

By the Committees on Appropriations; and Children, Families, and Elder Affairs; and Senators Rouson, Harrell, Hooper, and Book

576-04206-21

2021130c2

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 prohibiting third-party credentialing entities from
23 conducting background screenings for peer specialists;
24 requiring that a person providing recovery support
25 services be certified or be supervised by a licensed
26 behavioral health care professional or a certified
27 peer specialist; authorizing the department, a
28 behavioral health managing entity, or the Medicaid
29 program to reimburse a peer specialist service as a

576-04206-21

2021130c2

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

54
55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. Paragraph (1) of subsection (2) and subsection
58 (3) of section 394.4573, Florida Statutes, are amended to read:

576-04206-21

2021130c2

59 394.4573 Coordinated system of care; annual assessment;
60 essential elements; measures of performance; system improvement
61 grants; reports.—On or before December 1 of each year, the
62 department shall submit to the Governor, the President of the
63 Senate, and the Speaker of the House of Representatives an
64 assessment of the behavioral health services in this state. The
65 assessment shall consider, at a minimum, the extent to which
66 designated receiving systems function as no-wrong-door models,
67 the availability of treatment and recovery services that use
68 recovery-oriented and peer-involved approaches, the availability
69 of less-restrictive services, and the use of evidence-informed
70 practices. The assessment shall also consider the availability
71 of and access to coordinated specialty care programs and
72 identify any gaps in the availability of and access to such
73 programs in the state. The department's assessment shall
74 consider, at a minimum, the needs assessments conducted by the
75 managing entities pursuant to s. 394.9082(5). Beginning in 2017,
76 the department shall compile and include in the report all plans
77 submitted by managing entities pursuant to s. 394.9082(8) and
78 the department's evaluation of each plan.

79 (2) The essential elements of a coordinated system of care
80 include:

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

576-04206-21

2021130c2

88 include mental health residential treatment facilities, limited
89 mental health assisted living facilities, adult family care
90 homes, and supportive housing. Housing provided using state
91 funds must provide a safe and decent environment free from abuse
92 and neglect.

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

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

105 397.4073 Background checks of service provider personnel.—

106 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
107 EXCEPTIONS.—

108 (a) For all individuals screened on or after July 1, 2021
109 ~~2019~~, background checks shall apply as follows:

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

116 2. All service provider personnel who have direct contact

576-04206-21

2021130c2

117 with children receiving services or with adults who are
118 developmentally disabled receiving services are subject to level
119 2 background screening as provided under s. 408.809 and chapter
120 435.

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

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

139 Section 3. Section 397.417, Florida Statutes, is amended to
140 read:

141 397.417 Peer specialists.—

142 (1) LEGISLATIVE FINDINGS AND INTENT.—

143 (a) The Legislature finds that:

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

576-04206-21

2021130c2

146 paraprofessionals.

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

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

152 4. Peer specialists promote a sense of community among
153 those in recovery.

154 5. Research has shown that peer support facilitates
155 recovery and reduces health care costs.

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

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

164 (2) QUALIFICATIONS.—

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

170 (b) To obtain certification as a peer specialist, a person
171 must complete the training program developed under subsection

172 (3), achieve a passing score on the competency exam described in
173 paragraph (3) (a), and meet the background screening requirements
174 specified in subsection (5).

576-04206-21

2021130c2

175 (3) DUTIES OF THE DEPARTMENT.—

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

181 (b) The department may certify peer specialists directly or
182 may approve one or more third-party credentialing entities for
183 the purposes of certifying peer specialists, approving training
184 programs for individuals seeking certification as peer
185 specialists, approving continuing education programs, and
186 establishing the minimum requirements and standards applicants
187 must meet to maintain certification. Background screening
188 required for achieving certification must be conducted as
189 provided in subsection (5) and may not be conducted by third-
190 party credentialing entities.

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

199 (4) PAYMENT.—Recovery support services may be reimbursed as
200 a recovery service through the department, a behavioral health
201 managing entity, or the Medicaid program. Medicaid managed care
202 plans are encouraged to use peer specialists in providing
203 recovery services.

