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2001



HOUSE BILL 01-1053

BY REPRESENTATIVE(S) Fritz, Boyd, Coleman, Jahn, Lee, Mace, Sinclair, Stafford, and Tochtrop;
also SENATOR(S) Hanna.

CONCERNING TECHNICAL CHANGES TO MAKE RESIDENTIAL FACILITY
TERMINOLOGY UNIFORM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-28-115 (2) (a), (2) (b), and (2) (b.5), Colorado Revised Statutes, are amended to read:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (2) (a) The general assembly hereby finds and declares that it is the policy of the state to assist developmentally disabled persons to live in normal residential surroundings. Further, the general assembly declares that the establishment of state-licensed group homes for the exclusive use of developmentally disabled persons, WHICH ARE KNOWN AS COMMUNITY RESIDENTIAL HOMES AS DEFINED IN SECTION 27-10.5-102 (4), C.R.S., is a matter of statewide concern and that a state-licensed group home for eight developmentally disabled persons is a residential use of property for zoning purposes. The phrase "residential use of property for zoning purposes", as used in this subsection (2), includes all forms of

Capital letters indicate new material added to existing statute; dashes through the words indicate deletions from existing statutes and such material not part of act.

residential zoning and specifically, although not exclusively, single-family residential zoning. "Developmentally disabled" in this section means ~~those persons having cerebral palsy, multiple sclerosis, mental retardation, autism, and epilepsy~~ A PERSON WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 27-10.5-102, C.R.S.

(b) (I) ~~As used in this paragraph (b), unless the context otherwise requires:~~

(A) ~~"Nonprofit group home" means a group home for the aged which is owned and operated by a person or organization which is exempt from income taxes pursuant to section 39-22-112, C.R.S.~~

(B) ~~"Owner-occupied group home" means a group home for the aged which is owned and operated by an individual or individuals who actually reside at and maintain their primary place of residence in the group home.~~

(II) The general assembly declares that the establishment of ~~owner-occupied or nonprofit~~ group homes FOR THE AGED for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities and who so elect to live in normal residential surroundings, including single-family residential units. Group homes for the aged shall be distinguished from nursing facilities, as defined in section 26-4-103 (11), C.R.S., and institutions providing life care, as defined in section 12-13-101 (5), C.R.S. Every county having adopted or which shall adopt a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged established under this paragraph (b) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the county.

(b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of persons with mental illness as that term is defined in section 27-10-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4), C.R.S. A group home for persons with mental illness established under this paragraph (b.5) shall not be located

within seven hundred fifty feet of another such group home or of another group home as defined in paragraphs (a) and (b) of this subsection (2), unless otherwise provided for by the county. No person shall be placed in a group home without being screened by either a professional person, as defined in section 27-10-102 (11), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of human services pursuant to section 27-1-103, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, nor shall any person who has been convicted of a felony involving a violent offense be eligible for placement in such group homes. The provisions of this paragraph (b.5) shall be implemented, where appropriate, by the rules of the department of public health and environment concerning residential ~~care~~ TREATMENT facilities for the mentally ill. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

SECTION 2. 31-23-303 (2) (a), (2) (b), and (2) (b.5), Colorado Revised Statutes, are amended to read:

31-23-303. Legislative declaration. (2) (a) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of developmentally disabled persons, WHICH ARE KNOWN AS COMMUNITY RESIDENTIAL HOMES AS DEFINED IN SECTION 27-10.5-102 (4), C.R.S., is a matter of statewide concern and that a state-licensed group home for eight developmentally disabled persons is a residential use of property for zoning purposes. As used in this subsection (2), the phrase "residential use of property for zoning purposes" includes all forms of residential zoning and specifically, although not exclusively, single-family residential zoning. "Developmentally disabled" in this section means ~~those persons having cerebral palsy, multiple sclerosis, mental retardation, autism, and epilepsy~~ A PERSON WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 27-10.5-102, C.R.S.

(b) (I) ~~As used in this paragraph (b), unless the context otherwise requires:~~

~~(A) "Nonprofit group home" means a group home for the aged which is owned and operated by a person or organization which is exempt from income taxes pursuant to section 39-22-112, C.R.S.~~

~~(B) "Owner-occupied group home" means a group home for the aged which is owned and operated by an individual or individuals who actually reside at and maintain their primary place of residence in the group home.~~

(II) The general assembly declares that the establishment of ~~owner-occupied or nonprofit~~ group homes FOR THE AGED for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities, and who so elect, to live in normal residential surroundings, including single-family residential units. Group homes for the aged shall be distinguished from nursing facilities, as defined in section 26-4-103 (11), C.R.S., and institutions providing life care, as defined in section 12-13-101 (5), C.R.S. Every municipality having adopted or which shall adopt a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged established under this paragraph (b) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the municipality. Nothing in this paragraph (b) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes. On April 29, 1976, every person sixty years of age or older who resides in a skilled or intermediate health care facility and who may be transferred or discharged therefrom to a group home for the aged shall not be so discharged or transferred unless he OR SHE has received ninety days' advance written notice thereof or has agreed in writing to the proposed transfer or discharge.

(b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of mentally ill persons as that term is defined in section 27-10-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4). A group home for persons with mental illness established under this paragraph (b.5) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the municipality. No person shall be placed in a group home without being screened by either a professional person, as defined in section 27-10-102 (11), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of human services pursuant to section

27-1-103, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, nor shall any person who has been convicted of a felony involving a violent offense be eligible for placement in such group homes. The provisions of this paragraph (b.5) shall be implemented, where appropriate, by the rules of the department of public health and environment concerning residential ~~care~~ TREATMENT facilities for the mentally ill. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

SECTION 3. 25-27-102 (8), Colorado Revised Statutes, is amended to read:

25-27-102. Definitions. As used in this article, unless the context otherwise requires:

(8) "Personal care boarding home" or "home" means a residential facility that makes available to three or more adults not related to the owner of such facility, either directly or indirectly through a provider agreement, room and board and personal services, protective oversight, and social care due to impaired capacity to live independently, but not to the extent that regular twenty-four-hour medical or nursing care is required. The term "personal care boarding home" does not include a facility holding a current certificate of authority to operate as a life care facility issued pursuant to article 13 of title 12, C.R.S., any facility licensed in this state as a residential care facility for individuals with developmental disabilities, ~~any facility licensed in this state as a residential care facility for the mentally ill,~~ or any individual residential support services which are excluded from licensure requirements pursuant to regulations adopted by the department of public health and environment.

SECTION 4. 27-10.5-102 (4), Colorado Revised Statutes, is amended to read:

27-10.5-102. Definitions. As used in this article, unless the context otherwise requires:

(4) "Community residential home" means a group living situation accommodating at least four but no more than eight persons, licensed by the state, where services and supports are provided to persons with

developmental disabilities. "~~Community residential home~~" is synonymous with ~~group home or community-based residential facility~~ as referenced in titles 25, 26, and 30, C.R.S.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Stan Matsunaka
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO