

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 563 Persons with Lived Experience  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Campbell  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 558

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	14 Y, 0 N, As CS	Osborne	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Homelessness can be defined in several different ways. Generally, a person is considered to be experiencing homelessness if they stay in a shelter live in transitional housing, or sleep in a place not meant for human habitation or outdoors.

The State Office on Homelessness within the Department of Children and Families (DCF) was established in 2001 as a central point of contact within state government on issues relating to homelessness. The State Office on Homelessness coordinates resources and programs across all levels of government and with private providers that serve the homeless pursuant to policies set by the Council on Homelessness and available funding. Continuums of Care (CoCs) coordinate local efforts to prevent and end homelessness at the local level. CoCs operate within catchment areas designated by the State Office on Homelessness, and receiving state and federal funding to implement programs and provide services.

Florida provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.

All individuals subject to background screening must be confirmed to have not been arrested for and waiting 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 of 52 disqualifying offenses outlined in current law. For otherwise qualified individuals who would be disqualified from employment due to their criminal history, current law establishes a process through which such individual can be exempt from disqualification.

DCF interprets current law as subjecting contractors and subcontractors to background screening as a condition of their contract with the department. As such, DCF requires employees of CoCs and their subcontractors to undergo level 2 background screening. However, individuals with lived experience of homelessness, who can be helpful in delivering homelessness services, may have crimes that raise difficulties in passing a background screening.

CS/HB 563 defines a "person with lived experience" and establishes a modified background screening process for such persons applying for positions with the State Office on Homelessness or a CoC. The bill allows for an applicant meeting certain requirements to be certified as a "person with lived experience," and considered a qualified applicant eligible for the modified screening process. The bill requires DCF to accept or reject a request for exemption from disqualification within 90 days of receiving the application.

The bill has an indeterminate, insignificant fiscal impact on state government, and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Homelessness

Homelessness can be defined in several different ways. Generally, a person is considered to be experiencing homelessness if that person stays in a shelter, lives in transitional housing, or sleeps in a place not meant for human habitation or outdoors.<sup>1</sup> To receive federally funded homelessness services, a person is considered homeless if he or she:<sup>2</sup>

- Is living in a place not meant for human habitation, in emergency shelter, in transitional housing, or exiting an institution where the person temporarily resided;<sup>3</sup>
- Will imminently lose a primary nighttime residence within 14 days and lacks resources or support networks to remain in permanent housing;<sup>4</sup>
- Is part of a family with children or an unaccompanied youth who is unstably housed and likely to continue in that state; or
- Is fleeing or attempting to flee from domestic violence, has no other residence, and lacks the resources or support networks to obtain permanent housing.

Annually, the United States Department of Housing and Urban Development (HUD) releases what is known as a point-in-time snapshot (PIT) or a count of the number of individuals who experience homelessness on a single night. Based on the 2023 PIT, roughly 653,100 people in America experienced homelessness on a single night. Sixty percent experienced sheltered homelessness (i.e., living in emergency shelter, transitional housing, or a safe haven program) whereas 40 percent were unsheltered. From 2022 to 2023, the number of individuals experiencing homelessness increased by 12 percent, or roughly 70,650 additional individuals. This is the highest PIT count of persons experiencing homelessness since reporting began in 2007.<sup>5</sup>

Experiencing homelessness negatively affects a person's mental and physical health. Rates of mortality, mental illness, communicable diseases, sexually transmitted diseases, and substance abuse are higher among homeless populations.<sup>6</sup> Services and programs at the state and federal level provide support to individuals experiencing homelessness that attempt to address the associated effects of homelessness.<sup>7</sup>

##### Homelessness in Florida

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<sup>1</sup> Centers for Disease Control and Prevention, *About Homelessness* (2022). Available at <https://www.cdc.gov/orr/science/homelessness/about.html> (Last visited January 25, 2024).

<sup>2</sup> 24 C.F.R. 578.3

<sup>3</sup> This includes a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; a supervised publicly or privately operated shelter designed to provide temporary living arrangement; or exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

<sup>4</sup> Provided that the primary nighttime residence will be lost within 14 days of the date of application for homeless assistance; no subsequent residence has been identified; and the individual lacks the resources or support networks.

<sup>5</sup> U.S. Department of Housing and Urban Development, *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress* (2023). Available at <https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf> (last visited January 25, 2024).

