment for substance abuse through a community-based provider system that serves adolescents and adults affected by substance misuse, abuse or dependence.⁵ DCF regulates substance abuse treatment by licensing individual treatment components under chapter 397, F.S., and chapter 65D-30, F.A.C.

The 2017 Legislature passed and the Governor approved HB 807, which made several changes to DCF's licensure program for substance abuse treatment providers in chapter 397, F.S.⁶ HB 807 revised the licensure application requirements and process and required applicants to provide detailed information about the clinical services they provide.

Recovery Residences

Recovery residences function under the premise that individuals benefit in their recovery by residing in an alcohol and drug-free environment. Recovery residences are designed to be

¹ World Health Organization. *Substance Abuse*, available at http://www.who.int/topics/substance_abuse/en/ (last visited on March 8, 2019).

² Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, available at <http://www.samhsa.gov/disorders/substance-use> (last visited on March 8, 2019).

³ National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited on March 8, 2019).

⁴ Id.

⁵ Department of Children and Families, *Treatment for Substance Abuse*, <http://www.myflfamilies.com/service-programs/substance-abuse/treatment-and-detoxification>, (last visited on March 8, 2019).

⁶ Ch. 2017-173, L.O.F.

financially self-sustaining through rent and fees paid by residents, and there is no limit on the length of stay for those who abide by the rules.

Section 397.311, F.S., defines a recovery residence as a residential dwelling unit, or other form of group housing, offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A 2009 Connecticut study notes the following: “Sober houses do not provide treatment, [they are] just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation.”⁷

Voluntary Certification of Recovery Residences in Florida

Florida does not license recovery residences. Instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.

While certification is voluntary, Florida law incentivizes certification. Since July 1, 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence is certified and is actively managed by a certified recovery residence administrator.⁸ Referrals by licensed service providers to uncertified recovery residences are limited to those licensed service providers under contract with a managing entity as defined in s. 394.9082, F.S.; referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral; and referrals before July 1, 2018 by a licensed service provider to that licensed service provider’s wholly owned subsidiary.⁹

DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.¹⁰ As of February 13, 2019, there were 404 certified recovery residences in Florida.¹¹ The total number of available beds at these residences was 5,786: 2,915 available beds at these residences were men’s beds, 1,493 were women’s, and 1,378 were unisex.¹² As of January 2019, 25 counties in Florida contained at least one certified recovery residence.¹³

Behavioral Health Workforce Shortage

Workforce issues for providers of substance use disorder and mental illness services, which have been of concern for decades, have taken on a greater sense of urgency with the passage of recent

⁷ *Id.*

⁸ S. 397.4873(1), F.S.

⁹ S. 397.4873(2), F.S.

¹⁰ S. 397.4872, F.S.

¹¹ Florida Association of Recovery Residences, *Certified Residences*,

<http://www.dcf.state.fl.us/programs/samh/docs/FARR%20Certified%20Recovery%20Residences.pdf>

(last visited on March 8, 2019).

¹² *Id.*

¹³ *Id.*

parity and health reform legislation.¹⁴ The Affordable Care Act increased the number of people who are eligible for health care coverage including behavioral health services. In addition, as screening for mental illness and substance abuse becomes more frequent in primary care, more people will need behavioral health services. Furthermore, workforce shortages will be impacted by additional demands that result from: (1) a large number of returning veterans in need of services; and (2) new state re-entry initiatives to reduce prison populations, a large majority of whom have mental or substance use disorders.¹⁵

Shortages of qualified behavioral health workers, recruitment and retention of staff and an aging workforce have long been cited as problems. Lack of workers in rural/frontier areas and the need for a workforce more reflective of the racial and ethnic composition of the U.S. population create additional barriers to accessing care for many. Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field. In addition, the misunderstanding and prejudice of persons with mental and substance use disorders can negatively affect the use of peer specialists.

Use of Peer Specialists

Research has shown that recovery from a substance use disorder or mental illness is facilitated by the use of social support provided by peers.¹⁶ The most recognized form of peer support is the 12-step programs of Alcoholics Anonymous and Narcotics Anonymous. More recently, peers or peer specialists, have been used to assist persons with serious mental illnesses.¹⁷

Research has identified four types of social support provided by peers:

- Emotional - where a peer demonstrates empathy, caring or concern to bolster a person's self-esteem. This is often provided by peer mentoring or peer-led support groups.
- Informational - where a peer shares knowledge and information to provide life or vocational skills training. Examples include parenting classes, job readiness training, or wellness seminars.
- Instrumental - where a peer provides concrete assistance to help others accomplish tasks. Examples include child care, transportation and help accessing health and human services.
- Affiliational - where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. Examples include staffing recovery centers, sports league participation, and alcohol or drug free socialization.¹⁸

¹⁴ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues. January 24, 2013. Available at: <https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf> (last visited on March 8, 2019).

¹⁵ *Id.*

¹⁶ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited on March 8, 2019).

¹⁷ National Public Radio. In Texas, People with Mental Illness Are Finding Work Helping Peers. July 11, 2017. <http://www.npr.org/sections/health-shots/2017/07/11/536501069/in-texas-people-with-mental-illness-are-finding-work-helping-peers> (last visited on March 8, 2019).

¹⁸ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited on March 8, 2019).

The Department of Children and Families (department) Florida Peer Services Handbook, defines a peer as an individual who has life experience with a mental health and/or substance use condition.¹⁹ Current department guidelines recommend that an individual be in recovery for at least two years to be considered for peer training. In Florida, family members or caregivers can also work and be certified as peer specialists.²⁰

The Florida Certification Board currently offers certification with three distinct endorsements for individuals with lived experience who wish to become certified as Peer Specialists. General requirements for certification include being age 18 or older, minimum education of high school diploma or equivalent, background screening, completion of a minimum of 40 hours of training, and passing a competency exam.

Barriers to the Use of Peer Specialists

Currently, there is a shortage of peers working within behavioral health services. As of June 2017, there are 418 individuals with active certification through the Florida Certification Board.²¹ There are two principal barriers to the use of peer specialists.

First, peer specialists often cannot pass background screening requirements in ss. 435.04 and 408.809, F.S. Persons who have recovered from a substance use disorder or mental illness often have a criminal history. Common offenses would include using and selling illegal substances, prostitution, or financial fraud. Section 435.04, F.S., allows persons with certain disqualifying offenses identified through background screening to apply to the respective state agency head (the Secretary of the Department of Children and Families or the Secretary of the Agency for Health Care Administration) for an exemption if it has been three or more years since their conviction. The applicant must produce all court records regarding their convictions, letters of recommendation, evidence of their rehabilitation, education documents, evidence of employment, and fill out a questionnaire. The requirements of this exemption often deter persons from becoming peer specialists.

Second, peer specialists have only recently been reimbursed as a behavioral health care service. Medicaid billing for peer support services began in Georgia in 1999, and quickly expanded nationally in 2007 after the Center for Medicare and Medicaid Services (CMS) sent guidelines to states on how to be reimbursed for services delivered by peer providers.²² In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by peer providers. CMS' Clarifying Guidance on Peer Services Policy from May 2013 states that any peer provider must "complete training and certification as defined by the state" before providing billable services. Beginning January 1, 2014, CMS expanded the type of practitioners who can provide Medicaid prevention services beyond physicians and other licensed practitioners, at a

¹⁹ Department of Children and Families, Florida Peer Services Handbook. Available at <http://www.myflfamilies.com/service-programs/substance-abuse/publications> (last visited on March 8, 2019).

