

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.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1010

INTRODUCER: Senator Gruters

SUBJECT: Substance Abuse and Mental Health Services

DATE: March 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Pre-meeting
2.			AHS	
3.			FP	

I. Summary:

SB 1010 makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs and providers, including recovery residences and recovery residence administrators.

Specifically, the bill:

- Expands the total number of residents a CRRA of a certified recovery residence may manage under certain conditions;
- Requires the DCF to adopt all certification requirements established by recovery residence credentialing entities into rule by October 1, 2023;
- Requires the DCF to incorporate and certification requirements established on or after October 1, 2023 into rule;
- Requires credentialing entities to initiate suspension, denial, and revocation actions against certified recovery residences through a formal notice provided to the recovery residence;
- Requires credentialing entities to take final actions on such notices within 30 days after the initial notification;
- Requires certified recovery residences to retain a new CRRA within 90 days of a former CRRA leaving the position if the former CRRA was approved to actively manage more than 50 residents;
- Creates the Substance Abuse and Mental Health Task Force within the DCF with the stated purposes of:
 - Studying issues relating to the regulation of licensed service providers and ancillary therapeutic housing in Florida; and
 - Providing recommended changes to provide best-in-class services with limited governmental intrusion.

The bill will likely have a positive fiscal impact on private licensed service providers and a negative fiscal impact on the DCF. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Substance Use Disorder Treatment

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

In 2021, approximately 46.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year.⁶ The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.⁷ Provisional data from the CDC's National Center for Health Statistics indicate there were an estimated 107,622 drug overdose deaths in the United States during 2021 (the last year for which there is complete data), an increase of nearly 15% from the 93,655 deaths estimated in 2020.⁸

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; (last visited March 15, 2023); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 8, 2023).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited March 15, 2023).

³ The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <http://www.samhsa.gov/disorders/substance-use> (last visited March 15, 2023).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited March 15, 2023).

⁵ *Id.*

⁶ The SAMHSA, *Highlights for the 2021 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/2022-12/2021NSDUHFFRHighlights092722.pdf> (last visited March 15, 2023).

⁷ The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited March 15, 2023).

⁸ The Center for Disease Control and Prevention, National Center for Health Statistics, *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020 – But Are Still Up 15%*, available at https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm (last visited March 15, 2023).

Substance Use Disorder Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.⁹ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.¹⁰ Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.¹¹ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹² In 1993, legislation was adopted to combine chs. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).¹³

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.¹⁴ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.¹⁵ As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.¹⁶

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.¹⁷ The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.¹⁸

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.¹⁹

⁹ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

¹⁴ See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

¹⁵ Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://fbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited March 15, 2023) (hereinafter cited as “Fundamentals of the Marchman Act”).

¹⁶ *Id.*

¹⁷ See chs. 394 and 397, F.S.

¹⁸ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited March 15, 2023).

¹⁹ *Id.*

- **Treatment Services:** Treatment services²⁰ include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.²¹
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.²²

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention,²³ intervention,²⁴ and clinical treatment services.²⁵

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.²⁶ “Clinical treatment services” include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.²⁷

²⁰ *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

²¹ *Id.*

²² *Id.*

²³ Section 397.311(26)(c), F.S. “Prevention” is defined as “a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles”. Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments. *See also*, The DCF, *Substance Abuse: Prevention*, available at <https://www.myflfamilies.com/service-programs/samh/prevention/index.shtml> (last visited March 15, 2023).

²⁴ Section 397.311(26)(b), F.S. “Intervention” is defined as “structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.”

²⁵ Section 397.311(26), F.S.

²⁶ Section 397.311(26)(a), F.S.

