

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Children, Families &
2 Seniors Subcommittee

3 Representative Harrell offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Subsection (2) of section 394.4572, Florida
8 Statutes, is amended to read:

9 394.4572 Screening of mental health personnel.-

10 (2) EXEMPTIONS FROM DISQUALIFICATION.-

11 (a) The department or the Agency for Health Care
12 Administration may grant exemptions from disqualification as
13 provided in chapter 435.

14 (b) The department or the Agency for Health Care
15 Administration, as applicable, may grant exemptions from
16 disqualification for service provider personnel to work solely

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17 in mental health treatment programs and facilities or in those
18 that treat co-occurring substance use and mental health
19 disorders.

20 Section 2. Subsections (1) and (4) of section
21 397.4073, Florida Statutes, are amended to read:

22 397.4073 Background checks of service provider personnel.—

23 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
24 EXCEPTIONS.—

25 (a) The department shall require level 2 background
26 screening pursuant to chapter 435 for all owners, directors,
27 chief financial officers, and clinical supervisors, as well as
28 staff members and volunteers who have direct contact with
29 individuals receiving treatment. Screening shall also include
30 background screening as provided in s. 408.809. ~~Background~~
31 ~~checks shall apply as follows:~~

32 ~~1. All owners, directors, chief financial officers, and~~
33 ~~clinical supervisors of service providers are subject to level 2~~
34 ~~background screening as provided under chapter 435. Inmate~~
35 ~~substance abuse programs operated directly or under contract~~
36 ~~with the Department of Corrections are exempt from background~~
37 ~~screening this requirements under this section.~~

38 ~~2. All service provider personnel who have direct contact~~
39 ~~with children receiving services or with adults who are~~
40 ~~developmentally disabled receiving services are subject to level~~
41 ~~2 background screening as provided under chapter 435.~~

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42 (b) Members of a foster family and persons residing with
43 the foster family who are between 12 and 18 years of age are not
44 required to be fingerprinted but must have their backgrounds
45 checked for delinquency records. Members of the foster family
46 and persons residing with the foster family over 18 years of age
47 are subject to full background checks.

48 (c) A volunteer who assists on an intermittent basis for
49 fewer than 40 hours per month and is under direct and constant
50 supervision by persons who meet all personnel requirements of
51 this chapter is exempt from fingerprinting and background check
52 requirements.

53 (d) Service providers that are exempt from licensing
54 provisions of this chapter are exempt from personnel
55 fingerprinting and background check requirements, except as
56 otherwise provided in this section. A church or nonprofit
57 religious organization exempt from licensure under this chapter
58 is required to comply with personnel fingerprinting and
59 background check requirements.

60 (e) Personnel employed directly or under contract with the
61 Department of Corrections in an inmate substance abuse program
62 are exempt from the fingerprinting and background check
63 requirements of this section unless they have direct contact
64 with unmarried inmates under the age of 18 or with inmates who
65 are developmentally disabled.

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66 (f) Service provider personnel who request an exemption
67 from disqualification must submit the request within 30 days
68 after being notified of the disqualification. The department
69 shall grant or deny the exemption from disqualification within
70 60 days after receipt of a complete application.

71 (g) If 5 years or more have elapsed since the applicant
72 for the exemption has completed or been lawfully released from
73 confinement, supervision, or nonmonetary condition imposed by
74 the court for the most recent disqualifying offense, service
75 provider personnel may work with adults with substance use
76 disorders under the supervision of persons who meet all
77 personnel requirements of this chapter of a qualified
78 professional licensed under chapter 490 or chapter 491 or a
79 master's-level-certified addictions professional for up to 90
80 days after being notified of the disqualification or until the
81 department agency makes a final determination regarding the
82 request for an exemption from disqualification, whichever is
83 sooner.

84 (h) ~~(g)~~ The department may not issue a regular license to
85 any service provider that fails to provide proof that background
86 screening information has been submitted in accordance with
87 chapter 435.

88 (4) EXEMPTIONS FROM DISQUALIFICATION.—

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89 (a) The department may grant to any service provider
90 personnel an exemption from disqualification as provided in s.
91 435.07.

92 (b) Since rehabilitated substance abuse impaired persons
93 are effective in the successful treatment and rehabilitation of
94 individuals with substance use disorders, for service providers
95 which treat adolescents 13 years of age and older, service
96 provider personnel whose background checks indicate crimes under
97 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
98 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s. 893.147, and
99 related attempt crimes under s. 777.04, may be exempted from
100 disqualification from employment pursuant to this paragraph.

101 (c) The department may grant exemptions from
102 disqualification for service provider personnel to work solely
103 in substance abuse treatment programs and facilities or in those
104 that treat co-occurring substance use and mental health
105 disorders. The department may further limit such grant
106 exemptions from disqualification ~~which would limit service~~
107 ~~provider personnel~~ to working with adults in substance abuse
108 treatment facilities.

109 Section 3. Subsection (1), paragraph (m) of subsection
110 (3), and subsection (6) of section 397.487, Florida Statutes, is
111 amended to read:

112 397.487 Voluntary certification of recovery residences.—

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113 (1) The Legislature finds that a person suffering from
114 addiction has a higher success rate of achieving long-lasting
115 sobriety when given the opportunity to build a stronger
116 foundation by living in a recovery residence while receiving
117 treatment or after completing treatment. The Legislature further
118 finds that this state and its subdivisions have a legitimate
119 state interest in protecting these persons, who represent a
120 vulnerable consumer population in need of adequate housing. It
121 is the intent of the Legislature to protect persons who reside
122 in a recovery residence.