²⁰ *Id.*

²¹ *Id.*

²² U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. SMDL #07-011. Aug. 15, 2007. Available at <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD081507A.pdf> (last visited on March 8, 2019).

state's discretion, which can include peer providers. Florida's Medicaid program currently covers peer recovery services. The department also allows the state's behavioral health managing entities to reimburse for these services.

Background Screening Requirements and Process Under Ch. 435, F.S.

Chapter 435, F.S., addresses background screening requirements for persons seeking employment or for employees in positions that require a background screening. An employer²³ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person²⁴ that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency²⁵ as provided under s. 435.07, F.S.²⁶

If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires a background screening until the arrest is resolved in a way that the employer determines that the employee is still eligible for employment under ch. 435, F.S.²⁷ The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of ch. 435, F.S., or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07, F.S.²⁸

An employer may hire an employee to a position that requires a background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.²⁹

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening: level 1 and level 2:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement

²³ "Employer" means any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S. Section 435.02(3), F.S.

²⁴ Vulnerable persons are defined as minors in s. 1.01, F.S., or as vulnerable adults in s. 415.102, F.S.

²⁵ "Agency" means any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer or is itself an employer or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the DCF. Section 435.02(1), F.S.

²⁶ Section 435.06(2)(a), F.S.

²⁷ Section 435.06(2)(b), F.S.

²⁸ Section 435.06(2)(c), F.S.

²⁹ Section 435.06(2)(d), F.S.

(FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,³⁰ and may include criminal records checks through local law enforcement agencies.³¹

- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.³²

The security background investigations under s. 435.04, F.S., for level 2 screening must ensure that no persons subject to this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent, and the record has not been sealed or expunged for, any offense listed in s. 435.04(2), F.S., or a similar law of another jurisdiction.³³ Additionally, such investigations must ensure that no person subject to s. 435.04, F.S., has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense that constitutes domestic violence in s. 741.28, F.S., whether such act was committed in this state or another jurisdiction.³⁴

For both levels of screening, the person required to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening under ch. 435, F.S.,³⁵ and must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.³⁶ Every employee must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant ch. 435, F.S., and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.³⁷

For level 1 screening, the employer must submit the information necessary for screening to the Florida Department of Law Enforcement (FDLE) within 5 working days after receiving it. The FDLE must conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.³⁸

For level 2 screening, the employer or agency must submit the information necessary for screening to the FDLE within 5 working days after receiving it. The FDLE must perform a criminal history record check of its records and request that the FBI perform a national criminal history record check. The FDLE must respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.³⁹

³⁰ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited on March 8, 2019).

³¹ Section 435.03(1), F.S.

³² Section 435.04(1)(a), F.S.

³³ Section 435.04(2), F.S.

³⁴ Section 435.04(3), F.S.

³⁵ Section 435.05(1)(a), F.S.

³⁶ Section 435.05(1)(d), F.S.

³⁷ Section 435.05(2), F.S.

³⁸ Section 435.05(1)(b), F.S.

³⁹ Section 435.05(1)(c), F.S.

Each employer licensed or registered with an agency must conduct level 2 screening and must submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed attestation attesting to compliance with the provisions of ch. 435, F.S.⁴⁰

Individuals Requiring Background Screening Under Ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services to undergo level 2 background screening.

Regarding recovery residences, s. 397.487(6), F.S., and s. 397.4871(5), F.S., each require level 2 background screening for all recovery residence owners, directors, and chief financial officers, and for administrators seeking certification.

Exemptions from Disqualification for Employment

Section 435.07(1), F.S., authorizes the head of the appropriate agency to grant to any employee otherwise disqualified from employment due to certain disqualifying offenses an exemption from such disqualification. For a felony, three years must have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed. No waiting period applies to misdemeanors.

Additionally, s. 435.07(2), F.S., provides that persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 817.563, F.S. (sale of imitation controlled substance), s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking), or s. 893.147, F.S. (drug paraphernalia offenses) may be exempted from disqualification from employment pursuant to ch. 435, F.S., without application of the 3-year waiting period for felony offenses in s. 435.07(1)(a)1., F.S.

Section 397.4073(4), F.S., authorizes the DCF to grant any service provider personnel an exemption from disqualification as provided in s. 435.07, F.S. The DCF may grant exemptions from disqualification to service provider personnel whose backgrounds checks indicate crimes under s. 817.563, F.S., s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking), or s. 893.147, F.S., or grant exemptions from disqualification which would limit service provider personnel to working with adults in substance abuse treatment facilities.

Section 397.4872(1), F.S., provides that the individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the DCF within 20 days after the denial by the credentialing entity and must include a justification for the exemption. Subsection (2) provides, with some exceptions, the DCF may exempt a person from ss. 397.487(6), and 397.4871(5), F.S., if it has been at least 3 years since the person has

⁴⁰ Section 435.05(3), F.S.

completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense.

As previously noted, substance abuse services are governed by ch. 394, F.S., and ch. 397, F.S. “The system of care provides services to children and adults with or at-risk of substance misuse/abuse problems or co-occurring substance abuse and mental health problems[.]”⁴¹ Section 394.4572(1)(a), F.S., requires a level 2 screening for mental health personnel,⁴² and s. 394.4572(1)(a), F.S., authorizes the DCF and the Agency for Health Care Administration (AHCA) to grant exemptions from disqualification as provided in ch. 435, F.S. However, s. 394.4572, F.S., does not specifically authorize the DCF or the AHCA to grant exemptions from disqualification for service provider personnel to work solely in mental health treatment programs or facilities or in programs or facilities that treat co-occurring substance use and mental health disorders.

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., to allow DCF (or AHCA as applicable) to grant exemptions from disqualification for service provider personnel to work solely in mental health treatment programs or facilities, or in programs that treat co-occurring substance abuse and mental health disorders.

Section 2 amends s. 397.311, F.S., providing definitions to Chapter 397 on Substance Abuse Services to include definitions for “clinical supervisors” and “peer specialists.” The bill also expands the definition of “recovery residence” to include all community housing.

Section 3 amends s. 397.321, F.S., to provide due process procedures via an internal department review and the administrative hearing process under chapter 120, F.S., for certified service provider personnel whose certification is denied, revoked, or suspended by the credentialing entity.

Section 4 amends s. 397.4073, F.S., relating to recovery residences, to require that beginning on July 1, 2019, peer specialists will be subject to level 2 background screenings, and, along with recovery residence owners, directors, chief financial officers, and clinical supervisors, will also be subject to background screenings for the offenses in s. 408.809, F.S. in addition to those in chapter 435, F.S. The bill also provides that for individuals who seek an exemption from disqualification for employment in substance abuse treatment following a level 2 background screening, the bill requires DCF to render a decision on the application for exemption from disqualification within 60 days after DCF receives the complete application. Additionally, the bill allows individuals to work under supervision for up to 90 days while DCF evaluates their applications for an exemption from disqualification, so long as it has been five or more years

⁴¹ Department of Children and Families, *Substance Abuse and Mental Health Services Plan 2014-2016*, p. 3, available at <http://www.dcf.state.fl.us/programs/samh/publications/2014-2016%20SAMH%20Services%20Plan.pdf> (last visited on March 8, 2019).

