HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 21	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Health & Human Services Committee; Children, Families & Seniors Subcommittee; Hager; Harrell and others	113 **Y's**	2 **N's**
COMPANION BILLS:	CS/CS/SB 326	**GOVERNOR'S ACTION:**	Pending

SUMMARY ANALYSIS

CS/CS/HB 21 passed the House on April 9, 2015, and subsequently passed the Senate on April 24, 2015.

The bill establishes a voluntary certification program for recovery residences and recovery residence administrators. The bill prohibits licensed substance abuse treatment providers from referring patients to recovery residences which are not certified or not owned and operated by a licensed substance abuse treatment provider.

The bill creates ss. 397.487 and 397.4871, F.S., to establish a voluntary certification programs for recovery residences and recovery residence administrators. It requires the Department of Children and Families (DCF) to select a credentialing entity by December 1, 2015, to issue certificates of compliance for each program, and establishes the criteria for selecting the entity. The bill requires the credentialing entity to inspect recovery residences prior to the initial certification and during every subsequent renewal period and to automatically terminate certification if it is not renewed within one year of the issuance date. The bill sets application, inspection and renewal fees for the certification programs. It requires the credentialing agency to deny, suspend or revoke certification if a recovery residence or a recovery residence administrator fails to meet and maintain certain criteria. The bill requires certified recovery residences to be actively managed by a certified recovery residence administrator.

The bill requires all owners, directors and chief financial officers of a recovery residence, as well as individuals seeking certification as an administrator, to pass a Level 2 background screening. The bill creates s. 397.4872, F.S., to allow DCF to exempt an individual from the disqualifying offenses of a Level 2 background screening if the individual meets certain criteria and the recovery residence attests that it is in the best interest of the program.

The bill amends s. 397.407, F.S., to prohibit, effective July 1, 2016, licensed service providers from referring patients to a recovery residence unless the recovery residence holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator or is owned and operated by a licensed service provider or a licensed service provider's wholly owned subsidiary. It also requires DCF to publish a list of all recovery residences and recovery residence administrators on its website.

The bill has an indeterminate negative fiscal impact on DCF and may also have an insignificant negative local jail bed impact.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2015.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Recovery Residences

There is no universally accepted definition of "recovery residence" (also known as "sober home" or "sober living home"). Commonly, recovery residences:

- Are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs;
- Offer no formal treatment but perhaps mandate or strongly encourage attendance at 12-step groups; and
- Are self-funded through resident fees, and residents may reside there as long as they are in compliance with the residence's rules.[1]

The exact number of recovery residences in Florida is currently unknown.[2]

Multiple studies have found that individuals benefit in their recovery by residing in a recovery residence. For example, an Illinois study found regarding those residing in an Oxford House, a very specific type of recovery residence, that:

> [T]hose in the Oxford Houses had significantly lower substance use (31.3% vs. 64.8%), significantly higher monthly income ($989.40 vs. $440.00), and significantly lower incarceration rates (3% vs. 9%). Oxford House participants, by month 24, earned roughly $550 more per month than participants in the usual-care group. In a single year, the income difference for the entire Oxford House sample corresponds to approximately $494,000 in additional production. In 2002, the state of Illinois spent an average of $23,812 per year to incarcerate each drug offender. The lower rate of incarceration among Oxford House versus usual-care participants at 24 months (3% vs. 9%) corresponds to an annual saving of roughly $119,000 for Illinois. Together, the productivity and incarceration benefits yield an estimated $613,000 in savings per year, or an average of $8,173 per Oxford House member.[3]

A cost-benefit analysis regarding residing in Oxford Houses (OH) found:

> While treatment costs were roughly $3,000 higher for the OH group, benefits differed substantially between groups. Relative to usual care, OH enrollees exhibited a mean net benefit of $29,022 per person. The result suggests that the additional costs associated with OH treatment, roughly $3000, are returned nearly tenfold in the form of reduced criminal activity, incarceration, and drug and alcohol use as well as increases in earning from employment… even under the most conservative assumption, we find a

---

[1] *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses,* J Psychoactive Drugs, Jun 2008; 40(2): 153–159, Douglas L. Polcin, Ed.D., MFT and Diane Henderson, B.A.

