

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children and Families Committee

BILL: CS/SB 618

SPONSOR: Children and Families Committee and Senator Garcia

SUBJECT: Community Residential Homes

DATE: March 29, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>HA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute for Senate Bill 618 revises the definition of “community residential home” to specify that the home serves as a dwelling for residents who are the clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, and the Department of Juvenile Justice, as well as the Department of Children and Family Services (DCF), or a dwelling unit licensed by the Agency for Health Care Administration.

The sponsoring agency of a proposed home for six or fewer residents is required to provide to local government, prior to occupancy, the most recently published compiled data that identifies all community residential homes in the county in which the proposed site is to be located.

The committee substitute directs the licensing entity, rather than the district administrator of DCF, to perform certain actions relating to the establishment of community residential homes. The licensing entity is prohibited from issuing a license to a sponsoring agency if that agency has failed to provide the appropriate notifications to local government.

Upon approval, this bill becomes effective July 1, 2005.

This bill amends section 419.001 of the Florida Statutes.

II. Present Situation:

Section 419.001, F.S., specifies the site selection requirements for community residential homes. Section 419.001(1)(a), F.S., defines “community residential home” as a dwelling unit licensed to serve clients of the Department of Children and Family Services, which provides a living environment for seven 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.

The term “resident” is defined under s. 419.001(1)(d), F.S., to mean any of the following:

- A frail elder pursuant to s. 400.618, F.S., which includes a functionally impaired person who is over the age of 60 who has physical and mental limitations that restricts the ability of that person to live independently and perform normal activities of daily living;
- A physically disabled or handicapped person pursuant to s. 760.22(7)(a), F.S., which includes a person who has physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment;
- A developmentally disabled person pursuant to s. 393.063, F.S., which includes a person with a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spinal bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely;
- A nondangerous mentally ill person pursuant to s. 394.455(18), F.S., which includes an impairment of the mental or emotional processes that exercise conscious control of one’s action or of the ability to perceive or understand reality, which impairment substantially interferes with a person’s ability to meet the ordinary demands of living, regardless of etiology; or
- A child pursuant to s. 39.01(14), F.S., who is found to be dependent by the court and a child in need of services pursuant to s.984.03 (9) or (12), or s. 985.03(8), F.S.

This section further provides that when a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily use, the agency shall notify the Chief Executive Officer of the local government in writing. The local government then has up to 60 days to respond and if no response is given within 60 days, the sponsoring agency may establish the home at the site in question. Currently, homes with six or fewer residents shall be deemed a single family unit without approval by the local government, provided that the home does not exist in a 1,000 feet radius of another six or fewer residential home.

Chapter 760, Part II, F.S., also known as the “Fair Housing Act” provides that it is the policy of this state to provide, within constitutional limitations, for fair housing throughout the state. This chapter further specifies that it is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling because of race, color, national origin, sex, handicap, familial status, or religion or an intention to make any such preference, limitation, or discrimination.

A number of the provisions reflected in s. 419.001, F.S., are outdated and do not reflect systemic changes that moved certain client service functions from the Department of Children and Families.

- Community residential homes currently serve the clients of a number of different agencies, in addition to those of DCF. These agencies include the Department of Elder

- Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, and the Agency for Health Care Administration.
- The department is required to notify local government at the time of occupancy that the home is licensed by the department. Further, the district administrator is directed to provide a statement indicating the need for and the licensing status of the proposed community residential home as well as to provide recently published data that is compiled and identifies all community residential homes in the district.
 - A District Community Residential Home Coordinator is currently located in each DCF district and has responsibilities to carry out certain provisions of ch. 419, F.S. However, these persons only perform functions related to community residential homes serving clients of DCF.

The provisions of ch. 419, F.S., are being carried out by the respective agencies differently depending upon the type of residents who are to live in the proposed community residential home. All of the requirements specified by ch. 419, F.S., can no longer be performed by DCF.

III. Effect of Proposed Changes:

Section 1.

The committee substitute for Senate Bill 618 revises the definition of “community residential home” to specify that the home serves as a dwelling for residents as defined in paragraph (c) who are the clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, and the Department of Juvenile Justice, as well as the Department of Children and Family Services, or a dwelling unit licensed by the Agency for Health Care Administration. The list of residents in paragraph (c) has not been changed by this bill.

This committee substitute requires the sponsoring agency of a proposed home for six or fewer residents to provide to local government, prior to occupancy, the most recently published compiled data that identifies all community residential homes in the county in which the proposed site is to be located in order to show that there is no other community residential home located within a radius of 1,000 feet of the proposed home. At the point of occupancy, the sponsoring agency must notify the local government that the home is licensed.

The bill makes the licensing entity, rather than the district administrator of DCF, responsible for certain actions. These actions include providing a statement indicating the need for and other licensing information pertaining to the proposed home and providing to the local government the most recently published compiled data that identifies all community residential homes in the county. The licensing entity is prohibited from issuing a license to a sponsoring agency if that agency has failed to provide the appropriate notifications to local government.

The provisions of this bill update ch. 419, F.S., to reflect legislative changes that have been made regarding the responsibilities for client services that are held by specified state agencies.

Since there is no one central licensing agency for all community residential homes, there is the potential that residential community homes could be located in the same area without the

knowledge of the respective licensing entities. The changes proposed by PCS/SB 618 will help to avoid this problem by requiring the sponsoring agency to provide the most current published list of all community residential homes in the area to the local government.

Section 2.

Provides an effective date of July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The implementation of this bill may result in claims of discrimination by the classes of persons included in the definition of "resident." [s. 419.001(d), F.S.]

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be a fiscal impact on the respective agencies which are required by this bill to maintain a comprehensive list of community residential homes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 1989, HB 1269 (Chapter 89-372 L.O.F.) established the framework for what is currently s. 419.001, F.S. These provisions followed a deinstitutionalization model to encourage the

placement of persons with special needs in the least restrictive setting available and to place such individuals in community residential homes whenever possible. This change afforded the opportunity for Florida's disabled citizens to live as all other residents of the state.

Individuals with disabilities are protected from discrimination in buying and renting housing facilities by federal and state regulations. The Americans with Disabilities Act requires that reasonable accommodations be made for persons with disabilities to allow them access to the same facilities as other Americans, including housing. Additionally, the Fair Housing Amendments Act of 1988 added individuals with disabilities to the class of individuals protected from discrimination in housing.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