⁴² “Mental health personnel” includes all program directors, professional clinicians, staff members, and volunteers working in public or private mental health programs and facilities who have direct contact with individuals held for examination or admitted for mental health treatment. Section 394.4572(1)(a), F.S.

since the individuals have completed all non-monetary conditions associated with their most recent disqualifying offense.

The bill also modifies current requirements relating to background screening and exemptions from disqualification from employment to add the following crimes for which service provider personnel may receive an exemption from disqualification without the statutorily imposed waiting period, if they are working with adolescents 13 years of age and older and adults with substance use disorders:

- Prostitution-related offenses under s. 796.07(2)(e), F.S.;
- Unarmed burglary of a conveyance or structure under s. 810.02(4), F.S.;
- Third degree grand theft under s. 812.014(2)(c), F.S.;
- Forgery under s. 831.01, F.S.;
- Offenses involving uttering or publishing a forged instrument under s. 832.02, F.S.; and
- Any attempt, solicitation, or conspiracy to commit any of these offenses or any offense currently listed in the section.

The bill permits the department to grant exemptions from disqualification for service provider personnel to work exclusively in substance use disorder treatment programs, facilities, or recovery residences or in programs or facilities that treat co-occurring substance use and mental health disorders, and provides that the department may further limit such exemptions from disqualification to working with adults in substance abuse treatment facilities.

Section 5 amends s. 397.4075, F.S., to increase criminal penalties relating to personnel from a first-degree misdemeanor to a third degree felony. Additionally, the bill creates a new offense for anyone who willfully, knowingly, or intentionally makes false statements, misrepresents, impersonates, fails to disclose, or otherwise fraudulently discloses inaccurate information on a licensure application when such fact is material to determining one's qualifications to be an owner, director, volunteer, or other personnel of a service provider.

Section 6 creates s. 397.417, F.S., providing that a person who has been in recovery from a substance use disorder or mental illness for the past 2 years or a family member or caregiver of such a person may seek certification as a peer specialist. The bill requires DCF to approve training and continuing education programs for peer specialist certification. DCF must designate one or more credentialing entities that have met nationally recognized standards for developing and administering certification programs to handle the training and certification of peer specialists. The bill intends to expand the use of peer specialists as a cost-effective behavioral health care service. The bill also encourages the department, behavioral health managing entity, or Medicaid to reimburse providers of this service.

The bill allows a peer specialist (who is not yet certified), to provide support services for up to a year while he or she is working towards certification; such peer specialists must be supervised by a qualified professional or a certified peer specialists with at least three years of full-time experience at a licensed behavioral health organization.

The bill also allows individuals who wish to become peer specialists but have certain disqualifying offenses in their background to request an exemption from disqualification pursuant to s. 435.07, F.S., from the department or the Agency for Health Care Administration, as applicable. The bill prohibits an individual who is not a certified peer specialist from advertising recovery services as a peer specialist, unless the individual is working toward certification and is supervised by a qualified professional as previously described.

Section 7 amends s. 397.487, F.S., relating to recovery residences, to require all owners, directors, and chief financial officers of a recovery residence applying for voluntary certification to undergo a background screening under s. 408.809, F.S. The bill also directs the credentialing entity for recovery residences to deny an application if any of these individuals has been found guilty of, plead nolo contendere to, or had an adjudication of guilt withheld for, any offense listed in s. 408.809(4), F.S., unless the department has issued an exemption under s. 397.4073, F.S.

The bill allows a certified recovery residence that has a discharge policy approved by the credentialing entity to transfer or discharge residents from the recovery residence in accordance with that policy under the following circumstances:

- The discharge or transfer is necessary for the resident's welfare.
- The resident's needs cannot be met at the recovery residence.
- The health and safety of other residents or recovery residence employees are at risk or would be at risk if the resident continues to live at the recovery residence.

This right to discharge or transfer a resident will supersede any landlord and tenant rights and obligations under chapter 83, F.S.

The bill provides that local governments are not prohibited from mandating certification of recovery residences, and requires the Sober Homes Task Force within the Office of the State Attorney for the Fifteenth Judicial Circuit to submit a report containing recommendations on statewide mandatory certification of sober homes to the President of the Senate and the Speaker of the House of Representatives by January 1, 2020.

Section 8 amends s. 397.4873, F.S., relating to referrals to or from recovery residences, to modify existing restrictions on referrals to or from recovery residences to allow referrals by a recovery residence that is democratically operated by its residents pursuant to a charter from a congressionally recognized or sanctioned entity (often referred to as an “Oxford House”). The bill permits licensed service providers to make referrals to or accept referrals from such entities so long as neither the residence itself, nor any individual residents therein, receive a direct or indirect benefit.

Section 9 amends s. 397.55, relating to prohibition of deceptive marketing practices, to require any organization that contracts for referral services with a recovery residence to disclose the nature of the referral and the list of DCF’s licensed service providers and certified recovery residences.

Section 10 amends s. 435.07, F.S., relating to exemptions from employment disqualification, to modify current requirements relating to background screening and exemptions from disqualification from employment to add the following crimes for which service provider personnel may be exempted from employment disqualification when working with individuals 13 years of age or older:

- Prostitution-related offenses under s. 796.07(2)(e), F.S.;
- Unarmed burglary of a conveyance or structure under s. 810.02(4), F.S.;
- Third degree grand theft under s. 812.014(2)(c), F.S.;
- Forgery under s. 831.01, F.S.;
- Offenses involving uttering or publishing a forged instrument under s. 832.02, F.S.; and
- Any attempt, solicitation, or conspiracy to commit any of these offenses or any offense currently listed in the section.

Section 11 amends s. 553.80, F.S., relating to enforcement, to require that a single-family or two-family dwelling used as a recovery residence be classified as a single-family or two-family dwelling for purposes of the Florida Building Code.

Section 12 amends s. 633.206, F.S., relating to uniform fire safety standards, to require that uniform fire safety standards established by the State Fire Marshal apply to recovery residences. The bill also requires that if a single-family or two-family dwelling is used as a recovery residence then the dwelling is exempt from the uniform fire safety standards and shall be deemed a single-family or two-family dwelling for the purposes of the Life Safety Code and Florida Fire Prevention Code.

Section 13 amends s. 212.055, F.S., relating to the county public hospital surtax to correct a cross reference to a definition in chapter 397, F.S. relating to substance abuse.

Section 14 amends s. 397.416, F.S., relating to substance use disorder treatment services to correct cross references to definitions.

Section 15 amends s. 440.102, F.S., relating drug-free workplace requirements to correct a cross reference to a definition.

Section 16 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will allow additional peers to be employed to provide recovery services to persons suffering from substance use disorder to mental illnesses. Private insurers and Medicaid managed care plans may see a reduction in the cost of behavioral health care services if more health insurance providers make use of peer specialists.

C. Government Sector Impact:

The bill may result in additional background screenings if more persons apply to become peer specialists; however DCF currently licenses volunteers and personnel of recovery residences and additional screenings for peers would likely be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4572, 397.311, 397.321, 397.4073, 397.4075, 397.487, 397.4873, 397.55, 435.07, 553.80, 633.206, 212.055, 397.416, and 440.102.