²⁷ *Id.*

Florida does not license recovery residences; instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.²⁸

Recovery Residences

Recovery residences (also known as “sober homes” or “sober living homes”) are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs.²⁹ These residences offer no formal treatment and are, in some cases, self-funded through resident fees.³⁰

A recovery residence is defined as “a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is 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.”³¹

Voluntary Certification of Recovery Residences and Administrators in Florida

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.³² Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board (the FCB) certifies recovery residence administrators.³³

Credentialing entities must require prospective recovery residences to submit the following documents with a completed application and fee:

- A policy and procedures manual containing:
 - Job descriptions for all staff positions;
 - Drug-testing procedures and requirements;
 - A prohibition on the premises against alcohol, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed;
 - Policies to support a resident’s recovery efforts; and
 - A good neighbor policy to address neighborhood concerns and complaints.

²⁸ Chapter 2015-100, L.O.F.

²⁹ The SAMSHA, *Recovery Housing: Best Practices and Suggested Guidelines*, p. 2, available at <https://www.samhsa.gov/sites/default/files/housing-best-practices-100819.pdf> (last visited March 15, 2023).

³⁰ However, these homes may mandate or strongly encourage attendance at 12-step groups. The Society for Community Research and Action, *Statement on Recovery Residences: The Role of Recovery Residences in Promoting Long-term Addiction Recovery*, available at <https://www.scra27.org/what-we-do/policy/policy-position-statements/statement-recovery-residences-addiction/> (last visited March 15, 2023).

³¹ Section 397.311(38), F.S.

³² Sections 397.487–397.4872, F.S.

³³ The DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/service-programs/samh/recovery-residence/> (last visited March 15, 2023).

- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.³⁴

Certified Recovery Residence Administrators

All certified recovery residences must be actively managed by a certified recovery residence administrator (CRRRA).³⁵ CRRAs are individuals responsible for the overall management of a recovery residence, as well as the supervision of residents and paid or volunteer staff.³⁶ Prior to obtaining certification, CRRRA applicants must successfully undergo a level 2 background screening pursuant to ch. 435, F.S.³⁷ Additionally, the FCB currently requires CRRAs to:

- Hold at least a high school diploma, GED, or equivalent;
- Undergo 10 hours of on-the-job supervision of the applicant’s performance of related recovery residence administrator, manager, or residential management services within a recovery residence setting;
- Obtain three professional letters of recommendation;
- Pass an exam administered by the FCB;
- Complete 10 hours of continuing education annually; and
- Apply for certification renewal annually.³⁸

CRRAs are prohibited from engaging in any of the following activities:

- Failing to adhere to continuing education requirements of the credentialing entity;³⁹
- Providing false or misleading information to the credentialing entity at any time;⁴⁰
- Advertising himself or herself to the public as a “certified recovery residence administrator” without first obtaining certification;⁴¹ and

³⁴ Section 397.487(3), F.S.

³⁵ Section 397.487(5), F.S.

³⁶ The Florida Certification Board (The FCB), *Certified Recovery Residence Administrator (CRRRA)*, available at <https://flcertificationboard.org/certifications/certified-recovery-residence-administrator/> (last visited March 16, 2023).

³⁷ Section 397.4871(5), F.S.

³⁸ The FCB, *Certification Guidelines: Credential Standards and Requirements Table: Certified Recovery Residence Administrator (CRRRA)*, p. 4-5, available at <https://flcertificationboard.org/wp-content/uploads/CRRRA-Standards-and-Requirements-Tables-January-2020.pdf> (last visited March 16, 2023).

³⁹ Section 397.4871(6)(a), F.S. CRRAs who violate this provision are subject to revocation of certification at the discretion of the credentialing entity.

⁴⁰ Section 397.4871(6)(c), F.S. CRRAs who violate this provision are subject to mandatory revocation of certification.

⁴¹ Section 397.4871(7), F.S. CRRAs who violate this provision commit a first degree misdemeanor, punishable as provided in section 775.082, F.S. or section 775.083, F.S.

