

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           Health and the Agency for Health Care Administration  
5           to grant exemptions from disqualification for service  
6           provider personnel to work solely in certain treatment  
7           programs and facilities; amending s. 397.4073, F.S.;  
8           revising provisions relating to background checks and  
9           exemptions from disqualification for certain service  
10          provider personnel; requiring the Department of  
11          Children and Families to grant or deny an exemption  
12          from disqualification within a certain timeframe;  
13          authorizing an applicant for an exemption to work  
14          under the supervision of certain persons for a  
15          specified period of time while his or her application  
16          is pending; authorizing certain persons to be exempted  
17          from disqualification from employment; authorizing the  
18          department to grant exemptions from disqualification  
19          for service provider personnel to work solely in  
20          certain treatment programs and facilities; amending s.  
21          397.487, F.S.; revising legislative findings relating  
22          to voluntary certification of recovery residences;  
23          requiring recovery residences to comply with specified  
24          Florida Fire Prevention Code provisions; revising  
25          background screening requirements for owners,

26 | directors, and chief financial officers of recovery  
 27 | residences; amending s. 397.4873, F.S.; providing  
 28 | exceptions to limitations on referrals by recovery  
 29 | residences to licensed service providers; prohibiting  
 30 | recovery residences and specified affiliated  
 31 | individuals from benefitting from certain referrals;  
 32 | providing penalties; amending s. 435.07, F.S.;  
 33 | authorizing certain persons to be exempted from  
 34 | disqualification from employment; providing an  
 35 | effective date.

36 |

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

38 |

39 | Section 1. Subsection (2) of section 394.4572, Florida  
 40 | Statutes, is amended to read:

41 | 394.4572 Screening of mental health personnel.—

42 | (2) (a) The department or the Agency for Health Care  
 43 | Administration may grant exemptions from disqualification as  
 44 | provided in chapter 435.

45 | (b) The department or the Agency for Health Care  
 46 | Administration, as applicable, may grant exemptions from  
 47 | disqualification for service provider personnel to work solely  
 48 | in mental health treatment programs or facilities or in programs  
 49 | or facilities that treat co-occurring substance use and mental  
 50 | health disorders.

51 Section 2. Paragraphs (a), (f), and (g) of subsection (1)  
52 and subsection (4) of section 397.4073, Florida Statutes, are  
53 amended to read:

54 397.4073 Background checks of service provider personnel.—

55 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
56 EXCEPTIONS.—

57 (a) The department shall require level 2 background  
58 screening pursuant to chapter 435 for all owners, directors,  
59 chief financial officers, and clinical supervisors, and for  
60 service provider personnel and volunteers, except as provided in  
61 paragraph (c), who have direct contact with individuals  
62 receiving treatment. Such screening shall also include  
63 background screening as provided in s. 408.809. Background  
64 checks shall apply as follows:

65 ~~1. All owners, directors, chief financial officers, and~~  
66 ~~clinical supervisors of service providers are subject to level 2~~  
67 ~~background screening as provided under chapter 435. Inmate~~  
68 ~~substance abuse programs operated directly or under contract~~  
69 ~~with the Department of Corrections are exempt from background~~  
70 ~~screening requirements under this section this requirement.~~

71 ~~2. All service provider personnel who have direct contact~~  
72 ~~with children receiving services or with adults who are~~  
73 ~~developmentally disabled receiving services are subject to level~~  
74 ~~2 background screening as provided under chapter 435.~~

75 (f) Service provider personnel who request an exemption

76 | from disqualification must submit the request within 30 days  
 77 | after being notified of the disqualification. The department  
 78 | shall grant or deny the exemption from disqualification within  
 79 | 60 days after receipt of a complete application.

80 |       (g) If 5 years or more have elapsed since the applicant  
 81 | for the exemption completed or was lawfully released from  
 82 | confinement, supervision, or nonmonetary condition imposed by  
 83 | the court for the most recent disqualifying offense, such  
 84 | applicant ~~service provider personnel~~ may work with adults with  
 85 | substance use disorders under the supervision of persons who  
 86 | meet all personnel requirements of this chapter for up to 90  
 87 | days after being notified of the disqualification or until the  
 88 | department a ~~qualified professional licensed under chapter 490~~  
 89 | or chapter 491 or a ~~master's-level-certified~~ addictions  
 90 | professional until the agency makes a final determination  
 91 | regarding the request for an exemption from disqualification,  
 92 | whichever is earlier.

93 |       (h)~~(g)~~ The department may not issue a regular license to  
 94 | any service provider that fails to provide proof that background  
 95 | screening information has been submitted in accordance with  
 96 | chapter 435.

97 |       (4) EXEMPTIONS FROM DISQUALIFICATION.—

98 |       (a) The department may grant to any service provider  
 99 | personnel an exemption from disqualification as provided in s.  
 100 | 435.07.

101 (b) Since rehabilitated substance abuse impaired persons  
102 are effective in the successful treatment and rehabilitation of  
103 individuals with substance use disorders, for service providers  
104 which treat adolescents 13 years of age and older, service  
105 provider personnel whose background checks indicate crimes under  
106 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.  
107 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s. 893.147, and  
108 any related criminal attempt, solicitation, or conspiracy under  
109 s. 777.04, may be exempted from disqualification from employment  
110 pursuant to this paragraph.

