

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND 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.



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



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1 **Sec. 3.** NRS 458.025 is hereby amended to read as follows:
2 458.025 The health division:

3 1. Shall formulate and operate a comprehensive state plan for alcohol
4 and drug abuse programs which must include:

5 (a) A survey of the need for prevention and treatment of alcohol and
6 drug abuse, including a survey of the facilities needed to provide services
7 and a plan for the development and distribution of services and programs
8 throughout this state.

9 (b) A plan for programs to educate the public in the problems of the
10 abuse of alcohol and other drugs.

11 (c) A survey of the need for persons who have professional training in
12 fields of health and other persons involved in the prevention of alcohol and
13 drug abuse and in the treatment and recovery of alcohol and drug abusers,
14 and a plan to provide the necessary treatment.

15 In developing and revising the state plan, the health division shall consider,
16 without limitation, the amount of money available from the Federal
17 Government for alcohol and drug abuse programs and the conditions
18 attached to the acceptance of that money, and the limitations of legislative
19 appropriations for alcohol and drug abuse programs.

20 2. Shall coordinate the efforts to carry out the state plan and coordinate
21 all state and federal financial support of alcohol and drug abuse programs
22 in this state.

23 3. Must be consulted in the planning of projects and advised of all
24 applications for grants from within this state which are concerned with
25 alcohol and drug abuse programs, and shall review the applications and
26 advise the applicants concerning the applications.

27 4. Shall certify or deny certification of any halfway houses for
28 *recovering* alcohol and drug abusers, detoxification technicians or any
29 facilities or programs on the basis of the standards established by the board
30 pursuant to this section, and publish a list of certified halfway houses for
31 *recovering* alcohol and drug abusers, detoxification technicians, facilities
32 and programs. Any halfway houses for *recovering* alcohol and drug
33 abusers, detoxification technicians, facilities or programs which are not
34 certified are ineligible to receive state and federal money for alcohol and
35 drug abuse programs. The board shall adopt regulations. The regulations:

36 (a) Must prescribe the standards for certification of halfway houses for
37 *recovering* alcohol and drug abusers, facilities and programs;

38 (b) Must prescribe the requirements for continuing education for
39 persons certified as detoxification technicians; and

40 (c) May prescribe the fees for the certification of halfway houses for
41 *recovering* alcohol and drug abusers, detoxification technicians, facilities
42 or programs. A fee prescribed pursuant to this paragraph must be
43 calculated to produce the revenue estimated to cover the costs related to the
44 certifications, but in no case may a fee for a certificate exceed the actual
45 cost to the health division of issuing the certificate.

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



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

2 458.026 1. An applicant for the issuance or renewal of his
3 certification as a detoxification technician or as the operator of a halfway
4 house for *recovering* alcohol and drug abusers must submit to the health
5 division the statement prescribed by the welfare division of the department
6 of human resources pursuant to NRS 425.520. The statement must be
7 completed and signed by the applicant.

8 2. The health division shall include the statement required pursuant to
9 subsection 1 in:

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

12 (b) A separate form prescribed by the health division.

13 3. The certification of a person as a detoxification technician or as the
14 operator of a halfway house for *recovering* alcohol and drug abusers may
15 not be issued or renewed by the health division if the applicant:

16 (a) Fails to complete or submit the statement required pursuant to
17 subsection 1; or

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

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

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

32 458.027 1. If the health division receives a copy of a court order
33 issued pursuant to NRS 425.540 that provides for the suspension of all
34 professional, occupational and recreational licenses, certificates and
35 permits issued to a person who has been certified as a detoxification
36 technician or as the operator of a halfway house for *recovering* alcohol and
37 drug abusers, the health division shall deem the certification to be
38 suspended at the end of the 30th day after the date on which the court order
39 was issued unless the health division receives a letter issued by the district
40 attorney or other public agency pursuant to NRS 425.550 to the person
41 who has been certified stating that the person has complied with the
42 subpoena or warrant or has satisfied the arrearage pursuant to NRS
43 425.560.

44 2. The health division shall reinstate the certification of a person as a
45 detoxification technician or as the operator of a halfway house for
46 *recovering* alcohol and drug abusers that has been suspended by a district
47 court pursuant to NRS 425.540 if the health division receives a letter issued
48 by the letter issued by the district attorney or other public agency pursuant
49 to NRS 425.550 to the person whose certification was suspended stating



1 that the person whose certification was suspended has complied with the
2 subpoena or warrant or has satisfied the arrearage pursuant to NRS
3 425.560.

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

5 458.028 An application for the certification of a detoxification
6 technician or as the operator of a halfway house for *recovering* alcohol and
7 drug abusers, must include the social security number of the applicant.

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

9 458.141 1. No person, state or local government or agency thereof
10 may operate or maintain in this state a halfway house for *recovering*
11 alcohol and drug abusers without first obtaining a certificate therefor from
12 the health division.

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

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

17 458.145 Each certificate issued by the health division to a halfway
18 house for *recovering* alcohol and drug abusers expires on the December 31
19 following its issuance and is renewable for 1 year upon reapplication and
20 payment of a renewal fee established pursuant to NRS 458.025.

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

22 458.151 The health division may:

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

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

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

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

37 458.155 1. If a halfway house for *recovering* alcohol and drug
38 abusers violates any provisions related to its certification, including,
39 without limitation, any law of this state or any applicable condition,
40 standard or regulation adopted by the board, the health division may:

41 (a) Suspend or revoke its certification; and

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

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

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



* A B 3 9 5 R 2 *

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

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

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

9 458.165 1. The health division may bring an action in the name of
10 the state to enjoin any person, state or local government or agency thereof
11 from operating or maintaining a halfway house for **recovering** alcohol and
12 drug abusers:

13 (a) Without first obtaining a certificate therefor from the health division;
14 or

15 (b) After such a certificate has been revoked or suspended by the health
16 division.

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

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

21 458.171 The district attorney of the county in which a halfway house
22 for **recovering** alcohol and drug abusers is located shall, upon application
23 by the health division, institute and conduct the prosecution of any action
24 for the violation of NRS 458.141.

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

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

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

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

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

