

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 528

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Rouson

SUBJECT: Mental Health and Substance Use Disorders

DATE: April 17, 2019

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Fav/CS</b>
2. <u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3. <u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	<b>Pre-meeting</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 528 promotes the use of peer specialists in behavioral health care and revises requirements for recovery residences (also known as “sober homes”). Peer specialists are persons who have been in recovery from a substance use disorder or mental illness, or a family member or caregiver who supports a person with a current substance use disorder or mental illness.

The bill revises background screening requirements and codifies existing training and certification requirements for peer specialists. The bill allows individuals seeking to become peer specialists but have a disqualifying offense in their background to apply for an exemption from the Department of Children and Families (DCF) or the Agency for Health Care Administration (AHCA). The bill includes a grandfather clause to allow all peer specialists certified as of July 1, 2019 to be recognized as having met the requirements of this bill.

The bill expands recovery residence staff and volunteers subject to background screening and modifies requirements for licensed substance abuse service providers offering treatment to individuals living in recovery residences by allowing these providers to accept patient referrals from noncertified recovery residences.

The bill also requires certified recovery residences to comply with the Florida Fire Prevention Code.

The bill will result in the need for technology changes to the Care Provider Background Screening Clearinghouse system administered by the AHCA. The system changes are estimated to cost \$200,000. However, if Issue 36306C0 in AHCA's Legislative Budget Request for the 2019-2020 fiscal year is funded, the technology changes can be incorporated into the clearinghouse system planned upgrade. Both SB 2500, First Engrossed, the Senate's General Appropriations Bill for the 2019-2020 fiscal year, and HB 5001, First Engrossed, the House's General Appropriations Bill for the 2019-2020 fiscal year, include funding for the system upgrade. The bill is also expected to have an indeterminate, though insignificant fiscal impact on the DCF.

The bill takes effect July 1, 2019.

## II. Present Situation:

### Behavioral Health Workforce Shortage

Workforce issues for providers of substance use disorder and mental illness services, which have been of concern for decades, have taken on a greater sense of urgency with the passage of recent parity and health reform legislation.<sup>1</sup> The Affordable Care Act increased the number of people who are eligible for health care coverage including behavioral health services. In addition, as screening for mental illness and substance abuse becomes more frequent in primary care, more people will need behavioral health services. Furthermore, workforce shortages will be impacted by additional demands that result from: (1) a large number of returning veterans in need of services; and (2) new state re-entry initiatives to reduce prison populations, a large majority of whom have mental or substance use disorders.<sup>2</sup>

Shortages of qualified behavioral health workers, recruitment and retention of staff and an aging workforce have long been cited as problems. Lack of workers in rural areas and the need for a workforce more reflective of the racial and ethnic composition of the U.S. population create additional barriers to accessing care for many. Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field. In addition, the misunderstanding and prejudice of persons with mental and substance use disorders can negatively affect the use of peer specialists.

### Use of Peer Specialists

Research has shown that recovery from a substance use disorder or mental illness is facilitated by the use of social support provided by peers.<sup>3</sup> The most recognized form of peer support is the

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<sup>1</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues. January 24, 2013. Available at: [https://www.cibhs.org/sites/main/files/file-attachments/samhsa\\_bhwork\\_0.pdf](https://www.cibhs.org/sites/main/files/file-attachments/samhsa_bhwork_0.pdf) (last visited on Apr. 2, 2019). <sup>2</sup> *Id.*

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/product/What-Are-Peer-Recovery-Support-Services-/sma09-4454> (last visited on Apr. 2, 2019).

