

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A.B. 395

ASSEMBLY BILL NO. 395—ASSEMBLYMEN OCEGUERA, GIUNCHIGLIANI,  
MCCLAIN, PARKS, FREEMAN, GOLDWATER, KOIVISTO, MANENDO  
AND PRICE

MARCH 16, 2001

JOINT SPONSORS: SENATORS O'DONNELL,  
O'CONNELL, CARE AND TITUS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing authority of city or county to control location of certain residential facilities and changes statutory name of “halfway house for alcohol and drug abusers.” (BDR 22-1118)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to land use planning; revising the provisions governing the authority of a city or county to control the location of certain residential facilities; changing the statutory name of “halfway house for alcohol and drug abusers”; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 278.021 is hereby amended to read as follows:  
2     278.021 1. In any ordinance adopted by a city or county, the  
3     definition of “single-family residence” must include a:  
4     (a) Residential facility for groups in which 10 or fewer unrelated  
5     persons with disabilities reside with:  
6     (1) House parents or guardians who need not be related to any of the  
7     persons with disabilities; and  
8     (2) If applicable, additional persons who are related to the house  
9     parents or guardians within the third degree of consanguinity or affinity.  
10    (b) Home for individual residential care.  
11    (c) *Halfway house for recovering alcohol and drug abusers.*  
12    2. The provisions of subsection 1 do not prohibit a definition of  
13    “single-family residence” which permits more persons to reside in ~~the~~  
14    ~~house,~~ *a residential facility for groups*, nor does it prohibit regulation of



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1 homes which are operated on a commercial basis. For the purposes of this  
2 subsection, a residential facility for groups , *a halfway house for*  
3 *recovering alcohol and drug abusers* or a home for individual residential  
4 care shall not be deemed to be a home that is operated on a commercial  
5 basis for any purposes relating to building codes or zoning.

6 3. The health division of the department of human resources shall  
7 compile and maintain a registry of information relating to each residential  
8 establishment that exists in this state and shall make available for access on  
9 the Internet or its successor, if any, the information contained in the  
10 registry. The registry must include with respect to each residential  
11 establishment:

- 12 (a) The name of the owner of the establishment;
- 13 (b) The name of the administrator of the establishment;
- 14 (c) The address of the establishment; and
- 15 (d) The number of clients for which the establishment is  
16 licensed.

17 Any department or agency of a county or city that becomes aware of the  
18 existence of a residential establishment that is not included in the registry  
19 shall transmit such information to the health division, as is necessary, for  
20 inclusion in the registry within 30 days after obtaining the information.

21 4. The governing body of a county whose population is 100,000 or  
22 more or the governing body of a city in such a county or any department or  
23 agency of the city or county shall approve the first application submitted on  
24 or after July 1, 2000, to operate a residential establishment within a  
25 particular neighborhood in the jurisdiction of the governing body. If ~~on~~  
26 ~~or after July 1, 2000,~~ a subsequent application is submitted to operate an  
27 additional residential establishment at a location that is within ~~660 feet~~  
28 *the minimum distance established by the governing body pursuant to this*  
29 *subsection* from an existing residential establishment, the governing body  
30 shall review the application based on applicable zoning ordinances. The  
31 requirements of this subsection do not require the relocation or  
32 displacement of any residential establishment which existed before ~~July 1,~~  
33 ~~2000,~~ *the effective date of this act* from its location on that date. The  
34 provisions of this subsection do not create or impose a presumption that the  
35 location of more than one residential establishment within ~~660 feet~~ *the*  
36 *minimum distance* of each other *established by the governing body*  
37 *pursuant to this subsection* is inappropriate under all circumstances with  
38 respect to the enforcement of zoning ordinances and regulations. *For*  
39 *purposes of this subsection, each governing body shall establish by*  
40 *ordinance a minimum distance between residential establishments that is*  
41 *at least 660 feet but not more than 1,500 feet.*

42 5. The governing body of a county or city shall not refuse to issue a  
43 special use permit to a residential establishment that meets local public  
44 health and safety standards.

45 6. The provisions of this section must not be applied in any manner  
46 which would result in a loss of money from the Federal Government for  
47 programs relating to housing.