<sup>6</sup> Richards, J. & Kuhn, R., *Unsheltered Homelessness and Health: A Literature Review* (2022). *American Journal of Preventative Medicine*, 2(1). <https://doi.org/10.1016/j.focus.2022.100043>

<sup>7</sup> US Department of Health and Human Services, *Homelessness*. Available at <https://www.hhs.gov/programs/social-services/homelessness/index.html> (last visited January 26, 2024).

In a 2023 PIT count of Florida's homeless population, an estimated 30,809 individuals were experiencing homelessness, with 15,706 considered unsheltered homeless (i.e., living outside in a car, park, or another place not meant for human habitation). The 2023 PIT count represents a 34 percent increase from the 11,746 individuals who were experiencing homelessness in 2022.<sup>8</sup>

The State Office on Homelessness (Office) within the Department of Children and Families (DCF) was established in 2001 as a central point of contact within state government on issues relating to homelessness.<sup>9</sup> The Office coordinates resources and programs across all levels of government and with private providers that serve the homeless pursuant to policies set by the Council on Homelessness<sup>10</sup> and available funding.<sup>11</sup>

### *Continuums of Care*

A Continuum of Care (CoC) is an entity coordinating community efforts to prevent and end homelessness in a geographic area designated by the Office.<sup>12</sup> CoCs are responsible for organizing and delivering housing and services to meet the needs of people who are homeless as they move to stable housing and self-sufficiency.<sup>13</sup> CoCs are composed of representatives from local organizations including, but not limited to:<sup>14</sup>

- Nonprofit homeless service providers;
- Victim services providers;
- Faith-based organizations;
- Governments;
- Businesses;
- Advocates;
- Public housing agencies;
- School districts;
- Social service providers;
- Mental health agencies;
- Hospitals;
- Universities;
- Affordable housing developers;
- Law enforcement; and
- Organizations that serve homeless and formerly homeless persons.

CoC lead agencies implement policies and provide direct services within their respective catchment areas. There are currently 27 CoC lead agencies distributed across the state.<sup>15</sup>

Each CoC must create a continuum of care plan to implement an effective and efficient housing crisis response system to prevent and end homelessness in its designated catchment area. A continuum of care plan must include all of the following:<sup>16</sup>

- Outreach to unsheltered individuals and families to link them with appropriate housing interventions;

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<sup>8</sup> Department of Children and Families, *Council on Homelessness Annual Report (2023)*. Available at <https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf> (last visited January 25, 2024).

<sup>9</sup> Ch. 2001-98, L.O.F.

<sup>10</sup> The Council on Homelessness is an inter-agency body which develops statewide policy and advises the State Office on Homelessness on how to reduce homelessness in the state. See, s. 420.622, F.S.

<sup>11</sup> S. 420.622(3), F.S.

<sup>12</sup> The catchment areas designated by the State Office must be consistent with the federally-recognized catchment areas designated by HUD as a condition for receiving federal homeless assistance grant funding. See, s. 420.6225, F.S.

<sup>13</sup> *Supra*, note 8.

<sup>14</sup> S. 420.621(1), F.S.

<sup>15</sup> *Supra*, note 8..

<sup>16</sup> S. 420.6225, F.S.

- A coordinated entry system that is compliant with federal requirements and is designed to coordinate intake, utilize common assessment tools, prioritize households for housing interventions, and refer households to the appropriate housing intervention;
- Emergency shelter, designed to provide safe temporary shelter while the household is in the process of obtaining permanent housing;
- Supportive services, designed to maximize housing stability once the household is in permanent housing;
- Permanent supportive housing, designed to provide long-term affordable housing and support services to persons with disabilities who are moving out of homelessness;
- Rapid ReHousing, as specified in s. 420.6265, F.S.;
- Permanent housing, including links to affordable housing, subsidized housing, long-term rental assistance, housing vouchers, and mainstream private sector housing; and
- An ongoing planning mechanism to end homelessness for all subpopulations of persons experiencing homelessness

CoCs receive state and federal funding through DCF.<sup>17</sup>

### Background Screening

Florida provides standard procedures for screening a prospective employee<sup>18</sup> where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.<sup>19</sup> Chapter 435, F.S., establishes procedures for criminal history background screening of prospective employees and outlines the screening requirements. There are two levels of background screening: level 1 and level 2.

- Level 1: Screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,<sup>20</sup> and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.<sup>21</sup>
- Level 2: Screening includes, at a minimum, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>22</sup>

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>23</sup> Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.<sup>24</sup> For both level 1 and 2 screenings, the employer must submit the information necessary for screening to FDLE within five working days after receiving it.<sup>25</sup> The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.<sup>26</sup>

After the background screening is completed, FDLE responds to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying

<sup>17</sup> *Id.*

<sup>18</sup> S. 435.02, F.S., defines "employee" to mean any person required by law to be screened pursuant to this chapter, including, but not limited to, persons who are contractors, licensees, or volunteers.