123 (3) A credentialing entity shall require the recovery
124 residence to submit the following documents with the completed
125 application and fee:

126 (m) Proof of satisfactory fire, safety, and health
127 inspections. A recovery residence must comply with the
128 provisions of the Florida Fire Prevention Code which apply to
129 one-family and two-family dwellings, public lodging
130 establishments, or rooming houses, or other housing facilities,
131 as applicable.

132 (6) All owners, directors, and chief financial officers of
133 an applicant recovery residence are subject to level 2
134 background screening as provided under chapter 435 and s.
135 408.809. A recovery residence is ineligible for certification,
136 and a credentialing entity shall deny a recovery residence's
137 application, if any owner, director, or chief financial officer

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138 has been found guilty of, or has entered a plea of guilty or
139 nolo contendere to, regardless of adjudication, any offense
140 listed in s. 435.04(2) or 408.809(4) unless the department has
141 issued an exemption under s. 397.4073 or s. 397.4872. In
142 accordance with s. 435.04, the department shall notify the
143 credentialing agency of an owner's, director's, or chief
144 financial officer's eligibility based on the results of his or
145 her background screening.

146 Section 4. Section 397.4873, Florida Statutes, is amended
147 to read:

148 397.4873 Referrals to or from recovery residences;
149 prohibitions; penalties.—

150 (1) A service provider licensed under this part may not
151 make a referral of a prospective, current, or discharged patient
152 to, or accept a referral of such a patient from, a recovery
153 residence unless the recovery residence holds a valid
154 certificate of compliance as provided in s. 397.487 and is
155 actively managed by a certified recovery residence administrator
156 as provided in s. 397.4871.

157 (2) Subsection (1) does not apply to:

158 (a) A licensed service provider under contract with a
159 managing entity as defined in s. 394.9082.

160 (b) Referrals by a recovery residence to a licensed
161 service provider when a resident has experienced a recurrence of
162 substance use and, in the best judgment of the recovery

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163 residence administrator, it appears that the resident may
164 benefit from clinical treatment services ~~the recovery residence~~
165 ~~or its owners, directors, operators, or employees do not~~
166 ~~benefit, directly or indirectly, from the referral.~~

167 (c) Referrals made before July 1, 2018, by a licensed
168 service provider to that licensed service provider's wholly
169 owned subsidiary.

170 (3) A recovery residence or its owners, directors,
171 operators, employees, or volunteers may not benefit, directly or
172 indirectly, from a referral made pursuant to subsection (1) or
173 subsection (2).

174 (4)~~(3)~~ For purposes of this section, a licensed service
175 provider or recovery residence shall be considered to have made
176 a referral if the provider or recovery residence has informed a
177 patient by any means about the name, address, or other details
178 of a recovery residence or licensed service provider, or
179 informed a licensed service provider or a recovery residence of
180 any identifying details about a patient.

181 (5)~~(4)~~ A licensed service provider shall maintain records
182 of referrals to or from recovery residences as may be prescribed
183 by the department in rule.

184 (6)~~(5)~~ After June 30, 2019, a licensed service provider
185 violating this section shall be subject to an administrative
186 fine of \$1,000 per occurrence. Repeat violations of this section

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187 may subject a provider to license suspension or revocation
188 pursuant to s. 397.415.

189 ~~(7)+(6)~~ Nothing in this section requires a licensed service
190 provider to refer a patient to or to accept a referral of a
191 patient from a recovery residence.

192 Section 5. Subsection (2) of section 435.07, Florida
193 Statutes, is amended to read:

194 435.07 Exemptions from disqualification.—Unless otherwise
195 provided by law, the provisions of this section apply to
196 exemptions from disqualification for disqualifying offenses
197 revealed pursuant to background screenings required under this
198 chapter, regardless of whether those disqualifying offenses are
199 listed in this chapter or other laws.

200 (2) Persons employed, or applicants for employment, by
201 treatment providers who treat adolescents 13 years of age and
202 older who are disqualified from employment solely because of
203 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
204 817.563, s. 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s.
205 893.147, and related attempt crimes under s. 777.04, may be
206 exempted from disqualification from employment pursuant to this
207 chapter without application of the waiting period in
208 subparagraph (1)(a)1.

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210 -----
211 **T I T L E A M E N D M E N T**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1069 (2018)

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212 Remove everything before the enacting clause and insert:
213 An act relating to substance abuse services; amending s.
214 394.4572, F.S.; allowing the Agency for Health Care
215 Administration to grant exemptions from disqualification for
216 service provider personnel to work solely in mental health
217 treatment programs and facilities or in those that treat co-
218 occurring substance use and mental health disorders; amending s.
219 397.4073, F.S.; revising provisions relating to background
220 checks and exemptions from disqualification for certain service
221 provider personnel; requiring the Department of Children and
222 Families to render a decision on an application for an exemption
223 from disqualification within a certain timeframe; allowing an
224 applicant for an exemption from disqualification to work under
225 supervision for a specified period of time while the application
226 is pending; authorizing exemptions for additional crimes;
227 authorizing the department to grant exemptions from
228 disqualification for service provider personnel to work solely
229 in certain treatment programs and facilities; amending s.
230 397.487, F.S.; revising legislative findings relating to
231 voluntary certification of recovery residences; requiring
232 recovery residences applying for voluntary certification to
233 comply with specified Florida Fire Prevention Code provisions;
234 revising background screening requirements for owners,
235 directors, and chief financial officers of recovery residences;
236 amending s. 397.4873, F.S.; providing exceptions to limitations

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237 | on referrals from recovery residences to licensed service
238 | providers; prohibiting recovery residences and specified
239 | affiliated individuals from benefitting from certain referrals;
240 | amending s. 435.07, F.S.; revising exemptions from
241 | disqualification; providing an effective date.