

By Senator Rouson

19-00143-21

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1                                   A bill to be entitled  
2           An act relating to mental health and substance use  
3           disorders; amending s. 394.4573, F.S.; providing that  
4           the use of peer specialists is an essential element of  
5           a coordinated system of care in recovery from a  
6           substance use disorder or mental illness; making a  
7           technical change; amending s. 397.4073, F.S.; revising  
8           background screening requirements for certain peer  
9           specialists; amending s. 397.417, F.S.; providing  
10          legislative findings and intent; revising requirements  
11          for certification as a peer specialist; requiring the  
12          Department of Children and Families to develop a  
13          training program for peer specialists and to give  
14          preference to trainers who are certified peer  
15          specialists; requiring the training program to  
16          coincide with a competency exam and to be based on  
17          current practice standards; requiring the department  
18          to certify peer specialists, either directly or by  
19          approving a third-party credentialing entity;  
20          requiring that a person providing recovery support  
21          services be certified or be supervised by a licensed  
22          behavioral health care professional or a certified  
23          peer specialist; authorizing the department, a  
24          behavioral health managing entity, or the Medicaid  
25          program to reimburse a peer specialist service as a  
26          recovery service; encouraging Medicaid managed care  
27          plans to use peer specialists in providing recovery  
28          services; requiring peer specialists and certain  
29          persons to meet the requirements of a background

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30 screening as a condition of employment and continued  
31 employment; requiring certain entities to forward  
32 fingerprints to specified entities; requiring that  
33 fees for state and federal fingerprint processing be  
34 borne by the peer specialist applying for employment;  
35 requiring that any arrest record identified through  
36 background screening be reported to the department;  
37 authorizing the department or certain other agencies  
38 to contract with certain vendors for fingerprinting;  
39 specifying requirements for vendors; specifying  
40 disqualifying offenses for a peer specialist who  
41 applies for certification; authorizing a person who  
42 does not meet background screening requirements to  
43 request an exemption from disqualification from the  
44 department or the agency; providing that a peer  
45 specialist certified as of the effective date of this  
46 act is deemed to satisfy the requirements of this act;  
47 providing an effective date.  
48

49 Be It Enacted by the Legislature of the State of Florida:  
50

51 Section 1. Paragraph (1) of subsection (2) and subsection  
52 (3) of section 394.4573, Florida Statutes, are amended to read:  
53 394.4573 Coordinated system of care; annual assessment;  
54 essential elements; measures of performance; system improvement  
55 grants; reports.—On or before December 1 of each year, the  
56 department shall submit to the Governor, the President of the  
57 Senate, and the Speaker of the House of Representatives an  
58 assessment of the behavioral health services in this state. The

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59 assessment shall consider, at a minimum, the extent to which  
60 designated receiving systems function as no-wrong-door models,  
61 the availability of treatment and recovery services that use  
62 recovery-oriented and peer-involved approaches, the availability  
63 of less-restrictive services, and the use of evidence-informed  
64 practices. The assessment shall also consider the availability  
65 of and access to coordinated specialty care programs and  
66 identify any gaps in the availability of and access to such  
67 programs in the state. The department's assessment shall  
68 consider, at a minimum, the needs assessments conducted by the  
69 managing entities pursuant to s. 394.9082(5). Beginning in 2017,  
70 the department shall compile and include in the report all plans  
71 submitted by managing entities pursuant to s. 394.9082(8) and  
72 the department's evaluation of each plan.

73 (2) The essential elements of a coordinated system of care  
74 include:

75 (1) Recovery support, including, but not limited to, the  
76 use of peer specialists to assist in the individual's recovery  
77 from a substance use disorder or mental illness; support for  
78 competitive employment, educational attainment, independent  
79 living skills development, family support and education,  
80 wellness management, and self-care; ~~and~~ and assistance in obtaining  
81 housing that meets the individual's needs. Such housing may  
82 include mental health residential treatment facilities, limited  
83 mental health assisted living facilities, adult family care  
84 homes, and supportive housing. Housing provided using state  
85 funds must provide a safe and decent environment free from abuse  
86 and neglect.

