

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

586-02353-21

2021130c1

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; revising authorizations relating to work
10 by applicants who have committed disqualifying
11 offenses; amending s. 397.417, F.S.; providing
12 legislative findings and intent; revising requirements
13 for certification as a peer specialist; requiring the
14 Department of Children and Families to develop a
15 training program for peer specialists and to give
16 preference to trainers who are certified peer
17 specialists; requiring the training program to
18 coincide with a competency exam and to be based on
19 current practice standards; requiring the department
20 to certify peer specialists, either directly or by
21 approving a third-party credentialing entity;
22 requiring that a person providing recovery support
23 services be certified or be supervised by a licensed
24 behavioral health care professional or a certified
25 peer specialist; authorizing the department, a
26 behavioral health managing entity, or the Medicaid
27 program to reimburse a peer specialist service as a
28 recovery service; encouraging Medicaid managed care
29 plans to use peer specialists in providing recovery

586-02353-21

2021130c1

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

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Paragraph (1) of subsection (2) and subsection
56 (3) of section 394.4573, Florida Statutes, are amended to read:
57 394.4573 Coordinated system of care; annual assessment;
58 essential elements; measures of performance; system improvement

586-02353-21

2021130c1

59 grants; reports.—On or before December 1 of each year, the
60 department shall submit to the Governor, the President of the
61 Senate, and the Speaker of the House of Representatives an
62 assessment of the behavioral health services in this state. The
63 assessment shall consider, at a minimum, the extent to which
64 designated receiving systems function as no-wrong-door models,
65 the availability of treatment and recovery services that use
66 recovery-oriented and peer-involved approaches, the availability
67 of less-restrictive services, and the use of evidence-informed
68 practices. The assessment shall also consider the availability
69 of and access to coordinated specialty care programs and
70 identify any gaps in the availability of and access to such
71 programs in the state. The department's assessment shall
72 consider, at a minimum, the needs assessments conducted by the
73 managing entities pursuant to s. 394.9082(5). Beginning in 2017,
74 the department shall compile and include in the report all plans
75 submitted by managing entities pursuant to s. 394.9082(8) and
76 the department's evaluation of each plan.

77 (2) The essential elements of a coordinated system of care
78 include:

79 (1) Recovery support, including, but not limited to, the
80 use of peer specialists to assist in the individual's recovery
81 from a substance use disorder or mental illness; support for
82 competitive employment, educational attainment, independent
83 living skills development, family support and education,
84 wellness management, and self-care; and assistance in obtaining
85 housing that meets the individual's needs. Such housing may
86 include mental health residential treatment facilities, limited
87 mental health assisted living facilities, adult family care

586-02353-21

2021130c1

88 homes, and supportive housing. Housing provided using state
89 funds must provide a safe and decent environment free from abuse
90 and neglect.

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

101 Section 2. Paragraphs (a) and (g) of subsection (1) of
102 section 397.4073, Florida Statutes, are amended to read:

103 397.4073 Background checks of service provider personnel.—

104 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
105 EXCEPTIONS.—

106 (a) For all individuals screened on or after July 1, 2021
107 ~~2019~~, background checks shall apply as follows:

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

114 2. All service provider personnel who have direct contact
115 with children receiving services or with adults who are
116 developmentally disabled receiving services are subject to level

586-02353-21

2021130c1

117 2 background screening as provided under s. 408.809 and chapter
118 435.

119 3. All peer specialists who have direct contact with
120 individuals receiving services are subject to a background
121 screening as provided in s. 397.417(5) ~~level 2 background~~
122 ~~screening as provided under s. 408.809 and chapter 435.~~

123 (g) If 5 years or more, or 3 years or more in the case of a
124 certified peer specialist or an individual seeking certification
125 as a peer specialist pursuant to s. 397.417, have elapsed since
126 an applicant for an exemption from disqualification has
127 completed or has been lawfully released from confinement,
128 supervision, or a nonmonetary condition imposed by a court for
129 the applicant's most recent disqualifying offense, the applicant
130 may work with adults with substance use disorders, mental health
131 disorders, or co-occurring disorders under the supervision of
132 persons who meet all personnel requirements of this chapter for
133 up to 180 ~~90~~ days after being notified of his or her
134 disqualification or until the department makes a final
135 determination regarding his or her request for an exemption from
136 disqualification, whichever is earlier.