- Actively managing more than 50 residents at any given time, unless written justification is provided to, and approved by, the credentialing entity as to how the administrator is able to effectively and appropriately respond to the needs of the residents, to maintain residence standards, and to meet the residence certification requirements of this section. However, a certified recovery residence administrator may not actively manage more than 100 residents at any given time.⁴²

Federal Fair Housing Act and Americans with Disabilities Act

The Federal Fair Housing Act Amendment of 1988 (FFHA)⁴³ prohibits discrimination on the basis of a handicap in all types of housing transactions. The FFHA defines a “handicap” to mean mental or physical impairments that substantially limit one or more major life activities.⁴⁴ The term “mental or physical impairment” may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness.⁴⁵ The FFHA also protects persons who have a record of such impairment or are regarded as having such impairment.⁴⁶ Persons who are currently using controlled substances illegally, persons convicted of illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders are not considered disabled by virtue of that status under the FFHA.⁴⁷

The Florida Fair Housing Act⁴⁸ provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available.⁴⁹ Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.⁵⁰

In July 1999, the U.S. Supreme Court held that the unnecessary institutionalization of persons with disabilities is a form of discrimination prohibited by the Americans with Disabilities Act (ADA).⁵¹ In its opinion in the *Olmstead* case, the Court challenged federal, state, and local governments to develop more opportunities for individuals with disabilities through accessible systems of cost-effective, community-based services.⁵² This decision interpreted Title II of the ADA and its implementing regulation, which requires states to administer their services, programs, and activities “in the most integrated setting appropriate to meet the needs of qualified individuals with disabilities.”⁵³

⁴² Section 397.4871(8)(b), F.S.

⁴³ 42 U.S.C. 3601 *et seq.*

⁴⁴ 24 C.F.R. §100.201.

⁴⁵ 24 C.F.R. §100.201(a).

⁴⁶ 24 C.F.R. §100.201(c).

⁴⁷ The U.S. Department of Justice (DOJ), *The Fair Housing Act*, available at http://www.justice.gov/crt/about/hce/housing_coverage.php (last visited March 16, 2023).

⁴⁸ Part II of ch. 760, F.S. is titled, “The Florida Fair Housing Act.”

⁴⁹ Section 760.23(7)(b), F.S.

⁵⁰ Section 760.23(9)(b), F.S.

⁵¹ *Olmstead v. L.C.*, 527 U.S. 581, (1999).

⁵² *Id.*

⁵³ *Id.*

The ADA and the *Olmstead* decision apply to all qualified individuals with disabilities regardless of age. An individual with a substance use disorder may be protected under the ADA because the disorder may be considered a substantially limiting impairment.⁵⁴ In addition, in the *United States of America v. City of Boca Raton*, the court held that the city's ordinance excluding substance abuse treatment facilities from residential areas violates the FFHA because it unjustifiably prohibits these individuals from enjoying the same rights and access to housing as anyone else.⁵⁵

Based on this protected class status held by individuals in substance abuse recovery, federal courts have held that mandatory conditions placed on housing for people in recovery from either state or sub-state entities, such as ordinances, licenses, or conditional use permits, are overbroad in application and result in violations of the FFHA and ADA.⁵⁶ Additionally, federal courts have invalidated regulations that require registry of housing for protected classes, including recovery residences.⁵⁷

The FFHA and ADA require state and local governments to make reasonable accommodations necessary to allow a person with a qualifying disability equal opportunity to use and enjoy a dwelling.⁵⁸ The governmental entity bears the burden of proving through objective evidence that a regulation serves to protect the health and safety of the community and is not based upon stereotypes or unsubstantiated inferences.⁵⁹ Generally, a local government applying a zoning ordinance to sober homes must advance a legitimate governmental interest, and that the requirements of the ordinance are the least restrictive way to advance that interest.⁶⁰

In November 2016, the U.S. Department of Housing and Urban Development and the U.S. Department of Justice issued joint guidance (Joint Guidance) on application of the FFHA as it relates to group homes, including recovery residences.⁶¹ The Joint Guidance essentially states that a city can deny a group home if it “would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality’s zoning scheme”⁶² (too many group homes in one neighborhood, for example, might be a

⁵⁴ U.S. Commission on Civil Rights, *Sharing the Dream: Is the ADA Accommodating All?*, available at http://www.usccr.gov/pubs/ada/ch4.htm#_ftn12 (last visited March 16, 2023).