<sup>19</sup> Ch. 435, F.S.

<sup>20</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at [www.nsopw.gov](http://www.nsopw.gov) (last visited January 25, 2024).

<sup>21</sup> Florida Department of Law Enforcement, *State of Florida Criminal History Records Check*. Available at <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited January 25, 2024).

<sup>22</sup> S. 435.04, F.S.

<sup>23</sup> S. 435.05(1)(a), F.S.

<sup>24</sup> Ss. 435.03(1) and 435.04(1)(a), F.S.

<sup>25</sup> S. 435.05(1)(b)-(c), F.S.

<sup>26</sup> S. 435.05(1)(d), F.S.

information.<sup>27</sup> If the employer or agency finds that an individual has a history containing one of these offenses, it must disqualify that individual from employment.

### *Criminal History Checks*

Florida law authorizes and outlines a variety of specific elements required for Level 1 and Level 2 background screening; however, current law only establishes distinct requirements for determining whether an individual “passes” a screening in regard to an individual’s criminal history.

All individuals subject to background screening must be confirmed to have not been arrested for and waiting 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 of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:<sup>28</sup>

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- 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 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- 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 voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.

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<sup>27</sup> S. 435.05(1)(b), F.S.

<sup>28</sup> S. 435.04(2), F.S.

- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- 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 exploitation of an elderly person or disabled adult, if the offense was a felony.
- 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.

Current law required some positions to be screened for additional criminal offenses due to the nature of the position or the populations being served. For example, some positions under the authority of the Agency for Health Care Administration are screened for additional offenses, such as financial crimes like fraud.<sup>29</sup>

The criminal history check process does not limit disqualification based on when an offense was committed. As such, any history of a listed offense is considered disqualifying regardless of when the offense was committed. Only through the exemption process can some offenses be disregarded dependent on when they were committed.

#### *Exemption from Disqualification*

For otherwise qualified individuals who would be disqualified from employment due to their criminal history, there is a process established in current law through which such individual can be exempt from disqualification. Current law allows the Secretary of the appropriate state agency to exempt applicants from disqualification under certain circumstances:<sup>30</sup>

<sup>29</sup> See, s. 408.809, F.S.

<sup>30</sup> S. 435.07, F.S.

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a disqualifying felony; or
- The applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows that individual to be employed in a profession or workplace where background screening is statutorily required despite the disqualifying offense in that person's past. Certain criminal backgrounds, however, render a person ineligible for an exemption; a person who is considered a sexual predator,<sup>31</sup> career offender,<sup>32</sup> or registered sexual offender<sup>33</sup> is not eligible for exemption.<sup>34</sup>

### *Exemption Process*

To seek exemption from disqualification, an employee must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification.<sup>35</sup> The disqualified employee must apply to DCF for an exemption from disqualification. Such application requests information regarding the individual, the facility and role they are applying for, details about their criminal offense, and the status of any court-ordered payments (e.g., fees, fines, costs of prosecution or restitution).<sup>36</sup>

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.<sup>37</sup> Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt.<sup>38</sup> This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion. This evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals. Evidence that may support an exemption includes, but is not limited to:<sup>39</sup>

- Personal references;
- Letters from employers or other professionals;
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program;
- Evidence of further education or training;
- Evidence of community involvement;
- Evidence of special awards or recognition;
- Evidence of military service; and
- Parenting or other caregiver experiences.

After the agency head receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to

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<sup>31</sup> S. 775.21, F.S.

<sup>32</sup> S. 775.261, F.S.

<sup>33</sup> S. 943.0435, F.S.

<sup>34</sup> S. 435.07(4)(b), F.S.

<sup>35</sup> S. 397.4073(1)(f), F.S.

<sup>36</sup> Department of Children and Families, *Apply for an Exemption from Disqualification*. Available at <https://www.myflfamilies.com/services/background-screening/apply-exemption-disqualification> (last visited January 25, 2024).

<sup>37</sup> S. 435.07(3)(a), F.S.

<sup>38</sup> Department of Children and Families, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification* (2010). Available at [https://www.myflfamilies.com/sites/default/files/2022-12/cfop\\_60-18\\_exemption\\_from\\_disqualification.pdf](https://www.myflfamilies.com/sites/default/files/2022-12/cfop_60-18_exemption_from_disqualification.pdf) (last visited January 26, 2024).

