

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: CS/SB 900

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

SUBJECT: Substance Abuse Services

DATE: April 8, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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 result in the need for technology changes to the Care Provider Background Screening Clearinghouse system administered by the Agency for Health Care Administration. The bill is also expected to have an indeterminate, though insignificant fiscal impact on the Department of Children and Families. See Section V.

The bill takes effect 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

### Substance Abuse Treatment in Florida

The Department of Children and Families (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.

The DCF provides treatment for substance abuse through a community-based provider system that serves adolescents and adults affected by substance misuse, abuse or dependence.<sup>5</sup> The DCF regulates substance abuse treatment by licensing individual treatment components pursuant to ch. 397, F.S., and Florida Administrative Code Rule 65D-30.

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

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<sup>1</sup> World Health Organization, *Substance Abuse*, available at [http://www.who.int/topics/substance\\_abuse/en/](http://www.who.int/topics/substance_abuse/en/) (last visited Mar. 8, 2019).

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

<sup>3</sup> 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 Mar. 8, 2019).

<sup>4</sup> Id.

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

<sup>6</sup> Ch. 2017-173, Laws of .O.F.

## 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 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.”<sup>7</sup>

## 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.<sup>8</sup> 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.<sup>9</sup>

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

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<sup>7</sup> *Id.*

<sup>8</sup> S. 397.4873(1), F.S.

<sup>9</sup> S. 397.4873(2), F.S.

<sup>10</sup> S. 397.4872, F.S.

<sup>11</sup> Florida Association of Recovery Residences, *Certified Residences*,

<http://www.dcf.state.fl.us/programs/samh/docs/FARR%20Certified%20Recovery%20Residences.pdf> (last visited Mar. 8, 2019).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

## 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 parity and health reform legislation.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup>

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

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<sup>14</sup> 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://www.cibhs.org/sites/main/files/file-attachments/samhsa\\_bhwork\\_0.pdf](https://www.cibhs.org/sites/main/files/file-attachments/samhsa_bhwork_0.pdf) (last visited Apr. 2, 2019).

<sup>15</sup> *Id.*

<sup>16</sup> 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/product/What-Are-Peer-Recovery-Support-Services-/sma09-4454> (last visited Mar. 8, 2019).

<sup>17</sup> 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 Mar. 8, 2019).

include staffing recovery centers, sports league participation, and alcohol or drug free socialization.<sup>18</sup>

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.<sup>19</sup> 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.<sup>20</sup>

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 were 418 individuals with active certification through the Florida Certification Board.<sup>21</sup> 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.<sup>22</sup> In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by peer

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<sup>18</sup> 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: <http://www.npr.org/sections/health-shots/2017/07/11/536501069/in-texas-people-with-mental-illness-are-finding-work-helping-peers> (last visited Mar. 8, 2019).

<sup>19</sup> Department of Children and Families, Florida Peer Services Handbook. Available at: <http://www.dcf.state.fl.us/programs/samh/publications/peer-services/DCF-Peer-Guidance.pdf> (last visited Mar. 8, 2019).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> 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 Mar. 8, 2019).

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 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 employer<sup>23</sup> may not hire, select, or otherwise allow an employee to have contact with a vulnerable person<sup>24</sup> 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 agency<sup>25</sup> as provided under s. 435.07, F.S.<sup>26</sup>

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.<sup>27</sup> 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.<sup>28</sup>

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.<sup>29</sup>

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<sup>23</sup> "Employer" means any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S. See s. 435.02(3), F.S.

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

<sup>25</sup> "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. See s. 435.02(1), F.S.

<sup>26</sup> Section 435.06(2)(a), F.S.

<sup>27</sup> Section 435.06(2)(b), F.S.

<sup>28</sup> Section 435.06(2)(c), F.S.

<sup>29</sup> Section 435.06(2)(d), F.S.

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

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,<sup>30</sup> and may include criminal records checks through local law enforcement agencies.<sup>31</sup>
- 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.<sup>32</sup>

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.<sup>33</sup> 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.<sup>34</sup>

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.,<sup>35</sup> 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.<sup>36</sup> 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.<sup>37</sup>

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.<sup>38</sup>

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

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<sup>30</sup> 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 Mar. 8, 2019).

<sup>31</sup> Section 435.03(1), F.S.

<sup>32</sup> Section 435.04(1)(a), F.S.

<sup>33</sup> Section 435.04(2), F.S.

<sup>34</sup> Section 435.04(3), F.S.

<sup>35</sup> Section 435.05(1)(a), F.S.

<sup>36</sup> Section 435.05(1)(d), F.S.

<sup>37</sup> Section 435.05(2), F.S.

<sup>38</sup> Section 435.05(1)(b), F.S.

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.<sup>39</sup>

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.<sup>40</sup>

### **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

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<sup>39</sup> Section 435.05(1)(c), F.S.

<sup>40</sup> Section 435.05(3), F.S.



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 three years since the person has 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[.]”<sup>41</sup> Section 394.4572(1)(a), F.S., requires a level 2 screening for mental health personnel,<sup>42</sup> 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. 394.4572, F.S., to allow the 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 the DCF must render a decision on the application for exemption

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<sup>41</sup> 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 Mar. 8, 2019).

<sup>42</sup> “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.

from disqualification within 60 days after the DCF receives the complete application. Additionally, the bill allows individuals to work under supervision for up to 90 days while the DCF evaluates their applications for an exemption from disqualification, so long as it has been five or more years 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 two years or a family member or caregiver of such a person may seek certification as a peer specialist. The bill requires the DCF to approve training and continuing education programs for peer specialist certification. The 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, F.S., 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 the 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:

CS/SB 900 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 will result in the need for technology changes to the Care Provider Background Screening Clearinghouse system administered by the AHCA. The system changes are estimated to cost \$100,000. However, if Issue 36306C0 in the AHCA's Legislative Budget Request for the 2019-2020 fiscal year is funded, the technology changes can be incorporated into the clearinghouse system planned upgrade. Both SB 2500, the Senate's proposed 2019-2020 General Appropriations Bill and HB 5001, the House's proposed 2019-2020 General Appropriations Bill, include funding for the system upgrade.

The bill may result in additional background screenings if more persons apply to become peer specialists; however, the 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.