

By Senator Rouson

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1 A bill to be entitled
2 An act relating to background screenings for mental
3 health and substance abuse service provider personnel;
4 amending s. 394.4572, F.S.; providing requirements for
5 mental health personnel applying for an exemption from
6 disqualification; requiring the Department of Children
7 and Families or the Agency for Health Care
8 Administration to notify an applicant who submits an
9 incomplete application within a specified timeframe;
10 requiring the department or the agency to grant or
11 deny an exemption request within a specified
12 timeframe; amending s. 397.4073, F.S.; revising
13 requirements for mental health personnel applying for
14 an exemption from disqualification; requiring the
15 department to notify an applicant who submits an
16 incomplete application within a specified timeframe
17 and to identify outstanding application items;
18 requiring the department to grant or deny a complete
19 exemption application within a specified timeframe;
20 amending s. 397.417, F.S.; revising the burden of
21 proof for peer specialists seeking an exemption from
22 employment disqualification; reenacting ss.
23 397.487(6), 397.4871(5), and 985.045(4)(e), F.S.,
24 relating to voluntary certification of recovery
25 residences, recovery residence administrator
26 certification, and court records, respectively, to
27 incorporate the amendment made to s. 397.4073, F.S.,
28 in references thereto; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraph (c) is added to subsection (2) of
33 section 394.4572, Florida Statutes, to read:

34 394.4572 Screening of mental health personnel.—

35 (2)

36 (c) A person subject to this section who applies for an
37 exemption from disqualification must submit an application for
38 the exemption within 30 days after being notified of the
39 disqualification. If an application is not complete, the
40 department or the Agency for Health Care Administration must
41 notify the applicant within 30 days after receipt of the
42 application and include a list of all outstanding application
43 items in the notification. The department or the Agency for
44 Health Care Administration shall grant or deny an exemption
45 request under this subsection within 45 days after receipt of a
46 complete application.

47 Section 2. Paragraph (f) of subsection (1) of section
48 397.4073, Florida Statutes, is amended to read:

49 397.4073 Background checks of service provider personnel.—

50 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
51 EXCEPTIONS.—

52 (f) A person subject to this section who applies for an
53 exemption from disqualification must submit an application for
54 the exemption within 30 days after being notified of the
55 disqualification. If an application is not complete, the
56 department must notify the applicant within 30 days after
57 receipt of the application and include a list of all outstanding
58 application items in the notification. The department shall

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59 grant or deny an exemption request under this subsection within
60 45 days after receipt of a complete application ~~Service provider~~
61 ~~personnel who request an exemption from disqualification must~~
62 ~~submit the request within 30 days after being notified of the~~
63 ~~disqualification. The department shall grant or deny the request~~
64 ~~within 60 days after receipt of a complete application.~~

65 Section 3. Subsection (5) of section 397.417, Florida
66 Statutes, is amended to read:

67 397.417 Peer specialists.—

68 (5) EXEMPTION REQUESTS.—

69 (a) A person who wishes to become a peer specialist and is
70 disqualified under subsection (4) may request an exemption from
71 disqualification pursuant to s. 435.07 from the department or
72 the Agency for Health Care Administration, as applicable.

73 (b) Notwithstanding s. 435.07(3), an employee seeking an
74 exemption from disqualification for employment as a peer
75 specialist must demonstrate by a preponderance of the evidence
76 that the employee should not be disqualified from employment.
77 Such employees have the burden of proving rehabilitation by a
78 preponderance of the evidence, including, but not limited to,
79 the circumstances surrounding the criminal incident for which an
80 exemption is sought, the time period that has elapsed since the
81 incident, the nature of the harm caused to the victim, the
82 employee's history since the incident, and any other evidence or
83 circumstances indicating that the employee will not present a
84 danger if employment or continued employment is allowed.

85 Section 4. For the purpose of incorporating the amendment
86 made by this act to section 397.4073, Florida Statutes, in a
87 reference thereto, subsection (6) of section 397.487, Florida

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88 Statutes, is reenacted to read:

89 397.487 Voluntary certification of recovery residences.—

90 (6) All owners, directors, and chief financial officers of
91 an applicant recovery residence are subject to level 2
92 background screening as provided under s. 408.809 and chapter
93 435. A recovery residence is ineligible for certification, and a
94 credentialing entity shall deny a recovery residence's
95 application, if any owner, director, or chief financial officer
96 has been found guilty of, or has entered a plea of guilty or
97 nolo contendere to, regardless of adjudication, any offense
98 listed in s. 408.809(4) or s. 435.04(2) unless the department
99 has issued an exemption under s. 435.07. Exemptions from
100 disqualification applicable to service provider personnel
101 pursuant to s. 397.4073 or s. 435.07 shall apply to this
102 subsection. In accordance with s. 435.04, the department shall
103 notify the credentialing agency of an owner's, director's, or
104 chief financial officer's eligibility based on the results of
105 his or her background screening.

106 Section 5. For the purpose of incorporating the amendment
107 made by this act to section 397.4073, Florida Statutes, in a
108 reference thereto, subsection (5) of section 397.4871, Florida
109 Statutes, is reenacted to read:

110 397.4871 Recovery residence administrator certification.—

111 (5) All applicants are subject to level 2 background
112 screening as provided under chapter 435. An applicant is
113 ineligible, and a credentialing entity shall deny the
114 application, if the applicant has been found guilty of, or has
115 entered a plea of guilty or nolo contendere to, regardless of
116 adjudication, any offense listed in s. 408.809 or s. 435.04(2)

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117 unless the department has issued an exemption under s. 435.07.
118 Exemptions from disqualification applicable to service provider
119 personnel pursuant to s. 397.4073 or s. 435.07 shall apply to
120 this subsection. In accordance with s. 435.04, the department
121 shall notify the credentialing agency of the applicant's
122 eligibility based on the results of his or her background
123 screening.

124 Section 6. For the purpose of incorporating the amendment
125 made by this act to section 397.4073, Florida Statutes, in a
126 reference thereto, paragraph (e) of subsection (4) of section
127 985.045, Florida Statutes, is reenacted to read:

128 985.045 Court records.—

129 (4) A court record of proceedings under this chapter is not
130 admissible in evidence in any other civil or criminal
131 proceeding, except that:

132 (e) Records of proceedings under this chapter may be used
133 to prove disqualification under ss. 110.1127, 393.0655, 394.457,
134 397.4073, 402.305, 402.313, 409.175, 409.176, and 985.644.

135 Section 7. This act shall take effect July 1, 2023.