<sup>39</sup> *Id.*



the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.<sup>40</sup>

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor, and after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted. At DCF, the regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency; the criminal justice coordinator in the region in which the background screening coordinator is located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.<sup>41</sup>

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the agency head to grant or deny the exemption. After an exemption request decision is final, a written response is provided to the applicant as to whether the request is granted or denied.<sup>42</sup>

If the agency head grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail. However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address and a separate letter of denial is sent by regular mail to the facility or employer. If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request. It must also inform the denied applicant of the availability of an administrative review pursuant to ch. 120, F.S.<sup>43</sup>

Current law does not require agencies to adhere to any specified timeline in their response to requests for exemption from disqualification.<sup>44</sup>

### Background Screening for Employees of Homeless Service Providers

People with lived experience of homelessness typically have the best understanding of the reality of the work to prevent and end homelessness. From a programmatic perspective, people with lived experience of homelessness bring insight through a personal familiarity with the barriers people face, the gaps in services, and the interventions that are the most effective.<sup>45</sup> On a person-to-person level, people with lived experience are often more easily able to meet people where they are and truly understand their struggle.<sup>46</sup>

People who are experiencing homelessness present with complex needs to be addressed by service providers. This population is more likely to be experiencing mental illness, communicable diseases, sexually transmitted diseases, and substance abuse than the general population.<sup>47</sup> Homelessness is increasingly criminalized,<sup>48</sup> and people experiencing homelessness and extreme poverty may be driven to commit crimes as a means of survival. As a result, homeless individuals have frequent interactions with law enforcement, and more than half of people experiencing homelessness in the US have been

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> S. 435.07, F.S.

<sup>45</sup> HUD Exchange, *Centering Lived Experience*. Available at <https://www.hudexchange.info/programs/coc/centering-lived-experience/> (last visited January 26, 2024).

<sup>46</sup> United States Interagency Council on Homelessness, *The Value of Lived Experience in the Work to End Homelessness* (2018). Available at <https://www.usich.gov/news-events/news/value-lived-experience-work-end-homelessness> (last visited January 26, 2024).

<sup>47</sup> *Supra*, note 6.

<sup>48</sup> United States Interagency Council on Homelessness. *Collaborate, Don't Criminalize: How Communities Can Effectively and Humanely Address Homelessness* (2022). Available at <https://www.usich.gov/news-events/news/collaborate-dont-criminalize-how-communities-can-effectively-and-humanely-address> (last visited January 26, 2024).



previously incarcerated.<sup>49</sup> The existence of a criminal record creates barriers to permanent housing and employment once the underlying causes of a person's homelessness have been addressed.<sup>50</sup>

DCF interprets current law as subjecting contractors and subcontractors to background screening as a condition of their contract with the department. As such, DCF requires employees of CoCs and their subcontractors to undergo Level 2 background screening as a prerequisite to employment.<sup>51</sup> This presents a barrier to CoCs hiring people with lived experience of homelessness who may have a criminal history as a result of their lived experience.

Potential employees who are disqualified through background screening are eligible for exemption through the agency as described above.<sup>52</sup> Obtaining an exemption from disqualification is a lengthy and time-consuming process. Individual exemption requests can take upwards of six months to process and receive final approval through the department; a period of time which an individual is not able to work in the role which they have been hired for. This results in qualified individuals with relevant lived experiences to the population they're seeking to serve being screened out and further limiting the pool of eligible employees.<sup>53</sup>

## Effect of the Bill

CS/HB 563 creates a category of "persons with lived experience" who are eligible to apply for employment with the State Office or a CoC (hiring entity) through a modified background screening process. Under the bill, a person who has past or present experience with homelessness pursuant to federal law<sup>54</sup> may qualify as a person with lived experience.

The bill allows the hiring entity to certify that the applicant is a qualified applicant with relevant lived experience if the applicant has received homeless services in the past. The hiring entity must submit documentation to DCF verifying that the applicant has received homeless services when requesting the background check of the applicant.

Under the bill, an applicant who has been certified as a person with lived experience is then subject to a modified background screening. The background screening must ensure that the applicant has not been arrested for and is not awaiting final disposition of, has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has not been adjudicated delinquent and the record has been sealed or expunged for:

- Any felony during the previous three years; or
- Any offense prohibited under any of the following laws of Florida or similar laws of another jurisdiction:
  - Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
  - Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
  - Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
  - Section 415.111, relating to criminal penalties for abuse, neglect, or exploitation of vulnerable adults.
  - Any offense that constitutes domestic violence, as that term is defined in s. 741.28.