87 (3) ~~SYSTEM IMPROVEMENT GRANTS.~~ Subject to a specific

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88 appropriation by the Legislature, the department may award  
89 system improvement grants to managing entities based on a  
90 detailed plan to enhance services in accordance with the no-  
91 wrong-door model as defined in subsection (1) and to address  
92 specific needs identified in the assessment prepared by the  
93 department pursuant to this section. Such a grant must be  
94 awarded through a performance-based contract that links payments  
95 to the documented and measurable achievement of system  
96 improvements.

97 Section 2. Paragraph (a) of subsection (1) of section  
98 397.4073, Florida Statutes, is amended to read:

99 397.4073 Background checks of service provider personnel.—

100 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
101 EXCEPTIONS.—

102 (a) For all individuals screened on or after July 1, 2021  
103 ~~2019~~, background checks shall apply as follows:

104 1. All owners, directors, chief financial officers, and  
105 clinical supervisors of service providers are subject to level 2  
106 background screening as provided under s. 408.809 and chapter  
107 435. Inmate substance abuse programs operated directly or under  
108 contract with the Department of Corrections are exempt from this  
109 requirement.

110 2. All service provider personnel who have direct contact  
111 with children receiving services or with adults who are  
112 developmentally disabled receiving services are subject to level  
113 2 background screening as provided under s. 408.809 and chapter  
114 435.

115 3. All peer specialists who have direct contact with  
116 individuals receiving services are subject to a background

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117 screening as provided in s. 397.417(5) level 2 background  
118 screening as provided under s. 408.809 and chapter 435.

119 Section 3. Section 397.417, Florida Statutes, is amended to  
120 read:

121 397.417 Peer specialists.—

122 (1) LEGISLATIVE FINDINGS AND INTENT.—

123 (a) The Legislature finds that:

124 1. The ability to provide adequate behavioral health  
125 services is limited by a shortage of professionals and  
126 paraprofessionals.

127 2. The state is experiencing an increase in opioid  
128 addictions, many of which prove fatal.

129 3. Peer specialists provide effective support services  
130 because they share common life experiences with the persons they  
131 assist.

132 4. Peer specialists promote a sense of community among  
133 those in recovery.

134 5. Research has shown that peer support facilitates  
135 recovery and reduces health care costs.

136 6. Persons who are otherwise qualified to serve as peer  
137 specialists may have a criminal history that prevents them from  
138 meeting background screening requirements.

139 (b) The Legislature intends to expand the use of peer  
140 specialists as a cost-effective means of providing services. The  
141 Legislature also intends to ensure that peer specialists meet  
142 specified qualifications and modified background screening  
143 requirements and are adequately reimbursed for their services.

144 (2) QUALIFICATIONS.—

145 (a) A person may seek certification as a peer specialist if

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146 he or she has been in recovery from a substance use disorder or  
147 mental illness for the past 2 years or if he or she is a family  
148 member or caregiver of a person with a substance use disorder or  
149 mental illness.

150 (b) To obtain certification as a peer specialist, a person  
151 must complete the training program developed under subsection  
152 (3), achieve a passing score on the competency exam described in  
153 paragraph (3)(a), and meet the background screening requirements  
154 specified in subsection (5).

155 (3) DUTIES OF THE DEPARTMENT.—

156 (a) The department shall develop a training program for  
157 persons seeking certification as peer specialists. The  
158 department must give preference to trainers who are certified  
159 peer specialists. The training program must coincide with a  
160 competency exam and be based on current practice standards.

161 (b) The department may certify peer specialists directly or  
162 may approve one or more third-party credentialing entities for  
163 the purposes of certifying peer specialists, approving training  
164 programs for individuals seeking certification as peer  
165 specialists, approving continuing education programs, and  
166 establishing the minimum requirements and standards applicants  
167 must meet to maintain certification.

