

STATE OF NEW YORK

8132

IN SENATE

January 25, 2022

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to establishing community residences for victims of domestic violence and their family or household members

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The social services law is amended by adding a new section
2 459-i to read as follows:

3 § 459-i. Community residences for victims of domestic violence. 1. For
4 the purposes of this section, the following terms shall have the follow-
5 ing meanings:

6 (a) "Community residential facility for victims of domestic violence"
7 means a supportive living facility with four to fourteen residents or a
8 supervised living facility subject to licensure by the office for the
9 prevention of domestic violence which provides a residence for up to
10 fourteen individuals who are a victim of domestic violence and their
11 family or household members.

12 (b) "Sponsoring agency" means an agency or unit of government, a
13 voluntary agency or any other person or organization which intends to
14 establish or operate a community residential facility for victims of
15 domestic violence and their family or household members.

16 (c) "Municipality" means an incorporated village if a facility is to
17 be located therein, a town if the facility is to be located therein and
18 not simultaneously within an incorporated village, or a city, except
19 that in the city of New York, the community board with jurisdiction over
20 the area in which such a facility is to be located shall be considered
21 the municipality.

22 (d) "Commissioner" means the commissioner of the office of the depart-
23 ment responsible for issuance of license and operating certificate to
24 the proposed community residential facility.

25 2. The commissioner shall have the power to operate or cause to be
26 operated community residential facilities for victims of domestic
27 violence and their family or household members. Within amounts available

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 therefor and subject to regulations established by him or her and
2 notwithstanding any other provisions of this article, he or she may
3 provide state aid to local governments and to voluntary agencies (i) in
4 an amount not to exceed fifty percent for acquisition or construction of
5 such community residences, and (ii) in an amount not to exceed fifty
6 percent for the total operating costs of community residences except
7 community residences for victims of domestic violence. Such state aid to
8 voluntary agencies shall not be granted unless there has been prior
9 approval of the proposed community residence by the local governmental
10 unit.

11 3. If a sponsoring agency intends to establish a residential facility
12 for victims of domestic violence within a municipality but does not have
13 a specific site selected, it may notify the chief executive officer of
14 the municipality in writing of its intentions and include in such notice
15 a description of the nature, size and community support requirements of
16 the program. Provided, however, nothing in this subdivision shall
17 preclude the proposed establishment of a site pursuant to subdivision
18 four of this section.

19 4. (a) When a site has been selected by the sponsoring agency, it
20 shall notify the chief executive officer of the municipality in writing
21 and include in such notice the specific address of the site, the type of
22 community residence, the number of residents and the community support
23 requirements of the program. Such notice shall also contain the most
24 recently published data compiled pursuant to section four hundred
25 sixty-three-a of this chapter which can reasonably be expected to permit
26 the municipality to evaluate all such facilities affecting the nature
27 and character of the area wherein such proposed facility is to be
28 located. The municipality shall have forty days after the receipt of
29 such notice to:

30 (i) approve the site recommended by the sponsoring agency;
31 (ii) suggest one or more suitable sites within its jurisdiction which
32 could accommodate such a facility; or

33 (iii) object to the establishment of a facility of the kind described
34 by the sponsoring agency because to do so would result in such a concen-
35 tration of community residential facilities for victims of domestic
36 violence in the municipality or in the area in proximity to the site
37 selected or a combination of such facilities with other community resi-
38 dences or similar facilities licensed by other agencies of state govern-
39 ment, including all community residences, intermediate care facilities,
40 residential care facilities for adults and residential treatment facili-
41 ties for individuals with mental illness or developmental disabilities
42 operated pursuant to article sixteen or article thirty-one of the mental
43 hygiene law and all similar residential facilities of fourteen or less
44 residents operated or licensed by another state agency, that the nature
45 and character of the areas within the municipality would be substantial-
46 ly altered.

47 (b) Such response shall be forwarded to the sponsoring agency and the
48 commissioner. If the municipality does not respond within forty days,
49 the sponsoring agency may establish a community residence at a site
50 recommended in its notice.