This bill creates section 397.417 of the Florida Statutes.

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 11, 2019:

- The CS expresses legislative intent to expand the use of peer specialists as a cost-effective means of providing services to those with substance use disorders and/or mental illness.
- The CS encourages that peer specialists be reimbursed as a recovery service through DCF, a managing entity, or Medicaid, and encourages Medicaid managed care plans to use peer specialists in providing recovery services.
- The CS specifies that local governments are not prohibited from mandatory certification of recovery residences.
- The CS mandates that the Sober Homes Task Force within the Office of the State Attorney of the Fifteenth Judicial Circuit submit a report to the President of the Senate and the Speaker of the House of Representatives containing recommendations on mandatory statewide certification by January 1, 2020.

B. Amendments:

None.



115700

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2019	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 230 - 260

and insert:

(1) The Legislature intends to expand the use of peer specialists as a cost-effective means of providing services by ensuring that peer specialists meet specified qualifications, meet modified background screening requirements, and are adequately reimbursed for their services.

(2) An individual may seek certification as a peer



115700

11 specialist if he or she has been in recovery from a substance
12 use disorder or mental illness for at least 2 years, or if he or
13 she has at least 2 years of experience as a family member or
14 caregiver of a person with a substance use disorder or mental
15 illness.

16 (3) The department shall approve one or more third-party
17 credentialing entities for the purposes of certifying peer
18 specialists, approving training programs for individuals seeking
19 certification as peer specialists, approving continuing
20 education programs, and establishing the minimum requirements
21 and standards that applicants must achieve to maintain
22 certification. To obtain approval, the third-party credentialing
23 entity must demonstrate compliance with nationally recognized
24 standards for developing and administering professional
25 certification programs to certify peer specialists.

26 (4) An individual providing department-funded recovery
27 support services as a peer specialist shall be certified
28 pursuant to subsection (3). An individual who is not certified
29 may provide recovery support services as a peer specialist for
30 up to 1 year if he or she is working toward certification and is
31 supervised by a qualified professional or by a certified peer
32 specialist who has at least 3 years of full-time experience as a
33 peer specialist at a licensed behavioral health organization.

34 (5) An individual who is not a certified peer specialist
35 may not advertise recovery services to the public in any way, or
36 by any medium; or provide recovery services as a peer
37 specialist, unless the person is exempt under subsection (4).
38 Any individual who violates this subsection commits a
39 misdemeanor of the first degree, punishable as provided in s.



115700

40 775.082 or s. 775.083.

41 (6) Peer specialist services may be reimbursed as a
42 recovery service through the department, a behavioral health
43 managing entity, or the Medicaid program. Medicaid managed care
44 plans are encouraged to use peer specialists in providing
45 recovery services.

47 ===== T I T L E A M E N D M E N T =====

48 And the title is amended as follows:

49 Delete lines 33 - 47

50 and insert:

51 providing legislative intent; authorizing an
52 individual to seek certification as a peer specialist
53 if he or she meets certain requirements; requiring the
54 department to approve one or more third-party
55 credentialing entities for specified purposes;
56 requiring the credentialing entity to demonstrate
57 compliance with certain standards in order to be
58 approved by the department; requiring an individual
59 providing department-funded recovery support services
60 as a peer specialist to be certified; authorizing an
61 individual who is not certified to provide recovery
62 support services as a peer specialist under certain
63 circumstances; prohibiting an individual who is not a
64 certified peer specialist from advertising or
65 providing recovery services unless the person is
66 exempt; providing criminal penalties; authorizing the
67 department, a behavioral health managing entity, or
68 the Medicaid program to reimburse peer specialist



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services as a recovery service; encouraging Medicaid
managed care plans to use peer specialists in
providing recovery services;



818690

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2019	.	
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	.	
	.	

The Committee on Children, Families, and Elder Affairs (Harrell) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 300 and 301
insert:

(12) This section does not prohibit a local governmental entity from requiring mandatory certification of recovery residences as part of a reasonable accommodation process to protect the health and safety of the residents.

(13) By January 1, 2020, the Sober Homes Task Force within the Office of the State Attorney of the Fifteenth Judicial



818690

11 Circuit shall submit a report to the President of the Senate and
12 the Speaker of the House of Representatives which contains
13 recommendations on mandatory statewide certification of recovery
14 residences.

15

16 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

17 And the directory clause is amended as follows:

18 Delete line 262

19 and insert:

20 Florida Statutes, are amended, and subsections (11), (12), and
21 (13) are added to

22

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete line 55

26 and insert:

27 circumstances; specifying that a local governmental
28 entity is not prohibited from requiring mandatory
29 certification of recovery residences for certain
30 purposes; requiring the Sober Homes Task Force within
31 the Office of the State Attorney of the Fifteenth
32 Judicial Circuit to submit a report to the Legislature
33 containing certain recommendations; amending s.
34 397.4873, F.S.; expanding

By Senator Harrell

25-00638C-19

2019900__

1 A bill to be entitled
 2 An act relating to substance abuse services; amending
 3 s. 394.4572, F.S.; authorizing the Department of
 4 Children and Families and the Agency for Health Care
 5 Administration to grant exemptions from
 6 disqualification for certain service provider
 7 personnel; amending s. 397.311, F.S.; redefining the
 8 terms "clinical supervisor" and "recovery residence";
 9 defining the terms "clinical services supervisor,"
 10 "clinical director," and "peer specialist"; amending
 11 s. 397.321, F.S.; providing for the review of certain
 12 decisions by a department-recognized certifying
 13 entity; authorizing certain persons to request an
 14 administrative hearing within a specified timeframe
 15 and under certain circumstances; amending s. 397.4073,
 16 F.S.; requiring individuals screened on or after a
 17 specified date to undergo specified background
 18 screening; requiring the department to grant or deny a
 19 request for an exemption from qualification within a
 20 certain timeframe; authorizing certain applicants for
 21 an exemption to work under the supervision of certain
 22 persons for a specified period of time while his or
 23 her application is pending; authorizing certain
 24 persons to be exempt from disqualification from
 25 employment; authorizing the department to grant
 26 exemptions from disqualification for service provider
 27 personnel to work solely in certain treatment programs
 28 and facilities; amending s. 397.4075, F.S.; increasing
 29 the criminal penalty for certain unlawful activities

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 relating to personnel; providing a criminal penalty
 31 for inaccurately disclosing certain facts in an
 32 application for licensure; creating s. 397.417, F.S.;
 33 authorizing an individual to seek certification as a
 34 peer specialist if he or she meets certain
 35 requirements; requiring the department to approve one
 36 or more third-party credentialing entities for
 37 specified purposes; requiring the credentialing entity
 38 to demonstrate compliance with certain standards in
 39 order to be approved by the department; requiring an
 40 individual providing department-funded recovery
 41 support services as a peer specialist to be certified;
 42 authorizing an individual who is not certified to
 43 provide recovery support services as a peer specialist
 44 under certain circumstances; prohibiting an individual
 45 who is not a certified peer specialist from
 46 advertising or providing recovery services unless the
 47 person is exempt; providing criminal penalties;
 48 amending s. 397.487, F.S.; revising legislative
 49 findings relating to voluntary certification of
 50 recovery residences; revising background screening
 51 requirements for owners, directors, and chief
 52 financial officers of recovery residences; authorizing
 53 a certified recovery residence to immediately
 54 discharge or transfer residents under certain
 55 circumstances; amending s. 397.4873, F.S.; expanding
 56 the exceptions to limitations on referrals by recovery
 57 residences to licensed service providers; amending s.
 58 397.55, F.S.; revising the requirements for a service