12-step programs of Alcoholics Anonymous and Narcotics Anonymous. More recently, peers or peer specialists, have been used to assist persons with serious mental illnesses.<sup>4</sup>

Research has identified four types of social support provided by peers:

- Emotional - where a peer demonstrates empathy, caring or concern to bolster a person's self-esteem. This is often provided by peer mentoring or peer-led support groups.
- Informational - where a peer shares knowledge and information to provide life or vocational skills training. Examples include parenting classes, job readiness training, or wellness seminars.
- Instrumental - where a peer provides concrete assistance to help others accomplish tasks. Examples include child care, transportation and help accessing health and human services.
- Affiliational - where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. Examples include staffing recovery centers, sports league participation, and alcohol or drug free socialization.<sup>5</sup>

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 and/or substance use condition.<sup>6</sup> Current DCF guidelines recommend that an individual be in recovery for at least two years to be considered for peer training. In Florida, family members or caregivers can also work and be certified as peer specialists.<sup>7</sup>

The Florida Certification Board currently offers certification with three distinct endorsements for individuals with lived experience who wish to become certified as Peer Specialists. General requirements for certification include being age 18 or older, minimum education of high school diploma or equivalent, background screening, completion of a minimum of 40 hours of training, and passing a competency exam.

### **Barriers to the Use of Peer Specialists**

Currently, there is a shortage of peers working within behavioral health services. As of June 2017, there are 418 individuals with active certification through the Florida Certification Board.<sup>8</sup> There are two principal barriers to the use of peer specialists.

First, peer specialists often cannot pass background screening requirements in ss. 435.04 and 408.809, F.S. Persons who have recovered from a substance use disorder or mental illness often have a criminal history. Common offenses would include using and selling illegal substances,

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<sup>4</sup> National Public Radio. In Texas, People with Mental Illness Are Finding Work Helping Peers. July 11, 2017. <http://www.npr.org/sections/health-shots/2017/07/11/536501069/in-texas-people-with-mental-illness-are-finding-work-helping-peers> (last visited on Apr. 2, 2019).

<sup>5</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/product/What-Are-Peer-Recovery-Support-Services-/sma09-4454> (last visited on Apr. 2, 2019).

<sup>6</sup> Department of Children and Families, Florida Peer Services Handbook. Available at <http://www.myflfamilies.com/service-programs/substance-abuse/publications> (last visited Apr. 2, 2019).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

prostitution, or financial fraud. Section 435.07, F.S., allows persons with disqualifying offenses identified through background screening to apply to the head of the respective state agency (the DCF or the Agency for Health Care Administration) for an exemption if it has been three or more years since their conviction. The applicant must produce all court records regarding their convictions, letters of recommendation, evidence of their rehabilitation, education documents, and evidence of employment. The requirements for this exemption often deter persons from becoming peer specialists.

Second, peer specialists have only recently been reimbursed as a behavioral health care service. Medicaid billing for peer support services began in Georgia in 1999, and quickly expanded nationally in 2007 after the Center for Medicare and Medicaid Services (CMS) sent guidelines to states on how to be reimbursed for services delivered by peer providers.<sup>9</sup> In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by peer providers. CMS' Clarifying Guidance on Peer Services Policy from May 2013 states that any peer provider must "complete training and certification as defined by the state" before providing billable services. Beginning January 1, 2014, CMS expanded the type of practitioners who can provide Medicaid prevention services beyond physicians and other licensed practitioners, at a state's discretion, which can include peer providers. Florida's Medicaid program currently covers peer recovery services. The DCF also allows the state's behavioral health managing entities to reimburse for these services.

### **Background Screening Requirements and Process under Ch. 435, F.S.**

Chapter 435, F.S., addresses background screening requirements for persons seeking employment or for employees in positions that require a background screening. An employer<sup>10</sup> may not hire, select, or otherwise allow an employee to have contact with a vulnerable person<sup>11</sup> that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency<sup>12</sup> as provided under s. 435.07, F.S.<sup>13</sup>

If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires a background screening until the arrest is resolved in a way that

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<sup>9</sup> U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. SMDL #07-011. Aug. 15, 2007. Available at <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD081507A.pdf> (last visited Apr. 2, 2019).

<sup>10</sup> "Employer" means any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S. See s. 435.02(3), F.S.

<sup>11</sup> Vulnerable persons are defined as minors in s. 1.01, F.S., or as vulnerable adults in s. 415.102, F.S.

