

SENATE BILL No. 316

By Senator Faust-Goudeau

1-3

1 AN ACT concerning zoning and planning; relating to the regulation of
2 group homes in an area zoned for single family dwellings; authorizing
3 regulations to establish a minimum distance between such group
4 homes; amending K.S.A. 2021 Supp. 12-736 and repealing the existing
5 section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2021 Supp. 12-736 is hereby amended to read as
9 follows: 12-736. (a) It is hereby declared to be the policy of the state of
10 Kansas that persons with a disability shall not be excluded from the
11 benefits of single family residential surroundings by any municipal zoning
12 ordinance, resolution or regulation.

13 (b) For the purpose of this act:

14 (1) "Group home" means any dwelling occupied by not more than 10
15 persons, including eight or fewer persons with a disability who need not be
16 related by blood or marriage and not to exceed two staff residents who
17 need not be related by blood or marriage to each other or to the residents
18 of the home, ~~which dwelling~~ that is licensed by a regulatory agency of this
19 state;

20 (2) "municipality" means any township, city or county located in
21 Kansas;

22 (3) "disability" means, with respect to a person:

23 (A) A physical or mental impairment that substantially limits one or
24 more of such person's major life activities;

25 (B) a record of having such an impairment; or

26 (C) being regarded as having such an impairment. Such term does not
27 include current, illegal use of or addiction to a controlled substance, as
28 defined in section 102 of the controlled substance act, 21 U.S.C. § 802;

29 (4) "licensed provider" means a person or agency who provides
30 mental health services and is licensed by:

31 (A) The Kansas department for aging and disability services pursuant
32 to K.S.A. 65-425 et seq. or K.S.A. 39-2001 et seq., and amendments
33 thereto; or

34 (B) the behavioral sciences regulatory board pursuant to K.S.A. 75-
35 5346 et seq. or 74-5301 et seq., and amendments thereto; or

36 (C) the state board of healing arts pursuant to K.S.A. 65-2801 et seq.,

1 and amendments thereto.

2 (c) (1) No mentally ill person shall be eligible for placement in a
3 group home unless such person has been evaluated by a licensed provider
4 and such provider determines that the mentally ill person is not dangerous
5 to others and is suitable for group-home placement. A group home shall
6 not be a licensed provider for the purposes of evaluating or approving for
7 placement a mentally ill person in a group home.

8 (2) No person shall be eligible for placement in a group home if such
9 person is: (A) Assigned to a community corrections program or a diversion
10 program; (B) on parole from a correctional institution or on probation for a
11 felony offense; or (C) in a state mental institution following a finding of
12 mental disease or defect excluding criminal responsibility, pursuant to
13 K.S.A. 22-3220 and 22-3221, and amendments thereto.

14 (d) No person shall be placed in a group home under this act unless
15 such dwelling is licensed as a group home by the Kansas department for
16 aging and disability services or the department of health and environment.

17 (e) (1) No municipality shall prohibit the location of a group home in
18 any zone or area where single family dwellings are permitted. *Except as*
19 *otherwise provided in paragraph (2), any zoning ordinance, resolution or*
20 *regulation that prohibits the location of a group home in such zone or area*
21 *or that subjects group homes to regulations not applicable to other single*
22 *family dwellings in the same zone or area is invalid. Notwithstanding the*
23 *provisions of this act, group homes shall be subject to all other regulations*
24 *applicable to other property and buildings located in the zone or area that*
25 *are imposed by any municipality through zoning ordinance, resolution or*
26 *regulation, its building regulatory codes, subdivision regulations or other*
27 *nondiscriminatory regulations.*

28 (2) *A municipality may adopt a zoning ordinance, resolution or*
29 *regulation that requires any group home located in a zone or area where*
30 *single family dwellings are permitted to be at least 1,320 feet from any*
31 *other group home located in such zone or area as measured by a straight*
32 *line in any direction from the lot line of such group home to the lot line of*
33 *such other group home, provided, any such ordinance, resolution or*
34 *regulation exempts any group home in operation as of July 1, 2022, from*
35 *such minimum distance requirement, and that the distance specified in*
36 *such ordinance, resolution or regulation is 1,320 feet.*

37 (f) No person or entity shall contract or enter into a contract,
38 restrictive covenant, equitable servitude or such similar restriction that
39 would restrict group homes or their location in a manner inconsistent with
40 the provisions of subsection (e).

41 Sec. 2. K.S.A. 2021 Supp. 12-736 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its
43 publication in the statute book.