[2] *Recovery Residence Report*, Department of Children and Families, Office of Substance Abuse and Mental Health, October 1, 2013, available at https://www.google.com/url?q=http://www.dcf.state.fl.us/programs/samh/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf&sa=U&ei=Z6MkU4-nEZCqkAeFnIHoAg&ved=0CAYQFjAA&client=internal-uds-cse&usg=AFQjCNGWYVuZhTcEpRYTnWNvtqqVM3WoDg (last visited on March 15, 2014). A commonly expressed theme has been that the number is currently unknown, given that the operation of a recovery residence has not come under the purview of a regulatory entity.

[3] L. Jason, B. Olson, J., Ferrari, and A. Lo Sasso, *Communal Housing Settings Enhance Substance Abuse Recovery,* 96 American Journal of Public Health (10), (2006), at 1727-1729.

statistically significant and economically meaningful net benefit to Oxford House of $17,800 per enrollee over two years.[4]

Additionally, a study in California which focused on recovery residences in Sacramento County and Berkeley found:

- Residents at six months were sixteen times more likely to report being abstinent;
- Residents at twelve months were fifteen times more likely to report being abstinent; and
- Residents at eighteen months were six times more likely to report being abstinent.[5]

In 2013, the Department of Children and Families (DCF) conducted a study of recovery residences in Florida.[6] DCF sought public comment relating to community concern for recovery residences. Three common concerns were the safety of the residents, safety of the neighborhoods and lack of governmental oversight.[7]

Participants at public meetings raised the following concerns:

- Residents being evicted with little or no notice;
- Drug testing might be a necessary part of compliance monitoring;
- Unscrupulous landlords, including an alleged sexual offender who was running a woman's program;
- A recovery residence owned by a bar owner and attached to the bar;
- Residents dying in recovery residences;
- Lack of regulation and harm to neighborhoods;
- Whether state agencies have the resources to enforce regulations and adequately regulate these homes;
- Land use problems, and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking;
- Mismanagement of resident moneys or medication;
- Treatment providers that will refer people to any recovery residence;
- Lack of security at recovery residences and abuse of residents;
- The need for background checks of recovery residence staff;
- The number of residents living in some recovery residences and the living conditions in these recovery residences;
- Activities going on in recovery residences that require adherence to medical standards and that treatment services may be provided to clients in recovery residences. This included acupuncture and urine tests;
- Houses being advertised as treatment facilities and marketed as the entry point for treatment rather than as a supportive service for individuals who are exiting treatment;
- False advertising;
- Medical tourism;

---

[4] A. Lo Sasso, E. Byro, L. Jason, J. Ferrari, and B. Olson, *Benefits and Costs Associated with Mutual-Help Community-Based Recovery Homes: The Oxford House Model*, 35 Evaluation and Program Planning (1), (2012).
[5] D. Polcin, R. Korcha, J. Bond, and G. Galloway, *Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcome,* 38 Journal of Substance Abuse Treatment, 356-365 (2010).
[6] Ch. 2013-040, L.O.F. The 2013-2014 General Appropriations Act directed DCF to determine whether to establish a licensure/registration process for recovery residences and to provide the Governor and Legislature with a report on its findings. In its report, DCF was required to identify the number of recovery residences operating in Florida, identify benefits and concerns in connection with the operation of recovery residences, and the impact of recovery residences on effective treatment of alcoholism and on recovery residence residents and surrounding neighborhoods. DCF was also required to include the feasibility, cost, and consequences of licensing, regulating, registering, or certifying recovery residences and their operators. DCF submitted its report to the Governor and Legislature on October 1, 2013.
[7] *Recovery Residence Report, supra* footnote 4.

- Insurance fraud, through unnecessary medical tests;
- Lack of uniformity in standards; and
- Patient brokering, in violation of Florida Statutes.[8]

In September and December 2014, federal and state law enforcement agencies conducted raids on recovery residences located in West Palm Beach and Delray Beach. These investigations are on-going.