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<sup>49</sup> US Justice Department, Bureau of Justice Assistance, *Responding to Homelessness: Police-Mental Health Collaboration Toolkit*. Available at <https://bja.ojp.gov/program/pmhc/responding-homelessness#3-0> (last visited January 26, 2024).

<sup>50</sup> *Id.*

<sup>51</sup> Department of Children and Families, *Agency Bill Analysis for HB 563 (2024)*. On file with the Children, Families & Seniors Subcommittee.

<sup>52</sup> See, s. 435.07, F.S.

<sup>53</sup> Correspondence with LeeAnne Sacino, Executive Director of the Florida Coalition to End Homelessness. On file with the Children, Families & Seniors Subcommittee.

<sup>54</sup> A person who has lacked a fixed, regular, and adequate nighttime residence is generally considered homeless. See, 24 C.F.R. § 578.3, for all of the situations which constitute being "homeless."

- Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
- Section 782.04, relating to murder.
- Section 782.07, relating to manslaughter or aggravated manslaughter of an elderly person, a disabled adult, a child, an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 782.071, relating to vehicular homicide.
- Section 782.09, relating to killing of an unborn child by injury to the mother.
- Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, relating to kidnapping.
- Section 787.02, relating to false imprisonment.
- Section 787.025, relating to luring or enticing a child.
- Section 787.04(2), relating to leading, taking, enticing, or removing a child beyond the state limits, or concealing the location of a child, with criminal intent pending custody proceedings.
- Section 787.04(3), relating to leading, taking, or removing a child beyond the state lines, or concealing the location of a child, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a child.
- Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
- Section 794.011, relating to sexual battery.
- Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, relating to unlawful sexual activity with certain minors.
- Section 794.08, relating to female genital mutilation.
- Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.
- Section 798.02, relating to lewd and lascivious behavior.
- Chapter 800, relating to lewdness and indecent exposure.
- Section 806.01, relating to arson.
- Section 810.02, relating to burglary.
- Section 810.14, relating to voyeurism, if the offense is a felony.
- Section 810.145, relating to video voyeurism, if the offense is a felony.
- Section 812.13, relating to robbery.
- Section 812.131, relating to robbery by sudden snatching.
- Section 812.133, relating to carjacking.
- Section 812.135, relating to home-invasion robbery.
- Section 817.034, relating to communications fraud, if the offense is a felony of the first degree.
- Section 817.234, relating to false and fraudulent insurance claims, if the offense is a felony of the first or second degree.
- Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, relating to incest.
- Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, relating to contributing to the delinquency or dependency of a child.

- Former s. 827.05, relating to negligent treatment of children.
- Section 827.071, relating to sexual performance by a child.
- Section 831.30, relating to fraud in obtaining medicinal drugs.
- Section 831.31, relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, relating to resisting arrest with violence.
- Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.
- Section 843.12, relating to aiding in an escape.
- Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, relating to obscenity.
- Section 874.05, relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the first or second degree or greater severity.
- Section 895.03, relating to racketeering and collection of unlawful debts.
- Section 896.101, relating to the Florida Money Laundering Act.
- Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, relating to escape.
- Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, relating to introduction of contraband into a correctional facility.
- Section 985.701, relating to sexual misconduct in juvenile justice programs.
- Section 985.711, relating to contraband introduced into detention facilities.

The bill allows an applicant that is disqualified through the modified background screening process to apply to DCF for an exemption pursuant to s. 435.07, F.S. The bill requires DCF to accept or reject the exemption within 90 days of receiving the application.

The bill provides an effective date of July 1, 2024.

**B. SECTION DIRECTORY:**

- Section 1:** Amends s. 420.621, F.S., relating to definitions.
- Section 2:** Creates s. 420.6241, F.S., relating to persons with lived experience.
- Section 3:** Provides an effective date of July 1, 2024.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill will have an insignificant, indeterminant impact on DCF which can be absorbed by existing resources.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:  
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:  
None.

D. FISCAL COMMENTS:  
None.

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:  
None.

B. RULE-MAKING AUTHORITY:

Rule-making authority is not necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:  
None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 29, 2024, the Children, Families & Seniors Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Aligns the bill with the Senate companion;
- Removes the requirement that the signed attestation that an applicant has lived experience be submitted under penalty of perjury; and
- Adds the definition for “person with lived experience” to the appropriate section of statute.

The analysis is drafted to the committee substitute as approved by the Children, Families & Seniors Subcommittee.