

1 A bill to be entitled
2 An act relating to peer specialists; amending s.
3 394.4573, F.S.; providing that the use of peer
4 specialists is an essential element of a coordinated
5 system of care in recovery from a substance use
6 disorder or mental illness; making a technical change;
7 amending s. 397.4073, F.S.; revising background
8 screening requirements for certain peer specialists;
9 revising authorizations relating to work by applicants
10 who have committed disqualifying offenses; making a
11 technical change; 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 be based on
19 current practice standards; authorizing 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 certain
27 certified peer specialist; authorizing the department,
28 a behavioral health managing entity, or the Medicaid
29 program to reimburse recovery support services as a
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 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
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 assistance in obtaining
 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

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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.

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

140 Section 3. Section 397.417, Florida Statutes, is amended
 141 to 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
 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
167 if he or she has been in recovery from a substance use disorder
168 or mental illness for the past 2 years or if he or she is a
169 family member or caregiver of a person with a substance use
170 disorder or 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
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
183 or may approve one or more third-party credentialing entities
184 for the purposes of certifying peer specialists, approving
185 training 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

201 as a recovery service through the department, a behavioral
202 health managing entity, or the Medicaid program. Medicaid
203 managed care plans are encouraged to use peer specialists in
204 providing 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
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
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,
271 if 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
 288 culpable negligence, if the offense was a felony.
- 289 12. Section 787.01, relating to kidnapping.
- 290 13. Section 787.02, relating to false imprisonment.
- 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
 314 commit prostitution, except for those offenses expunged pursuant
 315 to s. 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.
- 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

342 personal identification, if the offense was a felony of the

343 first or 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.

349 41. Section 825.103, relating to exploitation of an

350 elderly 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, or
363 delivery of, or possession with intent to sell, manufacture, or
364 deliver, 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
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
381 collection 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
397 contraband 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~~
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~~

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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.