S T A T E O F N E W Y O R K

6124

2009-2010 Regular Sessions

I N A S S E M B L Y

February 25, 2009

Introduced by M. of A. HOOPER -- read once and referred to the Committee on Mental Health, Mental Retardation and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to procedures in selection of sites for community residential facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 1 of subdivision (c) of section 41.34 of the mental hygiene law, as amended by chapter 1024 of the laws of 1981 and subparagraph (C) as amended by chapter 823 of the laws of 1992, is amended to read as follows:

(1) When a site has been selected by the sponsoring agency, it shall notify the chief executive officer of the municipality in writing and include in such notice the specific address of the site, the type of community residence, the number of residents and the community support requirements of the program. Such notice shall also contain the most recently published data compiled pursuant to section four hundred sixty-three of the social services law which can reasonably be expected to permit the municipality to evaluate all such facilities affecting the nature and character of the area wherein such proposed facility is to be located. The municipality shall have [forty] *SIXTY* days after the receipt of such notice to:

(A) approve the site recommended by the sponsoring agency;

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

(C) object to the establishment of a facility of the kind described by the sponsoring agency because to do so would result in such a concentration of community residential facilities for the mentally disabled in the municipality or in the area in proximity to the site selected or a combination of such facilities with other community residences or similar facilities licensed by other agencies of state government, including all community residences, intermediate care facilities, residential care

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

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facilities for adults and residential treatment facilities for individuals with mental illness or developmental disabilities operated pursuant to article sixteen or article thirty-one of this chapter and all similar residential facilities of fourteen or less residents operated or licensed by another state agency, that the nature and character of the areas within the municipality would be substantially altered.

Such response shall be forwarded to the sponsoring agency and the commissioner. If the municipality does not respond within [forty] SIXTY days, the sponsoring agency may establish a community residence at a site recommended in its notice.

S 2. Paragraph 5 of subdivision (c) of section 41.34 of the mental hygiene law, as amended by chapter 1024 of the laws of 1981, is amended to read as follows:

(5) In the event the municipality objects to establishment of a facility in the municipality because to do so would result in such a concentration of community residential facilities for the mentally disabled or combination of such facilities and other facilities licensed by other state agencies that the nature and character of areas within the municipality would be substantially altered; or the sponsoring agency objects to the establishment of a facility in the area or areas suggested by the municipality; or in the event that the municipality and sponsoring agency cannot agree upon a site, either the sponsoring agency or the municipality may request an immediate hearing before the commissioner to resolve the issue. The commissioner shall personally or by a hearing officer conduct such a hearing within fifteen days of such a request. SUCH HEARING SHALL INCLUDE AN EVALUATION OF AND RECOMMENDATIONS REGARDING EACH ALTERNATIVE SITE SUGGESTED BY THE SPONSORING AGENCY OR MUNICIPALITY.

In reviewing any such objections, the need for such facilities in the municipality shall be considered as shall the existing concentration of such facilities and other similar facilities licensed by other state agencies in the municipality or in the area in proximity to the site selected and any other facilities in the municipality or in the area in proximity to the site selected providing residential services to a significant number of persons who have formerly received in-patient mental health services in facilities of the office of mental health or the office of mental retardation and developmental disabilities. The commissioner shall sustain the objection if he OR SHE determines that the nature and character of the area in which the facility is to be based would be substantially altered as a result of establishment of the facility. The commissioner shall make a determination within thirty days of the hearing.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.