

CHAPTER 2010-193

Senate Bill No. 1166

An act relating to community residential homes; amending s. 393.501, F.S.; prohibiting certain rules adopted by the Agency for Persons with Disabilities from restricting the number of facilities designated as community residential homes located within a planned residential community; amending s. 393.18, F.S.; authorizing the agency to issue a license as a comprehensive transitional education program to serve children who have severe behavioral conditions; amending s. 419.001, F.S.; defining the term “planned residential community”; providing that a planned residential community may not be located within a certain distance from another planned residential community; providing that community residential homes located within a planned residential community may be contiguous to one another; providing an effective date.

WHEREAS, individuals who have development disabilities have the same rights and freedoms as every other citizen in the United States, and

WHEREAS, the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, found that individuals who have developmental disabilities and their families are the primary decision-makers regarding the services and supports such individuals and their families receive, including choosing where the individuals live, and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families, and

WHEREAS, individuals who have developmental disabilities should be able to select a home with the same freedom of choice as other United States citizens, and

WHEREAS, such selection should have no bearing on eligibility for services or supports that an individual may otherwise be entitled to receive, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 393.501, Florida Statutes, is amended to read:

393.501 Rulemaking.—

(2) Such rules must ~~shall~~ address the number of facilities on a single lot or on adjacent lots, except that there is no restriction on the number of facilities designated as community residential homes located within a planned residential community as those terms are defined in s. 419.001(1). In adopting rules, an alternative living center and an independent living education center, as described in s. 393.18, are ~~shall~~ be subject to

~~the provisions of s. 419.001, except that such centers are shall be exempt from the 1,000-foot-radius requirement of s. 419.001(2) if:~~

- (a) The centers are located on a site zoned in a manner that permits all the components of a comprehensive transitional education center to be located on the site; or
- (b) There are no more than three such centers within a radius of 1,000 feet.

Section 2. Subsection (5) of section 393.18, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

393.18 Comprehensive transitional education program.—A comprehensive transitional education program is a group of jointly operating centers or units, the collective purpose of which is to provide a sequential series of educational care, training, treatment, habilitation, and rehabilitation services to persons who have developmental disabilities and who have severe or moderate maladaptive behaviors. However, this section does not require such programs to provide services only to persons with developmental disabilities. All such services shall be temporary in nature and delivered in a structured residential setting, having the primary goal of incorporating the principle of self-determination in establishing permanent residence for persons with maladaptive behaviors in facilities that are not associated with the comprehensive transitional education program. The staff shall include behavior analysts and teachers, as appropriate, who shall be available to provide services in each component center or unit of the program. A behavior analyst must be certified pursuant to s. 393.17.

~~(5) This section shall authorize~~ Licensure is authorized for comprehensive transitional education programs which by July 1, 1989:

- (a) Were in actual operation; or
- (b) Owned a fee simple interest in real property for which a county or city government has approved zoning allowing for the placement of the facilities described in this subsection, and have registered an intent with the agency to operate a comprehensive transitional education program. However, nothing prohibits shall prohibit the assignment by such a registrant to another entity at a different site within the state, ~~if so long as~~ there is compliance with the all criteria of this program and local zoning requirements and ~~provided that~~ each residential facility within the component centers or units of the program authorized under this paragraph does not exceed a capacity of 15 persons.

(6) Notwithstanding subsection (5), in order to maximize federal revenues and provide for children needing special behavioral services, the agency may authorize the licensure of a facility that:

- (a) Provides residential services for children who have developmental disabilities along with intensive behavioral problems as defined by the agency; and

(b) As of July 1, 2010, serve children who were served by the child welfare system and who have an open case in the automated child welfare system of the Department of Children and Family Services.

The facility must be in compliance with all program criteria and local zoning requirements and may not exceed a capacity of 15 children.

Section 3. Subsection (1) of section 419.001, Florida Statutes, is amended, present subsections (4) through (11) of that section are redesignated as subsections (5) through (12), respectively, and a new subsection (4) is added to that section, to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term following definitions shall apply:

(a) “Community residential home” means a dwelling unit licensed to serve residents, ~~as defined in paragraph (d),~~ who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or a dwelling unit licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(b) “Licensing entity” or “licensing entities” means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Family Services, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents, ~~as defined in paragraph (d).~~

(c) “Local government” means a county as set forth in chapter 7 or a municipality incorporated under the provisions of chapter 165.

(d) “Planned residential community” means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. 393.063 but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents’ freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(e)(d) "Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a handicap physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person who has a developmental disability as defined in s. 393.063; a nondangerous mentally ill person who has a mental illness as defined in s. 394.455(18); or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

(f)(e) "Sponsoring agency" means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

(4) Community residential homes, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential community are not subject to the proximity requirements of this section and may be contiguous to each other. A planned residential community must comply with the applicable local government's land development code and other local ordinances. A local government may not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.

Section 4. This act shall take effect July 1, 2010.

Approved by the Governor June 3, 2010.

Filed in Office Secretary of State June 3, 2010.