576-04206-21

2021130c2

204 (5) BACKGROUND SCREENING.—
205 (a) A peer specialist, or an individual who is working
206 toward certification and providing recovery support services as
207 provided in subsection (3), must have completed or have been
208 lawfully released from confinement, supervision, or any
209 nonmonetary condition imposed by the court for any felony and
210 must undergo a background screening as a condition of initial
211 and continued employment. The applicant must submit a full set
212 of fingerprints to the department or to a vendor, an entity, or
213 an agency that enters into an agreement with the Department of
214 Law Enforcement as provided in s. 943.053(13). The department,
215 vendor, entity, or agency shall forward the fingerprints to the
216 Department of Law Enforcement for state processing and the
217 Department of Law Enforcement shall forward the fingerprints to
218 the Federal Bureau of Investigation for national processing. The
219 department shall screen the results to determine if a peer
220 specialist meets certification requirements. The applicant is
221 responsible for all fees charged in connection with state and
222 federal fingerprint processing and retention. The state cost for
223 fingerprint processing shall be as provided in s. 943.053(3)(e)
224 for records provided to persons or entities other than those
225 specified as exceptions therein. Fingerprints submitted to the
226 Department of Law Enforcement pursuant to this paragraph shall
227 be retained as provided in s. 435.12 and, when the Department of
228 Law Enforcement begins participation in the program, enrolled in
229 the Federal Bureau of Investigation's national retained
230 fingerprint arrest notification program, as provided in s.
231 943.05(4). Any arrest record identified must be reported to the
232 department.

576-04206-21

2021130c2

233 (b) The department or the Agency for Health Care
234 Administration, as applicable, may contract with one or more
235 vendors to perform all or part of the electronic fingerprinting
236 pursuant to this section. Such contracts must ensure that the
237 owners and personnel of the vendor performing the electronic
238 fingerprinting are qualified and will ensure the integrity and
239 security of all personal identifying information.

240 (c) Vendors who submit fingerprints on behalf of employers
241 must:

242 1. Meet the requirements of s. 943.053; and
243 2. Have the ability to communicate electronically with the
244 state agency accepting screening results from the Department of
245 Law Enforcement and provide the applicant's full first name,
246 middle initial, and last name; social security number or
247 individual taxpayer identification number; date of birth;
248 mailing address; sex; and race.

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

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

576-04206-21

2021130c2

262 of another jurisdiction:

263 1. Section 393.135, relating to sexual misconduct with
264 certain developmentally disabled clients and reporting of such
265 sexual misconduct.

266 2. Section 394.4593, relating to sexual misconduct with
267 certain mental health patients and reporting of such sexual
268 misconduct.

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

271 4. Section 415.111, relating to abuse, neglect, or
272 exploitation of vulnerable adults.

273 5. Any offense that constitutes domestic violence as
274 defined in s. 741.28.

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

277 7. Section 782.04, relating to murder.

278 8. Section 782.07, relating to manslaughter, aggravated
279 manslaughter of an elderly person or a disabled adult,
280 aggravated manslaughter of a child, or aggravated manslaughter
281 of an officer, a firefighter, an emergency medical technician,
282 or a paramedic.

283 9. Section 782.071, relating to vehicular homicide.

284 10. Section 782.09, relating to killing an unborn child by
285 injury to the mother.

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

288 12. Section 787.01, relating to kidnapping.

289 13. Section 787.02, relating to false imprisonment.

290 14. Section 787.025, relating to luring or enticing a

576-04206-21

2021130c2

291 child.

292 15. Section 787.04(2), relating to leading, taking,
293 enticing, or removing a minor beyond state limits, or concealing
294 the location of a minor, with criminal intent pending custody
295 proceedings.

296 16. Section 787.04(3), relating to leading, taking,
297 enticing, or removing a minor beyond state limits, or concealing
298 the location of a minor, with criminal intent pending dependency
299 proceedings or proceedings concerning alleged abuse or neglect
300 of a minor.

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

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

306 19. Section 794.011, relating to sexual battery.

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

309 21. Section 794.05, relating to unlawful sexual activity
310 with certain minors.

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

312 23. Section 796.07, relating to procuring another to commit
313 prostitution, except for those offenses expunged pursuant to s.
314 943.0583.

315 24. Section 798.02, relating to lewd and lascivious
316 behavior.

317 25. Chapter 800, relating to lewdness and indecent
318 exposure.

319 26. Section 806.01, relating to arson.

576-04206-21

2021130c2

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

322 28. Section 810.14, relating to voyeurism, if the offense
323 was a felony.

324 29. Section 810.145, relating to video voyeurism, if the
325 offense was a felony.