<sup>12</sup> "Agency" means any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer or is itself an employer or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the DCF. See s. 435.02(1), F.S.

<sup>13</sup> Section 435.06(2)(a), F.S.

the employer determines that the employee is still eligible for employment under ch. 435, F.S.<sup>14</sup> The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of ch. 435, F.S., or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07, F.S.<sup>15</sup>

An employer may hire an employee to a position that requires a background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.<sup>16</sup>

Sections 435.03 and 435.04, F.S., outline 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>17</sup> and may include criminal records checks through local law enforcement agencies.<sup>18</sup>
- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the 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>19</sup>

The security background investigations under s. 435.04, F.S., for level 2 screening must ensure that no persons subject to this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent, and the record has not been sealed or expunged for, any offense listed in s. 435.04(2), F.S., or a similar law of another jurisdiction.<sup>20</sup>

Additionally, such investigations must ensure that no person subject to s. 435.04, F.S., has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense that constitutes domestic violence in s. 741.28, F.S., whether such act was committed in this state or another jurisdiction.<sup>21</sup>

For both levels of screening, the person required to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening,<sup>22</sup> and must supply any missing criminal or other necessary information to the requesting employer or agency within 30 days after receiving the request for the information.<sup>23</sup> Every employee must attest, subject to

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<sup>14</sup> Section 435.06(2)(b), F.S.

<sup>15</sup> Section 435.06(2)(c), F.S.

<sup>16</sup> Section 435.06(2)(d), F.S.

<sup>17</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 <https://www.nsopw.gov/> (last visited on Apr. 2, 2019).

<sup>18</sup> Section 435.03(1), F.S.

<sup>19</sup> Section 435.04(1)(a), F.S.

<sup>20</sup> Section 435.04(2), F.S.

<sup>21</sup> Section 435.04(3), F.S.

<sup>22</sup> Section 435.05(1)(a), F.S.

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

penalty of perjury, to meeting the requirements for qualifying for employment pursuant ch. 435, F.S., and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.<sup>24</sup>

For level 1 screening, the employer must submit the information necessary for screening to FDLE within 5 working days after receiving it. The FDLE must conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.<sup>25</sup>

For level 2 screening, the employer or agency must submit the information necessary for screening to the FDLE within 5 working days after receiving it. The FDLE must perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for the employee. The FDLE must respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.<sup>26</sup>

Each employer licensed or registered with an agency is required to conduct level 2 screenings and submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed attestation attesting to compliance with the provisions of ch. 435, F.S.<sup>27</sup>

### **Individuals Requiring Background Screening Under Ch. 397, F.S.**

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services to undergo level 2 background screening.

Regarding recovery residences, s. 397.487(6), F.S., and s. 397.4871(5), F.S., each require level 2 background screening for all recovery residence owners, directors, and chief financial officers, and for administrators seeking certification.

### **Exemptions from Disqualification for Employment**

Section 435.07(1), F.S., authorizes the head of the appropriate agency to grant to any employee otherwise disqualified from employment due to disqualifying offenses revealed pursuant to a background screening required under ch. 435, F.S., an exemption from such disqualification. For a felony, three years must have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed. No waiting period applies to misdemeanors.

Additionally, s. 435.07(2), F.S., provides that persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from

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<sup>24</sup> Section 435.05(2), F.S.

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

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

<sup>27</sup> Section 435.05(3), F.S.

employment solely because of crimes under s. 817.563, F.S. (sale of imitation controlled substance), s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking), or s. 893.147, F.S. (drug paraphernalia offenses) may be exempted from disqualification from employment pursuant to ch. 435, F.S., without application of the three-year waiting period for felony offenses in s. 435.07(1)(a)1., F.S.

Section 397.4073(4), F.S., authorizes the DCF to grant any service provider personnel an exemption from disqualification as provided in s. 435.07, F.S. The DCF may grant exemptions from disqualification to service provider personnel whose backgrounds checks indicate crimes under s. 817.563, F.S., s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking), or s. 893.147, F.S., or grant exemptions from disqualification which would limit service provider personnel to working with adults in substance abuse treatment facilities.

