



House of Representatives

General Assembly

File No. 181

January Session, 2019

Substitute House Bill No. 6291

House of Representatives, March 28, 2019

The Committee on Housing reported through REP. MCGEE of the 5th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROTECTIONS FOR CERTAIN GROUP CHILD CARE AND FAMILY CHILD CARE HOMES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-3j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) No zoning regulation shall treat any family child care home
4 [registered] or group child care home, identified as such by the Office
5 of Early Childhood pursuant to section 17b-733₂ in a manner different
6 from single or multifamily dwellings.

7 (b) Not later than December 1, 2019, each municipality shall certify
8 compliance with this section and submit such certification to the
9 Commissioner of Early Childhood.

10 Sec. 2. Subsection (b) of section 19a-80 of the general statutes is
11 repealed and the following is substituted in lieu thereof (*Effective*
12 *October 1, 2019*):

13 (b) (1) Upon receipt of an application for a license, the commissioner

14 shall issue such license if, upon inspection and investigation, said
15 commissioner finds that the applicant, the facilities and the program
16 meet the health, educational and social needs of children likely to
17 attend the child care center or group child care home and comply with
18 requirements established by regulations adopted under this section
19 and sections 19a-77 to 19a-79a, inclusive, and sections 19a-82 to 19a-
20 87a, inclusive. Any inspection of a group child care home under this
21 subsection shall include an inspection for evident sources of lead
22 poisoning, and shall provide for a chemical analysis of any paint chips
23 found on such premises. The commissioner shall offer an expedited
24 application review process for an application submitted by a municipal
25 agency or department. A currently licensed person or entity, as
26 described in subsection (a) of this section, seeking a change of
27 operator, ownership or location shall file a new license application,
28 except such person or entity may request the commissioner to waive
29 the requirement that a new license application be filed. The
30 commissioner may grant or deny such request. Each license shall be for
31 a term of four years, shall be nontransferable, and may be renewed
32 upon receipt by the commissioner of a renewal application and
33 accompanying licensure fee. The commissioner may suspend or revoke
34 such license after notice and an opportunity for a hearing as provided
35 in section 19a-84 for violation of the regulations adopted under this
36 section and sections 19a-77 to 19a-79a, inclusive, and sections 19a-82 to
37 19a-87a, inclusive. In the case of an application for renewal of a license
38 that has expired, the commissioner may renew such expired license
39 within thirty days of the date of such expiration upon receipt of a
40 renewal application and accompanying licensure fee.

41 (2) The commissioner shall collect from the licensee of a child care
42 center a fee of five hundred dollars prior to issuing or renewing a
43 license for a term of four years. The commissioner shall collect from
44 the licensee of a group child care home a fee of two hundred fifty
45 dollars prior to issuing or renewing a license for a term of four years.
46 The commissioner shall require only one license for a child care center
47 operated in two or more buildings, provided the same licensee
48 provides child care services in each building and the buildings are

49 joined together by a contiguous playground that is part of the licensed
50 space.

51 (3) The commissioner, or the commissioner's designee, shall make
52 an unannounced visit, inspection or investigation of each licensed
53 child care center and group child care home at least once each year. At
54 least once every two years, the local health director, or the local health
55 director's designee, shall make an inspection of each licensed child care
56 center and group child care home.

57 (4) A municipality shall not subject the operation of a licensed group
58 child care home to any conditions, other than those imposed by the
59 commissioner pursuant to this subsection, if the home complies with
60 all local codes and ordinances applicable to single and multifamily
61 dwelling.

