

2007 SENATE BILL 268

September 19, 2007 – Introduced by Senator DARLING, cosponsored by Representatives J. OTT, WASSERMAN, HAHN, A. OTT, FIELDS and STASKUNAS. Referred to Committee on Economic Development, Job Creation, Family Prosperity and Housing.

1 **AN ACT** *to renumber and amend* 48.68 (4) and 50.03 (4) (g); and *to create* 48.66
2 (2r), 48.68 (4) (b), 50.03 (3) (cm), 50.03 (4) (g) 2., 50.032 (1m) (c), 50.032 (1m) (d),
3 50.032 (1m) (e), 50.033 (1m) (c), 50.033 (1m) (d) and 50.033 (1m) (e) of the
4 statutes; **relating to:** community oversight of residential care centers for
5 children and youth, group homes, community-based residential facilities, and
6 adult family homes.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) licenses certain facilities for the care and treatment in the community of certain children and adults. Those facilities include residential care centers for children and youth (residential care centers), which are facilities operated by child welfare agencies for the care of four or more children, group homes, which may provide care for five to eight children, and community-based residential facilities (CBRFs), which may provide care for five or more adults. Under current law, DHFS or a county department of human services, social services, community programs, or developmental disabilities services (county department) also licenses or certifies adult family homes, which may provide care for three or four adults.

Currently, within ten working days after receipt of an application for initial licensure of a residential care center, group home, or CBRF, DHFS must notify the city, town, or village planning commission, or other appropriate city, town, or village

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agency if there is no planning commission, of receipt of the application and request that the planning commission or agency send to DHFS, within 30 days, a description of any specific hazards that may affect the health and safety of the residents of the residential care center, group home, or CBRF. DHFS may not grant a license to a residential care center, group home, or CBRF until the 30-day period has expired or until DHFS receives the response of the planning commission or agency, whichever is sooner. In issuing a license, DHFS must give full consideration to any hazards determined by the planning commission or agency.

Currently, before initial licensure of a residential care center, group home, or CBRF, the applicant for licensure must make a good faith effort to establish a community advisory committee consisting of representatives of the proposed residential care center, group home, or CBRF, the neighborhood in which the proposed residential care center, group home, or CBRF is to be located, and a local governmental unit. A community advisory committee must provide a forum for communication for persons interested in the proposed residential care center, group home, or CBRF and, after licensure, continues in existence to make recommendations regarding the impact of the residential care center, group home, or CBRF on the neighborhood.

This bill requires DHFS or a licensing or certifying county department, within ten working days after receipt of an application for initial licensure or certification of an adult family home, to notify the city, town, or village planning commission, or other appropriate city, town, or village agency if there is no planning commission, of receipt of the application and request that the planning commission or agency send to DHFS or the licensing or certifying county department, within 30 days, a description of any specific hazards that may affect the health and safety of the residents of the adult family home. DHFS or a licensing or certifying county department may not issue a license or certification to an adult family home until the 30-day period has expired or until DHFS or the licensing or certifying county department receives the response of the planning commission or agency, whichever is sooner. In issuing a license or certification, DHFS or a licensing or certifying county department must give full consideration to any hazards determined by the planning commission or agency.

The bill also *requires* an applicant for initial licensure or certification of a residential care center, group home, CBRF, or adult family home (community living arrangement) to establish a community advisory committee, consisting of representatives of the proposed community living arrangement, the neighborhood in which the proposed community living arrangement is to be located, and a local governmental unit, for the purpose of providing a forum for communication for persons interested in the proposed community living arrangement and, after licensure or certification, making recommendations regarding the impact of the community living arrangement on the neighborhood. The bill specifies that the members of the community advisory committee who are representatives of the proposed community living arrangement are appointed by the proposed community living arrangement and that the members of the committee who are representatives of the neighborhood and of the city, village, or town are appointed by the mayor or

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city manager, village president, or town board chairperson or his or her designee. In addition, the bill requires that a majority of the members of a community advisory committee be representatives of the neighborhood and of the city, village, or town.