Section 397.4872(1), F.S., provides that the individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the DCF within 20 days after the denial by the credentialing entity and must include a justification for the exemption. Subsection (2) provides, with some exceptions, the DCF may exempt a person from ss. 397.487(6), and 397.4871(5), F.S., if it has been at least three years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense.

As previously noted, substance abuse services are governed by ch. 394, F.S., and ch. 397, F.S. “The system of care provides services to children and adults with or at-risk of substance misuse/abuse problems or co-occurring substance abuse and mental health problems [.]”<sup>28</sup> Section 394.4572(1)(a), F.S., requires a level 2 screening for mental health personnel,<sup>29</sup> and s. 394.4572(1)(a), F.S., authorizes the DCF and the Agency for Health Care Administration (AHCA) to grant exemptions from disqualification as provided in ch. 435, F.S. However, s. 394.4572, F.S., does not specifically authorize the DCF or the AHCA to grant exemptions from disqualification for service provider personnel to work solely in mental health treatment programs or facilities or in programs or facilities that treat co-occurring substance use and mental health disorders.

## Recovery Residences

Recovery residences function under the premise that individuals benefit in their recovery by residing in an alcohol and drug-free environment. Recovery residences are designed to be financially self-sustaining through rent and fees paid by residents, and there is no limit on the length of stay for those who abide by the rules.<sup>30</sup>

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<sup>28</sup> Department of Children and Families, *Substance Abuse and Mental Health Services Plan 2014-2016*, p. 3, available at <http://www.dcf.state.fl.us/programs/samh/publications/2014-2016%20SAMH%20Services%20Plan.pdf> (last visited on Apr. 2, 2019).

<sup>29</sup> “Mental health personnel” includes all program directors, professional clinicians, staff members, and volunteers working in public or private mental health programs and facilities who have direct contact with individuals held for examination or admitted for mental health treatment. See s. 394.4572(1)(a), F.S.

<sup>30</sup> Department of Children and Families, *Recovery Residence Report* (Oct. 1, 2013), available at <http://www.dcf.state.fl.us/programs/samh/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf> (last visited on Apr. 2, 2019).



Section 397.311(37), F.S., defines a recovery residence as a residential dwelling unit, or other form of group housing, offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A 2009 Connecticut study notes: “Sober houses do not provide treatment, just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation.”<sup>31</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.455, F.S., to define “peer specialist,” as a person who has been in recovery from a substance use disorder or mental illness for the past 2 years or a family member or caregiver of such a person and is certified or is seeking certification under s. 397.417, F.S. This is consistent with the definition for peer specialists and recommended recovery time, and is consistent with national standards.

**Section 2** amends s. 394.4572, F.S., relating to background screening of mental health personnel. The bill conforms this statute to the requirements of the bill to background screen peer specialists through the newly created s. 397.417, F.S.

**Section 3** amends s. 394.4573, F.S., to add use of peer specialists to the list of recovery supports as an essential element of a coordinated system of behavioral health care.

**Section 4** amends s. 397.311, F.S., providing definitions to Chapter 397 on Substance Abuse Services to include a definition for “peer specialist.”

**Section 5** amends s. 397.4073, F.S., relating to background screening for persons working with persons with substance use disorders. The bill removes provisions authorizing agency heads to exempt persons who have recovered from a substance use disorder from drug offenses that would otherwise disqualify them from providing recovery services. This language is no longer needed as the bill revises background requirements in the newly created s. 397.417, F.S. The bill also provides that those service provider personnel who request an exemption after five or more years have elapsed since their most recent disqualifying offense may work under appropriate supervision with adults with a mental health or substance abuse disorder, or co-occurring disorders, during the pendency of their exemption request.