⁵⁵ *United States of America vs. City of Boca Raton* 1008 WL 686689 (S.D.Fla.2008).

⁵⁶ Department of Children and Families, *Recovery Residence Report*, Oct. 1, 2013, available at <https://www.myflfamilies.com/sites/default/files/2022-12/DCFPvisoRpt-SoberHomes.pdf> (last visited on March 16, 2023). See, e.g., *Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339 (S.D. Fla. 2007); *Oxford House, Inc.*, 819 F. Supp. 1179; *Marbrunak v. City of Stow, OH.*, 947 F.2d 43 (6th Cir. 1992); *United States v. City of Baltimore, MD*, 845 F. Supp. 2d. 640 (D. Md. 2012).

⁵⁷ See, e.g., *Nevada Fair Housing Center, Inc., v. Clark County, et. al.*, 565 F. Supp. 2d 1178 (D. Nev. 2008); See, *Human Resource Research and Management Group*, 687 F. Supp. 2d 237 (E.D.N.Y. 2010); *Community Housing Trust et. al., v. Dep't of Consumer and Regulatory Affairs et. al.*, 257 F. Supp. 2d 208 (D.C. Cir. 2003).

⁵⁸ 42 U.S.C. § 3604(f)(3)(B); 42 U.S.C. § 12131, et. seq., 28 C.F.R. § 35.130(b)(7).

⁵⁹ *Oconomowoc Residential Programs, Inc., v. City of Milwaukee*, 300 F. 3d 775 (7th Cir. 2002); *Oxford House- Evergreen*, 769 F. Supp. 1329.

⁶⁰ *Human Resource Research and Management Group, Inc. et al. v. County of Suffolk*, 687 F. Supp. 2d 237 (E.D.N.Y. 2010).

⁶¹ The DOJ, *Joint Statement of the Department of Housing and Urban Development and the Department of Justice: State and Local Land Use Laws and Practices and the Application of the Fair Housing Act*, November 7, 2016, available at <https://www.justice.gov/crt/page/file/909956/download> (last visited March 16, 2023).

⁶² *Id.* at p. 8

consideration). Licensing and other group home requirements may be permissible.⁶³ If so, however, they “must also be consistent with the Fair Housing Act.⁶⁴ Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities.”⁶⁵ Action can be taken based on criminal activity, providing actions “are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities.”⁶⁶

Palm Beach State Attorney Addiction Recovery Task Force

In 2016, the State Attorney for the 15th Judicial Circuit of Florida convened the State Attorney Addiction Recovery Task Force (the Task Force) to investigate fraud and abuse among recovery residences. The mission of the Task Force includes addressing substance abuse, treatment and recovery and, ultimately, fostering the protection of vulnerable consumers and elevating the standards and practices of the recovery industry.⁶⁷ The Task Force has issued numerous recommendations since its inception, many of which have served as the foundation for legislation regulating recovery residences.⁶⁸

The Task Force recently recommended a statewide study be conducted on zoning regulations for recovery residences.⁶⁹ According to the Task Force, some cities and counties are enacting regulations after undertaking a study, which is in compliance with the Federal Fair Housing Act Amendment (FHAA) and Joint Guidance, while others are simply enacting regulations without undertaking any study, possibly running afoul of the FHAA.⁷⁰ These studies, when taken individually, are not only time consuming, but can be very costly for the individual community.⁷¹ As a result, most communities do not take advantage of this process and bad actors who are prohibited from operating in some jurisdictions merely relocate to areas with friendlier zoning laws.⁷²

Community Residential Homes

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.⁷³ Residency in a community residential home is limited to individuals who qualify as:

- “Developmentally disabled,” as defined in s.393.063, F.S., which includes a person with a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism,

⁶³ *Id.* at p. 13

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Palm Beach Sober Home Task Force, *Meeting Minutes: July 12, 2016* at p. 1, July 12, 2016, available at <http://www.sa15.state.fl.us/stateattorney/SoberHomes/content/Minutes/7-12Minutes.pdf> (last visited March 16, 2023).

