



# House of Representatives

**File No. 934**

General Assembly

January Session, 2019

**(Reprint of File No. 181)**

Substitute House Bill No. 6291  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 20, 2019

***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 Section 8-3j of the general statutes is repealed and the  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, licensed as such by the Office of  
5 Early Childhood pursuant to [section 17b-733] chapter 368a, in a  
6 manner different from single or multifamily dwellings.

7 (b) Not later than December 1, 2019, and annually thereafter, each  
8 municipality shall submit to the Office of Policy and Management a  
9 sworn statement from the chief planning official of the municipality  
10 stating (1) that the municipality's zoning ordinance is in compliance  
11 with subsection (a) of this section and the provision relating to family  
12 child care homes and group child care homes in subsection (a) of  
13 section 8-2, as amended by this act, and treats a family child care home  
14 or a group child care home in the same manner as a single or

15 multifamily dwelling, or (2) the specific timeframe as to when the  
16 municipality will bring its zoning ordinance into compliance with  
17 subsection (a) of this section and such provision of subsection (a) of  
18 section 8-2, as amended by this act.

19 Sec. 2. Subsection (b) of section 19a-80 of the general statutes is  
20 repealed and the following is substitute in lieu thereof (*Effective October*  
21 *1, 2019*):

22 (b) (1) Upon receipt of an application for a license, the commissioner  
23 shall issue such license if, upon inspection and investigation, said  
24 commissioner finds that the applicant, the facilities and the program  
25 meet the health, educational and social needs of children likely to  
26 attend the child care center or group child care home and comply with  
27 requirements established by regulations adopted under this section  
28 and sections 19a-77 to 19a-79a, inclusive, and sections 19a-82 to 19a-  
29 87a, inclusive. Any inspection of a group child care home under this  
30 subsection shall include an inspection for evident sources of lead  
31 poisoning, and shall provide for a chemical analysis of any paint chips  
32 found on such premises. The commissioner shall offer an expedited  
33 application review process for an application submitted by a municipal  
34 agency or department. A currently licensed person or entity, as  
35 described in subsection (a) of this section, seeking a change of  
36 operator, ownership or location shall file a new license application,  
37 except such person or entity may request the commissioner to waive  
38 the requirement that a new license application be filed. The  
39 commissioner may grant or deny such request. Each license shall be for  
40 a term of four years, shall be nontransferable, and may be renewed  
41 upon receipt by the commissioner of a renewal application and  
42 accompanying licensure fee. The commissioner may suspend or revoke  
43 such license after notice and an opportunity for a hearing as provided  
44 in section 19a-84 for violation of the regulations adopted under this  
45 section and sections 19a-77 to 19a-79a, inclusive, and sections 19a-82 to  
46 19a-87a, inclusive. In the case of an application for renewal of a license  
47 that has expired, the commissioner may renew such expired license  
48 within thirty days of the date of such expiration upon receipt of a

49 renewal application and accompanying licensure fee.

50 (2) The commissioner shall collect from the licensee of a child care  
51 center a fee of five hundred dollars prior to issuing or renewing a  
52 license for a term of four years. The commissioner shall collect from  
53 the licensee of a group child care home a fee of two hundred fifty  
54 dollars prior to issuing or renewing a license for a term of four years.  
55 The commissioner shall require only one license for a child care center  
56 operated in two or more buildings, provided the same licensee  
57 provides child care services in each building and the buildings are  
58 joined together by a contiguous playground that is part of the licensed  
59 space.

60 (3) The commissioner, or the commissioner's designee, shall make  
61 an unannounced visit, inspection or investigation of each licensed  
62 child care center and group child care home at least once each year. At  
63 least once every two years, the local health director, or the local health  
64 director's designee, shall make an inspection of each licensed child care  
65 center and group child care home.