51 (c) Prior to forwarding a response to the sponsoring agency and the
52 commissioner, the municipality may hold a public hearing pursuant to
53 local law.

54 (d) If the municipality approves the site recommended by the sponsor-
55 ing agency, the sponsoring agency shall seek to establish the facility
56 at the approved site.

1 (e) (i) If the site or sites suggested by the municipality are satis-
2 factory with regard to the nature, size and community support require-
3 ments of the program of the proposed facility and the area in which such
4 site or sites are located does not already include an excessive number
5 of community residential facilities for victims of domestic violence or
6 similar facilities licensed by other state agencies, the sponsoring
7 agency shall seek to establish its facility at one of the sites desig-
8 nated by the municipality.

9 (ii) If the municipality suggests a site or sites which are not satis-
10 factory to the sponsoring agency, the agency shall so notify the munici-
11 pality which shall have fifteen days to suggest an alternative site or
12 sites for the proposed community residential facility.

13 (f) (i) In the event the municipality objects to the establishment of
14 a facility in the municipality because to do so would result in such a
15 concentration of community residential facilities for victims of domes-
16 tic violence or a combination of such facilities and other facilities
17 licensed by other state agencies that the nature and character of areas
18 within the municipality would be substantially altered; or the sponsor-
19 ing agency objects to the establishment of a facility in the area or
20 areas suggested by the municipality; or in the event that the munici-
21 pality and sponsoring agency cannot agree upon a site, either the spon-
22 soring agency or the municipality may request an immediate hearing
23 before the commissioner to resolve the issue. The commissioner shall
24 personally or by a hearing officer conduct such a hearing within fifteen
25 days of such a request.

26 (ii) In reviewing any such objections, the need for such facilities in
27 the municipality shall be considered as shall the existing concentration
28 of such facilities and other similar facilities licensed by other state
29 agencies in the municipality or in the area in proximity to the site
30 selected and any other facilities in the municipality or in the area in
31 proximity to the site selected providing residential services to a
32 significant number of persons who are victims of domestic violence. The
33 commissioner shall sustain the objection if he or she determines that
34 the nature and character of the area in which the facility is to be
35 based would be substantially altered as a result of the establishment of
36 the facility. The commissioner shall make a determination within thirty
37 days of the hearing.

38 5. Review of a decision rendered by the commissioner pursuant to this
39 section may be had in a proceeding pursuant to article seventy-eight of
40 the civil practice law and rules commenced within thirty days of the
41 determination of the commissioner.

42 6. (a) A licensing authority shall not issue an operating certificate
43 to a sponsoring agency for operation of a facility if the sponsoring
44 agency does not notify the municipality of its intention to establish a
45 program as required by subdivision four of this section. Any operating
46 certificate issued without compliance with the provisions of this
47 section shall be considered null and void and continued operation of the
48 facility may be enjoined.

49 (b) The office for the prevention of domestic violence shall not issue
50 an operating certificate for the operation of a supportive living facil-
51 ity or a supervised living facility of more than fourteen residents if
52 the agency or unit of government, voluntary agency or any other person
53 or organization which intends to establish or operate such a facility
54 does not notify the chief executive officer of the municipality in which
55 that facility is to be established in writing of the intention to estab-
56 lish such facility and include in such notice the specific address of

1 the site, the type of residence, the number of residents and the commu-
2 nity support requirements of the program; provided, however, that noth-
3 ing contained in this paragraph shall either be construed to require
4 facilities of more than fourteen beds to meet any other requirements of
5 this section, or to deem such facilities family units for the purposes
6 of local laws and ordinances.

7 7. A community residence established pursuant to this section shall be
8 deemed a family unit, for the purposes of local laws and ordinances.

9 § 2. This act shall take effect on the ninetieth day after it shall
10 have become a law. Effective immediately, the addition, amendment and/or
11 repeal of any rule or regulation necessary for the implementation of
12 this act on its effective date are authorized to be made and completed
13 on or before such effective date.