**Section 6** creates s. 397.417, F.S., to specify legislative findings that there is a shortage of behavioral health care employees; that the state is experiencing an opioid epidemic; and that peers are often an effective support for persons with substance use disorders or mental illness because the peer shares the same life experience. The bill intends to expand the use of peer specialists as a cost-effective behavioral health care service.

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<sup>31</sup> Office of Legislative Services, Connecticut General Assembly, *Sober Homes*, 2009-R-0316 (Sept. 2, 2009), available at <https://www.cga.ct.gov/2009/rpt/2009-R-0316.htm> (last visited on Apr. 2, 2019).



The bill sets qualifications for peer specialists and responsibilities of the DCF. A peer specialist must be certified and meet the background screening requirements, as well as complete a training program approved by the DCF. Background screening requirements include that a peer specialist applying for employment with the DCF submit fingerprints to the DCF and pay for state and national fingerprint checks. The DCF must forward the fingerprints to the FDLE, who must then forward them to the FBI. The FDLE must retain the fingerprints and enroll them in the national retained fingerprint arrest notification program once the FDLE begins participation in the program, and they must identify and report and arrest record to the DCF. The DCF must develop a training program for peer specialists—with preference given to trainers who are certified peer specialists—and certify peer specialists via an approved, designated certification organization. The bill also requires peer specialists to be supervised by a licensed behavioral health care professional or certified peer specialist.

In addition, the bill also provides that peer specialist services may be reimbursed as a recovery service through the DCF, the behavioral health managing entities, or Medicaid.

The bill specifies revised background screening requirements. Under current law and department rule, peers working with persons suffering from substance use disorders must meet background screening requirements in s. 435.04, F.S. Peers working with persons suffering from mental illness must meet the screening requirements in s. 435.04 F.S., as well as those in s. 408.409, F.S. The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (Ch. 784, F.S.),
- Prostitution (Ch. 796, F.S.),
- Lower level burglary offenses (s. 810.02, F.S.),
- Lower level theft and robbery offenses (Ch. 812, F.S.),
- Lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.),
- Mail or wire fraud (s. 817.034, F.S.),
- Insurance fraud (s. 817.234, F.S.),
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.),
- Identification fraud (s. 817.568, F.S.), and
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

The bill allows individuals who wish to become peer specialists but have a disqualifying offense in their background to request an exemption from disqualification pursuant to s. 435.07, F.S., from the DCF or the AHCA, as applicable.

Finally, the bill offers a grandfather clause to allow all peer specialists certified as of July 1, 2019 to be recognized as having met the requirements of this bill.

**Section 7** amends s. 397.487, F.S., relating to recovery residences, to require that all certified recovery residences comply with the provisions of the Florida Fire Prevention Code which apply to one-family and two-family dwellings, public lodging establishments or rooming houses, or other housing facilities as applicable. The bill also expands staff and volunteers who are subject to a level 2 background screening to include anyone with direct contact with individuals

receiving treatment, and requires these personnel to undergo a background screening under s. 408.809, F.S.

**Section 8** amends s. 397.4873, F.S., relating to referrals to or from recovery residences, to modify existing restrictions on referrals to or from recovery residences to allow referrals by a recovery residence to a licensed service provider when a resident has experienced a recurrence of substance use and, in the best judgment of the recovery residence administrator, it appears that the resident may benefit from clinical treatment services. The bill also provides that a recovery residence or its owners, directors, operators, employees, or volunteers may not benefit from referrals made pursuant to provisions of s. 397.4873, F.S.

**Section 9** amends s. 435.07, F.S., relating to exemptions from employment disqualification, to modify current requirements relating to background screening and exemptions from disqualification from employment to add the following crimes for which service provider personnel may be exempted from employment disqualification:

- Prostitution-related offenses under s. 796.07(2)(e), F.S.;
- Unarmed burglary of a conveyance or structure under s. 810.02(4), F.S.;
- Third degree grand theft under s. 812.014(2)(c), F.S.;
- Forgery under s. 831.01, F.S.;
- Offenses involving uttering or publishing a forged instrument under s. 832.02, F.S.; and
- Any attempt, solicitation, or conspiracy to commit any of these offenses or any offense currently listed in the section.