137 Section 3. Section 397.417, Florida Statutes, is amended to
138 read:

139 397.417 Peer specialists.—

140 (1) LEGISLATIVE FINDINGS AND INTENT.—

141 (a) The Legislature finds that:

142 1. The ability to provide adequate behavioral health
143 services is limited by a shortage of professionals and
144 paraprofessionals.

145 2. The state is experiencing an increase in opioid

586-02353-21

2021130c1

146 addictions, many of which prove fatal.

147 3. Peer specialists provide effective support services
148 because they share common life experiences with the persons they
149 assist.

150 4. Peer specialists promote a sense of community among
151 those in recovery.

152 5. Research has shown that peer support facilitates
153 recovery and reduces health care costs.

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

157 (b) The Legislature intends to expand the use of peer
158 specialists as a cost-effective means of providing services. The
159 Legislature also intends to ensure that peer specialists meet
160 specified qualifications and modified background screening
161 requirements and are adequately reimbursed for their services.

162 (2) QUALIFICATIONS.—

163 (a) A person may seek certification as a peer specialist if
164 he or she has been in recovery from a substance use disorder or
165 mental illness for the past 2 years or if he or she is a family
166 member or caregiver of a person with a substance use disorder or
167 mental illness.

168 (b) To obtain certification as a peer specialist, a person
169 must complete the training program developed under subsection
170 (3), achieve a passing score on the competency exam described in
171 paragraph (3)(a), and meet the background screening requirements
172 specified in subsection (5).

173 (3) DUTIES OF THE DEPARTMENT.—

174 (a) The department shall develop a training program for

586-02353-21

2021130c1

175 persons seeking certification as peer specialists. The
176 department must give preference to trainers who are certified
177 peer specialists. The training program must coincide with a
178 competency exam and be based on current practice standards.

179 (b) The department may certify peer specialists directly or
180 may approve one or more third-party credentialing entities for
181 the purposes of certifying peer specialists, approving training
182 programs for individuals seeking certification as peer
183 specialists, approving continuing education programs, and
184 establishing the minimum requirements and standards applicants
185 must meet to maintain certification.

186 (c) The department shall require that a person providing
187 recovery support services be certified; however, an individual
188 who is not certified may provide recovery support services as a
189 peer specialist for up to 1 year if he or she is working toward
190 certification and is supervised by a qualified professional or
191 by a certified peer specialist who has at least 2 years of full-
192 time experience as a peer specialist at a licensed behavioral
193 health organization.

194 (4) PAYMENT.—Recovery support services may be reimbursed as
195 a recovery service through the department, a behavioral health
196 managing entity, or the Medicaid program. Medicaid managed care
197 plans are encouraged to use peer specialists in providing
198 recovery services.

199 (5) BACKGROUND SCREENING.—

200 (a) A peer specialist, or an individual who is working
201 toward certification and providing recovery support services as
202 provided in subsection (3), must have completed or have been
203 lawfully released from confinement, supervision, or any

586-02353-21

2021130c1

204 nonmonetary condition imposed by the court for any felony and
205 must undergo a background screening as a condition of initial
206 and continued employment. The applicant must submit a full set
207 of fingerprints to the department or to a vendor, an entity, or
208 an agency that enters into an agreement with the Department of
209 Law Enforcement as provided in s. 943.053(13). The department,
210 vendor, entity, or agency shall forward the fingerprints to the
211 Department of Law Enforcement for state processing and the
212 Department of Law Enforcement shall forward the fingerprints to
213 the Federal Bureau of Investigation for national processing. The
214 department shall screen the results to determine if a peer
215 specialist meets certification requirements. The applicant is
216 responsible for all fees charged in connection with state and
217 federal fingerprint processing and retention. The state cost for
218 fingerprint processing shall be as provided in s. 943.053(3)(e)
219 for records provided to persons or entities other than those
220 specified as exceptions therein. Fingerprints submitted to the
221 Department of Law Enforcement pursuant to this paragraph shall
222 be retained as provided in s. 435.12 and, when the Department of
223 Law Enforcement begins participation in the program, enrolled in
224 the Federal Bureau of Investigation's national retained
225 fingerprint arrest notification program, as provided in s.
226 943.05(4). Any arrest record identified must be reported to the
227 department.

228 (b) The department or the Agency for Health Care
229 Administration, as applicable, may contract with one or more
230 vendors to perform all or part of the electronic fingerprinting
231 pursuant to this section. Such contracts must ensure that the
232 owners and personnel of the vendor performing the electronic

586-02353-21

2021130c1

233 fingerprinting are qualified and will ensure the integrity and
234 security of all personal identifying information.