Federal Law

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities.[9] The ADA requires broad interpretation of the term "disability" so as to include as many individuals as possible under the definition.[10] The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities.[11] Disability also includes individuals who have a record of such impairment, or are regarded as having such impairment.[12] The phrase "physical or mental impairment" includes, among others[13], drug addiction and alcoholism.[14] However, this only applies to individuals in recovery as ADA protections are not extended to individuals who are actively abusing substances.[15]

Fair Housing Amendment Act

The Fair Housing Amendment Acts of 1988 (FHA) prohibits housing discrimination based upon an individual's handicap.[16] A person is considered to have a handicap if he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities.[17] This includes individuals who have a record of such impairment, or are regarded as having such impairment.[18] Drug or alcohol addiction are considered to be handicaps under the FHA.[19] However, current users of illegal controlled substances and persons convicted for illegal manufacture or distribution of a controlled substance are not considered handicapped under the FHA.

Case Law

An individual in recovery from a drug addiction or alcoholism is protected from discrimination under the ADA and FHA. Based on this protected class status, federal courts have held that mandatory conditions placed on housing for people in recovery from either state or sub-state entities, such as

[8] Id.
[9] 42 U.S.C. s. 12101. This includes prohibition against discrimination in employment, State and local government services, public accommodations, commercial facilities, and transportation. U.S. Department of Justice, *Information and Technical Assistance on the Americans with Disabilities Act*, available at http://www.ada.gov/2010_regs.htm (last visited March 14, 2014).
[10] 42 U.S.C. s. 12102.
[11] Id.
[12] Id.
[13] 28 C.F.R. s. 35.104(4)(1)(B)(ii). The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic) and tuberculosis.
[14] 28 C.F.R. s. 35.104(4)(1)(B)(ii).
[15] 28 C.F.R. s. 35.131.
[16] 42 U.S.C. § 3604. Similar protections are also afforded under the Florida Fair Housing Act, s. 760.23, F.S., which 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. The statute provides that "discrimination" is defined to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
[17] 42 U.S.C. § 3602(h).
[18] Id.
[19] *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1182 (E.D.N.Y. 1993).

ordinances, licenses or conditional use permits, are overbroad in application and result in violations of the FHA and ADA.[20] Additionally, regulations which require registry of housing for protected classes, including recovery residences, have been invalidated by federal courts.[21] Further, federal courts have enjoined state action that is predicated on discriminatory local government decisions.[22]

State and local governments have the authority to enact regulations, including housing restrictions, which serve to protect the health and safety of the community.[23] However, this authority may not be used as a guise to impose additional restrictions on protected classes under the FHA.[24] Further, these regulations must not single out housing for disabled individuals and place requirements which are different and unique from the requirements for housing for the general population.[25] Instead, the FHA and ADA require that a reasonable accommodation be made when necessary to allow a person with a

---

[20] *Recovery Residence Report*, *supra* footnote 4. *Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339, (Court invalidated local zoning and density restrictions as being discriminatory to individuals in recovery); *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179 (Court held that city singled out plaintiffs for zoning enforcement and inspections, on the basis of disability, plaintiff demonstrated city was ignoring zoning violations from people without disabilities); *Marbrunak v. City of Stow, OH.,* 947 F. 2d 43, (6th Cir. 1992) (Court held conditional use permit requiring health and safety protections was an onerous burden); *U.S. v. City of Baltimore, MD,* 845 F. Supp. 2d. 640 (D. Md. 2012) (Court held that conditional ordinance was overbroad and discriminatory); *Children's Alliance v. City of Bellevue*, 950 F. Supp. 1491, (W.D. Wash. 1997) (Court held zoning scheme establishing classes of facilities was overbroad, and created an undue burden on a protected class); *Oxford House-Evergreen,* 769 F. Supp. 1329, (Court held that refusal to issue permit was based on opposition of neighbors, not on protection of health and safety as claimed); *Potomac Group Home, Inc.,* 823 F. Supp. 1285, (Court held that county requirement for evaluation of program offered at facility at public board. At review board, decisions were based on non-programmatic factors, such as neighbor concerns. Further to this, the court held that the requirement to notify neighboring property and enumerated civic organizations violated the FHA).