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59 provider, operator of a recovery residence, or certain
 60 third parties to enter into certain contracts with
 61 marketing providers; amending s. 435.07, F.S.;
 62 authorizing the exemption of certain persons from
 63 disqualification from employment; amending s. 553.80,
 64 F.S.; requiring that a single-family or two-family
 65 dwelling used as a recovery residence be deemed a
 66 single-family or two-family dwelling for purposes of
 67 the Florida Building Code; amending s. 633.206, F.S.;
 68 requiring the Department of Financial Services to
 69 establish uniform firesafety standards for recovery
 70 residences; exempting a single-family or two-family
 71 dwelling used as a recovery residence from the uniform
 72 firesafety standards; requiring that such dwellings be
 73 deemed a single-family or two-family dwelling for the
 74 purposes of the Life Safety Code and Florida Fire
 75 Prevention Code; amending ss. 212.055, 397.416, and
 76 440.102, F.S.; conforming cross-references; providing
 77 an effective date.

78
 79 Be It Enacted by the Legislature of the State of Florida:

80
 81 Section 1. Subsection (2) of section 394.4572, Florida
 82 Statutes, is amended to read:

83 394.4572 Screening of mental health personnel.—

84 (2) (a) The department or the Agency for Health Care
 85 Administration may grant exemptions from disqualification as
 86 provided in chapter 435.

87 (b) The department or the Agency for Health Care

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88 Administration, as applicable, may grant exemptions from
 89 disqualification for service provider personnel to work solely
 90 in mental health treatment programs or facilities, or in
 91 programs or facilities that treat co-occurring substance use and
 92 mental health disorders.

93 Section 2. Present subsections (30) through (49) of section
 94 397.311, Florida Statutes, are redesignated as subsections (31)
 95 through (50), respectively, subsection (8) and present
 96 subsection (37) of that section are amended, and subsection (30)
 97 is added to that section, to read:

98 397.311 Definitions.—As used in this chapter, except part
 99 VIII, the term:

100 (8) "Clinical supervisor," "clinical services supervisor,"
 101 or "clinical director" means a person who meets the requirements
 102 of a qualified professional and who manages personnel who
 103 provide direct clinical services, or who maintains lead
 104 responsibility for the overall coordination and provision of
 105 clinical services treatment.

106 (30) "Peer specialist" means a person who has been in
 107 recovery from a substance use disorder or mental illness for at
 108 least 2 years and who uses his or her personal experience to
 109 provide services in behavioral health settings, supporting
 110 others in their recovery; or a person who has at least 2 years
 111 of experience as a family member or caregiver of an individual
 112 who has a substance use disorder or mental illness. The term
 113 does not include a qualified professional or a person otherwise
 114 certified under chapter 394 or chapter 397.

115 ~~(38)~~ ~~(37)~~ "Recovery residence" means a residential dwelling
 116 unit, or other form of group housing, including group housing

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117 that is part of any licensable community housing component
 118 established by rule or statute, which ~~that~~ is offered or
 119 advertised through any means, including oral, written,
 120 electronic, or printed means, by any person or entity as a
 121 residence that provides a peer-supported, alcohol-free, and
 122 drug-free living environment.

123 Section 3. Subsection (15) of section 397.321, Florida
 124 Statutes, is amended to read:

125 397.321 Duties of the department.—The department shall:

126 (15) Recognize a statewide certification process for
 127 addiction professionals and identify and endorse one or more
 128 agencies responsible for such certification of service provider
 129 personnel. Any decision by a department-recognized certifying
 130 entity to deny, revoke, or suspend a certification, or otherwise
 131 impose sanctions on an individual who is certified, is
 132 reviewable by the department. Upon receiving an adverse
 133 determination, the person aggrieved may request an
 134 administrative hearing conducted pursuant to ss. 120.569 and
 135 120.57(1) within 30 days after completing any appeals process
 136 offered by the credentialing entity or the department, as
 137 applicable.

138 Section 4. Paragraphs (a), (f), and (g) of subsection (1),
 139 and subsection (4) of section 397.4073, Florida Statutes, are
 140 amended to read:

141 397.4073 Background checks of service provider personnel.—

142 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 143 EXCEPTIONS.—

144 (a) For all individuals screened on or after July 1, 2019,
 145 background checks shall apply as follows:

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146 1. All owners, directors, chief financial officers, and
 147 clinical supervisors of service providers are subject to level 2
 148 background screening as provided under chapter 435 and s.
 149 408.809. Inmate substance abuse programs operated directly or
 150 under contract with the Department of Corrections are exempt
 151 from this requirement.

152 2. All service provider personnel who have direct contact
 153 with children receiving services or with adults who are
 154 developmentally disabled receiving services are subject to level
 155 2 background screening as provided under chapter 435 and s.
 156 408.809.

157 3. All peer specialists who have direct contact with
 158 individuals receiving services are subject to level 2 background
 159 screening as provided under chapter 435 and s. 408.809.

160 (f) Service provider personnel who request an exemption
 161 from disqualification must submit the request within 30 days
 162 after being notified of the disqualification. The department
 163 shall grant or deny the request within 60 days after receipt of
 164 a complete application.

165 (g) If 5 years or more have elapsed since an applicant for
 166 an exemption from disqualification has completed or has been
 167 lawfully released from confinement, supervision, or a
 168 nonmonetary condition imposed by a court for the applicant's
 169 most recent disqualifying offense, the applicant may work with
 170 adults with substance use disorders or co-occurring disorders
 171 under the supervision of persons who meet all personnel
 172 requirements of this chapter for up to 90 days after being
 173 notified of his or her disqualification or until the department
 174 makes a final determination regarding his or her request for an

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 175 ~~exemption from disqualification, whichever is earlier the most~~
 176 ~~recent disqualifying offense, service provider personnel may~~
 177 ~~work with adults with substance use disorders under the~~
 178 ~~supervision of a qualified professional licensed under chapter~~
 179 ~~490 or chapter 491 or a master's level certified addictions~~
 180 ~~professional until the agency makes a final determination~~
 181 ~~regarding the request for an exemption from disqualification.~~

182 ~~(h)(g)~~ The department may not issue a regular license to
 183 any service provider that fails to provide proof that background
 184 screening information has been submitted in accordance with
 185 chapter 435.

186 (4) EXEMPTIONS FROM DISQUALIFICATION.—

187 (a) The department may grant to any service provider
 188 personnel an exemption from disqualification as provided in s.
 189 435.07.

190 (b) Since rehabilitated substance abuse impaired persons
 191 are effective in the successful treatment and rehabilitation of
 192 individuals with substance use disorders, for service providers
 193 which treat adolescents 13 years of age and older, service
 194 provider personnel whose background checks indicate crimes under
 195 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
 196 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related
 197 criminal attempt, solicitation, or conspiracy under s. 777.04,
 198 may be exempted from disqualification from employment pursuant
 199 to this paragraph.

