
OLR Bill Analysis

sSB 868

AN ACT CONCERNING REGULATION OF COMMUNITY RESIDENCES.

SUMMARY

This bill specifies that community residences (i.e., certain group homes for adults with disabilities) do not include health care facilities that (1) are private and for-profit or (2) receive no Department of Mental Health and Addition Services (DMHAS) funding. By law, zoning regulations may not treat community residences differently than single-family homes (see BACKGROUND).

The bill defines “health care facilities” to include mental health, substance abuse treatment, and other facilities that may require a Certificate of Need (CON), including their parent companies and subsidiaries (see BACKGROUND). In doing so, the bill allows zoning regulations to impose more restrictive requirements on these facilities than they impose on community residences or single-family homes.

By law, any resident of a municipality in which a community or child-care residence is located may petition, with the municipal legislative body’s approval, certain state agencies to revoke the residence’s license (or funding, in the case of community residences) for not operating in compliance with statutes or regulations.

The bill expands this authorization to cover entities that were initially established as a community residence or child-care residential facility, provided the resident’s petition is based on noncompliance with laws applicable at the time of the petition (e.g., entities established as community residences that are health care facilities under the bill, but only if they are noncompliant with relevant health care facility laws or regulations).

EFFECTIVE DATE: October 1, 2021

BACKGROUND

Covered Community-Based Residences

By law, zoning regulations must treat as single-family residences certain community-based residences that house six or fewer individuals, excluding staff; specifically:

1. Department of Children and Families (DCF)-licensed child-care residences for children with mental or physical disabilities;
2. Department of Developmental Services (DDS)-licensed community residences for adults with intellectual disabilities; and
3. Department of Public Health (DPH)-licensed community residences in which adults receive mental health or addiction services paid for or provided by DMHAS.

Zoning regulations must also treat as single-family residences DPH-licensed inpatient hospice facilities that house six or fewer individuals and meet certain requirements (e.g., are managed by a nonprofit and located in a city with more than 100,000 residents and in a zone allowing development on one or more acres). These hospice facilities are not subject to resident petitioning, though.

Residents of municipalities in which residences are located, after receiving approval from the municipal legislative body, may petition the commissioner of (1) DDS to revoke the community residence's license, (2) DCF to revoke a child-care residential facility's license, or (3) DMHAS to withdraw a community residence's funding.

Health Care Facilities and Certificates of Need

Generally, Connecticut law requires health care facilities to apply for a CON from the Office of Health Strategy's Health Systems Planning Unit when they propose to (1) establish a new facility or provide new services, (2) change ownership, (3) purchase or acquire certain equipment, or (4) terminate certain services (CGS § 19a-638).

These health care facilities include mental health and substance abuse

treatment facilities, facilities eligible for reimbursement under Medicare or Medicaid, hospitals, and any other facility that requires a CON, as well as their parent companies, subsidiaries, affiliates, and joint ventures (CGS § 19a-630).

Related State and Federal Laws

Numerous federal laws provide protections for individuals with disabilities that apply regardless of any conflicting state law or municipal regulation, including the Americans with Disabilities Act (ADA), the Fair Housing Act (FHA), and the Rehabilitation Act of 1973.

These laws prohibit municipalities from imposing restrictions or conditions on group housing for persons with disabilities that are not imposed on housing for those without disabilities and require municipalities to make reasonable changes in zoning and other rules to provide equal housing opportunities for people with disabilities.

Under these laws, people with disabilities include people (1) with a mental illness, developmental disability, or physical impairment or (2) recovering from addiction to alcohol or an illegal drug.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 5 (03/31/2021)