[21] *Recovery Residence Report, supra* footnote 4. *Nevada Fair Housing Center, Inc., v. Clark County, et. al.,* 565 F. Supp. 2d 1178, (D. Nev. 2008) (Invalidating state statute requiring Nevada State Health Department to operate a registry of group homes); *See, Human Resource Research and Management Group,* 687 F. Supp. 2d 237, (Court held that defendant-city failed to show that the requirement of registration, inspection and background checks was narrowly tailored to support a legitimate government interest); *Community Housing Trust et. al., v. Department of Consumer and Regulatory Affairs et. al.,* 257 F. Supp. 2d 208, (D.C. Cir. 2003) (Court held that the zoning administrators classification of plaintiff-facility, requiring a certificate of occupancy rose to discriminatory practice under FHA). *See*, e.g., *City of Edmonds v. Oxford House et. al.,* 574 U.S. 725 (1995) (City's restriction on composition of family violated FHAA); *Safe Haven Sober Houses LLC, et. al., v. City of Boston, et. al.,* 517 F. Supp. 2d 557, (D. Mass. 2007); *United States v. City of Chicago Heights*, 161 F. Supp. 2d 819, (N.D. Ill. 2001)(City violated FHA by requiring inspection for protected class housing that was not narrowly tailored to the protection of disabled); *Human Resource Research and Management Group,* 687 F. Supp. 2d 237, (Court held that the city's purported interest in the number of facilities, in relation to the zoning plan, was not a legitimate government interest. Further to this, the court found that there was insufficient evidence to justify action by the city in relation to the protection of this class. The city also failed to justify the requirement for a 24 hour staff member, certified by the New York State Office of Alcoholism and Substance Abuse Services).

[22] *Recovery Residence Report, supra* footnote 4. *See e.g., Larkin v. State of Mich.* 883 F. Supp. 172, (E.D. Mich. 1994), judgment aff'd 89 F. 3 d 285, (6th Cir. 1996) (Court held there was no rational basis for denial of license on the basis of dispersal requirement, and local government's refusal to permit. The court did find, however, that the city was not a party to the lawsuit because the state statute did not mandate a variance); *Arc of New Jersey, Inc., v. State of N.J.* 950 F. Supp. 637, D.N.J. 1996) (Court held that municipal land use law, including conditional use, spacing and ceiling quotas violated FHA); *North Shore-Chicago Rehabilitation Inc. v. Village of Skokie*, 827 F. Supp. 497, (N.D. Ill. 1993) (Court held that municipalities could not rely on the absence of a state licensing scheme to deny an occupancy permit); *Easter Seal Soc. of New Jersey, Inc. v. Township of North Bergen,* 798 F. Supp. 228 (D.N.J. 1992) (Court held that city denial of permit on the basis of failure to obtain state license was due to the city's discriminatory enforcement of zoning enforcement); *Ardmore, Inc. v. City of Akron*, Ohio, 1990 WL 385236 (N.D. Ohio 1990) (Court held granted a preliminary injunction against the enforcement of an ordinance requiring conditional use permit, even though it was applied to everyone, because Congress intended to protect the rights of disabled individuals to obtain housing).

[23] 42 U.S.C. s. 3604(f)(9).

[24] *Recovery Residence Report, supra* footnote 4. *Bangerter v. Orem City Corp.,* 46 F.3d 1491, (10th Cir. 1995) (Any requirements placed on housing for a protected class based on the protection of the class must be tailored to needs or abilities associated with particular kinds of disabilities, and must have a necessary correlation to the actual abilities of the persons upon whom they are imposed); *Association for Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth,* 876 F. Supp. 614, (D.N.J. 1994) (Court held state and local governments have the authority to protect safety and health, but that authority may be used to restrict the ability of protected classes to live in the community); *Pulcinella v. Ridley Tp.*, 822 F. Supp. 204,822 F. Supp. 204, (Special conditions may not be imposed under the pretext of health and safety concerns).