200 (c) The department may grant exemptions from
 201 disqualification for service provider personnel to work solely
 202 in substance use disorder treatment programs, facilities, or
 203 recovery residences or in programs or facilities that treat co-

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 204 occurring substance use and mental health disorders. The
 205 department may further limit such grant exemptions from
 206 disqualification ~~which would limit service provider personnel to~~
 207 working with adults in substance abuse treatment facilities.

208 Section 5. Section 397.4075, Florida Statutes, is amended
 209 to read:

210 397.4075 Unlawful activities relating to personnel;
 211 penalties.—It is a felony of the third misdemeanor of the first
 212 degree, punishable as provided in s. 775.082 or s. 775.083, for
 213 any person willfully, knowingly, or intentionally to:

214 (1) Inaccurately disclose by false statement,
 215 misrepresentation, impersonation, or other fraudulent means, or
 216 fail to disclose, in any application for licensure or voluntary
 217 or paid employment, any fact which is material in making a
 218 determination as to the person's qualifications to be an owner,
 219 a director, a volunteer, or other personnel of a service
 220 provider;

221 (2) Operate or attempt to operate as a service provider
 222 with personnel who are in noncompliance with the minimum
 223 standards contained in this chapter; or

224 (3) Use or release any criminal or juvenile information
 225 obtained under this chapter for any purpose other than
 226 background checks of personnel for employment.

227 Section 6. Section 397.417, Florida Statutes, is created to
 228 read:

229 397.417 Peer Specialists.—

230 (1) An individual may seek certification as a peer
 231 specialist if he or she has been in recovery from a substance
 232 use disorder or mental illness for at least 2 years, or if he or

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233 she has at least 2 years of experience as a family member or
 234 caregiver of a person with a substance use disorder or mental
 235 illness.

236 (2) The department shall approve one or more third-party
 237 credentialing entities for the purposes of certifying peer
 238 specialists, approving training programs for individuals seeking
 239 certification as peer specialists, approving continuing
 240 education programs, and establishing the minimum requirements
 241 and standards that applicants must achieve to maintain
 242 certification. To obtain approval, the third-party credentialing
 243 entity must demonstrate compliance with nationally recognized
 244 standards for developing and administering professional
 245 certification programs to certify peer specialists.

246 (3) An individual providing department-funded recovery
 247 support services as a peer specialist shall be certified
 248 pursuant to subsection (2). An individual who is not certified
 249 may provide recovery support services as a peer specialist for
 250 up to 1 year if he or she is working toward certification and is
 251 supervised by a qualified professional or by a certified peer
 252 specialist who has at least 3 years of full-time experience as a
 253 peer specialist at a licensed behavioral health organization.

254 (4) An individual who is not a certified peer specialist
 255 may not advertise recovery services to the public in any way, or
 256 by any medium; or provide recovery services as a peer
 257 specialist, unless the person is exempt under subsection (3).
 258 Any individual who violates this subsection commits a
 259 misdemeanor of the first degree, punishable as provided in s.
 260 775.082 or s. 775.083.

261 Section 7. Subsections (1) and (6) of section 397.487,

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262 Florida Statutes, are amended, and subsection (11) is added to
 263 that section, to read:

264 397.487 Voluntary certification of recovery residences.—

265 (1) The Legislature finds that a person suffering from
 266 addiction has a higher success rate of achieving long-lasting
 267 sobriety when given the opportunity to build a stronger
 268 foundation by living in a recovery residence while receiving
 269 treatment or after completing treatment. The Legislature further
 270 finds that this state and its subdivisions have a legitimate
 271 state interest in protecting these persons, who represent a
 272 vulnerable consumer population in need of adequate housing. It
 273 is the intent of the Legislature to protect persons who reside
 274 in a recovery residence.

275 (6) All owners, directors, and chief financial officers of
 276 an applicant recovery residence are subject to level 2
 277 background screening as provided under chapter 435 and s.
 278 408.809. A recovery residence is ineligible for certification,
 279 and a credentialing entity shall deny a recovery residence's
 280 application, if any owner, director, or chief financial officer
 281 has been found guilty of, or has entered a plea of guilty or
 282 nolo contendere to, regardless of adjudication, any offense
 283 listed in s. 435.04(2) or s. 408.809(4) unless the department
 284 has issued an exemption under s. 397.4073 or s. 397.4872. In
 285 accordance with s. 435.04, the department shall notify the
 286 credentialing agency of an owner's, director's, or chief
 287 financial officer's eligibility based on the results of his or
 288 her background screening.

289 (11) Notwithstanding any landlord and tenant rights and
 290 obligations under chapter 83, a recovery residence that is

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291 certified under this section and that has a discharge policy
 292 approved by a credentialing entity may immediately discharge or
 293 transfer a resident under any of the following circumstances:

294 (a) The discharge or transfer is necessary for the
 295 resident's welfare.

296 (b) The resident's needs cannot be met at the recovery
 297 residence.

298 (c) The health and safety of other residents or recovery
 299 residence employees is at risk or would be at risk if the
 300 resident continues to live at the recovery residence.

301 Section 8. Paragraph (d) is added to subsection (2) of
 302 section 397.4873, Florida Statutes, and subsection (1) of that
 303 section is republished, to read:

304 397.4873 Referrals to or from recovery residences;
 305 prohibitions; penalties.—

306 (1) A service provider licensed under this part may not
 307 make a referral of a prospective, current, or discharged patient
 308 to, or accept a referral of such a patient from, a recovery
 309 residence unless the recovery residence holds a valid
 310 certificate of compliance as provided in s. 397.487 and is
 311 actively managed by a certified recovery residence administrator
 312 as provided in s. 397.4871.

313 (2) Subsection (1) does not apply to:

314 (d) The referral of a patient to, or acceptance of a
 315 referral of such a patient from, a recovery residence that has
 316 no direct or indirect financial or other referral relationship
 317 with the provider and that is democratically operated by its
 318 residents pursuant to a charter from an entity recognized or
 319 sanctioned by Congress, and where the residence or any resident

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320 of the residence does not receive a benefit, directly or
 321 indirectly, for the referral.

322 Section 9. Paragraph (d) of subsection (1) of section
 323 397.55, Florida Statutes, is amended to read:

324 397.55 Prohibition of deceptive marketing practices.—

325 (1) The Legislature recognizes that consumers of substance
 326 abuse treatment have disabling conditions and that such
 327 consumers and their families are vulnerable and at risk of being
 328 easily victimized by fraudulent marketing practices that
 329 adversely impact the delivery of health care. To protect the
 330 health, safety, and welfare of this vulnerable population, a
 331 service provider, an operator of a recovery residence, or a
 332 third party who provides any form of advertising or marketing
 333 services to a service provider or an operator of a recovery
 334 residence may not engage in any of the following marketing
 335 practices:

336 (d) Entering into a contract with a marketing provider who
 337 agrees to generate referrals or leads for the placement of
 338 patients with a service provider or in a recovery residence
 339 through a call center or a web-based presence, unless the
 340 contract requires such agreement and the marketing provider
 341 ~~service provider or the operator of the recovery residence~~
 342 discloses the following to the prospective patient so that the
 343 patient can make an informed health care decision:

344 1. Information about the specific licensed service
 345 providers or recovery residences that are represented by the
 346 marketing provider and pay a fee to the marketing provider,
 347 including the identity of such service providers or recovery
 348 residences; and

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349 2. Clear and concise instructions that allow the
350 prospective patient to easily access lists of licensed service
351 providers and recovery residences on the department website.

