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HOUSE BILL NO. 2915

Offered January 21, 2005

A BILL to amend and reenact §§ 15.2-2283, 15.2-2291, 53.1-5, 53.1-177 and 53.1-179 of the Code of Virginia, relating to powers of the Board of Corrections; zoning ordinances.

Patrons—Eisenberg, Dillard, Ebbin, Howell, A.T., Plum and Ware, O.

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2283, 15.2-2291, 53.1-5, 53.1-177 and 53.1-179 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2283. Purpose of zoning ordinances.

A. Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2200. To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas; (vi) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; and (xi) to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard. Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in § 62.1-255.

B. *Zoning ordinances shall not be created to (i) impede the integration of formerly incarcerated persons into the community, or (ii) exclude the use of residential transitional housing for formerly incarcerated non-violent persons where such multioccupancy dwellings or facilities are already permitted for other purposes.*

§ 15.2-2291. Group homes of eight or fewer single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. ~~For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401.~~ No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority pursuant to this Code or any group home or other residential facility for which the Board of Corrections is the licensing authority pursuant to § 53.1-5.

B. Zoning ordinances in counties having adopted the county manager plan of government and any county with a population between 55,800 and 57,000 for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing

INTRODUCED

HB2915

59 authority pursuant to this Code *or any group home or other residential facility for which the Board of*
60 *Corrections is the licensing authority pursuant to § 53.1-5.*

61 C. Zoning ordinances in any city with a population between 60,000 and 70,000 for all purposes shall
62 consider a residential facility in which no more than four aged, infirm or disabled persons reside, with
63 one or more resident counselors or other staff persons, as residential occupancy by a single family. No
64 conditions more restrictive than those imposed on residences occupied by persons related by blood,
65 marriage or adoption shall be imposed on such facility. For purposes of this subsection, "residential
66 facility" means any group home or residential facility in which aged, infirm or disabled persons reside
67 with one or more resident counselors or other staff persons and for which the Department of Social
68 Services is the licensing authority pursuant to this Code *or any group home or other residential facility*
69 *for which the Board of Corrections is the licensing authority pursuant to § 53.1-5.*

70 § 53.1-5. Powers and duties of Board.

71 The Board shall have the following powers and duties:

72 1. To develop and establish program and fiscal standards and goals governing the operation of state,
73 local and community correctional facilities and community correctional services;

74 2. To ensure the development of long-range programs and plans for corrections services provided at
75 the state and local levels;

76 3. To review and comment on all budgets and requests for appropriations for the Department prior to
77 their submission to the Governor and on all applications for federal funds;

78 4. To monitor the activities of the Department and its effectiveness in implementing the standards
79 and goals of the Board;

80 5. To advise the Governor, Director and General Assembly on matters relating to corrections;

81 6. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the
82 provisions of this title and other laws of the Commonwealth administered by the Director or the
83 Department; ~~and~~

84 7. To ensure the development of programs to educate citizens and elicit public support for the
85 activities of the Department; *and*

86 8. *To license such community-based or privately operated residential facilities or group homes for*
87 *the purpose of housing and providing for the temporary care of adults who are placed on probation or*
88 *released on parole and were convicted of non-violent offenses.*

89 § 53.1-177. Authority of Director; establishment of halfway houses; employment of personnel.

90 The Director is authorized to establish and maintain a system of halfway houses for the temporary
91 care of adults who are placed on probation or released on parole and are determined to be eligible for
92 this service. Such community facility may, in the discretion of the Director, be purchased, constructed ~~or~~
93 , leased, *or licensed. Licensing of such community-based or privately operated residential facilities or*
94 *group homes may be provided or required by the Board of Corrections.* The Director is further
95 authorized to employ necessary personnel for these facilities.

96 § 53.1-179. Purchase of services authorized.

97 The Director, pursuant to rules and regulations of the Board, may purchase temporary room and
98 board and training, counseling and rehabilitation services for probationers and parolees whom the
99 Director deems to be in need of and eligible for such benefits and services, *and the Board may*
100 *designate certain community residential facilities or group homes for this purpose.* Implementation of
101 this provision shall conform with the requirements of all locally-adopted zoning regulations.