⁶⁸ For example, HB 369 (2019), SB 1120 (2020), SB 804 (2021), and SB 704 (2022).

⁶⁹ Palm Beach Sober Home Task Force, *Meeting Minutes: August 10, 2022* at pp. 27-28, August 10, 2022, available at <http://www.sa15.state.fl.us/stateattorney/SoberHomes/content/2022/Meeting%20Attachments/08-10-2022%20SAARTF%20Meeting%20Attachments.pdf> (last visited March 16, 2023).

⁷⁰ *Id.* at p. 27

⁷¹ *Id.*

⁷² *Id.*

⁷³ Section 419.001(1)(a), F.S.

- spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely;
- A “frail elder” as defined in s. 429.65(9), F.S., which includes a functionally impaired elderly person who is 60 years of age or older and who has physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living and that impede the person’s capacity to live independently;
 - “Person who has a disability” pursuant to s. 760.22(3)(a), F.S., which includes a person who has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment;
 - A nondangerous person who has a “mental illness” as defined in s. 394.455(29), F.S., which includes an impairment of the mental or emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person’s ability to meet the ordinary demands of living; or
 - A child who is found to be dependent by the court pursuant to ss. 39.01(14), and 984.03 F.S., and a “child in need of services” as defined in ss. 984.03(9) and 985.03(8), F.S.⁷⁴

Community residential homes must be licensed by the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the DCF, or the Agency for Health Care Administration (collectively the “licensing entity”).⁷⁵

Local government is responsible for the site approval of a proposed community residential home. A sponsoring agency⁷⁶ is required to notify the chief executive officer of the local government in writing when a site for a community residential home has been selected in an area zoned for multifamily use.⁷⁷ The notice must include the address of the site, the residential licensing category, the number of residents, and the community support requirements of the program.⁷⁸ The notice must also contain a statement from the licensing entity indicating the need for the proposed home, the licensing status of the home, and how the home meets applicable licensing criteria for the safe care and supervision of the residents.⁷⁹ The sponsoring agency must provide the local government with the most recently published data that identifies all community residential homes in the district in which the proposed site is to be located.⁸⁰ The local government reviews the notification from the sponsoring agency in accordance with the zoning ordinance of the jurisdiction in which the community residential home is located.⁸¹ The local government then has up to 60 days to respond, and if no response is given within 60 days, the sponsoring agency may establish the home at the site in question.⁸²

⁷⁴ Section 419.001(1)(e), F.S.

⁷⁵ Section 419.001(1)(b), F.S.

⁷⁶ Section 419.001(1)(f), F.S., defines “sponsoring agency” as an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

⁷⁷ Section 419.001(3)(a), F.S.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Section 419.001(3)(b), F.S.

A local government may not deny the siting of a community residential home unless the site selected:

- Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area;
- Does not meet licensing criteria ; or
- Would substantially alter the nature and character of the area by being located within a radius of:
 - 1,200 feet of another existing community residential home or
 - 500 feet of an area of single-family zoning.⁸³

Dwelling units housing community residential homes are subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which they are established.⁸⁴

III. Effect of Proposed Changes:

Changes to Certification and CRRA Requirements

The bill amends s. 397.487, F.S., directing the DCF to adopt by rule all certification requirements established by credentialing entities which are in effect on October 1, 2023. The bill. The bill clarifies that while credentialing entities remain responsible for establishing certification requirements, any changes to certification requirements by a credentialing entity on or after that date must be adopted by DCF through rule before such changes are effective and enforceable by the credentialing entities.

The bill increases, from 30 to 90, the number of days a certified recovery residence has to retain a new CRRA after a previous CRRA is terminated, resigns, or leaves the position for any other reason. If a certified recovery residence's CRRA resigns or has been removed for termination or any other reason and the CRRA had been approved to actively manage more than 50 residents, the bill requires the certified recovery residence to retain a new CRRA within 90 days in order to continue managing the approved additional number of residents.