**Section 10** amends s. 212.055, F.S., relating to the county public hospital surtax to correct a cross reference to a definition in chapter 397, F.S. relating to substance abuse.

**Section 11** amends s. 394.495, F.S., relating to children's mental health care to correct a cross reference to definitions.

**Section 12** amends s. 394.496, F.S., relating to mental health service planning to correct a cross reference to definitions.

**Section 13** amends s. 394.9085, F.S., relating to behavioral health service provider liability to correct a cross reference to definitions.

**Section 14** amends s. 397.416, F.S., relating to substance use disorder treatment services to correct a cross reference to a definition.

**Section 15** amends s. 409.972, F.S., relating to enrollment in Medicaid to correct a cross reference to a definition.

**Section 16** amends s. 440.102, F.S., relating to the drug-free workplace program to correct a cross reference to a definition.

**Section 17** amends s. 464.012, F.S., relating to the scope of practice for advanced registered nurse practitioners to correct a cross reference to a definition.

**Section 18** amends s. 744.2007, F.S., relating to public guardians to correct a cross reference to a definition.

**Section 19** provides an effective date of July 1, 2019.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 528 eliminates multiple disqualifying offenses that commonly disqualify peer specialists under the current background screening requirements. As a result, more individuals with convictions in their past may be able to obtain certification as peer specialists. Individuals seeking certification would be responsible for paying for the cost of their background screening.

Private insurers and Medicaid managed care plans may see a reduction in the cost of behavioral health care services if more health insurance providers use peer specialists in lieu of other more costly behavioral health care services. However, if peer recovery services are provided in addition to current behavioral health care services, then total behavioral health care costs may increase.

The bill could impact recovery residences that need to modify features of existing physical structures or move to new locations in order to comply with the provisions of the Florida Fire Prevention Code.

**C. Government Sector Impact:**

The bill is expected to have an insignificant fiscal impact on the Department of Children and Families (DCF) as the department's Background Screening Office currently processes level 2 background screenings for peer specialists and recovery residence personnel and volunteers. Peer specialists applying for employment with the DCF or the Agency for Health Care Administration (AHCA) are responsible for the state and federal costs of fingerprint processing.

According to the AHCA, the bill creates a new set of background screening standards for peer specialists by providing exemptions for certain criminal offenses. The bill will require system changes to its Care Provider Background Screening Clearinghouse system and website in order to distinguish felony exemptions for peer specialists from other health care professions. The AHCA estimates the system changes will cost \$200,000.<sup>32</sup> However, the agency indicates that if Issue 36306C0 in its Legislative Budget Request for the 2019-2020 fiscal year is funded, such changes can be incorporated into the planned system upgrade. Both SB 2500, First Engrossed, the Senate's General Appropriations Bill for the 2019-2020 fiscal year, and HB 5001, First Engrossed, the House's General Appropriations Bill for the 2019-2020 fiscal year, include funding for the system upgrade.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.4572, 394.4573, 397.311, 397.4073, 397.487, 397.4873, 435.07, 212.055, 394.495, 394.496, 394.9085, 397.416, 409.972, 440.102, 464.012, and 744.2007.

This bill creates section 397.417 of the Florida Statutes.

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<sup>32</sup> Agency for Health Care Administration, *Senate Bill 528 Agency Legislative Bill Analysis* (Jan. 30, 2019) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on February 19, 2019:**

The committee substitute:

- Requires a peer specialist applying for employment with the DCF to submit a full set of fingerprints to the DCF or an authorized vendor or entity, who must then forward them to the FDLE for state processing. The FDLE must then forward them to the FBI for national processing.
- Specifies that the applicant must bear the state and federal costs of fingerprint processing.
- Requires that the FDLE retain the fingerprints and enroll them in the national retained fingerprint arrest notification program once the FDLE begins participation in the program.
- Directs the FDLE to identify and report any arrest record to the DCF.

- B. **Amendments:**

None.