168 (c) The department shall require that a person providing  
169 recovery support services be certified; however, an individual  
170 who is not certified may provide recovery support services as a  
171 peer specialist for up to 1 year if he or she is working toward  
172 certification and is supervised by a qualified professional or  
173 by a certified peer specialist who has at least 2 years of full-  
174 time experience as a peer specialist at a licensed behavioral

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175 health organization.

176 (4) PAYMENT.—Recovery support services may be reimbursed as  
177 a recovery service through the department, a behavioral health  
178 managing entity, or the Medicaid program. Medicaid managed care  
179 plans are encouraged to use peer specialists in providing  
180 recovery services.

181 (5) BACKGROUND SCREENING.—

182 (a) A peer specialist, or an individual who is working  
183 toward certification and providing recovery support services as  
184 provided in subsection (3), must have completed or have been  
185 lawfully released from confinement, supervision, or any  
186 nonmonetary condition imposed by the court for any felony and  
187 must undergo a background screening as a condition of initial  
188 and continued employment. The applicant must submit a full set  
189 of fingerprints to the department or to a vendor, an entity, or  
190 an agency that enters into an agreement with the Department of  
191 Law Enforcement as provided in s. 943.053(13). The department,  
192 vendor, entity, or agency shall forward the fingerprints to the  
193 Department of Law Enforcement for state processing and the  
194 Department of Law Enforcement shall forward the fingerprints to  
195 the Federal Bureau of Investigation for national processing. The  
196 applicant is responsible for all fees charged in connection with  
197 state and federal fingerprint processing and retention. The  
198 state cost for fingerprint processing shall be as provided in s.  
199 943.053(3)(e) for records provided to persons or entities other  
200 than those specified as exceptions therein. Fingerprints  
201 submitted to the Department of Law Enforcement pursuant to this  
202 paragraph shall be retained as provided in s. 435.12 and, when  
203 the Department of Law Enforcement begins participation in the

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204 program, enrolled in the Federal Bureau of Investigation's  
205 national retained fingerprint arrest notification program, as  
206 provided in s. 943.05(4). Any arrest record identified must be  
207 reported to the department.

208 (b) The department or the Agency for Health Care  
209 Administration, as applicable, may contract with one or more  
210 vendors to perform all or part of the electronic fingerprinting  
211 pursuant to this section. Such contracts must ensure that the  
212 owners and personnel of the vendor performing the electronic  
213 fingerprinting are qualified and will ensure the integrity and  
214 security of all personal identifying information.

215 (c) Vendors who submit fingerprints on behalf of employers  
216 must:

217 1. Meet the requirements of s. 943.053; and  
218 2. Have the ability to communicate electronically with the  
219 department or the Agency for Health Care Administration, as  
220 applicable, and to accept screening results from the Department  
221 of Law Enforcement and provide the applicant's full first name,  
222 middle initial, and last name; social security number or  
223 individual taxpayer identification number; date of birth;  
224 mailing address; sex; and race.

225 (d) The background screening conducted under this  
226 subsection must ensure that a peer specialist has not, during  
227 the previous 3 years, been arrested for and is awaiting final  
228 disposition of, been found guilty of, regardless of  
229 adjudication, or entered a plea of nolo contendere or guilty to,  
230 or been adjudicated delinquent and the record has not been  
231 sealed or expunged for, any felony.

232 (e) The background screening conducted under this



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233 subsection must ensure that a peer specialist has not been found  
234 guilty of, regardless of adjudication, or entered a plea of nolo  
235 contendere or guilty to, or been adjudicated delinquent and the  
236 record has not been sealed or expunged for, any offense  
237 prohibited under any of the following state laws or similar laws  
238 of another jurisdiction:

239 1. Section 393.135, relating to sexual misconduct with  
240 certain developmentally disabled clients and reporting of such  
241 sexual misconduct.

242 2. Section 394.4593, relating to sexual misconduct with  
243 certain mental health patients and reporting of such sexual  
244 misconduct.

245 3. Section 409.920, relating to Medicaid provider fraud, if  
246 the offense was a felony of the first or second degree.

