

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

586-02769-20

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1 A bill to be entitled  
2 An act relating to substance abuse services; amending  
3 s. 397.4073, F.S.; specifying that certified recovery  
4 residence administrators and certain persons  
5 associated with certified recovery residences are  
6 subject to certain background screenings; requiring,  
7 rather than authorizing, the exemption from  
8 disqualification from employment for certain substance  
9 abuse service provider personnel; amending s. 397.487,  
10 F.S.; deleting a provision relating to background  
11 screenings for certain persons associated with  
12 applicant recovery residences; amending s. 397.4872,  
13 F.S.; deleting provisions relating to exemptions from  
14 disqualification for certain persons associated with  
15 recovery residences; amending s. 397.4873, F.S.;

16 providing criminal penalties for violations relating  
17 to recovery residence patient referrals; amending s.  
18 817.505, F.S.; revising provisions relating to payment  
19 practices exempt from prohibitions on patient  
20 brokering; amending ss. 397.4871 and 435.07, F.S.;

21 conforming provisions to changes made by the act;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Paragraph (a) of subsection (1) and paragraph  
27 (b) of subsection (4) of section 397.4073, Florida Statutes, are  
28 amended to read:

29 397.4073 Background checks of service provider personnel.-

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30 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
31 EXCEPTIONS.—

32 (a) For all individuals screened on or after July 1, 2020  
33 ~~2019~~, background checks shall apply as follows:

34 1. All owners, directors, chief financial officers, and  
35 clinical supervisors of service providers are subject to level 2  
36 background screening as provided under s. 408.809 and chapter  
37 435. Inmate substance abuse programs operated directly or under  
38 contract with the Department of Corrections are exempt from this  
39 requirement.

40 2. All service provider personnel who have direct contact  
41 with children receiving services or with adults who are  
42 developmentally disabled receiving services are subject to level  
43 2 background screening as provided under s. 408.809 and chapter  
44 435.

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

48 4. All certified recovery residence owners, directors,  
49 chief financial officers, and certified recovery residence  
50 administrators are subject to level 2 background screening as  
51 provided under s. 408.809 and chapter 435.

52 (4) EXEMPTIONS FROM DISQUALIFICATION.—

53 (b) Since rehabilitated substance abuse impaired persons  
54 are effective in the successful treatment and rehabilitation of  
55 individuals with substance use disorders, for service providers  
56 which treat adolescents 13 years of age and older, service  
57 provider personnel whose background checks indicate crimes under  
58 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.

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59 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related  
60 criminal attempt, solicitation, or conspiracy under s. 777.04,  
61 shall ~~may~~ be exempted from disqualification from employment  
62 pursuant to this paragraph.

63 Section 2. Subsection (6) of section 397.487, Florida  
64 Statutes, is amended to read:

65 397.487 Voluntary certification of recovery residences.—

66 ~~(6) All owners, directors, and chief financial officers of  
67 an applicant recovery residence are subject to level 2  
68 background screening as provided under s. 408.809 and chapter  
69 435. A recovery residence is ineligible for certification, and a  
70 credentialing entity shall deny a recovery residence's  
71 application, if any owner, director, or chief financial officer  
72 has been found guilty of, or has entered a plea of guilty or  
73 nolo contendere to, regardless of adjudication, any offense  
74 listed in s. 408.809(4) or s. 435.04(2) unless the department  
75 has issued an exemption under s. 397.4073 or s. 397.4872. In  
76 accordance with s. 435.04, the department shall notify the  
77 credentialing agency of an owner's, director's, or chief  
78 financial officer's eligibility based on the results of his or  
79 her background screening.~~

80 Section 3. Section 397.4872, Florida Statutes, is amended  
81 to read:

82 397.4872 ~~Exemption from disqualification;~~ Publication.—

83 ~~(1) Individual exemptions to staff disqualification or  
84 administrator ineligibility may be requested if a recovery  
85 residence deems the decision will benefit the program. Requests  
86 for exemptions must be submitted in writing to the department  
87 within 20 days after the denial by the credentialing entity and~~

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88 ~~must include a justification for the exemption.~~

89 ~~(2) The department may exempt a person from ss. 397.487(6)~~  
90 ~~and 397.4871(5) if it has been at least 3 years since the person~~  
91 ~~has completed or been lawfully released from confinement,~~  
92 ~~supervision, or sanction for the disqualifying offense. An~~  
93 ~~exemption from the disqualifying offenses may not be given under~~  
94 ~~any circumstances for any person who is a:~~