235 (c) Vendors who submit fingerprints on behalf of employers
236 must:

237 1. Meet the requirements of s. 943.053; and

238 2. Have the ability to communicate electronically with the
239 state agency accepting screening results from the Department of
240 Law Enforcement and provide the applicant's full first name,
241 middle initial, and last name; social security number or
242 individual taxpayer identification number; date of birth;
243 mailing address; sex; and race.

244 (d) The background screening conducted under this
245 subsection must ensure that a peer specialist has not, during
246 the previous 3 years, been arrested for and is awaiting final
247 disposition of, been found guilty of, regardless of
248 adjudication, or entered a plea of nolo contendere or guilty to,
249 or been adjudicated delinquent and the record has not been
250 sealed or expunged for, any felony.

251 (e) The background screening conducted under this
252 subsection must ensure that a peer specialist has not been found
253 guilty of, regardless of adjudication, or entered a plea of nolo
254 contendere or guilty to, or been adjudicated delinquent and the
255 record has not been sealed or expunged for, any offense
256 prohibited under any of the following state laws or similar laws
257 of another jurisdiction:

258 1. Section 393.135, relating to sexual misconduct with
259 certain developmentally disabled clients and reporting of such
260 sexual misconduct.

261 2. Section 394.4593, relating to sexual misconduct with

586-02353-21

2021130c1

262 certain mental health patients and reporting of such sexual
263 misconduct.

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

266 4. Section 415.111, relating to abuse, neglect, or
267 exploitation of vulnerable adults.

268 5. Any offense that constitutes domestic violence as
269 defined in s. 741.28.

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

272 7. Section 782.04, relating to murder.

273 8. Section 782.07, relating to manslaughter, aggravated
274 manslaughter of an elderly person or a disabled adult,
275 aggravated manslaughter of a child, or aggravated manslaughter
276 of an officer, a firefighter, an emergency medical technician,
277 or a paramedic.

278 9. Section 782.071, relating to vehicular homicide.

279 10. Section 782.09, relating to killing an unborn child by
280 injury to the mother.

281 11. Chapter 784, relating to assault, battery, and culpable
282 negligence, if the offense was a felony.

283 12. Section 787.01, relating to kidnapping.

284 13. Section 787.02, relating to false imprisonment.

285 14. Section 787.025, relating to luring or enticing a
286 child.

287 15. Section 787.04(2), relating to leading, taking,
288 enticing, or removing a minor beyond state limits, or concealing
289 the location of a minor, with criminal intent pending custody
290 proceedings.

586-02353-21

2021130c1

291 16. Section 787.04(3), relating to leading, taking,
292 enticing, or removing a minor beyond state limits, or concealing
293 the location of a minor, with criminal intent pending dependency
294 proceedings or proceedings concerning alleged abuse or neglect
295 of a minor.

296 17. Section 790.115(1), relating to exhibiting firearms or
297 weapons within 1,000 feet of a school.

298 18. Section 790.115(2)(b), relating to possessing an
299 electric weapon or device, a destructive device, or any other
300 weapon on school property.

301 19. Section 794.011, relating to sexual battery.

302 20. Former s. 794.041, relating to prohibited acts of
303 persons in familial or custodial authority.

304 21. Section 794.05, relating to unlawful sexual activity
305 with certain minors.

306 22. Section 794.08, relating to female genital mutilation.

307 23. Section 796.07, relating to procuring another to commit
308 prostitution, except for those offenses expunged pursuant to s.
309 943.0583.

310 24. Section 798.02, relating to lewd and lascivious
311 behavior.

312 25. Chapter 800, relating to lewdness and indecent
313 exposure.

314 26. Section 806.01, relating to arson.

315 27. Section 810.02, relating to burglary, if the offense
316 was a felony of the first degree.

317 28. Section 810.14, relating to voyeurism, if the offense
318 was a felony.