Moreover, the bill requires a community living arrangement, when it applies for initial licensure or certification, for continuance of a license or certification, or for approval of a change in the client group served, to notify the community advisory committee of submission of the application and to request the community advisory committee to inform DHFS or the licensing or certifying county department, within 30 days after the date of the notice, about any issues that the community advisory committee may have concerning the general operations of the community living arrangement. Under the bill, DHFS or a licensing or certifying county department must consider any issues raised by the community advisory committee and provide a written response to the community advisory committee addressing those issues before issuing or continuing a license or approving a change in client group served and may not issue or continue a license or certification or approve a change in client group served until that 30-day period has expired or until receiving the response of the community advisory committee, whichever is sooner.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.66 (2r) of the statutes is created to read:

2 48.66 (2r) An application for initial licensure of a child welfare agency to
3 operate a residential care center for children and youth or of a group home shall
4 identify the client group to be served. A residential care center for children and youth
5 or group home may not change the client group served unless it notifies the
6 department and the community advisory committee established under s. 48.68 (4)
7 (a) of that change not less than 30 days before the change is implemented and the
8 department, after considering any issues raised by the community advisory
9 committee under s. 48.68 (4) (b), approves that change.

10 **SECTION 2.** 48.68 (4) of the statutes is renumbered 48.68 (4) (a) and amended
11 to read:

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1 48.68 (4) (a) Prior to applying for initial licensure of a residential care center
2 for children and youth operated by a child welfare agency or of a group home, the
3 applicant for licensure shall ~~make a good faith effort to~~ establish a community
4 advisory committee consisting of representatives from the child welfare agency or
5 proposed group home, appointed by the child welfare agency or group home operator,
6 representatives of the neighborhood in which the proposed residential care center for
7 children and youth or group home will be located ~~and a local unit of government~~
8 appointed by the mayor or city manager, village president, or town board chairperson
9 or his or her designee, and representatives of the city, village, or town appointed by
10 the mayor or city manager, village president, or town board chairperson or his or her
11 designee. A majority of the members of the community advisory committee shall be
12 representatives of the neighborhood, and representatives of the city, village, or town,
13 in which the proposed residential care center for children and youth or group home
14 will be located. The community advisory committee shall provide a forum for
15 communication for those persons interested in the proposed residential care center
16 for children and youth or group home. Any committee established under this
17 ~~subsection~~ paragraph shall continue in existence after licensure to make
18 recommendations to the licensee regarding the impact of the residential care center
19 for children and youth or group home on the neighborhood. The department shall
20 determine compliance with this ~~subsection~~ paragraph both prior to and after initial
21 licensure.

22 **SECTION 3.** 48.68 (4) (b) of the statutes is created to read:

23 48.68 (4) (b) At the same time that an application is submitted to the
24 department for initial licensure of a child welfare agency to operate a residential care
25 center for children and youth or of a group home, for continuance of a license to

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1 operate a residential care center for children and youth or group home, or for
2 approval of a proposed change in client group served under s. 48.66 (2r), the applicant
3 shall notify the community advisory committee of submission of the application and
4 shall request the community advisory committee to inform the department, within
5 30 days after the date of the notice, about any issues that the community advisory
6 committee may have concerning the general operations of the residential care center
7 for children and youth or group home. Before issuing or continuing the license or
8 approving the change in client group served, the department shall consider any
9 issues raised by the community advisory committee and to provide a written
10 response to the community advisory committee addressing those issues. No license
11 to operate a residential care center for children and youth or group home may be
12 issued or continued and no change in client group served may be approved until that
13 30-day period has expired or until the department receives the response of the
14 community advisory committee, whichever is sooner.

15 **SECTION 4.** 50.03 (3) (cm) of the statutes is created to read:

16 50.03 (3) (cm) An application for initial licensure of a community-based
17 residential facility shall identify the client group to be served. A community-based
18 residential facility may not change the client group served unless it notifies the
19 department and the community advisory committee established under sub. (4) (g) 1.
20 of that change not less than 30 days before the change is implemented and the
21 department, after considering any issues raised by the community advisory
22 committee under sub. (4) (g) 2., approves that change.