62 Sec. 3. Subsection (a) of section 8-2 of the general statutes is repealed
63 and the following is substituted in lieu thereof (*Effective October 1,*
64 *2019*):

65 (a) The zoning commission of each city, town or borough is
66 authorized to regulate, within the limits of such municipality, the
67 height, number of stories and size of buildings and other structures;
68 the percentage of the area of the lot that may be occupied; the size of
69 yards, courts and other open spaces; the density of population and the
70 location and use of buildings, structures and land for trade, industry,
71 residence or other purposes, including water-dependent uses, as
72 defined in section 22a-93, and the height, size, location, brightness and
73 illumination of advertising signs and billboards. Such bulk regulations
74 may allow for cluster development, as defined in section 8-18. Such
75 zoning commission may divide the municipality into districts of such
76 number, shape and area as may be best suited to carry out the
77 purposes of this chapter; and, within such districts, it may regulate the
78 erection, construction, reconstruction, alteration or use of buildings or
79 structures and the use of land. All such regulations shall be uniform
80 for each class or kind of buildings, structures or use of land throughout
81 each district, but the regulations in one district may differ from those

82 in another district, and may provide, except as otherwise specified in
83 this subsection, that certain classes or kinds of buildings, structures or
84 uses of land are permitted only after obtaining a special permit or
85 special exception from a zoning commission, planning commission,
86 combined planning and zoning commission or zoning board of
87 appeals, whichever commission or board the regulations may,
88 notwithstanding any special act to the contrary, designate, subject to
89 standards set forth in the regulations and to conditions necessary to
90 protect the public health, safety, convenience and property values.
91 Such regulations shall be made in accordance with a comprehensive
92 plan and in adopting such regulations the commission shall consider
93 the plan of conservation and development prepared under section 8-
94 23. Such regulations shall be designed to lessen congestion in the
95 streets; to secure safety from fire, panic, flood and other dangers; to
96 promote health and the general welfare; to provide adequate light and
97 air; to prevent the overcrowding of land; to avoid undue concentration
98 of population and to facilitate the adequate provision for
99 transportation, water, sewerage, schools, parks and other public
100 requirements. Such regulations shall be made with reasonable
101 consideration as to the character of the district and its peculiar
102 suitability for particular uses and with a view to conserving the value
103 of buildings and encouraging the most appropriate use of land
104 throughout such municipality. Such regulations may, to the extent
105 consistent with soil types, terrain, infrastructure capacity and the plan
106 of conservation and development for the community, provide for
107 cluster development, as defined in section 8-18, in residential zones.
108 Such regulations shall also encourage the development of housing
109 opportunities, including opportunities for multifamily dwellings,
110 consistent with soil types, terrain and infrastructure capacity, for all
111 residents of the municipality and the planning region in which the
112 municipality is located, as designated by the Secretary of the Office of
113 Policy and Management under section 16a-4a. Such regulations shall
114 also promote housing choice and economic diversity in housing,
115 including housing for both low and moderate income households, and
116 shall encourage the development of housing which will meet the

117 housing needs identified in the state's consolidated plan for housing
118 and community development prepared pursuant to section 8-37t and
119 in the housing component and the other components of the state plan
120 of conservation and development prepared pursuant to section 16a-26.
121 Zoning regulations shall be made with reasonable consideration for
122 their impact on agriculture, as defined in subsection (q) of section 1-1.
123 Zoning regulations may be made with reasonable consideration for the
124 protection of historic factors and shall be made with reasonable
125 consideration for the protection of existing and potential public surface
126 and ground drinking water supplies. On and after July 1, 1985, the
127 regulations shall provide that proper provision be made for soil
128 erosion and sediment control pursuant to section 22a-329. Such
129 regulations may also encourage energy-efficient patterns of
130 development, the use of solar and other renewable forms of energy,
131 and energy conservation. The regulations may also provide for
132 incentives for developers who use passive solar energy techniques, as
133 defined in subsection (b) of section 8-25, in planning a residential
134 subdivision development. The incentives may include, but not be
135 limited to, cluster development, higher density development and
136 performance standards for roads, sidewalks and underground facilities
137 in the subdivision. Such regulations may provide for a municipal
138 system for the creation of development rights and the permanent
139 transfer of such development rights, which may include a system for
140 the variance of density limits in connection with any such transfer.
141 Such regulations may also provide for notice requirements in addition
142 to those required by this chapter. Such regulations may provide for
143 conditions on operations to collect spring water or well water, as
144 defined in section 21a-150, including the time, place and manner of
145 such operations. No such regulations shall prohibit the operation of
146 any family child care home or group child care home in a residential
147 zone, nor shall such regulations require any special zoning permit or
148 special exception for such operation. No such regulations shall prohibit
149 the use of receptacles for the storage of items designated for recycling
150 in accordance with section 22a-241b or require that such receptacles
151 comply with provisions for bulk or lot area, or similar provisions,

