

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

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30 residences to licensed service providers; prohibiting  
31 recovery residences and specified affiliated  
32 individuals from benefitting from certain referrals;  
33 providing penalties; amending s. 435.07, F.S.;  
34 authorizing the exemption of certain persons from  
35 disqualification from employment; providing an  
36 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 who have  
61 direct contact with individuals receiving treatment. Such  
62 screening shall also include background screening as provided in  
63 s. 408.809 ~~Background checks shall apply as follows:~~

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

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

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

79 (g) If 5 years or more have elapsed since the most recent  
80 disqualifying offense, the applicant for the exemption ~~service~~  
81 ~~provider personnel~~ may work with adults with substance use  
82 disorders under the supervision of persons who meet all  
83 personnel requirements of this chapter for up to 90 days after  
84 being notified of the disqualification or until the department a  
85 ~~qualified professional licensed under chapter 490 or chapter 491~~  
86 ~~or a master's-level-certified addictions professional until the~~  
87 ~~agency~~ makes a final determination regarding the request for an

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88 exemption from disqualification, whichever is earlier.

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

93 (4) EXEMPTIONS FROM DISQUALIFICATION.—

94 (a) The department may grant to any service provider  
95 personnel an exemption from disqualification as provided in s.  
96 435.07.

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

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

115 Section 3. Subsection (1), paragraph (m) of subsection (3),  
116 and subsection (6) of section 397.487, Florida Statutes, are

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117 amended to read:

118 397.487 Voluntary certification of recovery residences.—

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

129 (3) A credentialing entity shall require the recovery  
130 residence to submit the following documents with the completed  
131 application and fee:

132 (m) Proof of satisfactory fire, safety, and health  
133 inspections. A recovery residence must comply with the  
134 provisions of the Florida Fire Prevention Code which apply to  
135 one-family and two-family dwellings.

136 (6) All owners, directors, and chief financial officers of  
137 an applicant recovery residence are subject to level 2  
138 background screening as provided under chapter 435 and s.  
139 408.809. A recovery residence is ineligible for certification,  
140 and a credentialing entity shall deny a recovery residence's  
141 application, if any owner, director, or chief financial officer  
142 has been found guilty of, or has entered a plea of guilty or  
143 nolo contendere to, regardless of adjudication, any offense  
144 listed in s. 408.809(4) or s. 435.04(2) unless the department  
145 has issued an exemption under s. 397.4073 or s. 397.4872. In

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146 accordance with s. 435.04, the department shall notify the  
147 credentialing agency of an owner's, director's, or chief  
148 financial officer's eligibility based on the results of his or  
149 her background screening.

150 Section 4. Section 397.4873, Florida Statutes, is amended  
151 to read:

152 397.4873 Referrals to or from recovery residences;  
153 prohibitions; penalties.—

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

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

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

164 (b) Referrals by a recovery residence to a licensed service  
165 provider when a resident has experienced a recurrence of  
166 substance use and, in the best judgment of the recovery  
167 residence administrator, it appears that the resident may  
168 benefit from clinical treatment services ~~the recovery residence~~  
169 ~~or its owners, directors, operators, or employees do not~~  
170 ~~benefit, directly or indirectly, from the referral.~~

171 (c) Referrals made before July 1, 2019 ~~2018~~, by a licensed  
172 service provider to that licensed service provider's wholly  
173 owned subsidiary.

174 (3) A recovery residence or its owners, directors,

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175 operators, employees, or volunteers may not receive a direct  
176 pecuniary benefit in exchange for a referral made pursuant to  
177 subsection (1) or subsection (2).

178 (4)~~(3)~~ For purposes of this section, a licensed service  
179 provider or recovery residence shall be considered to have made  
180 a referral if the provider or recovery residence has informed a  
181 patient by any means about the name, address, or other details  
182 of a recovery residence or licensed service provider, or  
183 informed a licensed service provider or a recovery residence of  
184 any identifying details about a patient.

185 (5)~~(4)~~ A licensed service provider shall maintain records  
186 of referrals to or from recovery residences as may be prescribed  
187 by the department in rule.

188 (6)~~(5)~~ After June 30, 2019, a licensed service provider  
189 violating this section shall be subject to an administrative  
190 fine of \$1,000 per occurrence. Repeat violations of this section  
191 may subject a provider to license suspension or revocation  
192 pursuant to s. 397.415.

193 (7)~~(6)~~ Nothing in this section requires a licensed service  
194 provider to refer a patient to or to accept a referral of a  
195 patient from a recovery residence.

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

198 435.07 Exemptions from disqualification.—Unless otherwise  
199 provided by law, the provisions of this section apply to  
200 exemptions from disqualification for disqualifying offenses  
201 revealed pursuant to background screenings required under this  
202 chapter, regardless of whether those disqualifying offenses are  
203 listed in this chapter or other laws.

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204           (2) Persons employed, or applicants for employment, by  
205 treatment providers who treat adolescents 13 years of age and  
206 older who are disqualified from employment solely because of  
207 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.  
208 817.563, s. 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s.  
209 893.147, and any related criminal attempt, solicitation, or  
210 conspiracy under s. 777.04, may be exempted from  
211 disqualification from employment pursuant to this chapter  
212 without application of the waiting period in subparagraph  
213 (1)(a)1.

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