[25] *Bangerter v. Orem City Corp.,* 46 F.3d 1491, (10th Cir. 1995) (Invalidating and act and ordinance that facially singles out the handicapped, and applies different and unique rules to them); *Human Resource Research and Management Group, Inc. v. County of Suffolk*, 687 F. Supp. 2d 237 (E.D. N.Y. 2010), (It is undisputed that [the ordinance] is discriminatory on its face, in that it imposes restrictions and limitations solely upon a class of disabled individuals); *Potomac Group Home Corp. v. Montgomery County*, *Md.*, 823 F. Supp. 1285,, (No other county law or regulation imposed any similar requirement on a residence to be occupied by adult persons who do not have disabilities).

qualifying disability equal opportunity to use and enjoy a dwelling.[26] 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.[27]

Effect of Proposed Changes

CS/CS/HB 21 establishes voluntary certification programs for recovery residences and recovery residence administrators. The bill prohibits licensed substance providers from referring patients to recovery residences which are not certified or not owned and operated by a licensed substance abuse provider.

Recovery Residences

The bill defines a "recovery residence" as a residential dwelling unit or other form of group housing that is offered or advertised through any form, including oral, written, electronic or printed means, by any person or entity to be a residence that provides a peer-supported, alcohol-free and drug-free living environment. The bill creates s. 397.487, F.S., to establish a voluntary certification of recovery residences program. The bill requires DCF to select a credentialing entity to develop and administer the program, and provides for an initial application and subsequent renewal fee of the recovery residence to the credentialing entity. The bill establishes the criteria DCF is to use when selecting a credentialing entity. The bill requires a recovery residence to provide the following documents to the credentialing entity:

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

The bill requires the credentialing entity to conduct an on-site inspection of the recovery residence prior to the initial certification and then at least once a year for every subsequent renewal period. The bill also requires that the certified recovery residence be actively managed by a certified recovery residence administrator.

[26] *Recovery Residence Report, supra* footnote 4. 42 U.S.C. s. 3604(f)(3)(B); 42 U.S.C. s. 12131, *et. seq.,* 28 C.F.R. s. 35.130(b)(7). To comply with the reasonable accommodation provisions of the ADA, regulations have been promulgated for public entities (defined by 28 C.F.R. s. 35.104). This includes a self-evaluation plan of current policies and procedures and modify as needed (28 C.F.R. s. 35.105). This is subject to the exclusions of 28 C.F.R. s. 35.150. For interpretation by the judiciary, s*ee, Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339, (Court invalidated local ordinance because city failed to make reasonable accommodations for individuals with disabilities); *Oxford House Inc., v. Township of Cherry Hill*, 799 F. Supp. 450, (D.N.J. 1992) (Court held that a reasonable accommodation means changing some rule that is generally applicable to everyone so as to make it less burdensome for a protected class).

[27] *Oconomowoc Residential Programs, Inc., v. City of Milwaukee*, 300 F. 3d 775, (7th Cir. 2002) (Denial for a variance due to purported health and safety concerns for the disabled adults could not be based on blanket stereotypes); *Oxford House- Evergreen v. City of Plainfield,* 769 F. Supp. 1329 (D.N.J. 1991) (Generalized assumptions, subjective fears and speculation are insufficient to prove direct threat to others), *Cason v. Rochester Housing Authority,* 748 F. Supp. 1002, (W.D.N.Y. 1990).

The bill requires that all owners, directors (the chief administrative or executive officer) and chief financial officers of a recovery residence pass a Level 2 background screening, and that the costs associated with such screenings be the responsibility of the individual screened. The bill establishes the requirements for the submission and evaluation of the background screening. The bill requires the credentialing agency to deny certification of a recovery residence if any owner, director, or chief financial officer is disqualified under the Level 2 background screening statute, unless an exemption has been granted by DCF.

The bill authorizes suspension and revocation of the certification if the recovery residence is not in compliance with any provision of this section or has failed to remedy any deficiency identified by the credentialing entity within the time period specified. The bill requires the credentialing entity to revoke the recovery residence's certification if the recovery residence provides false or misleading information to the credentialing entity. The bill requires a certified recovery residence to immediately remove or terminate any owner, director, chief financial officer or administrator who becomes disqualified under the Level 2 background screening statute and notify the credentialing entity within 3 business days of any such removal. The credentialing entity is required to revoke the certification of any recovery residence which fails to meet either of these requirements.

The bill establishes that certification automatically terminates if not renewed within one year of the date of issuance. The bill also creates a first degree misdemeanor for any person or entity who advertises that any recovery residence is a "certified recovery residence," unless that recovery residence has obtained certification under this section.

