

By Senator Rouson

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

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

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

57
58 Section 1. Paragraph (1) of subsection (2) and subsection

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

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

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

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88 housing that meets the individual's needs. Such housing may
89 include mental health residential treatment facilities, limited
90 mental health assisted living facilities, adult family care
91 homes, and supportive housing. Housing provided using state
92 funds must provide a safe and decent environment free from abuse
93 and neglect.

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

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

106 397.4073 Background checks of service provider personnel.—

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

109 (a) For all individuals screened on or after July 1, 2022
110 ~~2019~~, background checks shall apply as follows:

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

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117 2. All service provider personnel who have direct contact
118 with children receiving services or with adults who are
119 developmentally disabled receiving services are subject to level
120 2 background screening as provided under s. 408.809 and chapter
121 435.

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

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

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

142 397.417 Peer specialists.—

143 (1) LEGISLATIVE FINDINGS AND INTENT.—

144 (a) The Legislature finds that:

145 1. The ability to provide adequate behavioral health

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146 services is limited by a shortage of professionals and
147 paraprofessionals.

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

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

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

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

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

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

165 (2) QUALIFICATIONS.—

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

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

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175 specified in subsection (5).

176 (3) DUTIES OF THE DEPARTMENT.—

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

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

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

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

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204 recovery services.

205 (5) BACKGROUND SCREENING.—

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

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233 department.

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

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

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

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

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

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262 prohibited under any of the following state laws or similar laws
263 of another jurisdiction:

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

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

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

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

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

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

278 7. Section 782.04, relating to murder.

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

284 9. Section 782.071, relating to vehicular homicide.

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

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

289 12. Section 787.01, relating to kidnapping.

290 13. Section 787.02, relating to false imprisonment.

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291 14. Section 787.025, relating to luring or enticing a
292 child.

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

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

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

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

307 19. Section 794.011, relating to sexual battery.

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

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

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

313 23. Section 796.07, relating to procuring another to commit
314 prostitution, except for those offenses expunged pursuant to s.
315 943.0583.

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

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

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- 320 26. Section 806.01, relating to arson.
- 321 27. Section 810.02, relating to burglary, if the offense
322 was a felony of the first degree.
- 323 28. Section 810.14, relating to voyeurism, if the offense
324 was a felony.
- 325 29. Section 810.145, relating to video voyeurism, if the
326 offense was a felony.
- 327 30. Section 812.13, relating to robbery.
- 328 31. Section 812.131, relating to robbery by sudden
329 snatching.
- 330 32. Section 812.133, relating to carjacking.
- 331 33. Section 812.135, relating to home-invasion robbery.
- 332 34. Section 817.034, relating to communications fraud, if
333 the offense was a felony of the first degree.
- 334 35. Section 817.234, relating to false and fraudulent
335 insurance claims, if the offense was a felony of the first or
336 second degree.
- 337 36. Section 817.50, relating to fraudulently obtaining
338 goods or services from a health care provider and false reports
339 of a communicable disease.
- 340 37. Section 817.505, relating to patient brokering.
- 341 38. Section 817.568, relating to fraudulent use of personal
342 identification, if the offense was a felony of the first or
343 second degree.
- 344 39. Section 825.102, relating to abuse, aggravated abuse,
345 or neglect of an elderly person or a disabled adult.
- 346 40. Section 825.1025, relating to lewd or lascivious
347 offenses committed upon or in the presence of an elderly person
348 or a disabled person.

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349 41. Section 825.103, relating to exploitation of an elderly
350 person or a disabled adult, if the offense was a felony.

351 42. Section 826.04, relating to incest.

352 43. Section 827.03, relating to child abuse, aggravated
353 child abuse, or neglect of a child.

354 44. Section 827.04, relating to contributing to the
355 delinquency or dependency of a child.

356 45. Former s. 827.05, relating to negligent treatment of
357 children.

358 46. Section 827.071, relating to sexual performance by a
359 child.

360 47. Section 831.30, relating to fraud in obtaining
361 medicinal drugs.

362 48. Section 831.31, relating to the sale, manufacture,
363 delivery, or possession with intent to sell, manufacture, or
364 deliver of any counterfeit controlled substance, if the offense
365 was a felony.

366 49. Section 843.01, relating to resisting arrest with
367 violence.

368 50. Section 843.025, relating to depriving a law
369 enforcement, correctional, or correctional probation officer of
370 the means of protection or communication.

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

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

374 53. Chapter 847, relating to obscenity.

375 54. Section 874.05, relating to encouraging or recruiting
376 another to join a criminal gang.

377 55. Chapter 893, relating to drug abuse prevention and

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378 control, if the offense was a felony of the second degree or
379 greater severity.

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

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

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

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

389 60. Section 944.40, relating to escape.

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

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

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

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

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

403 (7) GRANDFATHER CLAUSE.—A peer specialist certified as of
404 July 1, 2022, is deemed to satisfy the requirements of this
405 section.

406 ~~(1) An individual may seek certification as a peer~~

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

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

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

430 Section 4. This act shall take effect July 1, 2022.