152 except provisions for side yards, rear yards and front yards. No such
153 regulations shall unreasonably restrict access to or the size of such
154 receptacles for businesses, given the nature of the business and the
155 volume of items designated for recycling in accordance with section
156 22a-241b, that such business produces in its normal course of business,
157 provided nothing in this section shall be construed to prohibit such
158 regulations from requiring the screening or buffering of such
159 receptacles for aesthetic reasons. Such regulations shall not impose
160 conditions and requirements on manufactured homes having as their
161 narrowest dimension twenty-two feet or more and built in accordance
162 with federal manufactured home construction and safety standards or
163 on lots containing such manufactured homes which are substantially
164 different from conditions and requirements imposed on single-family
165 dwellings and lots containing single-family dwellings. Such
166 regulations shall not impose conditions and requirements on
167 developments to be occupied by manufactured homes having as their
168 narrowest dimension twenty-two feet or more and built in accordance
169 with federal manufactured home construction and safety standards
170 which are substantially different from conditions and requirements
171 imposed on multifamily dwellings, lots containing multifamily
172 dwellings, cluster developments or planned unit developments. Such
173 regulations shall not prohibit the continuance of any nonconforming
174 use, building or structure existing at the time of the adoption of such
175 regulations or require a special permit or special exception for any
176 such continuance. Such regulations shall not provide for the
177 termination of any nonconforming use solely as a result of nonuse for a
178 specified period of time without regard to the intent of the property
179 owner to maintain that use. Such regulations shall not terminate or
180 deem abandoned a nonconforming use, building or structure unless
181 the property owner of such use, building or structure voluntarily
182 discontinues such use, building or structure and such discontinuance
183 is accompanied by an intent to not reestablish such use, building or
184 structure. The demolition or deconstruction of a nonconforming use,
185 building or structure shall not by itself be evidence of such property
186 owner's intent to not reestablish such use, building or structure. Unless

187 such town opts out, in accordance with the provisions of subsection (j)
188 of section 8-1bb, such regulations shall not prohibit the installation of
189 temporary health care structures for use by mentally or physically
190 impaired persons in accordance with the provisions of section 8-1bb if
191 such structures comply with the provisions of said section. Any city,
192 town or borough which adopts the provisions of this chapter may, by
193 vote of its legislative body, exempt municipal property from the
194 regulations prescribed by the zoning commission of such city, town or
195 borough; but unless it is so voted municipal property shall be subject
196 to such regulations.

197 Sec. 4. Section 47a-4 of the general statutes is repealed and the
198 following is substituted in lieu thereof (*Effective October 1, 2019*):

199 (a) A rental agreement shall not provide that the tenant: (1) Agrees
200 to waive or forfeit rights or remedies under this chapter and sections
201 47a-21, 47a-23 to 47a-23b, inclusive, 47a-26 to 47a-26g, inclusive, 47a-35
202 to 47a-35b, inclusive, 47a-41a, 47a-43 and 47a-46, or under any section
203 of the general statutes or any municipal ordinance unless such section
204 or ordinance expressly states that such rights may be waived; (2)
205 authorizes the landlord to confess judgment on a claim arising out of
206 the rental agreement; (3) agrees to the exculpation or limitation of any
207 liability of the landlord arising under law or to indemnify the landlord
208 for that liability or the costs connected therewith; (4) agrees to waive
209 his right to the interest on the security deposit pursuant to section 47a-
210 21; (5) agrees to permit the landlord to dispossess him without resort
211 to court order; (6) consents to the distraint of his property for rent; (7)
212 agrees to pay the landlord's attorney's fees in excess of fifteen per cent
213 of any judgment against the tenant in any action in which money
214 damages are awarded; (8) agrees to pay a late charge prior to the
215 expiration of the grace period set forth in section 47a-15a or to pay rent
216 in a reduced amount if such rent is paid prior to the expiration of such
217 grace period; [or] (9) agrees to pay a heat or utilities surcharge if heat
218 or utilities is included in the rental agreement; or (10) is prohibited
219 from operating a licensed family child care home or group child care
220 home, as those terms are defined in section 19a-77, or is otherwise

221 restricted in the operation of such child care home.

