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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 managing entities
17 to conduct or contract for training for peer
18 specialists; requiring that the training be approved
19 by a third-party credentialing entity; requiring
20 managing entities to give preference to trainers who
21 are certified peer specialists; requiring the
22 department to approve one or more third-party
23 credentialing entities for certain purposes; requiring
24 third-party credentialing entities to meet certain
25 requirements for approval; prohibiting third-party
26 credentialing entities from conducting background
27 screenings for peer specialists; requiring that a
28 person providing recovery support services be
29 certified or be supervised by a licensed behavioral

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

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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;~~T~~ and assistance in obtaining
87 housing that meets the individual's needs. Such housing may

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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, 2022
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

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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(4) ~~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

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

169 (3) DUTIES OF THE DEPARTMENT.—

170 (a) The department shall designate managing entities to
171 either conduct peer specialist training or contract with a
172 provider for peer specialist training. The training must be
173 approved by a third-party credentialing entity approved by the
174 department pursuant to paragraph (b). The managing entities must

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175 give preference to trainers who are certified peer specialists.

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

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

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

198 (4) BACKGROUND SCREENING.—

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

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

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

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233 security of all personal identifying information.

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

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

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

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

250 (e) The background screening conducted under this
251 subsection must ensure that a peer specialist has not been
252 arrested for and is awaiting final disposition of, found guilty
253 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

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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.

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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

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- 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

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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 the sale, manufacture,
357 delivery, or 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.

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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 (5) EXEMPTION REQUESTS.—A person who wishes to become a
393 peer specialist and is disqualified under subsection (4) 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 (6) GRANDFATHER CLAUSE.—A peer specialist certified as of
398 July 1, 2022, is deemed to satisfy the requirements of this
399 section; however, such peer specialists must comply with the
400 minimum standards and requirements needed to maintain
401 certification established pursuant to subsection (3).

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

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407 illness.

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

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

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