111 (c) The department may grant exemptions from  
112 disqualification for service provider personnel to work solely  
113 in substance abuse treatment programs or facilities or in  
114 programs or facilities that treat co-occurring substance use and  
115 mental health disorders. The department may further limit such  
116 ~~grant exemptions from disqualification which would limit service~~  
117 ~~provider personnel~~ to working with adults in substance abuse  
118 treatment facilities.

119 Section 3. Subsection (1), paragraph (m) of subsection  
120 (3), and subsection (6) of section 397.487, Florida Statutes,  
121 are amended to read:

122 397.487 Voluntary certification of recovery residences.—

123 (1) The Legislature finds that a person suffering from  
124 addiction has a higher success rate of achieving long-lasting  
125 sobriety when given the opportunity to build a stronger

126 foundation by living in a recovery residence while receiving  
127 treatment or after completing treatment. The Legislature further  
128 finds that this state and its subdivisions have a legitimate  
129 state interest in protecting these persons, who represent a  
130 vulnerable consumer population in need of adequate housing. It  
131 is the intent of the Legislature to protect persons who reside  
132 in a recovery residence.

133 (3) A credentialing entity shall require the recovery  
134 residence to submit the following documents with the completed  
135 application and fee:

136 (m) Proof of satisfactory fire, safety, and health  
137 inspections. A recovery residence must comply with the  
138 provisions of the Florida Fire Prevention Code which apply to  
139 one-family and two-family dwellings, public lodging  
140 establishments, or rooming houses, or other housing facilities,  
141 as applicable.

142 (6) All owners, directors, and chief financial officers of  
143 an applicant recovery residence are subject to level 2  
144 background screening as provided under chapter 435 and s.  
145 408.809. A recovery residence is ineligible for certification,  
146 and a credentialing entity shall deny a recovery residence's  
147 application, if any owner, director, or chief financial officer  
148 has been found guilty of, or has entered a plea of guilty or  
149 nolo contendere to, regardless of adjudication, any offense  
150 listed in s. 408.809(4) or s. 435.04(2) unless the department

151 has issued an exemption under s. 397.4073 or s. 397.4872. In  
152 accordance with s. 435.04, the department shall notify the  
153 credentialing agency of an owner's, director's, or chief  
154 financial officer's eligibility based on the results of his or  
155 her background screening.

156 Section 4. Section 397.4873, Florida Statutes, is amended  
157 to read:

158 397.4873 Referrals to or from recovery residences;  
159 prohibitions; penalties.—

160 (1) A service provider licensed under this part may not  
161 make a referral of a prospective, current, or discharged patient  
162 to, or accept a referral of such a patient from, a recovery  
163 residence unless the recovery residence holds a valid  
164 certificate of compliance as provided in s. 397.487 and is  
165 actively managed by a certified recovery residence administrator  
166 as provided in s. 397.4871.

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

168 (a) A licensed service provider under contract with a  
169 managing entity as defined in s. 394.9082.

170 (b) Referrals by a recovery residence to a licensed  
171 service provider when a resident has experienced a recurrence of  
172 substance use and, in the best judgment of the recovery  
173 residence administrator, it appears that the resident may  
174 benefit from clinical treatment services ~~the recovery residence~~  
175 ~~or its owners, directors, operators, or employees do not~~

176 ~~benefit, directly or indirectly, from the referral.~~

177 (c) Referrals made before July 1, 2018, by a licensed  
178 service provider to that licensed service provider's wholly  
179 owned subsidiary.

180 (3) A recovery residence or its owners, directors,  
181 operators, employees, or volunteers may not benefit, directly or  
182 indirectly, from a referral made pursuant to subsection (1) or  
183 subsection (2).

184 (4)~~(3)~~ For purposes of this section, a licensed service  
185 provider or recovery residence shall be considered to have made  
186 a referral if the provider or recovery residence has informed a  
187 patient by any means about the name, address, or other details  
188 of a recovery residence or licensed service provider, or  
189 informed a licensed service provider or a recovery residence of  
190 any identifying details about a patient.

191 (5)~~(4)~~ A licensed service provider shall maintain records  
192 of referrals to or from recovery residences as may be prescribed  
193 by the department in rule.

194 (6)~~(5)~~ After June 30, 2019, a licensed service provider  
195 violating this section shall be subject to an administrative  
196 fine of \$1,000 per occurrence. Repeat violations of this section  
197 may subject a provider to license suspension or revocation  
198 pursuant to s. 397.415.

199 (7)~~(6)~~ Nothing in this section requires a licensed service  
200 provider to refer a patient to or to accept a referral of a



201 patient from a recovery residence.

202 Section 5. Subsection (2) of section 435.07, Florida  
 203 Statutes, is amended to read:

204 435.07 Exemptions from disqualification.—Unless otherwise  
 205 provided by law, the provisions of this section apply to  
 206 exemptions from disqualification for disqualifying offenses  
 207 revealed pursuant to background screenings required under this  
 208 chapter, regardless of whether those disqualifying offenses are  
 209 listed in this chapter or other laws.

210 (2) Persons employed, or applicants for employment, by  
 211 treatment providers who treat adolescents 13 years of age and  
 212 older who are disqualified from employment solely because of  
 213 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.  
 214 817.563, s. 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s.  
 215 893.147, and any related criminal attempt, solicitation, or  
 216 conspiracy under s. 777.04, may be exempted from  
 217 disqualification from employment pursuant to this chapter  
 218 without application of the waiting period in subparagraph  
 219 (1)(a)1.

220 Section 6. This act shall take effect July 1, 2018.