222 (b) A provision prohibited by subsection (a) of this section included
223 in a rental agreement is unenforceable.

224 Sec. 5. Subsection (c) of section 47-70 of the general statutes is
225 repealed and the following is substituted in lieu thereof (*Effective*
226 *October 1, 2019*):

227 (c) The declaration may include such covenants and restrictions
228 concerning the use, occupancy and transfer of units as are permitted
229 by law with reference to real property, [; provided, however, that] (1)
230 provided the rule against perpetuities and the rule restricting
231 unreasonable restraints on alienation shall not be applied to defeat any
232 rights given by the condominium instruments or by this chapter, and
233 (2) except that the declaration may not include any prohibition on the
234 operation of a licensed family child care home or group child care
235 home, as those terms are defined in section 19a-77, or any restriction
236 on the operation of such family or group child care home.

237 Sec. 6. Subsection (b) of section 47-224 of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective*
239 *October 1, 2019*):

240 (b) The declaration may contain any other matters not inconsistent
241 with this chapter that the declarant considers appropriate, including
242 any restrictions on the uses of a unit or the number or other
243 qualifications of persons who may occupy units, except that the
244 declaration may not contain any prohibition on the operation of a
245 licensed family child care home or group child care home, as those
246 terms are defined in section 19a-77, or any restriction on the operation
247 of such family or group child care home.

248 Sec. 7. (NEW) (*Effective October 1, 2019*) In any renter's or
249 homeowner's insurance policy providing coverage for the operator of a
250 licensed family child care home or group child care home, such
251 operator may name such operator's landlord, association of unit

252 owners for a condominium or unit owners' association of a common
 253 interest community, as applicable, as an additional insured on such
 254 policy. For the purposes of this section, "family child care home" and
 255 "group child care home" have the same meanings as provided in
 256 section 19a-77 of the general statutes, "landlord" has the same meaning
 257 as provided in section 47a-1 of the general statutes, "condominium"
 258 and "association of unit owners" have the same meanings as provided
 259 in section 47-68a of the general statutes, and "unit owners' association"
 260 and "common interest community" have the same meanings as
 261 provided in section 47-202 of the general statutes.

262 Sec. 8. (NEW) (*Effective July 1, 2019*) Any municipality that violates
 263 section 8-3j of the general statutes, as amended by this act, subdivision
 264 (4) of subsection (b) of section 19a-80 of the general statutes, as
 265 amended by this act, or the provisions relating to group homes and
 266 family care homes in subsection (a) of section 8-2 of the general
 267 statutes, as amended by this act, shall be precluded from receiving any
 268 grant-in-aid from the state for the fiscal year next succeeding the
 269 determination of such a violation by the Department of Housing.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	8-3j
Sec. 2	<i>October 1, 2019</i>	19a-80(b)
Sec. 3	<i>October 1, 2019</i>	8-2(a)
Sec. 4	<i>October 1, 2019</i>	47a-4
Sec. 5	<i>October 1, 2019</i>	47-70(c)
Sec. 6	<i>October 1, 2019</i>	47-224(b)
Sec. 7	<i>October 1, 2019</i>	New section
Sec. 8	<i>July 1, 2019</i>	New section

Statement of Legislative Commissioners:

In Section 7, "family" was added before "child care home" for accuracy.

HSG Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 20 \$	FY 21 \$
Various Municipalities	Potential Loss of State Aid	See Below	See Below

Explanation

The bill results in a loss of state aid to municipalities that do not comply with specified zoning statutes, as it requires that they are precluded from receiving any grants-in-aid in the year following a violation.