352 Section 10. Subsection (2) of section 435.07, Florida
353 Statutes, is amended to read:

354 435.07 Exemptions from disqualification.—Unless otherwise
355 provided by law, the provisions of this section apply to
356 exemptions from disqualification for disqualifying offenses
357 revealed pursuant to background screenings required under this
358 chapter, regardless of whether those disqualifying offenses are
359 listed in this chapter or other laws.

360 (2) Persons employed, or applicants for employment, by
361 treatment providers who treat adolescents 13 years of age and
362 older who are disqualified from employment solely because of
363 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
364 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any
365 related criminal attempt, solicitation, or conspiracy under s.
366 777.04, may be exempted from disqualification from employment
367 pursuant to this chapter without application of the waiting
368 period in subparagraph (1)(a)1.

369 Section 11. Subsection (9) is added to section 553.80,
370 Florida Statutes, to read:

371 553.80 Enforcement.—

372 (9) If a single-family or two-family dwelling is used as a
373 recovery residence, as defined in s. 397.311, such dwelling
374 shall be deemed a single-family or two-family dwelling for
375 purposes of the Florida Building Code.

376 Section 12. Paragraph (b) of subsection (1) of section
377 633.206, Florida Statutes, is amended, and subsection (5) is

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378 added to that section, to read:

379 633.206 Uniform firesafety standards—The Legislature hereby
380 determines that to protect the public health, safety, and
381 welfare it is necessary to provide for firesafety standards
382 governing the construction and utilization of certain buildings
383 and structures. The Legislature further determines that certain
384 buildings or structures, due to their specialized use or to the
385 special characteristics of the person utilizing or occupying
386 these buildings or structures, should be subject to firesafety
387 standards reflecting these special needs as may be appropriate.

388 (1) The department shall establish uniform firesafety
389 standards that apply to:

390 (b) All new, existing, and proposed hospitals, nursing
391 homes, assisted living facilities, adult family-care homes,
392 recovery residences, correctional facilities, public schools,
393 transient public lodging establishments, public food service
394 establishments, elevators, migrant labor camps, mobile home
395 parks, lodging parks, recreational vehicle parks, recreational
396 camps, residential and nonresidential child care facilities,
397 facilities for the developmentally disabled, motion picture and
398 television special effects productions, tunnels, and self-
399 service gasoline stations, of which standards the State Fire
400 Marshal is the final administrative interpreting authority.

401
402 In the event there is a dispute between the owners of the
403 buildings specified in paragraph (b) and a local authority
404 requiring a more stringent uniform firesafety standard for
405 sprinkler systems, the State Fire Marshal shall be the final
406 administrative interpreting authority and the State Fire

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407 Marshal's interpretation regarding the uniform firesafety
408 standards shall be considered final agency action.

409 (5) If a single-family or two-family dwelling is used as a
410 recovery residence, as defined in s. 397.311, such dwelling is
411 exempt from the uniform firesafety standards for recovery
412 residences and shall be deemed a single-family or two-family
413 dwelling for the purposes of the Life Safety Code and Florida
414 Fire Prevention Code.

415 Section 13. Paragraph (e) of subsection (5) of section
416 212.055, Florida Statutes, is amended to read:

417 212.055 Discretionary sales surtaxes; legislative intent;
418 authorization and use of proceeds.—It is the legislative intent
419 that any authorization for imposition of a discretionary sales
420 surtax shall be published in the Florida Statutes as a
421 subsection of this section, irrespective of the duration of the
422 levy. Each enactment shall specify the types of counties
423 authorized to levy; the rate or rates which may be imposed; the
424 maximum length of time the surtax may be imposed, if any; the
425 procedure which must be followed to secure voter approval, if
426 required; the purpose for which the proceeds may be expended;
427 and such other requirements as the Legislature may provide.
428 Taxable transactions and administrative procedures shall be as
429 provided in s. 212.054.

430 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
431 s. 125.011(1) may levy the surtax authorized in this subsection
432 pursuant to an ordinance either approved by extraordinary vote
433 of the county commission or conditioned to take effect only upon
434 approval by a majority vote of the electors of the county voting
435 in a referendum. In a county as defined in s. 125.011(1), for

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436 the purposes of this subsection, "county public general
437 hospital" means a general hospital as defined in s. 395.002
438 which is owned, operated, maintained, or governed by the county
439 or its agency, authority, or public health trust.

440 (e) A governing board, agency, or authority shall be
441 chartered by the county commission upon this act becoming law.
442 The governing board, agency, or authority shall adopt and
443 implement a health care plan for indigent health care services.
444 The governing board, agency, or authority shall consist of no
445 more than seven and no fewer than five members appointed by the
446 county commission. The members of the governing board, agency,
447 or authority shall be at least 18 years of age and residents of
448 the county. No member may be employed by or affiliated with a
449 health care provider or the public health trust, agency, or
450 authority responsible for the county public general hospital.
451 The following community organizations shall each appoint a
452 representative to a nominating committee: the South Florida
453 Hospital and Healthcare Association, the Miami-Dade County
454 Public Health Trust, the Dade County Medical Association, the
455 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
456 County. This committee shall nominate between 10 and 14 county
457 citizens for the governing board, agency, or authority. The
458 slate shall be presented to the county commission and the county
459 commission shall confirm the top five to seven nominees,
460 depending on the size of the governing board. Until such time as
461 the governing board, agency, or authority is created, the funds
462 provided for in subparagraph (d)2. shall be placed in a
463 restricted account set aside from other county funds and not
464 disbursed by the county for any other purpose.

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465 1. The plan shall divide the county into a minimum of four
 466 and maximum of six service areas, with no more than one
 467 participant hospital per service area. The county public general
 468 hospital shall be designated as the provider for one of the
 469 service areas. Services shall be provided through participants'
 470 primary acute care facilities.

