

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1045 Certified Peer Specialist Gateway Pilot Program
SPONSOR(S): Judiciary Committee, Criminal Justice Subcommittee, Hart, Jacques and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1012

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	18 Y, 0 N, As CS	Padgett	Hall
2) Justice Appropriations Subcommittee	15 Y, 0 N	Smith	Keith
3) Judiciary Committee	20 Y, 0 N, As CS	Padgett	Kramer

SUMMARY ANALYSIS

Research has shown that social support provided by peers is beneficial to those in recovery from a substance use disorder or mental illness. The Department of Children and Families' (DCF) Florida Peer Services Handbook defines a "peer" as an individual who has life experience with a mental health or substance use condition. A peer specialist is a person who:

- Self-identifies as a person who has direct personal experience living in recovery from mental health or substance use conditions;
- Has a desire to use their experiences to help others with their recovery;
- Is willing to publicly identify as a person living in recovery for the purpose of educating, role modeling, and providing hope to others about the reality of recovery; and
- Has had the proper training and experience to work in a provider role.

Section 397.417(3)(b), F.S., requires DCF to designate one or more third-party credentialing entities to:

- Certify peer specialists;
- Approve training programs for individuals seeking certification as peer specialists;
- Approve continuing education programs; and
- Establish the minimum requirements and standards that applicants must achieve to maintain certification.

CS/CS/HB 1045 creates the Certified Peer Specialist Gateway Pilot Program (Program) within the Department of Corrections (DOC). The purpose of the Program is to provide participating inmates with a path to become certified peer specialists by offering such inmates the necessary training hours and experience needed for certification while incarcerated, assisting participants with completing any examinations necessary to become a certified peer specialist, and assisting inmates who complete the Program with post-incarceration employment.

The bill requires DOC to develop criteria for selecting qualified applicants for the Program, including prohibiting a person from participating in the Program if he or she has been convicted of any offense that would prohibit the person from becoming a certified peer specialist under s. 397.417(4)(e), F.S.

The bill exempts a person who completed the Program from specified background screening requirements for certified peer specialists.

The bill requires a person who completes the Program to provide his or her prospective employer with a copy of his or her incarceration record prior to being hired. A person who completes the Program must also receive a signed informed consent from any potential client seeking treatment that notifies the client that he or she has completed the Program's requirements and is a certified peer specialist.

The Program expires June 30, 2026.

The bill may have a negative, yet indeterminate fiscal impact to DOC expenditures.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Certified Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a substance use disorder or mental illness.¹ The Department of Children and Families' (DCF) Florida Peer Services Handbook defines a "peer" as an individual who has life experience with a mental health or substance use condition.² Under current law, DCF oversees a program for persons who complete specified training to become a certified peer specialist.³ A peer specialist is a person who:

- Self-identifies as a person who has direct personal experience living in recovery from mental health or substance use conditions;
- Has a desire to use their experiences to help others with their recovery;
- Is willing to publicly identify as a person living in recovery for the purpose of educating, role modeling, and providing hope to others about the reality of recovery; and
- Has had the proper training and experience to work in a provider role.⁴

Section 397.417(3)(b), F.S., requires DCF to designate one or more third-party credentialing entities to:

- Certify peer specialists;
- Approve training programs for individuals seeking certification as peer specialists;
- Approve continuing education programs; and
- Establish the minimum requirements and standards that applicants must achieve to maintain certification.

All individuals providing DCF-funded recovery support services as a peer specialist must be certified; however, an individual who is not currently certified may work as a peer specialist for a maximum of one year if that individual is working toward certification and is supervised by a qualified professional or by a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.⁵

In addition to completing a competency exam, a peer specialist, or a person who is working towards certification as a peer specialist, must have completed or been lawfully released from confinement, supervision, or any nonmonetary condition imposed by a court for any felony and must undergo a background screening.⁶

A person may not be certified as a peer specialist if he or she has been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony offense in the three years preceding the application for certification, or for a conviction at any time for committing, or attempting, conspiring, or soliciting another person to commit, the following offenses:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

¹ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, <https://store.samhsa.gov/system/files/sma09-4454.pdf> (last visited April 19, 2023).

² Florida Department of Children and Families, *Florida Peer Services Handbook*, 2016, <https://www.myflfamilies.com/sites/default/files/2022-12/DCF-Peer-Guidance.pdf> (last visited April 19, 2023).

³ S. 397.417, F.S.

⁴ Department of Children and Families, *Florida Peer Services Handbook*, 2016, <https://www.myflfamilies.com/sites/default/files/2022-12/DCF-Peer-Guidance.pdf> (last visited April 19, 2023).

⁵ S. 397.417(3)(d), F.S.

⁶ S. 397.417(4)(a), F.S.

- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to felony voyeurism.
- Section 810.145, F.S., relating to felony video voyeurism.
- Chapter 812, F.S., relating to felony theft, robbery, and related crimes.
- Section 817.563, F.S., relating to felony fraudulent sale of controlled substances.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to felony exploitation of an elderly person or disabled adult.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.

- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.

If a person seeking certification as a peer specialist is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency for one or more of the disqualifying offenses, the person may seek an exemption under s. 435.07, F.S., which authorizes the Secretary of DCF to grant exemptions under limited circumstances.⁷

Effect of Proposed Changes

CS/CS/HB 1045 creates an unnumbered section of law to establish the Certified Peer Specialist Gateway Pilot Program (Program) within the Department of Corrections (DOC). The purpose of the Program is to provide participating inmates with a path to become certified peer specialists by offering such inmates the necessary training hours and experience needed for certification while incarcerated, assisting participants with completing any examinations necessary to become a certified peer specialist, and assisting inmates who complete the Program with post-incarceration employment.

The bill requires DOC to develop criteria for selecting qualified applicants for the Program, which may include, but is not limited to, requiring that applicants:

- Have the appropriate custody classification;
- Meet certain discipline criteria;
- Have an expected release date within a specified timeframe;
- Be housed at the facility providing training;
- Have served as a positive role model during their incarceration;
- Express a desire to work in the behavioral health treatment field after release; and
- Not have any convictions for an offense that would prohibit them from becoming a certified peer specialist under s. 397.417(4)(e), F.S.

The bill exempts a person who completed the Program from specified background screening requirements for certified peer specialists, including requirements for a peer specialist to:

- Submit a set of fingerprints to DCF and undergo a DCF background screening;
- Have completed or have been lawfully released from confinement, supervision, or any nonmonetary condition imposed by the court for any felony; and
- Have not, during the previous three years, been arrested for and awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony.

⁷ Under s. 435.07(1), F.S., the DCF secretary may grant a person seeking certification as a peer specialist but who is otherwise disqualified from employment an exemption from disqualification for:

- A felony conviction, if at least three years have elapsed since the person has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- A misdemeanor conviction, if a person has completed or been lawfully released from confinement, supervision, or nonmonetary conditions imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the person has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- A finding of delinquency.

Under the bill, to assist persons who have completed the Program with post-incarceration employment, the Program:

- Shall assist potential employers with acquiring bonds from the United States Department of Labor's Federal Bonding Program, if applicable; and
- May offer funding to a potential employer to cover the costs of initially hiring and retaining such person.

The bill requires a person who completes the Program to provide his or her prospective employer with a copy of his or her incarceration record prior to being hired. A person who completes the Program must also receive a signed informed consent from any potential client seeking treatment that notifies the client that he or she has completed the Program's requirements and is a certified peer specialist.

The Program expires June 30, 2026.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law to create the Certified Peer Specialist Gateway Pilot Program.

Section 2: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative, yet indeterminate fiscal impact to DOC expenditures by creating the pilot program within DOC to train specified inmates as certified peer specialists.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In its current form, the bill does not provide an appropriation for establishment of the pilot program. Thus, DOC is required to fund the pilot program using existing resources. However, DOC anticipates that the fiscal impact to the department would align with potential funding as requested in appropriations project requests in the Florida House of Representatives (House Form 1390) and the Florida Senate (Senate Form 1882).⁸

III. COMMENTS

⁸ Florida Department of Corrections, Agency Analysis of 2023 Senate Bill 1012, p. 3 (March 13, 2023).

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to effect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants sufficient rule-making authority for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 29, 2023, the Criminal Justice Subcommittee adopted an amendment and reported the bill as a committee substitute. The amendment:

- Removed a requirement for DOC to offer the Program in specified DOC facilities;
- Provided specified criteria DOC may use in selecting participants for the Program;
- Prohibited a person from participating in the Program if the person has a conviction that would prohibit such person from becoming a certified peer specialist;
- Prohibited a person from participating in the Program if he or she has been convicted of murder or a felony sexual offense, kidnapping, arson, or aggravated battery;
- Required a person who completes the Program to:
 - Provide each prospective employer with a copy of his or her incarceration record;
 - Receive a signed informed consent form from a potential client that informs such client that he or she has completed the Program and is a certified peer specialist; and
- Removed a \$3 million appropriation from the General Revenue Fund.

On April 19, 2023, the Judiciary Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that DOC must assist a Program participant with completing any examinations required to become a certified peer specialist;
- Provided a cross-reference to the offenses that, upon conviction, prohibit a person from being certified as a peer specialist;
- Removed duplicative language related to offenses that, upon conviction, prohibit a person from being certified as a peer specialist; and
- Specified the background screening requirements from which a participant is exempt.

This analysis is drafted to the committee substitute as adopted by the Judiciary Committee.