23 **SECTION 5.** 50.03 (4) (g) of the statutes is renumbered 50.03 (4) (g) 1. and
24 amended to read:

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1 50.03 (4) (g) 1. Prior to applying for initial licensure of a community-based
2 residential facility, the applicant for licensure shall ~~make a good faith effort to~~
3 establish a community advisory committee consisting of representatives from the
4 proposed community-based residential facility; appointed by the operator of the
5 community-based residential facility, representatives of the neighborhood in which
6 the proposed community-based residential facility will be located and a local unit of
7 government appointed by the mayor or city manager, village president, or town board
8 chairperson or his or her designee, and representatives of the city, village, or town
9 appointed by the mayor or city manager, village president, or town board chairperson
10 or his or her designee. A majority of the members of the community advisory
11 committee shall be representatives of the neighborhood, and representatives of the
12 city, village, or town, in which the proposed community-based residential facility
13 will be located. The community advisory committee shall provide a forum for
14 communication for those persons interested in the proposed community-based
15 residential facility. Any committee established under this paragraph subdivision
16 shall continue in existence after licensure to make recommendations to the licensee
17 regarding the impact of the community-based residential facility on the
18 neighborhood. The department shall determine compliance with this paragraph
19 subdivision both prior to and after initial licensure.

20 **SECTION 6.** 50.03 (4) (g) 2. of the statutes is created to read:

21 50.03 (4) (g) 2. At the same time that an application is submitted to the
22 department for initial licensure of a community-based residential facility, for
23 continuance of a license to operate a community-based residential facility, or for
24 approval of a proposed change in client group served under sub. (3) (cm), the
25 applicant shall notify the community advisory committee of submission of the

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1 application and shall request the community advisory committee to inform the
2 department, within 30 days after the date of the notice, about any issues that the
3 community advisory committee may have concerning the general operations of the
4 community-based residential facility. Before issuing or continuing the license or
5 approving the change in client group served, the department shall consider any
6 issues raised by the community advisory committee and provide a written response
7 to the community advisory committee addressing those issues. No license to operate
8 a community-based residential facility may be issued or continued and no change
9 in client group served may be approved until that 30-day period has expired or until
10 the department receives the response of the community advisory committee,
11 whichever is sooner.

12 **SECTION 7.** 50.032 (1m) (c) of the statutes is created to read:

13 50.032 **(1m)** (c) An application for initial certification of an adult family home
14 shall identify the client group to be served. An adult family home may not change
15 the client group served unless it notifies the department or certifying county
16 department and the community advisory committee established under par. (e) 1. of
17 that change not less than 30 days before the change is implemented and the
18 department or certifying county department, after considering any issues raised by
19 the community advisory committee under par. (e) 2., approves that change.

20 **SECTION 8.** 50.032 (1m) (d) of the statutes is created to read:

21 50.032 **(1m)** (d) Within 10 working days after receipt of an application for
22 initial certification of an adult family home, the department or certifying county
23 department under par. (b) shall notify the city, town, or village planning commission,
24 or other appropriate city, town, or village agency if there is no planning commission,
25 of receipt of the application. The department or certifying county department shall

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1 request that the planning commission or agency send to the department or certifying
2 county department, within 30 days, a description of any specific hazards that may
3 affect the health and safety of the residents of the adult family home. No certification
4 may be issued to an adult family home until the 30-day period has expired or until
5 the department or certifying county department receives the response of the
6 planning commission or agency, whichever is sooner. In issuing a certification, the
7 department or certifying county department shall give full consideration to any
8 hazards determined by the planning commission or agency.

9 **SECTION 9.** 50.032 (1m) (e) of the statutes is created to read:

10 50.032 **(1m)** (e) 1. Prior to applying for initial certification of an adult family
11 home, the applicant for certification shall establish a community advisory committee
12 consisting of representatives from the proposed adult family home appointed by the
13 operator of the adult family home, representatives of the neighborhood in which the
14 proposed adult family home will be located appointed by the mayor or city manager,
15 village president, or town board chairperson or his or her designee, and
16 representatives of the city, village, or town appointed by the mayor or city manager,
17 village president, or town board chairperson or his or her designee. A majority of the
18 members of the community advisory committee shall be representatives of the
19 neighborhood, and representatives of the city, village, or town, in which the proposed
20 adult family home will be located. The community advisory committee shall provide
21 a forum for communication for those persons interested in the proposed adult family
22 home. Any committee established under this subdivision shall continue in existence
23 after certification to make recommendations to the operator of the adult family home
24 regarding the impact of the adult family home on the neighborhood. The department

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1 or certifying county department under par. (b) shall determine compliance with this
2 subdivision both prior to and after initial certification.

