

SB 388

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STATE HOUSE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



# ENROLLED

SENATE BILL NO. 388

(By Senators TOMBLIN, MR. PRESIDENT, AND BUCKALEW,  
By REQUEST OF THE EXECUTIVE)



PASSED MARCH 12, 1998

In Effect NINETY DAYS FROM Passage

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SENATE OF WEST VIRGINIA

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### Senate Bill No. 388

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[Passed March 12, 1998; in effect ninety days from passage.]

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AN ACT to amend and reenact article seventeen, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting housing discrimination against individuals with disabilities; amending definitions and defining group residential homes; eliminating special zoning requirements for group residential facilities and group residential homes; eliminating the complaint process for residents of a contiguous area of a zoning district in which a group residential facility is located; and providing that group residential homes are not subject to licensure.

*Be it enacted by the Legislature of West Virginia:*

That article seventeen, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 17. GROUP RESIDENTIAL FACILITIES.**

**§27-17-1. Definitions.**

1 (a) "Developmental disability" means a chronic disabil-  
2 ity of a person which: (1) Is attributable to a mental or  
3 physical impairment or combination of mental and  
4 physical impairments; (2) is likely to continue indefinitely;  
5 (3) results in substantial functional limitations in self-  
6 direction, capacity for independent living or economic  
7 self-sufficiency; and (4) reflects the person's need for a  
8 combination and sequence of special, interdisciplinary or  
9 generic care, treatment or other services which are of  
10 lifelong or extended duration and are individually  
11 planned and coordinated.

12 (b) "Behavioral disability" means a disability of a person  
13 which: (1) Is attributable to severe or persistent mental  
14 illness, emotional disorder or chemical dependency; and  
15 (2) results in substantial functional limitations in self-  
16 direction, capacity for independent living or economic  
17 self-sufficiency.

18 (c) "Group residential facility" means a facility which is  
19 owned or leased by a behavioral health service provider  
20 and which: (1) Provides residential services and supervi-  
21 sion for individuals who are developmentally disabled or  
22 behaviorally disabled; (2) is occupied as a residence by not  
23 more than eight individuals who are developmentally  
24 disabled and not more than three supervisors, or is  
25 occupied as a residence by not more than twelve individu-  
26 als who are behaviorally disabled and not more than three  
27 supervisors; (3) is licensed by the department of health or  
28 the division of human services; and (4) complies with the  
29 state fire commission for residential facilities.

30 (d) "Group residential home" means a building owned or

31 leased by developmentally disabled or behaviorally  
32 disabled persons for purposes of establishing a personal  
33 residence. A behavioral health service provider may not  
34 lease a building to such persons if the provider is provid-  
35 ing services to the persons without a license as provided  
36 for in this article.

**§27-17-2. Permitted use of group residential facilities; restric-  
tions.**

1 Both a group residential facility and a group residential  
2 home shall be a permitted residential use of property for  
3 the purposes of zoning and shall be a permitted use in all  
4 zones or districts. No county commission, governing  
5 board of a municipality or planning commission shall  
6 require a group residential facility, its owner or operator,  
7 to obtain a conditional use permit, special use permit,  
8 special exception or variance for location of such facility  
9 in any zone or district.

**§27-17-3. License from director of health; application; regula-  
tions; revocation.**

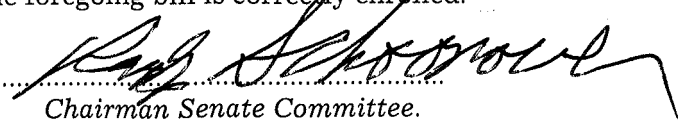
1 (a) No group residential facility shall be established,  
2 maintained or operated unless a license therefor shall be  
3 first obtained from the director of health, except that a  
4 group residential facility for behaviorally disabled  
5 juveniles shall be deemed to satisfy all requirements of  
6 this section by obtaining a license from the commissioner  
7 of human services. The application for such license shall  
8 contain such data and facts as the director may require.  
9 The director may promulgate reasonable regulations for  
10 the conduct of such facilities, including, but not limited to,  
11 a statement of the rights of patients in group residential  
12 facilities for the mentally and physically impaired to  
13 ensure the adequate care and supervision of such patients,  
14 and shall have the authority to investigate and inspect any  
15 such facility, and may revoke the license of any such  
16 facility for good cause after notice and hearing.

17 (b) A group residential home is not required to obtain a  
18 license from the director of health.

**§27-17-4. Exclusion by private agreement void.**

1 Any restriction, reservation, condition, exception or  
2 covenant in any subdivision plan, deed, or other instru-  
3 ment of or pertaining to the transfer, sale, lease or use of  
4 property which would permit residential use of property  
5 but prohibit the use of such property as a group residen-  
6 tial facility or group residential home shall, to the extent  
7 of such prohibition, be void as against the public policy of  
8 this state and shall be given no legal or equitable force or  
9 effect.

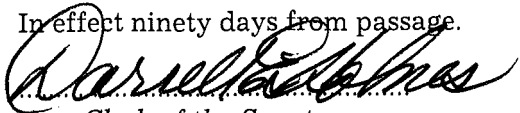
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

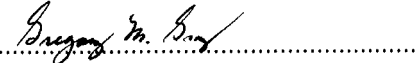
  
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Chairman Senate Committee.

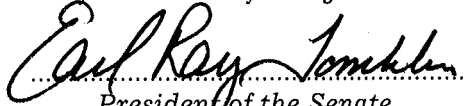
  
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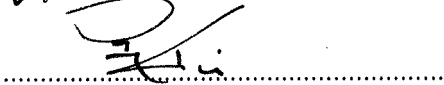
Originated in the Senate.

In effect ninety days from passage.

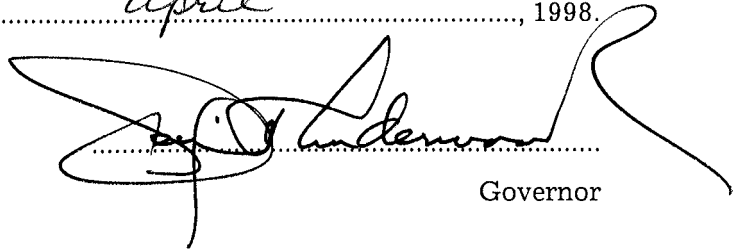
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within approved this the 2<sup>nd</sup>  
day of April, 1998.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 5/24/98

Time 3:07 pm