Recovery Residence Administrators

The bill creates s. 397.4871, F.S., to establish a voluntary certification for recovery residence administrators, the person responsible for the overall management of the recovery residence. The bill requires DCF to select a credentialing entity by December 1, 2015, to develop and administer the program. The bill establishes the criteria DCF is to use when selecting a credentialing entity and creating the certification program, and provides for an initial application and subsequent renewal fee to be paid by the recovery residence to the credentialing entity.

The bill requires that all certified recovery residence administrators pass a Level 2 background screening, and that costs associated with such screenings be the responsibility of the applicant. The bill establishes the requirements for the submission and evaluation of the background screening. The bill requires the credentialing entity to deny certification if an applicant is disqualified under the Level 2 background screening statute, unless an exemption has been granted by DCF.

The bill authorizes suspension and revocation of the certification if the recovery residence administrator fails to adhere to continuing education requirements. The bill requires the credentialing agency to revoke the recovery residence administrator's certification if the recovery residence provides false or misleading information to the credentialing entity. The bill requires a certified recovery residence to immediately remove any recovery residence administrator who becomes disqualified under the Level 2 background screening statute and notify the credentialing entity within 3 business days of any such removal. The recovery residence has 30 days to retain a new certified recovery residence administrator. The credentialing entity is required to revoke the certificate of compliance of any recovery residence which fails to meet any of these requirements.

The bill permits certified recovery residence administrators to actively manage no more than three recovery residence at any given time.

The bill creates a first degree misdemeanor for any person or entity who advertises that he or she is a "certified recovery residence administrator," unless he or she has obtained certification under this section.

Exemption for Disqualifying Offenses

The bill requires a credentialing entity to deny certification if an applicant is disqualified under the Level 2 background screening statute. The bill creates s. 397.4872, F.S., to provide an exemption for disqualifying offenses. The bill authorizes DCF to exempt an individual from disqualifying offenses if it has been at least three years since the individual has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. The exemption is not available to any individual who is a:

- Sexual predator as designated pursuant to s. 775.21, F.S.;
- Career offender pursuant to s. 775.261, F.S.; or
- Sexual offender pursuant to s. 943.0435, F.S., unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354, F.S.

An applicant for an exemption must submit a written request to DCF within 20 days of the denial by the credentialing entity.

Recovery Residence Referrals

The bill amends s. 397.407, F.S., to prohibit, effective July 1, 2016, licensed service providers from referring a current or discharged patient to a recovery residence unless the recovery residence holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator or is owned and operated by a licensed service provider or a licensed service provider's wholly owned subsidiary.

The bill requires credentialing entities to provide a list to DCF no later than April 1, 2016, of all recovery residences or recovery residence administrators which it has certified and hold valid certificates of compliance. DCF in turn must publish these lists on its website. The bill allows a recovery residence or recovery residence administrator to be excluded from the list upon written request to DCF.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

   The bill requires DCF to review results from applicants' Level 2 background screenings, as well as requests for exemption from disqualifying offenses. DCF performs similar reviews for providers of substance abuse services. Given the infrastructure for such reviews is currently part of DCF's prescribed regulatory procedures, the costs of the bill are anticipated to be insignificant and can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill could result in a negative local jail bed impact because it creates a new misdemeanor for any entity or person who advertises as a "certified recovery residence" or "certified recovery residence administrator", respectively, unless the entity or person has obtained certification under the provisions of the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact to the certification boards and recovery residences or administrators is indeterminate as it is dependent upon the number of individuals and entities that elect to participate in the voluntary certification program. Application fees and renewal fees may not exceed $100 for certification of a recovery residence. Recovery residence certification also requires inspection fees which are to be charged at cost. Application fees for a recovery residence administrator cannot exceed $225 and renewal fees cannot exceed $100.

The bill requires fingerprints to be submitted to the FDLE and FBI as part of the required background screening and provides these costs be covered by the prospective employee or volunteer of the credentialing entity (the cost for a Level 2 background screen ranges from $38 to $75 depending upon the selected vendor).[28]

D. FISCAL COMMENTS:

None.

[28] http://www.dcf.state.fl.us/programs/backgroundscreening/map.asp, Department of Children and Families' website, accessed 2/10//2015.