326 30. Section 812.13, relating to robbery.

327 31. Section 812.131, relating to robbery by sudden
328 snatching.

329 32. Section 812.133, relating to carjacking.

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

331 34. Section 817.034, relating to communications fraud, if
332 the offense was a felony of the first degree.

333 35. Section 817.234, relating to false and fraudulent
334 insurance claims, if the offense was a felony of the first or
335 second degree.

336 36. Section 817.50, relating to fraudulently obtaining
337 goods or services from a health care provider and false reports
338 of a communicable disease.

339 37. Section 817.505, relating to patient brokering.

340 38. Section 817.568, relating to fraudulent use of personal
341 identification, if the offense was a felony of the first or
342 second degree.

343 39. Section 825.102, relating to abuse, aggravated abuse,
344 or neglect of an elderly person or a disabled adult.

345 40. Section 825.1025, relating to lewd or lascivious
346 offenses committed upon or in the presence of an elderly person
347 or a disabled person.

348 41. Section 825.103, relating to exploitation of an elderly

576-04206-21

2021130c2

- 349 person or a disabled adult, if the offense was a felony.
- 350 42. Section 826.04, relating to incest.
- 351 43. Section 827.03, relating to child abuse, aggravated
352 child abuse, or neglect of a child.
- 353 44. Section 827.04, relating to contributing to the
354 delinquency or dependency of a child.
- 355 45. Former s. 827.05, relating to negligent treatment of
356 children.
- 357 46. Section 827.071, relating to sexual performance by a
358 child.
- 359 47. Section 831.30, relating to fraud in obtaining
360 medicinal drugs.
- 361 48. Section 831.31, relating to sale, manufacture,
362 delivery, possession with intent to sell, manufacture, or
363 deliver of any counterfeit controlled substance, if the offense
364 was a felony.
- 365 49. Section 843.01, relating to resisting arrest with
366 violence.
- 367 50. Section 843.025, relating to depriving a law
368 enforcement, correctional, or correctional probation officer of
369 the means of protection or communication.
- 370 51. Section 843.12, relating to aiding in an escape.
- 371 52. Section 843.13, relating to aiding in the escape of
372 juvenile inmates of correctional institutions.
- 373 53. Chapter 847, relating to obscenity.
- 374 54. Section 874.05, relating to encouraging or recruiting
375 another to join a criminal gang.
- 376 55. Chapter 893, relating to drug abuse prevention and
377 control, if the offense was a felony of the second degree or

576-04206-21

2021130c2

378 greater severity.

379 56. Section 895.03, relating to racketeering and collection
380 of unlawful debts.

381 57. Section 896.101, relating to the Florida Money
382 Laundering Act.

383 58. Section 916.1075, relating to sexual misconduct with
384 certain forensic clients and reporting of such sexual
385 misconduct.

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

388 60. Section 944.40, relating to escape.

389 61. Section 944.46, relating to harboring, concealing, or
390 aiding an escaped prisoner.

391 62. Section 944.47, relating to introduction of contraband
392 into a correctional institution.

393 63. Section 985.701, relating to sexual misconduct in
394 juvenile justice programs.

395 64. Section 985.711, relating to introduction of contraband
396 into a detention facility.

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

402 (7) GRANDFATHER CLAUSE.—A peer specialist certified as of
403 July 1, 2021, is deemed to satisfy the requirements of this
404 section.

405 ~~(1) An individual may seek certification as a peer~~
406 ~~specialist if he or she has been in recovery from a substance~~

576-04206-21

2021130c2

407 ~~use disorder or mental illness for at least 2 years, or if he or~~
408 ~~she has at least 2 years of experience as a family member or~~
409 ~~caregiver of a person with a substance use disorder or mental~~
410 ~~illness.~~

411 ~~(2) The department shall approve one or more third party~~
412 ~~credentialing entities for the purposes of certifying peer~~
413 ~~specialists, approving training programs for individuals seeking~~
414 ~~certification as peer specialists, approving continuing~~
415 ~~education programs, and establishing the minimum requirements~~
416 ~~and standards that applicants must achieve to maintain~~
417 ~~certification. To obtain approval, the third party credentialing~~
418 ~~entity must demonstrate compliance with nationally recognized~~
419 ~~standards for developing and administering professional~~
420 ~~certification programs to certify peer specialists.~~

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

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