247 4. Section 415.111, relating to abuse, neglect, or  
248 exploitation of vulnerable adults.

249 5. Section 741.28, relating to domestic violence.

250 6. Section 777.04, relating to attempts, solicitation, and  
251 conspiracy to commit an offense listed in this paragraph.

252 7. Section 782.04, relating to murder.

253 8. Section 782.07, relating to manslaughter, aggravated  
254 manslaughter of an elderly person or a disabled adult,  
255 aggravated manslaughter of a child, or aggravated manslaughter  
256 of an officer, a firefighter, an emergency medical technician,  
257 or a paramedic.

258 9. Section 782.071, relating to vehicular homicide.

259 10. Section 782.09, relating to killing an unborn child by  
260 injury to the mother.

261 11. Chapter 784, relating to assault, battery, and culpable

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- 262 negligence, if the offense was a felony.
- 263 12. Section 787.01, relating to kidnapping.
- 264 13. Section 787.02, relating to false imprisonment.
- 265 14. Section 787.025, relating to luring or enticing a  
266 child.
- 267 15. Section 787.04(2), relating to leading, taking,  
268 enticing, or removing a minor beyond state limits, or concealing  
269 the location of a minor, with criminal intent pending custody  
270 proceedings.
- 271 16. Section 787.04(3), relating to leading, taking,  
272 enticing, or removing a minor beyond state limits, or concealing  
273 the location of a minor, with criminal intent pending dependency  
274 proceedings or proceedings concerning alleged abuse or neglect  
275 of a minor.
- 276 17. Section 790.115(1), relating to exhibiting firearms or  
277 weapons within 1,000 feet of a school.
- 278 18. Section 790.115(2)(b), relating to possessing an  
279 electric weapon or device, a destructive device, or any other  
280 weapon on school property.
- 281 19. Section 794.011, relating to sexual battery.
- 282 20. Former s. 794.041, relating to prohibited acts of  
283 persons in familial or custodial authority.
- 284 21. Section 794.05, relating to unlawful sexual activity  
285 with certain minors.
- 286 22. Section 794.08, relating to female genital mutilation.
- 287 23. Section 796.07, relating to procuring another to commit  
288 prostitution, except for those offenses expunged pursuant to s.  
289 943.0583.
- 290 24. Section 798.02, relating to lewd and lascivious

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291 behavior.

292 25. Chapter 800, relating to lewdness and indecent

293 exposure.

294 26. Section 806.01, relating to arson.

295 27. Section 810.02, relating to burglary, if the offense

296 was a felony of the first degree.

297 28. Section 810.14, relating to voyeurism, if the offense

298 was a felony.

299 29. Section 810.145, relating to video voyeurism, if the

300 offense was a felony.

301 30. Section 812.13, relating to robbery.

302 31. Section 812.131, relating to robbery by sudden

303 snatching.

304 32. Section 812.133, relating to carjacking.

305 33. Section 812.135, relating to home-invasion robbery.

306 34. Section 817.034, relating to communications fraud, if

307 the offense was a felony of the first degree.

308 35. Section 817.234, relating to false and fraudulent

309 insurance claims, if the offense was a felony of the first or

310 second degree.

311 36. Section 817.50, relating to fraudulently obtaining

312 goods or services from a health care provider and false reports

313 of a communicable disease.

314 37. Section 817.505, relating to patient brokering.

315 38. Section 817.568, relating to fraudulent use of personal

316 identification, if the offense was a felony of the first or

317 second degree.

318 39. Section 825.102, relating to abuse, aggravated abuse,

319 or neglect of an elderly person or a disabled adult.