95 ~~(a) Sexual predator pursuant to s. 775.21;~~

96 ~~(b) Career offender pursuant to s. 775.261; or~~

97 ~~(c) Sexual offender pursuant to s. 943.0435, unless the~~  
98 ~~requirement to register as a sexual offender has been removed~~  
99 ~~pursuant to s. 943.04354.~~

100 ~~(3) By April 1, 2016, each credentialing entity shall~~  
101 ~~submit a list to the department of all recovery residences and~~  
102 ~~recovery residence administrators certified by the credentialing~~  
103 ~~entity that hold a valid certificate of compliance. Thereafter,~~  
104 ~~the credentialing entity must notify the department within 3~~  
105 ~~business days after a new recovery residence or recovery~~  
106 ~~residence administrator is certified or a recovery residence or~~  
107 ~~recovery residence administrator's certificate expires or is~~  
108 ~~terminated. The department shall publish on its website a list~~  
109 ~~of all recovery residences that hold a valid certificate of~~  
110 ~~compliance. The department shall also publish on its website a~~  
111 ~~list of all recovery residence administrators who hold a valid~~  
112 ~~certificate of compliance. A recovery residence or recovery~~  
113 ~~residence administrator shall be excluded from the list upon~~  
114 ~~written request to the department by the listed individual or~~  
115 ~~entity.~~

116 Section 4. Present subsections (4), (5), and (6) of section

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117 397.4873, Florida Statutes, are redesignated as subsections (5),  
118 (6), and (7), respectively, a new subsection (4) is added to  
119 that section, and subsection (1) of that section is republished,  
120 to read:

121 397.4873 Referrals to or from recovery residences;  
122 prohibitions; penalties.—

123 (1) A service provider licensed under this part may not  
124 make a referral of a prospective, current, or discharged patient  
125 to, or accept a referral of such a patient from, a recovery  
126 residence unless the recovery residence holds a valid  
127 certificate of compliance as provided in s. 397.487 and is  
128 actively managed by a certified recovery residence administrator  
129 as provided in s. 397.4871.

130 (4) In addition to any other punishment provided by law,  
131 any person who willfully and knowingly violates subsection (1)  
132 commits a misdemeanor of the first degree, punishable as  
133 provided in s. 775.082 or s. 775.083.

134 Section 5. Paragraph (a) of subsection (3) of section  
135 817.505, Florida Statutes, is amended to read:

136 817.505 Patient brokering prohibited; exceptions;  
137 penalties.—

138 (3) This section shall not apply to the following payment  
139 practices:

140 (a) Any discount, payment, waiver of payment, or payment  
141 practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s.  
142 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b)(3)~~ or regulations  
143 promulgated ~~adopted~~ thereunder regardless of whether such  
144 discount, payment, waiver of payment, or payment practice  
145 involves items or services for which payment may be made in

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146 whole or in part under federal health care programs as defined  
147 in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July  
148 1, 2020.

149 Section 6. Subsection (5) of section 397.4871, Florida  
150 Statutes, is amended to read:

151 397.4871 Recovery residence administrator certification.—

152 (5) All applicants are subject to level 2 background  
153 screening as provided under chapter 435. An applicant is  
154 ineligible, and a credentialing entity shall deny the  
155 application, if the applicant has been found guilty of, or has  
156 entered a plea of guilty or nolo contendere to, regardless of  
157 adjudication, any offense listed in s. 408.809 or s. 435.04(2)  
158 unless the department has issued an exemption under s. 397.4073  
159 or s. 435.07 ~~s. 397.4872~~. In accordance with s. 435.04, the  
160 department shall notify the credentialing agency of the  
161 applicant's eligibility based on the results of his or her  
162 background screening.

163 Section 7. Subsection (2) of section 435.07, Florida  
164 Statutes, is amended to read:

165 435.07 Exemptions from disqualification.—Unless otherwise  
166 provided by law, the provisions of this section apply to  
167 exemptions from disqualification for disqualifying offenses  
168 revealed pursuant to background screenings required under this  
169 chapter, regardless of whether those disqualifying offenses are  
170 listed in this chapter or other laws.

171 (2) Persons employed, or applicants for employment, by  
172 treatment providers who treat adolescents 13 years of age and  
173 older who are disqualified from employment solely because of  
174 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.

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175 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any  
176 related criminal attempt, solicitation, or conspiracy under s.  
177 777.04, shall ~~may~~ be exempted from disqualification from  
178 employment pursuant to this chapter without application of the  
179 waiting period in subparagraph (1)(a)1.

180 Section 8. This act shall take effect July 1, 2020.