

By the Committee on Children, Families, and Elder Affairs; and  
Senator Rouson

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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 or the Agency for Health Care Administration,  
5       as applicable, to grant exemptions from  
6       disqualification for service provider personnel to  
7       work solely in certain treatment programs and  
8       facilities; amending s. 397.4073, F.S.; revising  
9       provisions relating to background checks and  
10      exemptions from disqualification for certain service  
11      provider personnel and volunteers; requiring the  
12      Department of Children and Families to grant or deny  
13      an exemption from disqualification within a certain  
14      timeframe; authorizing certain applicants for an  
15      exemption to work under the supervision of certain  
16      persons for a specified period of time while his or  
17      her application is pending; authorizing certain  
18      persons to be exempted from disqualification from  
19      employment; authorizing the department to grant  
20      exemptions from disqualification for service provider  
21      personnel to work solely in certain treatment programs  
22      and facilities; amending s. 397.487, F.S.; revising  
23      legislative findings relating to voluntary  
24      certification of recovery residences; requiring  
25      recovery residences to comply with specified Florida  
26      Fire Prevention Code provisions; revising background  
27      screening requirements for owners, directors, and  
28      chief financial officers of recovery residences;  
29      amending s. 397.4873, F.S.; providing exceptions to

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30 limitations on referrals by recovery residences to  
31 licensed service providers; prohibiting recovery  
32 residences and specified affiliated individuals from  
33 benefitting from certain referrals; providing  
34 penalties; amending s. 435.07, F.S.; authorizing the  
35 exemption of certain persons from disqualification  
36 from employment; providing an effective date.

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

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

42 394.4572 Screening of mental health personnel.—

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

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

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

55 397.4073 Background checks of service provider personnel.—

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

58 (a) The department shall require level 2 background

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

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

72 ~~2. All service provider personnel who have direct contact~~  
73 ~~with children receiving services or with adults who are~~  
74 ~~developmentally disabled receiving services are subject to level~~  
75 ~~2 background screening as provided under chapter 435.~~

76 (f) Service provider personnel who request an exemption  
77 from disqualification must submit the request within 30 days  
78 after being notified of the disqualification. The department  
79 shall grant or deny the exemption from disqualification within  
80 60 days after receipt of a complete application.

81 (g) If 5 years or more have elapsed since the applicant for  
82 the exemption completed or was lawfully released from  
83 confinement, supervision, or nonmonetary condition imposed by  
84 the court for the most recent disqualifying offense, such  
85 applicant service provider personnel may work with adults with  
86 substance use disorders under the supervision of persons who  
87 meet all personnel requirements of this chapter for up to 90

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88 days after being notified of the disqualification or until the  
89 department a qualified professional licensed under chapter 490  
90 or chapter 491 or a master's-level-certified addictions  
91 professional until the agency makes a final determination  
92 regarding the request for an exemption from disqualification,  
93 whichever is earlier.

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

98 (4) EXEMPTIONS FROM DISQUALIFICATION.—

99 (a) The department may grant to any service provider  
100 personnel an exemption from disqualification as provided in s.  
101 435.07.

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

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

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117 ~~grant~~ exemptions from disqualification ~~which would limit service~~  
118 ~~provider personnel~~ to working with adults in substance abuse  
119 treatment facilities.

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

123 397.487 Voluntary certification of recovery residences.—

124 (1) The Legislature finds that a person suffering from  
125 addiction has a higher success rate of achieving long-lasting  
126 sobriety when given the opportunity to build a stronger  
127 foundation by living in a recovery residence while receiving  
128 treatment or after completing treatment. The Legislature further  
129 finds that this state and its subdivisions have a legitimate  
130 state interest in protecting these persons, who represent a  
131 vulnerable consumer population in need of adequate housing. It  
132 is the intent of the Legislature to protect persons who reside  
133 in a recovery residence.

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

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

143 (6) All owners, directors, and chief financial officers of  
144 an applicant recovery residence are subject to level 2  
145 background screening as provided under chapter 435 and s.

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146 408.809. A recovery residence is ineligible for certification,  
147 and a credentialing entity shall deny a recovery residence's  
148 application, if any owner, director, or chief financial officer  
149 has been found guilty of, or has entered a plea of guilty or  
150 nolo contendere to, regardless of adjudication, any offense  
151 listed in s. 408.809(4) or s. 435.04(2) unless the department  
152 has issued an exemption under s. 397.4073 or s. 397.4872. In  
153 accordance with s. 435.04, the department shall notify the  
154 credentialing agency of an owner's, director's, or chief  
155 financial officer's eligibility based on the results of his or  
156 her background screening.

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

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

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

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

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

171 (b) Referrals by a recovery residence to a licensed service  
172 provider when a resident has experienced a recurrence of  
173 substance use and, in the best judgment of the recovery  
174 residence administrator, it appears that the resident may

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175 benefit from clinical treatment services ~~the recovery residence~~  
176 ~~or its owners, directors, operators, or employees do not~~  
177 ~~benefit, directly or indirectly, from the referral.~~

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

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

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

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

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

200 (7)~~(6)~~ Nothing in this section requires a licensed service  
201 provider to refer a patient to or to accept a referral of a  
202 patient from a recovery residence.

203 Section 5. Subsection (2) of section 435.07, Florida

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204 Statutes, is amended to read:

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

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

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