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- 320       40. Section 825.1025, relating to lewd or lascivious  
321 offenses committed upon or in the presence of an elderly person  
322 or a disabled person.
- 323       41. Section 825.103, relating to exploitation of an elderly  
324 person or a disabled adult, if the offense was a felony.
- 325       42. Section 826.04, relating to incest.
- 326       43. Section 827.03, relating to child abuse, aggravated  
327 child abuse, or neglect of a child.
- 328       44. Section 827.04, relating to contributing to the  
329 delinquency or dependency of a child.
- 330       45. Former s. 827.05, relating to negligent treatment of  
331 children.
- 332       46. Section 827.071, relating to sexual performance by a  
333 child.
- 334       47. Section 831.30, relating to fraud in obtaining  
335 medicinal drugs.
- 336       48. Section 831.31, relating to sale, manufacture,  
337 delivery, possession with intent to sell, manufacture, or  
338 deliver of any counterfeit controlled substance, if the offense  
339 was a felony.
- 340       49. Section 843.01, relating to resisting arrest with  
341 violence.
- 342       50. Section 843.025, relating to depriving a law  
343 enforcement, correctional, or correctional probation officer of  
344 the means of protection or communication.
- 345       51. Section 843.12, relating to aiding in an escape.
- 346       52. Section 843.13, relating to aiding in the escape of  
347 juvenile inmates of correctional institutions.
- 348       53. Chapter 847, relating to obscenity.

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349 54. Section 874.05, relating to encouraging or recruiting  
350 another to join a criminal gang.

351 55. Chapter 893, relating to drug abuse prevention and  
352 control, if the offense was a felony of the second degree or  
353 greater severity.

354 56. Section 895.03, relating to racketeering and collection  
355 of unlawful debts.

356 57. Section 896.101, relating to the Florida Money  
357 Laundering Act.

358 58. Section 916.1075, relating to sexual misconduct with  
359 certain forensic clients and reporting of such sexual  
360 misconduct.

361 59. Section 944.35(3), relating to inflicting cruel or  
362 inhuman treatment on an inmate resulting in great bodily harm.

363 60. Section 944.40, relating to escape.

364 61. Section 944.46, relating to harboring, concealing, or  
365 aiding an escaped prisoner.

366 62. Section 944.47, relating to introduction of contraband  
367 into a correctional institution.

368 63. Section 985.701, relating to sexual misconduct in  
369 juvenile justice programs.

370 64. Section 985.711, relating to introduction of contraband  
371 into a detention facility.

372 (6) EXEMPTION REQUESTS.—A person who wishes to become a  
373 peer specialist and is disqualified under subsection (5) may  
374 request an exemption from disqualification pursuant to s. 435.07  
375 from the department or the Agency for Health Care  
376 Administration, as applicable.

377 (7) GRANDFATHER CLAUSE.—A peer specialist certified as of

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378 the effective date of this act is deemed to satisfy the  
379 requirements of this act

380 ~~(1) An individual may seek certification as a peer~~  
381 ~~specialist if he or she has been in recovery from a substance~~  
382 ~~use disorder or mental illness for at least 2 years, or if he or~~  
383 ~~she has at least 2 years of experience as a family member or~~  
384 ~~caregiver of a person with a substance use disorder or mental~~  
385 ~~illness.~~

386 ~~(2) The department shall approve one or more third party~~  
387 ~~credentialing entities for the purposes of certifying peer~~  
388 ~~specialists, approving training programs for individuals seeking~~  
389 ~~certification as peer specialists, approving continuing~~  
390 ~~education programs, and establishing the minimum requirements~~  
391 ~~and standards that applicants must achieve to maintain~~  
392 ~~certification. To obtain approval, the third party credentialing~~  
393 ~~entity must demonstrate compliance with nationally recognized~~  
394 ~~standards for developing and administering professional~~  
395 ~~certification programs to certify peer specialists.~~

396 ~~(3) An individual providing department-funded recovery~~  
397 ~~support services as a peer specialist shall be certified~~  
398 ~~pursuant to subsection (2). An individual who is not certified~~  
399 ~~may provide recovery support services as a peer specialist for~~  
400 ~~up to 1 year if he or she is working toward certification and is~~  
401 ~~supervised by a qualified professional or by a certified peer~~  
402 ~~specialist who has at least 3 years of full-time experience as a~~  
403 ~~peer specialist at a licensed behavioral health organization.~~

404 Section 4. This act shall take effect July 1, 2021.