

Planning and Development Committee

JOINT FAVORABLE REPORT

Bill No.: SB-868

Title: AN ACT CONCERNING REGULATION OF COMMUNITY RESIDENCES.

Vote Date: 3/31/2021

Vote Action: JOINT FAVORABLE Substitute

PH Date: 2/19/2021

File No.: 532

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SPONSORS OF BILL:

Planning and Development Committee

Sen. Tony Hwang

REASONS FOR BILL:

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.

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 childcare 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).

RESPONSE FROM ADMINISTRATION/AGENCY:

None from Agency or Administration

NATURE AND SOURCES OF SUPPORT:

Rep. Laura Devlin- Rep. Devlin argues that this legislation is necessary in order to combat a growing number of for-profit companies that she argues are abusing loopholes in current state statutes to apply for their residences in communities, all the while profiting from a type of home that is temporary and not long term.

"What these large, for-profit companies are seeking to do is establish lavish and extremely profitable 'residential living centers,' under the guise of group homes. They are not homes and they are not intended to provide long-term housing. In fact, the individuals privileged enough to pay the \$1,000+/day treatment at these facilities leave their homes, go to the treatment facility for several weeks, and then return to their homes to hopefully go on to have productive, substance free lives. To maintain their profits, these companies do not take private insurance, will not be receiving any state funding through DMHAS, and will not accept Medicaid patients. They do not cater to the needs of middle- or lower-class populations – but instead, anything above."

Collin Barron- A Fairfield resident, argues that medical and other for-profit and private companies are coming into communities like Fairfield to apply as a community residence, but then does not establish long-term residence. Mr. Barron says that the legislation clarifies what a "community residence" is defined as in the state, and that DHMAS funding would lead to needed oversight for these residences.

Linda Blackwell- Echoing the sentiments above, Ms. Blackwell adds that "Community Residences are intended to house residents, which are individuals who intend to call the location home. I feel strongly that there needs to be a designated period of time that is considered a residency for good of all involved."

Richard & Kristine Boucher- "SB868 will clarify and reinforce that community residences (group homes) are residential in purpose and not medical or commercial entities which is why they are entitled to the protection of fair housing. They do not require a CON because that is reserved only for facilities that are medical in nature"

Patrick Byrne- Says that commercial zones will disincentivize residents from wanting to continue living in the neighborhood, and that people don't want to live near treatment centers and commercials.

Arlene Carpenter & Gerard Pampalone- Argue that a loophole is being abused by private companies, and that "These corporations misrepresent themselves to local municipalities (as they have in Fairfield) and bypass zoning boards. These are not group homes at all. They are medical treatment facilities with patients who have no vested interest in the community. There is a need for such facilities just not in residential areas under the guise of Community Residences."

Tracey Cirillo- Argues that "Clarification is imperative to prevent predatory developers and corporations from using loopholes in vaguely defined state laws and zoning regulations to establish for profit, short stay, high turnover, commercial medical facilities in residential neighborhoods under the guise of "group homes"

Phyllis Collins- Regarding the medical companies in her community "It is most unlikely that any of them would be considered residents of Fairfield. They would be transient."

Linda Cronin- Argues that this legislation is important in order to clarify misleading or not properly written language regarding residential areas. "SB-868 requires a facility such as a "group HOME" or "community RESIDENCE" to adhere to DHMAS funding regulations. It would NOT require the "group home" or "community residence" to apply to the Office of Health Strategy for a Certificate of Need, as they are residential in nature and NOT a medical facility. However, the "group home" or "community residence" is required to offer Medicaid which necessarily provides equal opportunity."

Richard Cummings- Argues that current language does not meet the original intent of the statute 8-3E, which is that "group homes were meant to :

- 1) subject homes were staffed, operated and owned by local, community based, qualified not for profit organizations,
- 2) for the service of, and benefit to, qualified mentally and physically disabled, and
- 3) for the purpose of providing "permanent"/ long term community housing."

Frances Cunningham- Argues that "The laws need to be clarified in many aspects of their healthcare including but not limited to; monetary gains, misleading promises, misdiagnoses, and over diagnosis."

Numerous Fairfield County residents sent in and signed a letter to the Planning and Development committee that echoed the sentiments above, and emphasized the need for the clarity that the legislation should bring to the term "community residences" in the state of Connecticut:

Lance Delaney
Bridget diBonaventura
Elizabeth Garbutt
Michael Gentile
Anthony F Izzo
Gail Keegan
Sam Kingston
Cynthia S. Kinney
Thomas J Lanese
Pat Leschin
Dawn Llewellyn
Anita Marzell
Barbara Mayer
Katie Montgomery
Robert F. Moriarty

Daniel & Jodie Ortega
Theresa Paniccia
Jason Paul
Alissa, Anthony, Carl and Presley Pavano
Jennifer Schaefer
Lynn Spencer
Bob Tackman
Greg Taylor
Matt and Meghan Tetro
Debra and Carl Thane

Brian Farnen- Former Rep. Farnen argues " If we allow large for-profit corporations to exploit the ambiguity in the statute, we weaken the law and put Group Homes at risk that rightfully deserve these special protections."

Laetita Patino- Representing the Greenfield Hill Village Improvement Society Board, says that allowing business facilities in residential neighborhoods "goes directly against preserving the rural character of Greenfield Hill."

NATURE AND SOURCES OF OPPOSITION:

Ben Shaiken- CT Community Non-Profit Alliance- Is concerned about certain sections of the bill, arguing that "the bill as drafted would create the potential for local zoning boards to broaden their restrictions on non-DMHAS-funded facilities. The language proposed by S.B. 868 would exclude "any facility that receives no funding from the Department of Mental Health and Addiction Services." We are concerned that, if passed as drafted, this language creates a conflict with the current law, summarized above. A local zoning board could interpret that change to allow for the regulation of all non-DMHAS-funded facilities, even though those facilities are covered in subdivisions 1, 2 and 4 of Sec. a of Section 8-3e, and that a court may misinterpret the proponents' intention in the limited revision proposed by S.B. 868 and rule such further exclusion lawful"

Also sharing a concern about the Certificate of Need process, stating " Second, we are concerned about S.B. 868's reliance on the existing nonprofit exemption from the Certificate of Need (CON) process. The bill proposes to exclude any facility required to obtain a CON, regardless of whether or not one is granted by the Office of Health Strategy. Behavioral health facilities are required to obtain a CON, but nonprofits that contract with the State to deliver behavioral health services are exempt from the requirement. However, that exemption is not guaranteed. In fact, as recently as 2016, a Governor-established taskforce evaluating reforming the Certificate of Need process recommended eliminating the nonprofit exemption. Such a change would exclude nonprofit facilities from the protections of Section 8-3e if S.B. 868 passes as drafted."

He also shares his last concern, that such legislation may be unconstitutional, stating " Third and finally, we appreciate the intention of the proponents to protect creation of residential facilities operated by nonprofits, as Sections 8-3e and 8-3f both also include various restrictions on the number of Community Residences that a zoning board may not restrict. However, we believe those siting restrictions and quotas are in violation of Article XXI of the

Connecticut State Constitution and the Federal Fair Housing Act. The legislature could address these concerns by repealing the quotas in 8-3e and 8-3f, bringing state statutes into compliance with state and federal law."

Reported by: Camilo Lemos

Date: 4/22/2021