48 7. As used in this section:



- 1 (a) *“Halfway house for recovering alcohol and drug abusers” has the*  
2 *meaning ascribed to it in NRS 458.010.*  
3 (b) “Home for individual residential care” has the meaning ascribed to it  
4 in NRS 449.0105.  
5 ~~(b)~~ (c) “Person with a disability” means a person:  
6 (1) With a physical or mental impairment that substantially limits one  
7 or more of the major life activities of the person;  
8 (2) With a record of such an impairment; or  
9 (3) Who is regarded as having such an impairment.  
10 ~~(c)~~ (d) “Residential establishment” means a home for individual  
11 residential care in a county whose population is 100,000 or more , *a*  
12 *halfway house for recovering alcohol and drug abusers* or a residential  
13 facility for groups.  
14 ~~(d)~~ (e) “Residential facility for groups” has the meaning ascribed to it  
15 in NRS 449.017.  
16 **Sec. 2.** NRS 458.010 is hereby amended to read as follows:  
17 458.010 As used in NRS 458.010 to 458.350, inclusive, unless the  
18 context requires otherwise:  
19 1. “Alcohol and drug abuse program” means a project concerned with  
20 education, prevention and treatment directed toward achieving the mental  
21 and physical restoration of alcohol and drug abusers.  
22 2. “Alcohol and drug abuser” means a person whose consumption of  
23 alcohol or other drugs, or any combination thereof, interferes with or  
24 adversely affects his ability to function socially or economically.  
25 3. “Alcoholic” means any person who habitually uses alcoholic  
26 beverages to the extent that he endangers the health, safety or welfare of  
27 himself or any other person or group of persons.  
28 4. “Bureau” means the bureau of alcohol and drug abuse in the  
29 department.  
30 5. “Chief” means the chief of the bureau.  
31 6. “Civil protective custody” means a custodial placement of a person  
32 for the purpose of protecting his health or safety. Civil protective custody  
33 does not have any criminal implication.  
34 7. “Department” means the department of human resources.  
35 8. “Detoxification technician” means a person who is certified by the  
36 bureau to provide screening for the safe withdrawal from alcohol and other  
37 drugs.  
38 9. “Director” means the director of the department.  
39 10. “Facility” means a physical structure used for the education,  
40 prevention and treatment, including mental and physical restoration, of  
41 alcohol and drug abusers.  
42 11. “Halfway house for *recovering* alcohol and drug abusers” means a  
43 residence that provides housing and a living environment for alcohol and  
44 drug abusers and is operated to facilitate their reintegration into the  
45 community, but does not provide treatment for alcohol or drug abuse. The  
46 term does not include a facility for the treatment of abuse of alcohol or  
47 drugs as defined in NRS 449.00455.



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1     **Sec. 3.** NRS 458.025 is hereby amended to read as follows:  
2     458.025 The bureau of alcohol and drug abuse is hereby created in the  
3     department. The bureau:  
4         1. Shall formulate and operate a comprehensive state plan for alcohol  
5     and drug abuse programs which must include:  
6         (a) A survey of the need for education, prevention and treatment of  
7     alcohol and drug abuse, including a survey of the facilities needed to  
8     provide services and a plan for the development and distribution of  
9     services and programs throughout the state.  
10        (b) A plan for programs to educate the public in the problems of the  
11     abuse of alcohol and other drugs.  
12        (c) A survey of the need for trained teachers, persons who have  
13     professional training in fields of health and others involved in the  
14     education and prevention of alcohol and drug abuse and in the treatment  
15     and recovery of alcohol and drug abusers, and a plan to provide the  
16     necessary treatment.  
17     In developing and revising the state plan, the bureau shall consider, among  
18     other things, the amount of money available from the Federal Government  
19     for alcohol and drug abuse programs and the conditions attached to the  
20     acceptance of the money, and the limitations of legislative appropriations  
21     for alcohol and drug abuse programs.  
22         2. Shall coordinate the efforts to carry out the state plan and coordinate  
23     all state and federal financial support of alcohol and drug abuse programs  
24     in the state. The bureau must be consulted in the planning of projects and  
25     advised of all applications for grants from within the state which are  
26     concerned with alcohol and drug abuse programs, and shall review and  
27     advise concerning the applications.  
28         3. Shall develop and publish standards of certification and may certify  
29     or deny certification of operators of halfway houses for *recovering* alcohol  
30     and drug abusers, halfway houses for *recovering* alcohol and drug abusers,  
31     detoxification technicians or any facilities or programs on the basis of the  
32     standards, and publish a list of certified operators of halfway houses for  
33     *recovering* alcohol and drug abusers, halfway houses for *recovering*  
34     alcohol and drug abusers, detoxification technicians, facilities and  
35     programs. Any operators of halfway houses for *recovering* alcohol and  
36     drug abusers, halfway houses for *recovering* alcohol and drug abusers,  
37     detoxification technicians, facilities or programs which are not certified are  
38     ineligible to receive state and federal money for alcohol and drug abuse  
39     programs. The chief:  
40         (a) Shall establish the requirements for continuing education for persons  
41     certified as detoxification technicians; and  
42         (b) May set fees for the certification of operators of halfway houses for  
43     *recovering* alcohol and drug abusers, halfway houses for *recovering*  
44     alcohol and drug abusers, detoxification technicians, facilities or programs.  
45     The fees must be calculated to produce the revenue estimated to cover the  
46     costs related to the certifications, but in no case may the fee for a certificate  
47     exceed the actual cost to the bureau of issuing the certificate.