The bill requires credentialing entities to initiate any decision to deny, revoke, or suspend a certification by formal notice provided to the recovery residence, and it requires the credentialing entity to take final action within 30 days after the initial notification. The bill also changes the process for requesting a formal administrative hearing pursuant to ss. 120.569 and 120.57 by requiring recovery residences to request a hearing within 30 days after final action is taken, rather than after completing any appeals process offered by, the credentialing entity or the DCF, as applicable.

The bill expands the total number of residents a CRRA of a certified recovery residence may manage under certain conditions. Specifically, the bill allows credentialing entities to approve CRRAs to actively manage up to 250 residents if:

- The CRRA has already been approved to manage 100 residents;

⁸³ Section 419.001(3)(c), F.S.

⁸⁴ Section 419.001(8), F.S.

- The CRRA's recovery residence is wholly owned or controlled by a licensed service provider; and
- The licensed service provider maintains a ratio of at least one staff member to eight residents.

The bill further stipulates that a CRRA who has been removed by a recovery residence due to termination, resignation, or for any other reason may not continue to actively manage more than 100 residents without being reapproved by a credentialing entity.

Substance Abuse and Mental Health Treatment and Housing Task Force

The bill creates an unnumbered section of law, expiring July 1, 2023, which creates the Substance Abuse and Mental Health Treatment and Housing Task Force (Housing Task Force) within the DCF. The bill provides that the purpose of the Housing Task Force is to study issues relating to the regulation of licensed private sector substance abuse and mental health treatment service providers and ancillary therapeutic housing within Florida and provide recommended changes in order to provide best-in-class services with limited governmental intrusion. The bill clarifies that except as otherwise provided in the bill, the Housing Task Force must operate in a manner consistent with s. 20.052, F.S.⁸⁵

The bill provides that the Housing Task Force is composed of nine members, as follows:

- A representative of the Executive Office of the Governor, appointed by the Governor;
- A member of the Senate, appointed by the President of the Senate;
- A member of the House of Representatives, appointed by the Speaker of the House of Representatives;
- A representative of the Office of the Attorney General, appointed by the Governor;
- A representative of the Chief Financial Officer, appointed by the Governor;
- A representative of the Palm Beach County State Attorney Addiction Recovery Task Force, appointed by the Governor;
- A representative of the Florida Association of Recovery Residences, appointed by the Governor;
- A representative of the treatment industry, appointed by the Governor; and
- A member of The Florida Bar with knowledge and experience in the treatment and therapeutic housing industry, appointed by the Governor.

The bill requires the Housing Task Force to appoint a chair and vice-chair, and to meet no less than monthly.

The bill requires the Housing Task Force to, with assistance from the DCF:

- Conduct a study to evaluate the impact of ch. 419, F.S., on treatment services;
- Identify obstacles to providing all forms of therapeutic, medical, and clinical housing in Florida; and
- Identify any compliance issues with the ADA and the FFHA.

⁸⁵ Section 20.052, F.S., provides several requirements for the establishment of advisory bodies, commissions, and boards in Florida.

The bill also requires the Housing Task Force to conduct a review of statewide zoning codes determine the effect, if any, that local regulations have on the ability of private sector licensed service providers to provide modern, effective, evidence-based treatment and ancillary therapeutic housing to residents Florida.

The bill directs the Housing Task Force to submit a report of its findings and recommendations, including any recommended amendments to ch. 419, F.S., to the DCF by December 31, 2024.

The bill directs the DCF to submit a report of its findings and recommendations, and any additional findings and recommendations made by the DCF, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2025.

Exemption from Zoning Laws and Ordinances

The bill exempts all certified recovery residences from state or local zoning laws or ordinances, including the requirements of ch. 419, F.S., which do not apply to all other single-family and multifamily dwellings from July 1, 2023 until July 1, 2026.

The bill is effective July 1, 2023.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on licensed service providers by allowing CRRAs of certified recovery residences to actively manage more residents.

C. Government Sector Impact:

The bill will likely have an indeterminate negative fiscal impact on the DCF due to the need to expend resources to create and operate the Housing Task Force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 397.487 and 397.4871 of the Florida Statutes.

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.