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.

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

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

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

SECTION 2. 48.68 (4) of the statutes is renumbered 48.68 (4) (a) and amended to read:
48.68 (4) (a) Prior to applying for initial licensure of a residential care center for children and youth operated by a child welfare agency or of a group home, the applicant for licensure shall make a good faith effort to establish a community advisory committee consisting of representatives from the child welfare agency or proposed group home, appointed by the child welfare agency or group home operator, representatives of the neighborhood in which the proposed residential care center for children and youth or group home will be located and a local unit of government appointed by the mayor or city manager, village president, or town board chairperson or his or her designee, and representatives of the city, village, or town appointed by the mayor or city manager, village president, or town board chairperson or his or her designee. A majority of the members of the community advisory committee shall be representatives of the neighborhood and representatives of the city, village, or town in which the proposed residential care center for children and youth or group home will be located. The community advisory committee shall provide a forum for communication for those persons interested in the proposed residential care center for children and youth or group home. Any committee established under this subsection paragraph shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the residential care center for children and youth or group home on the neighborhood. The department shall determine compliance with this subsection paragraph both prior to and after initial licensure.

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

48.68 (4) (b) At the same time that an application is submitted to the department for initial licensure of a child welfare agency to operate a residential care center for children and youth or of a group home, for continuance of a license to
operate a residential care center for children and youth or group home, or for approval of a proposed change in client group served under s. 48.66 (2r), the applicant shall notify the community advisory committee of submission of the application and shall request the community advisory committee to inform the 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 residential care center for children and youth or group home. Before issuing or continuing the license or approving the change in client group served, the department shall consider any issues raised by the community advisory committee and to provide a written response to the community advisory committee addressing those issues. No license to operate a residential care center for children and youth or group home may be issued or continued and no change in client group served may be approved until that 30-day period has expired or until the department receives the response of the community advisory committee, whichever is sooner.

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

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

SECTION 5. 50.03 (4) (g) of the statutes is renumbered 50.03 (4) (g) 1. and amended to read:
50.03 (4) (g) 1. Prior to applying for initial licensure of a community-based residential facility, the applicant for licensure shall make a good faith effort to establish a community advisory committee consisting of representatives from the proposed community-based residential facility, appointed by the operator of the community-based residential facility, representatives of the neighborhood in which the proposed community-based residential facility will be located and a local unit of government, appointed by the mayor or city manager, village president, or town board chairperson or his or her designee, and representatives of the city, village, or town appointed by the mayor or city manager, village president, or town board chairperson or his or her designee. A majority of the members of the community advisory committee shall be representatives of the neighborhood, and representatives of the city, village, or town in which the proposed community-based residential facility will be located. The community advisory committee shall provide a forum for communication for those persons interested in the proposed community-based residential facility. Any committee established under this paragraph subdivision shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the community-based residential facility on the neighborhood. The department shall determine compliance with this paragraph subdivision both prior to and after initial licensure.

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

50.03 (4) (g) 2. At the same time that an application is submitted to the department for initial licensure of a community-based residential facility, for continuance of a license to operate a community-based residential facility, or for approval of a proposed change in client group served under sub. (3) (cm), the applicant shall notify the community advisory committee of submission of the
application and shall request the community advisory committee to inform the
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-based residential facility. Before issuing or continuing the license or
approving the change in client group served, the department shall consider any
issues raised by the community advisory committee and provide a written response
to the community advisory committee addressing those issues. No license to operate
a community-based residential facility may be issued or continued and no change
in client group served may be approved until that 30-day period has expired or until
the department receives the response of the community advisory committee,
whichever is sooner.

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

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

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

50.032 (1m) (d) Within 10 working days after receipt of an application for
initial certification of an adult family home, the department or certifying county
department under par. (b) shall 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. The department or certifying county department shall
request that the planning commission or agency send to the department 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. No certification may be issued to an adult family home until the 30-day period has expired or until the department or certifying county department receives the response of the planning commission or agency, whichever is sooner. In issuing a certification, the department or certifying county department shall give full consideration to any hazards determined by the planning commission or agency.

