

STATE OF NEW YORK

4537

2023-2024 Regular Sessions

IN SENATE

February 9, 2023

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.

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

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

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

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

33 (i) approve the site recommended by the sponsoring agency;

34 (ii) suggest one or more suitable sites within its jurisdiction which
35 could accommodate such a facility; or

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

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

54 (c) Prior to forwarding a response to the sponsoring agency and the
55 commissioner, the municipality may hold a public hearing pursuant to
56 local law.

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

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

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

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

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

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

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

52 (b) The office for the prevention of domestic violence shall not issue
53 an operating certificate for the operation of a supportive living facil-
54 ity or a supervised living facility of more than fourteen residents if
55 the agency or unit of government, voluntary agency or any other person
56 or organization which intends to establish or operate such a facility

1 does not notify the chief executive officer of the municipality in which
2 that facility is to be established in writing of the intention to estab-
3 lish such facility and include in such notice the specific address of
4 the site, the type of residence, the number of residents and the commu-
5 nity support requirements of the program; provided, however, that noth-
6 ing contained in this paragraph shall either be construed to require
7 facilities of more than fourteen beds to meet any other requirements of
8 this section, or to deem such facilities family units for the purposes
9 of local laws and ordinances.

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

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