

1-1 By: Phillips (Senate Sponsor - Gallegos) H.B. No. 230
1-2 (In the Senate - Received from the House May 16, 2011;
1-3 May 16, 2011, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 21, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 230 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of a county or municipality to regulate
1-11 the location of halfway houses; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 244, Local Government Code, is amended
1-14 by adding Subchapter C to read as follows:

1-15 SUBCHAPTER C. HALFWAY HOUSES

1-16 Sec. 244.041. DEFINITION. In this subchapter, "halfway
1-17 house" means a residential facility that:

1-18 (1) is independently operated by a private entity,
1-19 including a nonprofit organization;

1-20 (2) is not operated under contract with an agency or
1-21 political subdivision of the state or an agency of the federal
1-22 government;

1-23 (3) is not a chemical dependency treatment facility
1-24 licensed under Chapter 464, Health and Safety Code; and

1-25 (4) is operated for the purpose of housing two or more
1-26 individuals who are not related by consanguinity or affinity and
1-27 who have been:

1-28 (A) placed on community supervision under
1-29 Article 42.12, Code of Criminal Procedure;

1-30 (B) released on parole or to mandatory
1-31 supervision under Chapter 508, Government Code; or

1-32 (C) placed on or released on or to the functional
1-33 equivalent of community supervision, parole, or mandatory
1-34 supervision under the laws of another state or federal law.

1-35 Sec. 244.042. AUTHORITY TO REGULATE. (a) The governing body
1-36 of a county or municipality, by order or ordinance, may adopt
1-37 regulations regarding halfway houses as the governing body
1-38 considers necessary to promote the public health, safety, or
1-39 welfare.

1-40 (b) A regulation adopted by a county applies only to the
1-41 unincorporated area of the county, and a regulation adopted by a
1-42 municipality applies only to the incorporated area of the
1-43 municipality.

1-44 Sec. 244.043. SCOPE OF REGULATION. (a) The location of a
1-45 halfway house may be:

1-46 (1) restricted to particular areas; or

1-47 (2) prohibited within a certain distance of a school,
1-48 regular place of religious worship, residential neighborhood, or
1-49 other specified land use the governing body of a county or
1-50 municipality finds to be inconsistent with the operation of a
1-51 halfway house.

1-52 (b) The governing body of a county or municipality may
1-53 restrict the density of halfway houses.

1-54 Sec. 244.044. LICENSES OR PERMITS. (a) The governing body
1-55 of a county or municipality may require that an owner or operator of
1-56 a halfway house obtain a license or other permit or renew a license
1-57 or other permit on a periodic basis for the operation of a halfway
1-58 house. An application for a license or other permit must be made in
1-59 accordance with the regulations adopted under this subchapter.

1-60 (b) The regulations adopted under this subchapter may
1-61 provide for the denial, suspension, or revocation of a license or
1-62 other permit issued by the county or municipality.

1-63 (c) A district court has jurisdiction of a suit that arises

2-1 from the denial, suspension, or revocation of a license or other
2-2 permit issued by a county or municipality.

2-3 Sec. 244.045. NOTICE REQUIRED. (a) An applicant for a
2-4 license or permit issued under Section 244.044 for a location not
2-5 previously licensed or permitted shall, not later than the 60th day
2-6 before the date the application is filed:

2-7 (1) publish in a newspaper of general circulation in
2-8 the county or municipality a notice of the applicant's intent to
2-9 establish a halfway house in the county or municipality, as
2-10 applicable, the name and business address of the applicant, and the
2-11 proposed location of the halfway house; and

2-12 (2) prominently post an outdoor sign at the location
2-13 stating that a halfway house is intended to be located on the
2-14 premises and providing the name and business address of the
2-15 applicant.

2-16 (b) The sign must be at least 24 by 36 inches in size and
2-17 must be written in lettering at least 2 inches in size. The county
2-18 or municipality, as applicable, in which the halfway house is to be
2-19 located may require the sign to be both in English and a language
2-20 other than English if it is likely that a substantial number of the
2-21 residents in the area speak a language other than English as their
2-22 familiar language.

2-23 Sec. 244.046. INSPECTION. A county or municipality, as
2-24 applicable, may inspect a halfway house to determine compliance
2-25 with this subchapter and regulations adopted under this subchapter.

2-26 Sec. 244.047. FEES. The governing body of a county or
2-27 municipality by order may impose fees on applicants for a license or
2-28 other permit issued under this subchapter or for the renewal of the
2-29 license or other permit. The fees must be based on the cost of
2-30 processing the applications and investigating the applicants.

2-31 Sec. 244.048. ENFORCEMENT. (a) A county or municipality
2-32 may sue in the district court for an injunction to prohibit the
2-33 violation of a regulation adopted under this subchapter.

2-34 (b) A person commits an offense if the person violates a
2-35 regulation adopted under this subchapter. An offense under this
2-36 subsection is a Class A misdemeanor.

2-37 SECTION 2. This Act takes effect immediately if it receives
2-38 a vote of two-thirds of all the members elected to each house, as
2-39 provided by Section 39, Article III, Texas Constitution. If this
2-40 Act does not receive the vote necessary for immediate effect, this
2-41 Act takes effect September 1, 2011.

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