

By: Zerwas

H.B. No. 1952

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to community homes for persons with disabilities; creating  
3 a criminal offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 123.002, Human Resources Code, is  
6 amended to read as follows:

7 Sec. 123.002. DEFINITIONS [~~DEFINITION~~]. In this chapter:

8 (1) "Community home" means a community-based  
9 residential home or assisted living facility that qualifies as a  
10 community home under Section 123.004.

11 (2) "Person [~~person~~] with a disability" means a  
12 person whose ability to care for himself or herself, perform manual  
13 tasks, learn, work, walk, see, hear, speak, or breathe is  
14 substantially limited because the person has:

15 (A) [~~(1)~~] an orthopedic, visual, speech, or  
16 hearing impairment;

17 (B) [~~(2)~~] Alzheimer's disease;

18 (C) [~~(3)~~] pre-senile dementia;

19 (D) [~~(4)~~] cerebral palsy;

20 (E) [~~(5)~~] epilepsy;

21 (F) [~~(6)~~] muscular dystrophy;

22 (G) [~~(7)~~] multiple sclerosis;

23 (H) [~~(8)~~] cancer;

24 (I) [~~(9)~~] heart disease;

- 1            (J) [~~(10)~~] diabetes;
- 2            (K) [~~(11)~~] an intellectual disability;
- 3            (L) [~~(12)~~] autism; or
- 4            (M) [~~(13)~~] mental illness.

5            (3) "Property owners' association" and "restrictive  
6 covenant" have the meanings assigned by Section 202.001, Property  
7 Code.

8            SECTION 2. Section 123.003(b), Human Resources Code, is  
9 amended to read as follows:

10            (b) A restriction, reservation, exception, or other  
11 provision in an instrument created or amended on or after September  
12 1, 1985, that relates to the transfer, sale, lease, or use of  
13 property may not prohibit or effectively prohibit the use of the  
14 property as a community home.

15            SECTION 3. Section 123.004, Human Resources Code, is  
16 amended to read as follows:

17            Sec. 123.004. QUALIFICATION AS COMMUNITY HOME. To qualify  
18 as a community home, an entity must comply with Sections 123.005  
19 through 123.008 and be:

20            (1) a community-based residential home operated by:

21            (A) the Health and Human Services Commission  
22 [~~Department of Aging and Disability Services~~];

23            (B) a community center organized under  
24 Subchapter A, Chapter 534, Health and Safety Code, that provides  
25 services to persons with disabilities;

26            (C) an entity subject to the Texas Nonprofit  
27 Corporation Law as described by Section 1.008(d), Business

1 Organizations Code; or

2 (D) an entity certified by the Health and Human  
3 Services Commission [~~Department of Aging and Disability Services~~]  
4 as a provider under the ICF-IID medical assistance program; or

5 (2) an assisted living facility licensed under Chapter  
6 247, Health and Safety Code, provided that the exterior structure  
7 retains compatibility with the surrounding residential dwellings.

8 SECTION 4. Section 123.009, Human Resources Code, is  
9 amended to read as follows:

10 Sec. 123.009. LIMITATION ON NUMBER OF MOTOR VEHICLES;  
11 OFFENSE. (a) Except as otherwise provided by municipal ordinance  
12 or by a restrictive covenant enforced by a property owners'  
13 association, the residents of a community home may not keep for the  
14 use of the residents of the home, either on the premises of the home  
15 or on a public right-of-way adjacent to the home, motor vehicles in  
16 numbers that exceed the number of bedrooms in the home as recorded  
17 in the appraisal records of the county in which the home is located.

18 (b) A person commits an offense if the person keeps a motor  
19 vehicle in violation of Subsection (a).

20 (c) An offense under this section is a Class B misdemeanor.

21 (d) A motor vehicle kept in violation of Subsection (a) may  
22 be towed at the expense of the owner of the vehicle.

23 SECTION 5. Section 123.010, Human Resources Code, is  
24 amended to read as follows:

25 Sec. 123.010. ENSURING SAFETY OF RESIDENTS OF COMMUNITY  
26 HOME AND AFFECTED NEIGHBORHOOD. (a) The Health and Human Services  
27 Commission [~~Department of Aging and Disability Services~~] shall make

1 every reasonable effort to ensure the safety of residents of a  
2 community home operated by or under the regulatory jurisdiction of  
3 the commission [~~department~~] and the residents of a neighborhood  
4 that is affected by the location of the community home.

5 (b) A property owners' association or an affected property  
6 owner in a neighborhood in which a community home is located may  
7 report to an entity with regulatory jurisdiction over or that  
8 operates the home that the home:

9 (1) has violated a provision of this chapter; or

10 (2) poses a hazard to the safety or well-being of the  
11 neighborhood or community.

12 (c) An entity that receives a report under Subsection (b)  
13 shall investigate the report in a timely manner and take  
14 appropriate action, including, as applicable, revocation of the  
15 entity's authorization to operate the community home.

16 SECTION 6. Section 202.002(b), Property Code, is amended to  
17 read as follows:

18 (b) This chapter does not affect the requirements of Chapter  
19 123, Human Resources Code [~~the Community Homes for Disabled Persons~~  
20 ~~Location Act (Article 1011n, Vernon's Texas Civil Statutes)] .~~

21 SECTION 7. Section 202.003(b), Property Code, is amended to  
22 read as follows:

23 (b) In this subsection, "community [~~family~~] home" has the  
24 meaning assigned by Section 123.002, Human Resources Code [~~is a~~  
25 ~~residential home that meets the definition of and requirements~~  
26 ~~applicable to a family home under the Community Homes for Disabled~~  
27 ~~Persons Location Act (Article 1011n, Vernon's Texas Civil~~

1 ~~Statutes~~]). A dedicatory instrument or restrictive covenant may  
2 not be construed to prevent the use of property as a community  
3 [~~family~~] home. However, any restrictive covenant that applies to  
4 property used as a community [~~family~~] home shall be liberally  
5 construed to give effect to its purposes and intent except to the  
6 extent that the construction would restrict the use as a community  
7 [~~family~~] home.

8 SECTION 8. Chapter 202, Property Code, is amended by adding  
9 Section 202.0045 to read as follows:

10 Sec. 202.0045. ENFORCEMENT OF RESTRICTIVE COVENANT ON  
11 PROPERTY USED AS COMMUNITY HOME. (a) A property owners'  
12 association may enforce a restrictive covenant that applies to  
13 property used as a community home, as defined by Section 123.002,  
14 Human Resources Code, to the same extent and in the same manner as  
15 the restrictive covenant is or would be enforced with respect to any  
16 other property that is subject to the restrictive covenant.

17 (b) This section does not authorize a property owners'  
18 association to enforce a restriction that prohibits or effectively  
19 prohibits the use of property as a community home.

20 SECTION 9. As soon as is practicable after the effective  
21 date of this Act, an entity with regulatory jurisdiction over a  
22 community home under Section 123.004, Human Resources Code, as  
23 amended by this Act, shall adopt the rules necessary to implement  
24 Section 123.010, Human Resources Code, as amended by this Act.

25 SECTION 10. This Act takes effect September 1, 2019.