The potential revenue loss can vary significantly by town, and depends on what grants are included in the definition of "grants-in-aid." Municipal aid totaled approximately \$4.5 billion in FY 19.

Sec. 8 of the bill authorizes the Department of Housing (DOH) to determine when a violation occurs. It is unclear how DOH would implement this provision. To the extent that DOH makes such determinations of violations solely based on notifications from the Office of Early Childhood or other regulating agencies with purview over the statutes identified, there is no fiscal impact to DOH anticipated.

The bill also makes changes to the zoning and regulation of child care facilities which do not have a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the amount budgeted for municipal aid, and the number of violations of certain housing statutes.

OLR Bill Analysis**sHB 6291*****AN ACT CONCERNING PROTECTIONS FOR CERTAIN GROUP CHILD CARE AND FAMILY CHILD CARE HOMES.*****SUMMARY**

This bill makes numerous changes concerning the municipal regulation of family and group child care homes (see BACKGROUND). It extends to group child care homes the existing restrictions on a municipality's authority to regulate or impose operational conditions on family child care homes. The bill also prohibits municipal zoning regulations from requiring a special zoning permit or exception to operate either a family or group child care home in a residential zone. Existing law already prohibits municipalities from barring the homes from operating in such zones. The bill requires municipalities, by December 1, 2019, to certify to the Office of Early Childhood (OEC) that their zoning regulations treat group and family child care homes the same as residential properties.

Under the bill, municipalities that violate the restrictions on regulating family and group child care homes are ineligible for any state grants the following fiscal year. The bill authorizes the Department of Housing (DOH) to determine whether a municipality is in violation.

The bill also:

1. extends to group child care homes the requirement that OEC inspect child care homes for evident sources of lead poisoning during licensing inspections and have tested any paint chips it finds (§2);
2. prohibits rental agreements and common interest community,

including condominium, declarations from including provisions barring tenants from operating a licensed family or group child care home or otherwise restricting their operation (§§ 4-6); and

3. explicitly authorizes licensed family and group home operators to add their landlord or unit owner association as an additional insured on their renter's or homeowner's insurance policies that provide coverage for such child care homes (§7).

EFFECTIVE DATE: October 1, 2019, except the state funding provision is effective July 1, 2019.

LIMITS ON MUNICIPAL REGULATIONS

Restrictions on Family and Group Child Care Homes (§§ 1-3)

By law, zoning regulations cannot bar family or group child care homes from operating in residential zones. This bill additionally prohibits such regulations from requiring the homes to obtain a special zoning permit or exemption (special permits and exceptions are synonymous; they allow one to use a property in a manner explicitly permitted by the zoning regulations, but subject to conditions not applicable to other uses in the same district).

Additionally, the bill extends to group child care homes existing limitations on a municipality's authority to regulate family child care homes. Under existing law, (1) municipal zoning regulations may not treat family child care homes differently than single or multifamily properties and (2) municipalities may not impose any operational conditions (other than those OEC requires) on family child care homes that are in compliance with all codes and ordinances applicable to residential properties. The bill similarly limits a municipality's authority to regulate group child care homes.

Violations (§ 8)

Under the bill, a municipality is ineligible for state grants for the following fiscal year if DOH determines that:

1. its zoning regulations treat group and family child care homes

differently than residential properties,

2. it failed to certify to OEC that its regulations treat group and family child care homes the same as residential properties, or
3. it imposed operational conditions (other than those OEC requires for licensing) on group child care homes even though the homes were in compliance with all regulations and ordinances pertaining to residential properties, or
4. its zoning regulations bar the homes from operating in residential zones or require them to obtain special zoning permits or exceptions to do so.

BACKGROUND

Family and Group Child Care Homes

A family child care home is a private family home generally caring for up to six children, including the provider's own children not in school full-time, where a child is cared for between three and 12 hours per day on a regular basis.

A group child care home (1) offers or provides supplementary care to between seven and 12 children on a regular basis or (2) meets the family day care home definition, except that it is not in a private family home.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 9 Nay 5 (03/07/2019)