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

50.032 (1m) (e) 1. Prior to applying for initial certification of an adult family home, the applicant for certification shall establish a community advisory committee consisting of representatives from the proposed adult family home appointed by the operator of the adult family home, representatives of the neighborhood in which the proposed adult family home will be located appointed by the mayor or city manager, village president, or town board chairperson or his or her designee, and representatives of the city, village, or town appointed by the mayor or city manager, village president, or town board chairperson or his or her designee. A majority of the members of the community advisory committee shall be representatives of the neighborhood, and representatives of the city, village, or town, in which the proposed adult family home will be located. The community advisory committee shall provide a forum for communication for those persons interested in the proposed adult family home. Any committee established under this subdivision shall continue in existence after certification to make recommendations to the operator of the adult family home regarding the impact of the adult family home on the neighborhood. The department
or certifying county department under par. (b) shall determine compliance with this subdivision both prior to and after initial certification.

2. At the same time that an application is submitted to the department or a certifying county department for initial certification of an adult family home, for continuance of a certification to operate an adult family home, or for approval of a proposed change in client group served under par. (c), the applicant shall notify the community advisory committee of submission of the application and shall request the community advisory committee to inform the department 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 adult family home. Before issuing or continuing the certification or approving the change in client group served, the department or certifying county department shall consider any issues raised by the community advisory committee and provide a written response to the community advisory committee addressing those issues. No certification to operate an adult family home may be issued or continued and no change in client group served may be approved until that 30-day period has expired or until the department or certifying county department receives the response of the community advisory committee, whichever is sooner.

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

50.033 (1m) (c) An application for initial licensure of an adult family home shall identify the client group to be served. An adult family home may not change the client group served unless it notifies the department or licensing county department and the community advisory committee established under par. (e) 1. of that change not less than 30 days before the change is implemented and the department or
licensing county department, after considering any issues raised by the community
advisory committee under par. (e) 2., approves that change.

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

50.033 (1m) (d) Within 10 working days after receipt of an application for
initial licensure of an adult family home, the department or licensing county
department under par. (b) shall 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. The department or licensing county department shall
request that the planning commission or agency send to the department or licensing
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. No license may
be issued to an adult family home until the 30−day period has expired or until the
department or licensing county department receives the response of the planning
commission or agency, whichever is sooner. In issuing a license, the department or
licensing county department shall give full consideration to any hazards determined
by the planning commission or agency.

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

50.033 (1m) (e) 1. Prior to initial licensure of an adult family home, the
applicant for licensure shall establish a community advisory committee consisting
of representatives from the proposed adult family home appointed by the operator
of the adult family home, representatives of the neighborhood in which the proposed
adult family home will be located appointed by the mayor or city manager, village
president, or town board chairperson or his or her designee, and representatives of
the city, village, or town appointed by the mayor or city manager, village president,
or town board chairperson or his or her designee. A majority of the members of the
community advisory committee shall be representatives of the neighborhood, and representatives of the city, village, or town, in which the proposed adult family home will be located. The community advisory committee shall provide a forum for communication for those persons interested in the proposed adult family home. Any committee established under this subdivision shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the adult family home on the neighborhood. The department or licensing county department under par. (b) shall determine compliance with this subdivision both prior to and after initial licensure.

2. At the same time that an application is submitted to the department or a licensing county department for initial licensure of an adult family home, for continuance of a license to operate an adult family home, or for approval of a proposed change in client group served under par. (c), the applicant shall notify the community advisory committee of submission of the application and shall request the community advisory committee to inform the department or licensing 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 adult family home. Before issuing or continuing the license or approving the change in client group served, the department or licensing county department shall consider any issues raised by the community advisory committee and provide a written response to the community advisory committee addressing those issues. No license to operate an adult family home may be issued or continued and no change in client group served may be approved until that 30−day period has expired or until the department or licensing county department receives the response of the community advisory committee, whichever is sooner.
SECTION 13. Initial applicability.

(1) Community oversight of community living arrangements. This act first applies to applications for initial or continued licensure or certification of, and to applications for approval of a change in the client group served by, a residential care center for children and youth, group home, community-based residential facility, or adult family home received by a county department under section 46.215, 46.22, 46.23, 51.42, or 51.437 of the statutes or by the department of health and family services on the effective date of this subsection.

(END)