

## SENATE BILL No. 114

By Committee on Federal and State Affairs

1-27

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9 AN ACT concerning zoning; relating to group homes; amending K.S.A.  
10 12-736 and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 12-736 is hereby amended to read as follows: 12-  
14 736. (a) It is hereby declared to be the policy of the state of Kansas that  
15 persons with a disability shall not be excluded from the benefits of single  
16 family residential surroundings by any municipal zoning ordinance, res-  
17 olution or regulation.

18 (b) For the purpose of this act:

19 (1) "Group home" means any dwelling occupied by ~~not more than~~  
20 ~~10 persons, including eight or fewer~~ persons with a disability who need  
21 not be related by blood or marriage and not to exceed two staff residents  
22 who need not be related by blood or marriage to each other or to the  
23 residents of the home, which dwelling is licensed by a regulatory agency  
24 of this state;

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

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

28 (A) A physical or mental impairment which substantially limits one  
29 or more of such person's major life activities;

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

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

34 (4) "licensed provider" means a person or agency who provides men-  
35 tal health services and is licensed by:

36 (A) The department of social and rehabilitation services pursuant to  
37 K.S.A. 75-3307b or 65-425 *et seq.*, and amendments thereto; or

38 (B) the behavioral sciences regulatory board pursuant to K.S.A. 75-  
39 5346 *et seq.* or 74-5301 *et seq.*, and amendments thereto; or

40 (C) the state board of healing arts pursuant to K.S.A. 65-2801 *et seq.*,  
41 and amendments thereto.

42 (c) (1) No mentally ill person shall be eligible for placement in a  
43 group home unless such person has been evaluated by a licensed provider

1 and such provider determines that the mentally ill person is not dangerous  
2 to others and is suitable for group-home placement. A group home shall  
3 not be a licensed provider for the purposes of evaluating or approving for  
4 placement a mentally ill person in a group home.

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

11 (d) No person shall be placed in a group home under this act unless  
12 such dwelling is licensed as a group home by the department of social  
13 and rehabilitation services or the department of health and environment.

14 (e) No municipality shall prohibit the location of a group home in any  
15 zone or area where single family dwellings are permitted. Any zoning  
16 ordinance, resolution or regulation which prohibits the location of a group  
17 home in such zone or area or which subjects group homes to regulations  
18 not applicable to other single family dwellings in the same zone or area  
19 is invalid. Notwithstanding the provisions of this act, group homes shall  
20 be subject to all other regulations applicable to other property and build-  
21 ings located in the zone or area that are imposed by any municipality  
22 through zoning ordinance, resolution or regulation, its building regulatory  
23 codes, subdivision regulations or other nondiscriminatory regulations *in-*  
24 *cluding regulations which limit the number of unrelated persons who may*  
25 *reside in the same home located in areas zoned single family residential.*

26 (f) No person or entity shall contract or enter into a contract, restric-  
27 tive covenant, equitable servitude or such similar restriction, which would  
28 restrict group homes or their location in a manner inconsistent with the  
29 provisions of subsection (e).

30 Sec. 2. K.S.A. 12-736 is hereby repealed.

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