471 2. The plan and subsequent amendments to it shall fund a
 472 defined range of health care services for both indigent persons
 473 and the medically poor, including primary care, preventive care,
 474 hospital emergency room care, and hospital care necessary to
 475 stabilize the patient. For the purposes of this section,
 476 "stabilization" means stabilization as defined in s. 397.311 ~~s.~~
 477 ~~397.311(45)~~. Where consistent with these objectives, the plan
 478 may include services rendered by physicians, clinics, community
 479 hospitals, and alternative delivery sites, as well as at least
 480 one regional referral hospital per service area. The plan shall
 481 provide that agreements negotiated between the governing board,
 482 agency, or authority and providers shall recognize hospitals
 483 that render a disproportionate share of indigent care, provide
 484 other incentives to promote the delivery of charity care to draw
 485 down federal funds where appropriate, and require cost
 486 containment, including, but not limited to, case management.
 487 From the funds specified in subparagraphs (d)1. and 2. for
 488 indigent health care services, service providers shall receive
 489 reimbursement at a Medicaid rate to be determined by the
 490 governing board, agency, or authority created pursuant to this
 491 paragraph for the initial emergency room visit, and a per-member
 492 per-month fee or capitation for those members enrolled in their
 493 service area, as compensation for the services rendered

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494 following the initial emergency visit. Except for provisions of
 495 emergency services, upon determination of eligibility,
 496 enrollment shall be deemed to have occurred at the time services
 497 were rendered. The provisions for specific reimbursement of
 498 emergency services shall be repealed on July 1, 2001, unless
 499 otherwise reenacted by the Legislature. The capitation amount or
 500 rate shall be determined before program implementation by an
 501 independent actuarial consultant. In no event shall such
 502 reimbursement rates exceed the Medicaid rate. The plan must also
 503 provide that any hospitals owned and operated by government
 504 entities on or after the effective date of this act must, as a
 505 condition of receiving funds under this subsection, afford
 506 public access equal to that provided under s. 286.011 as to any
 507 meeting of the governing board, agency, or authority the subject
 508 of which is budgeting resources for the retention of charity
 509 care, as that term is defined in the rules of the Agency for
 510 Health Care Administration. The plan shall also include
 511 innovative health care programs that provide cost-effective
 512 alternatives to traditional methods of service and delivery
 513 funding.

514 3. The plan's benefits shall be made available to all
 515 county residents currently eligible to receive health care
 516 services as indigents or medically poor as defined in paragraph
 517 (4) (d).

518 4. Eligible residents who participate in the health care
 519 plan shall receive coverage for a period of 12 months or the
 520 period extending from the time of enrollment to the end of the
 521 current fiscal year, per enrollment period, whichever is less.

522 5. At the end of each fiscal year, the governing board,

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523 agency, or authority shall prepare an audit that reviews the
 524 budget of the plan, delivery of services, and quality of
 525 services, and makes recommendations to increase the plan's
 526 efficiency. The audit shall take into account participant
 527 hospital satisfaction with the plan and assess the amount of
 528 poststabilization patient transfers requested, and accepted or
 529 denied, by the county public general hospital.

530 Section 14. Section 397.416, Florida Statutes, is amended
 531 to read:

532 397.416 Substance abuse treatment services; qualified
 533 professional.—Notwithstanding any other provision of law, a
 534 person who was certified through a certification process
 535 recognized by the former Department of Health and Rehabilitative
 536 Services before January 1, 1995, may perform the duties of a
 537 qualified professional with respect to substance abuse treatment
 538 services as defined in this chapter, and need not meet the
 539 certification requirements contained in s. 397.311(35) ~~s.~~
 540 ~~397.311(34)~~.

541 Section 15. Paragraphs (d) and (g) of subsection (1) of
 542 section 440.102, Florida Statutes, are amended to read:

543 440.102 Drug-free workplace program requirements.—The
 544 following provisions apply to a drug-free workplace program
 545 implemented pursuant to law or to rules adopted by the Agency
 546 for Health Care Administration:

547 (1) DEFINITIONS.—Except where the context otherwise
 548 requires, as used in this act:

549 (d) "Drug rehabilitation program" means a service provider
 550 as defined in s. 397.311 which, established pursuant to s.
 551 ~~397.311(43), that~~ provides confidential, timely, and expert

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552 identification, assessment, and resolution of employee drug
 553 abuse.

554 (g) "Employee assistance program" means an established
 555 program capable of providing expert assessment of employee
 556 personal concerns; confidential and timely identification
 557 services with regard to employee drug abuse; referrals of
 558 employees for appropriate diagnosis, treatment, and assistance;
 559 and followup services for employees who participate in the
 560 program or require monitoring after returning to work. If, in
 561 addition to the above activities, an employee assistance program
 562 provides diagnostic and treatment services, these services shall
 563 in all cases be provided by service providers as defined in s.
 564 397.311 pursuant to s. 397.311(43).

565 Section 16. This act shall take effect July 1, 2019.

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.11.19

Meeting Date

900

Bill Number (if applicable)

Topic Substance Abuse Services

Name Barney Bishop III

Amendment Barcode (if applicable)

Job Title President & CEO

Address 2215 Thomaville Road

Street

Phone 850.510.9922

Tallahassee

FL

32308

City

State

Zip

Email barney@barneybishop.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

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3-11-19 Meeting Date

SB900 Bill Number (if applicable)

Topic Substance Abuse Services

Name MARK FONTAINE

Amendment Barcode (if applicable)

Job Title DIRECTOR

Address 2868 Mahan Drive Street

Phone 878-2196

Tallahassee City FL State

32308 Zip

Email MFontaine@fadaa.org

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Alcohol + Drug Abuse Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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3/11/19 Meeting Date

900 Bill Number (if applicable)

Topic Substance Abuse Services

Amendment Barcode (if applicable)

Name Candice Ericks

Job Title Consultant

Address 205 S. Adams St.

Phone 954-648-1204

Tallahassee FL 32301

Email Candice@ericksconsulting.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: [X] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/11/19
Meeting Date

SB 900
Bill Number (if applicable)

Topic Sober Home

Amendment Barcode (if applicable)

Name Neal McGarry

Job Title CEO

Address 1715 S. Gadsden St

Phone 850-222-6314

Street

Tallahassee FL 32301
3331

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Certification Board

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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3/11/19
Meeting Date

900
Bill Number (if applicable)

Topic SB 900

Amendment Barcode (if applicable)

Name Casey Cook

Job Title Legislative Advocate

Address PO Box 1757

Phone 850 701 3701

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/11/2019

Meeting Date

SB900

Bill Number (if applicable)

Topic Substance Abuse Services

Amendment Barcode (if applicable)

Name Kathy Winn

Job Title Volunteer

Address 1006 Brookwood Dr.

Phone (850) 766-2612

Street

Pall,

FL

32308

Email Kathywinnclan@
embargo.mail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing League of Women Voters of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/11/19

Meeting Date

900

Bill Number (if applicable)

Topic Substance Abuse / Mental Health

Amendment Barcode (if applicable)

Name Alisa LaPorte

Job Title Lobbyist

Address PO Box 1344

Phone 850-443-1319

Street Tallahassee

Email alisa@90topscail.com

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing National Alliance on Mental Illness - Palm Beach

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/11/19

Meeting Date

900

Bill Number (if applicable)

Topic Substance Abuse Services

Amendment Barcode (if applicable)

Name Rebecca Delarosa

Job Title Legislative Affairs Director

Address 301 N Olive Ave., 1101.3

Phone 850.284.7235

Street West Palm Beach

Email rdelarosa@pbcgov.org

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/11/19

Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking Panel

Name Alan Willett

Job Title Corporal

Address 8700 Carter Dr
Street

New Port Ritzley FL
City State

34654
Zip

Phone 727-277-6226

Email awillett@pascosheriffs.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Pasco Sheriff's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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03/11/2019

Meeting Date

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Jennifer L. Dritt

Job Title Executive Director

Address 1820 E. Park Avenue, Suite 100

Phone (850) 297-2000

Street

Tallahassee

FL

32301

Email jdritt@fcasv.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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3/11/19

Meeting Date

SB540

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Savannah Parver

Job Title Survivor Leader

Address Po Box 1053

Phone 352-702-8496

Umatilla FL 32784

Email savannah@savannahparver.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [X] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

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