1 4. Upon request from a facility which is self-supported, may certify the  
2 facility, its programs and detoxification technicians and add them to the list  
3 described in subsection 3.

4 **Sec. 4.** NRS 458.026 is hereby amended to read as follows:

5 458.026 1. An applicant for the issuance or renewal of his  
6 certification as a detoxification technician or as the operator of a halfway  
7 house for *recovering* alcohol and drug abusers shall submit to the bureau  
8 the statement prescribed by the welfare division of the department of  
9 human resources pursuant to NRS 425.520. The statement must be  
10 completed and signed by the applicant.

11 2. The bureau shall include the statement required pursuant to  
12 subsection 1 in:

13 (a) The application or any other forms that must be submitted for the  
14 issuance or renewal of the certification; or

15 (b) A separate form prescribed by the bureau.

16 3. The certification of a person as a detoxification technician or as the  
17 operator of a halfway house for *recovering* alcohol and drug abusers may  
18 not be issued or renewed by the bureau if the applicant:

19 (a) Fails to complete or submit the statement required pursuant to  
20 subsection 1; or

21 (b) Indicates on the statement submitted pursuant to subsection 1 that he  
22 is subject to a court order for the support of a child and is not in  
23 compliance with the order or a plan approved by the district attorney or  
24 other public agency enforcing the order for the repayment of the amount  
25 owed pursuant to the order.

26 4. If an applicant indicates on the statement submitted pursuant to  
27 subsection 1 that he is subject to a court order for the support of a child and  
28 is not in compliance with the order or a plan approved by the district  
29 attorney or other public agency enforcing the order for the repayment of  
30 the amount owed pursuant to the order, the director shall advise the  
31 applicant to contact the district attorney or other public agency enforcing  
32 the order to determine the actions that the applicant may take to satisfy the  
33 arrearage.

34 **Sec. 5.** NRS 458.027 is hereby amended to read as follows:

35 458.027 1. If the bureau receives a copy of a court order issued  
36 pursuant to NRS 425.540 that provides for the suspension of all  
37 professional, occupational and recreational licenses, certificates and  
38 permits issued to a person who has been certified as a detoxification  
39 technician or as the operator of a halfway house for *recovering* alcohol and  
40 drug abusers, the bureau shall deem the certification to be suspended at the  
41 end of the 30th day after the date on which the court order was issued  
42 unless the bureau receives a letter issued by the district attorney or other  
43 public agency pursuant to NRS 425.550 to the person who has been  
44 certified stating that the person has complied with the subpoena or warrant  
45 or has satisfied the arrearage pursuant to NRS 425.560.

46 2. The bureau shall reinstate the certification of a person as a  
47 detoxification technician or as the operator of a halfway house for  
48 *recovering* alcohol and drug abusers, that has been suspended by a district  
49 court pursuant to NRS 425.540 if the bureau receives a letter issued by the



1 district attorney or other public agency pursuant to NRS 425.550 to the  
2 person whose certification was suspended stating that the person whose  
3 certification was suspended has complied with the subpoena or warrant or  
4 has satisfied the arrearage pursuant to NRS 425.560.

5 **Sec. 6.** NRS 458.028 is hereby amended to read as follows:

6 458.028 An application for the certification of a detoxification  
7 technician or as the operator of a halfway house for *recovering* alcohol and  
8 drug abusers, must include the social security number of the applicant.

