

By the Committee on Appropriations; and Senators Rouson, Jones, Book, and Rodrigues

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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; providing qualifications for becoming
15 a peer specialist; requiring the Department of
16 Children and Families to designate a managing entity
17 with an existing certified recovery peer specialist
18 training program to provide training for peer
19 specialists and to give preference to trainers who are
20 certified peer specialists; requiring the training
21 program to coincide with a competency exam and be
22 based on current practice standards; requiring the
23 department to approve one or more third-party
24 credentialing entities for certain purposes; requiring
25 third-party credentialing entities to meet certain
26 requirements for approval; prohibiting third-party
27 credentialing entities from conducting background
28 screenings for peer specialists; requiring that a
29 person providing recovery support services be

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30 certified or be supervised by a licensed behavioral
31 health care professional or a certain certified peer
32 specialist; 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 the
44 Agency for Health Care Administration to contract with
45 certain vendors for fingerprinting; specifying
46 requirements for vendors; specifying disqualifying
47 offenses for a peer specialist who applies for
48 certification; authorizing a person who does not meet
49 background screening requirements to request an
50 exemption from disqualification from the department or
51 the agency; providing that a peer specialist certified
52 as of the effective date of the act is deemed to
53 satisfy the requirements of the act; providing an
54 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(4) ~~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.—A person may seek certification as a
166 peer specialist if he or she has been in recovery from a
167 substance use disorder or mental illness for the past 2 years or
168 if he or she is a family member or caregiver of a person with a
169 substance use disorder or mental illness.

170 (3) DUTIES OF THE DEPARTMENT.—

171 (a) The department shall designate a managing entity with
172 an existing certified recovery peer specialist training program
173 to provide training for persons seeking certification as peer
174 specialists. The managing entity must give preference to

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175 trainers who are certified peer specialists. The training
176 program must coincide with a competency exam and be based on
177 current practice standards.

178 (b) The department shall approve one or more third-party
179 credentialing entities for the purposes of certifying peer
180 specialists, approving training programs for individuals seeking
181 certification as peer specialists, approving continuing
182 education programs, and establishing the minimum requirements
183 and standards that applicants must achieve to maintain
184 certification. To obtain approval, the third-party credentialing
185 entity must demonstrate compliance with nationally recognized
186 standards for developing and administering professional
187 certification programs to certify peer specialists.

188 (c) The department must ensure that background screening
189 required for achieving certification is conducted as provided in
190 subsection (4). Such background screening may not be conducted
191 by third-party credentialing entities.

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

200 (4) BACKGROUND SCREENING.—

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

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

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

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233 owners and personnel of the vendor performing the electronic
234 fingerprinting are qualified and will ensure the integrity and
235 security of all personal identifying information.

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

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

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

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

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

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262 sexual misconduct.

263 2. Section 394.4593, relating to sexual misconduct with
264 certain mental health patients and reporting of such sexual
265 misconduct.

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

268 4. Section 415.111, relating to abuse, neglect, or
269 exploitation of vulnerable adults.

270 5. Any offense that constitutes domestic violence as
271 defined in s. 741.28.

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

274 7. Section 782.04, relating to murder.

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

280 9. Section 782.071, relating to vehicular homicide.

281 10. Section 782.09, relating to killing an unborn child by
282 injury to the mother.

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

285 12. Section 787.01, relating to kidnapping.

286 13. Section 787.02, relating to false imprisonment.

287 14. Section 787.025, relating to luring or enticing a
288 child.

289 15. Section 787.04(2), relating to leading, taking,
290 enticing, or removing a minor beyond state limits, or concealing

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291 the location of a minor, with criminal intent pending custody
292 proceedings.

293 16. Section 787.04(3), 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 dependency
296 proceedings or proceedings concerning alleged abuse or neglect
297 of a minor.

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

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

303 19. Section 794.011, relating to sexual battery.

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

306 21. Section 794.05, relating to unlawful sexual activity
307 with certain minors.

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

309 23. Section 796.07, relating to procuring another to commit
310 prostitution, except for those offenses expunged pursuant to s.
311 943.0583.

312 24. Section 798.02, relating to lewd and lascivious
313 behavior.

314 25. Chapter 800, relating to lewdness and indecent
315 exposure.

316 26. Section 806.01, relating to arson.

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

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

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320 was a felony.

321 29. Section 810.145, relating to video voyeurism, if the
322 offense was a felony.

323 30. Section 812.13, relating to robbery.

324 31. Section 812.131, relating to robbery by sudden
325 snatching.

326 32. Section 812.133, relating to carjacking.

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

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

330 35. Section 817.234, relating to false and fraudulent
331 insurance claims, if the offense was a felony of the first or
332 second degree.

333 36. Section 817.50, relating to fraudulently obtaining
334 goods or services from a health care provider and false reports
335 of a communicable disease.

336 37. Section 817.505, relating to patient brokering.

337 38. Section 817.568, relating to fraudulent use of personal
338 identification, if the offense was a felony of the first or
339 second degree.

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

342 40. Section 825.1025, relating to lewd or lascivious
343 offenses committed upon or in the presence of an elderly person
344 or a disabled person.

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

347 42. Section 826.04, relating to incest.

348 43. Section 827.03, relating to child abuse, aggravated

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349 child abuse, or neglect of a child.

350 44. Section 827.04, relating to contributing to the
351 delinquency or dependency of a child.

352 45. Former s. 827.05, relating to negligent treatment of
353 children.

354 46. Section 827.071, relating to sexual performance by a
355 child.

356 47. Section 831.30, relating to fraud in obtaining
357 medicinal drugs.

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

362 49. Section 843.01, relating to resisting arrest with
363 violence.

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

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

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

370 53. Chapter 847, relating to obscenity.

371 54. Section 874.05, relating to encouraging or recruiting
372 another to join a criminal gang.

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

376 56. Section 895.03, relating to racketeering and collection
377 of unlawful debts.

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378 57. Section 896.101, relating to the Florida Money
379 Laundering Act.

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

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

385 60. Section 944.40, relating to escape.

386 61. Section 944.46, relating to harboring, concealing, or
387 aiding an escaped prisoner.

388 62. Section 944.47, relating to introduction of contraband
389 into a correctional institution.

390 63. Section 985.701, relating to sexual misconduct in
391 juvenile justice programs.

392 64. Section 985.711, relating to introduction of contraband
393 into a detention facility.

394 (5) EXEMPTION REQUESTS.—A person who wishes to become a
395 peer specialist and is disqualified under subsection (4) may
396 request an exemption from disqualification pursuant to s. 435.07
397 from the department or the Agency for Health Care
398 Administration, as applicable.

399 (6) GRANDFATHER CLAUSE.—A peer specialist certified as of
400 July 1, 2022, is deemed to satisfy the requirements of this
401 section; however, such peer specialists must comply with the
402 minimum standards and requirements needed to maintain
403 certification established pursuant to subsection (3).

404 ~~(1) An individual may seek certification as a peer~~
405 ~~specialist if he or she has been in recovery from a substance~~
406 ~~use disorder or mental illness for at least 2 years, or if he or~~

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

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

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

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