3 2. At the same time that an application is submitted to the department or a
4 certifying county department for initial certification of an adult family home, for
5 continuance of a certification to operate an adult family home, or for approval of a
6 proposed change in client group served under par. (c), the applicant shall notify the
7 community advisory committee of submission of the application and shall request
8 the community advisory committee to inform the department or certifying county
9 department, within 30 days after the date of the notice, about any issues that the
10 community advisory committee may have concerning the general operations of the
11 adult family home. Before issuing or continuing the certification or approving the
12 change in client group served, the department or certifying county department shall
13 consider any issues raised by the community advisory committee and provide a
14 written response to the community advisory committee addressing those issues. No
15 certification to operate an adult family home may be issued or continued and no
16 change in client group served may be approved until that 30-day period has expired
17 or until the department or certifying county department receives the response of the
18 community advisory committee, whichever is sooner.

19 **SECTION 10.** 50.033 (1m) (c) of the statutes is created to read:

20 50.033 (1m) (c) An application for initial licensure of an adult family home shall
21 identify the client group to be served. An adult family home may not change the
22 client group served unless it notifies the department or licensing county department
23 and the community advisory committee established under par. (e) 1. of that change
24 not less than 30 days before the change is implemented and the department or

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1 licensing county department, after considering any issues raised by the community
2 advisory committee under par. (e) 2., approves that change.

3 **SECTION 11.** 50.033 (1m) (d) of the statutes is created to read:

4 50.033 **(1m)** (d) Within 10 working days after receipt of an application for
5 initial licensure of an adult family home, the department or licensing county
6 department under par. (b) shall notify the city, town, or village planning commission,
7 or other appropriate city, town, or village agency if there is no planning commission,
8 of receipt of the application. The department or licensing county department shall
9 request that the planning commission or agency send to the department or licensing
10 county department, within 30 days, a description of any specific hazards that may
11 affect the health and safety of the residents of the adult family home. No license may
12 be issued to an adult family home until the 30-day period has expired or until the
13 department or licensing county department receives the response of the planning
14 commission or agency, whichever is sooner. In issuing a license, the department or
15 licensing county department shall give full consideration to any hazards determined
16 by the planning commission or agency.

17 **SECTION 12.** 50.033 (1m) (e) of the statutes is created to read:

18 50.033 **(1m)** (e) 1. Prior to initial licensure of an adult family home, the
19 applicant for licensure shall establish a community advisory committee consisting
20 of representatives from the proposed adult family home appointed by the operator
21 of the adult family home, representatives of the neighborhood in which the proposed
22 adult family home will be located appointed by the mayor or city manager, village
23 president, or town board chairperson or his or her designee, and representatives of
24 the city, village, or town appointed by the mayor or city manager, village president,
25 or town board chairperson or his or her designee. A majority of the members of the

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1 community advisory committee shall be representatives of the neighborhood, and
2 representatives of the city, village, or town, in which the proposed adult family home
3 will be located. The community advisory committee shall provide a forum for
4 communication for those persons interested in the proposed adult family home. Any
5 committee established under this subdivision shall continue in existence after
6 licensure to make recommendations to the licensee regarding the impact of the adult
7 family home on the neighborhood. The department or licensing county department
8 under par. (b) shall determine compliance with this subdivision both prior to and
9 after initial licensure.

10 2. At the same time that an application is submitted to the department or a
11 licensing county department for initial licensure of an adult family home, for
12 continuance of a license to operate an adult family home, or for approval of a proposed
13 change in client group served under par. (c), the applicant shall notify the community
14 advisory committee of submission of the application and shall request the
15 community advisory committee to inform the department or licensing county
16 department, within 30 days after the date of the notice, about any issues that the
17 community advisory committee may have concerning the general operations of the
18 adult family home. Before issuing or continuing the license or approving the change
19 in client group served, the department or licensing county department shall consider
20 any issues raised by the community advisory committee and provide a written
21 response to the community advisory committee addressing those issues. No license
22 to operate an adult family home may be issued or continued and no change in client
23 group served may be approved until that 30-day period has expired or until the
24 department or licensing county department receives the response of the community
25 advisory committee, whichever is sooner.

SENATE BILL 268**1 SECTION 13. Initial applicability.**

2 (1) COMMUNITY OVERSIGHT OF COMMUNITY LIVING ARRANGEMENTS. This act first
3 applies to applications for initial or continued licensure or certification of, and to
4 applications for approval of a change in the client group served by, a residential care
5 center for children and youth, group home, community-based residential facility, or
6 adult family home received by a county department under section 46.215, 46.22,
7 46.23, 51.42, or 51.437 of the statutes or by the department of health and family
8 services on the effective date of this subsection.

9 (END)