9 **Sec. 7.** NRS 458.141 is hereby amended to read as follows:

10 458.141 1. No person, state or local government or agency thereof  
11 may operate or maintain in this state a halfway house for *recovering*  
12 alcohol and drug abusers without first obtaining a certificate therefor from  
13 the bureau.

14 2. A person who operates a halfway house for *recovering* alcohol and  
15 drug abusers without a certificate issued by the bureau is guilty of a  
16 misdemeanor.

17 **Sec. 8.** NRS 458.145 is hereby amended to read as follows:

18 458.145 Each certificate issued by the bureau to a halfway house for  
19 *recovering* alcohol and drug abusers expires on the first December 31  
20 following its issuance and is renewable for 1 year upon reapplication and  
21 payment of a renewal fee established pursuant to NRS 458.025.

22 **Sec. 9.** NRS 458.151 is hereby amended to read as follows:

23 458.151 The bureau may:

24 1. Upon receipt of an application for certification as a halfway house  
25 for *recovering* alcohol and drug abusers, conduct an investigation into the  
26 premises, qualifications of personnel, methods of operation, policies and  
27 purposes of any person proposing to engage in the operation of that  
28 halfway house.

29 2. Upon receipt of a complaint against a halfway house for *recovering*  
30 alcohol and drug abusers, conduct an investigation into the premises,  
31 qualification of personnel, methods of operation, policies, procedures and  
32 records of that halfway house.

33 3. Inspect a halfway house for *recovering* alcohol and drug abusers at  
34 any time, with or without notice, as often as is necessary to ensure  
35 compliance with all applicable regulations and standards adopted by the  
36 bureau.

37 **Sec. 10.** NRS 458.155 is hereby amended to read as follows:

38 458.155 1. If a halfway house for *recovering* alcohol and drug  
39 abusers violates any provisions related to its certification, including,  
40 without limitation, any law of this state or any applicable condition,  
41 standard or regulation adopted by the bureau, the bureau may:

42 (a) Suspend or revoke its certification; and

43 (b) Impose an administrative fine of not more than \$1,000 per day for  
44 each violation, together with interest thereon at a rate not to exceed 10  
45 percent per annum.

46 2. If a halfway house for *recovering* alcohol and drug abusers fails to  
47 pay an administrative fine imposed pursuant to subsection 1, the bureau  
48 may:



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1 (a) Suspend the certificate of the halfway house until the administrative  
2 fine is paid; and

3 (b) Collect court costs, reasonable attorney's fees and other costs  
4 incurred to collect the administrative fine.

5 3. Any money collected as an administrative fine must be deposited in  
6 the state general fund. If money is needed to pay the costs of an  
7 investigation or inspection to carry out the provisions of NRS 458.141 to  
8 458.171, inclusive, the bureau may present a claim to the state board of  
9 examiners for recommendation to the interim finance committee.

10 **Sec. 11.** NRS 458.165 is hereby amended to read as follows:

11 458.165 1. The bureau may bring an action in the name of the state  
12 to enjoin any person, state or local government or agency thereof from  
13 operating or maintaining a halfway house for **recovering** alcohol and drug  
14 abusers:

15 (a) Without first obtaining a certificate therefor; or

16 (b) After such a certificate has been revoked or suspended by the  
17 bureau.

18 2. It is sufficient in such an action to allege that the defendant did, on a  
19 certain date and in a certain place, operate and maintain such a halfway  
20 house without a certificate.

21 **Sec. 12.** NRS 458.171 is hereby amended to read as follows:

22 458.171 The district attorney of the county in which a halfway house  
23 for **recovering** alcohol and drug abusers is located shall, upon application  
24 by the bureau, institute and conduct the prosecution of any action for the  
25 violation of NRS 458.141.

26 **Sec. 13.** 1. This section and sections 7 to 12, inclusive, and 14 of  
27 this act become effective on July 1, 2001.

28 2. Sections 2 to 6, inclusive, of this act become effective at 12:01 a.m.  
29 on July 1, 2001.

30 **Sec. 14.** The legislative counsel shall:

31 1. In preparing the reprint and supplements to the Nevada Revised  
32 Statutes, with respect to any section which is not amended by this act or is  
33 further amended by another act, appropriately change any references to a  
34 halfway house for alcohol and drug abusers to a halfway house for  
35 recovering alcohol and drug abusers.

36 2. In preparing supplements to the Nevada Administrative Code,  
37 appropriately change any references to a halfway house for alcohol and  
38 drug abusers to a halfway house for recovering alcohol and drug abusers.