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

586-02353-21

2021130c1

- 320 offense was a felony.
- 321 30. Section 812.13, relating to robbery.
- 322 31. Section 812.131, relating to robbery by sudden
- 323 snatching.
- 324 32. Section 812.133, relating to carjacking.
- 325 33. Section 812.135, relating to home-invasion robbery.
- 326 34. Section 817.034, relating to communications fraud, if
- 327 the offense was a felony of the first degree.
- 328 35. Section 817.234, relating to false and fraudulent
- 329 insurance claims, if the offense was a felony of the first or
- 330 second degree.
- 331 36. Section 817.50, relating to fraudulently obtaining
- 332 goods or services from a health care provider and false reports
- 333 of a communicable disease.
- 334 37. Section 817.505, relating to patient brokering.
- 335 38. Section 817.568, relating to fraudulent use of personal
- 336 identification, if the offense was a felony of the first or
- 337 second degree.
- 338 39. Section 825.102, relating to abuse, aggravated abuse,
- 339 or neglect of an elderly person or a disabled adult.
- 340 40. Section 825.1025, relating to lewd or lascivious
- 341 offenses committed upon or in the presence of an elderly person
- 342 or a disabled person.
- 343 41. Section 825.103, relating to exploitation of an elderly
- 344 person or a disabled adult, if the offense was a felony.
- 345 42. Section 826.04, relating to incest.
- 346 43. Section 827.03, relating to child abuse, aggravated
- 347 child abuse, or neglect of a child.
- 348 44. Section 827.04, relating to contributing to the

586-02353-21

2021130c1

349 delinquency or dependency of a child.

350 45. Former s. 827.05, relating to negligent treatment of
351 children.

352 46. Section 827.071, relating to sexual performance by a
353 child.

354 47. Section 831.30, relating to fraud in obtaining
355 medicinal drugs.

356 48. Section 831.31, relating to sale, manufacture,
357 delivery, possession with intent to sell, manufacture, or
358 deliver of any counterfeit controlled substance, if the offense
359 was a felony.

360 49. Section 843.01, relating to resisting arrest with
361 violence.

362 50. Section 843.025, relating to depriving a law
363 enforcement, correctional, or correctional probation officer of
364 the means of protection or communication.

365 51. Section 843.12, relating to aiding in an escape.

366 52. Section 843.13, relating to aiding in the escape of
367 juvenile inmates of correctional institutions.

368 53. Chapter 847, relating to obscenity.

369 54. Section 874.05, relating to encouraging or recruiting
370 another to join a criminal gang.

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

374 56. Section 895.03, relating to racketeering and collection
375 of unlawful debts.

376 57. Section 896.101, relating to the Florida Money
377 Laundering Act.

586-02353-21

2021130c1

378 58. Section 916.1075, relating to sexual misconduct with
379 certain forensic clients and reporting of such sexual
380 misconduct.

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

383 60. Section 944.40, relating to escape.

384 61. Section 944.46, relating to harboring, concealing, or
385 aiding an escaped prisoner.

386 62. Section 944.47, relating to introduction of contraband
387 into a correctional institution.

388 63. Section 985.701, relating to sexual misconduct in
389 juvenile justice programs.

390 64. Section 985.711, relating to introduction of contraband
391 into a detention facility.

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

397 (7) GRANDFATHER CLAUSE.—A peer specialist certified as of
398 the effective date of this act is deemed to satisfy the
399 requirements of this act

400 ~~(1) An individual may seek certification as a peer~~
401 ~~specialist if he or she has been in recovery from a substance~~
402 ~~use disorder or mental illness for at least 2 years, or if he or~~
403 ~~she has at least 2 years of experience as a family member or~~
404 ~~caregiver of a person with a substance use disorder or mental~~
405 ~~illness.~~

406 ~~(2) The department shall approve one or more third party~~

586-02353-21

2021130c1

407 ~~credentialing entities for the purposes of certifying peer~~
408 ~~specialists, approving training programs for individuals seeking~~
409 ~~certification as peer specialists, approving continuing~~
410 ~~education programs, and establishing the minimum requirements~~
411 ~~and standards that applicants must achieve to maintain~~
412 ~~certification. To obtain approval, the third party credentialing~~
413 ~~entity must demonstrate compliance with nationally recognized~~
414 ~~standards for developing and administering professional~~
415 ~~certification programs to certify peer specialists.~~

416 ~~(3) An individual providing department-funded recovery~~
417 ~~support services as a peer specialist shall be certified~~
418 ~~pursuant to subsection (2). An individual who is not certified~~
419 ~~may provide recovery support services as a peer specialist for~~
420 ~~up to 1 year if he or she is working toward certification and is~~
421 ~~supervised by a qualified professional or by a certified peer~~
422 ~~specialist who has at least 3 years of full-time experience as a~~
423 ~~peer specialist at a licensed behavioral health organization.~~

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