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

71 Sec. 3. Subsection (a) of section 8-2 of the general statutes is repealed  
72 and the following is substituted in lieu thereof (*Effective October 1,*  
73 *2019*):

74 (a) The zoning commission of each city, town or borough is  
75 authorized to regulate, within the limits of such municipality, the  
76 height, number of stories and size of buildings and other structures;  
77 the percentage of the area of the lot that may be occupied; the size of  
78 yards, courts and other open spaces; the density of population and the  
79 location and use of buildings, structures and land for trade, industry,  
80 residence or other purposes, including water-dependent uses, as

81 defined in section 22a-93, and the height, size, location, brightness and  
82 illumination of advertising signs and billboards. Such bulk regulations  
83 may allow for cluster development, as defined in section 8-18. Such  
84 zoning commission may divide the municipality into districts of such  
85 number, shape and area as may be best suited to carry out the  
86 purposes of this chapter; and, within such districts, it may regulate the  
87 erection, construction, reconstruction, alteration or use of buildings or  
88 structures and the use of land. All such regulations shall be uniform  
89 for each class or kind of buildings, structures or use of land throughout  
90 each district, but the regulations in one district may differ from those  
91 in another district, and may provide, except as otherwise specified in  
92 this subsection, that certain classes or kinds of buildings, structures or  
93 uses of land are permitted only after obtaining a special permit or  
94 special exception from a zoning commission, planning commission,  
95 combined planning and zoning commission or zoning board of  
96 appeals, whichever commission or board the regulations may,  
97 notwithstanding any special act to the contrary, designate, subject to  
98 standards set forth in the regulations and to conditions necessary to  
99 protect the public health, safety, convenience and property values.  
100 Such regulations shall be made in accordance with a comprehensive  
101 plan and in adopting such regulations the commission shall consider  
102 the plan of conservation and development prepared under section 8-  
103 23. Such regulations shall be designed to lessen congestion in the  
104 streets; to secure safety from fire, panic, flood and other dangers; to  
105 promote health and the general welfare; to provide adequate light and  
106 air; to prevent the overcrowding of land; to avoid undue concentration  
107 of population and to facilitate the adequate provision for  
108 transportation, water, sewerage, schools, parks and other public  
109 requirements. Such regulations shall be made with reasonable  
110 consideration as to the character of the district and its peculiar  
111 suitability for particular uses and with a view to conserving the value  
112 of buildings and encouraging the most appropriate use of land  
113 throughout such municipality. Such regulations may, to the extent  
114 consistent with soil types, terrain, infrastructure capacity and the plan  
115 of conservation and development for the community, provide for

116 cluster development, as defined in section 8-18, in residential zones.  
117 Such regulations shall also encourage the development of housing  
118 opportunities, including opportunities for multifamily dwellings,  
119 consistent with soil types, terrain and infrastructure capacity, for all  
120 residents of the municipality and the planning region in which the  
121 municipality is located, as designated by the Secretary of the Office of  
122 Policy and Management under section 16a-4a. Such regulations shall  
123 also promote housing choice and economic diversity in housing,  
124 including housing for both low and moderate income households, and  
125 shall encourage the development of housing which will meet the  
126 housing needs identified in the state's consolidated plan for housing  
127 and community development prepared pursuant to section 8-37t and  
128 in the housing component and the other components of the state plan  
129 of conservation and development prepared pursuant to section 16a-26.  
130 Zoning regulations shall be made with reasonable consideration for  
131 their impact on agriculture, as defined in subsection (q) of section 1-1.  
132 Zoning regulations may be made with reasonable consideration for the  
133 protection of historic factors and shall be made with reasonable  
134 consideration for the protection of existing and potential public surface  
135 and ground drinking water supplies. On and after July 1, 1985, the  
136 regulations shall provide that proper provision be made for soil  
137 erosion and sediment control pursuant to section 22a-329. Such  
138 regulations may also encourage energy-efficient patterns of  
139 development, the use of solar and other renewable forms of energy,  
140 and energy conservation. The regulations may also provide for  
141 incentives for developers who use passive solar energy techniques, as  
142 defined in subsection (b) of section 8-25, in planning a residential  
143 subdivision development. The incentives may include, but not be  
144 limited to, cluster development, higher density development and  
145 performance standards for roads, sidewalks and underground facilities  
146 in the subdivision. Such regulations may provide for a municipal  
147 system for the creation of development rights and the permanent  
148 transfer of such development rights, which may include a system for  
149 the variance of density limits in connection with any such transfer.  
150 Such regulations may also provide for notice requirements in addition

151 to those required by this chapter. Such regulations may provide for  
152 conditions on operations to collect spring water or well water, as  
153 defined in section 21a-150, including the time, place and manner of  
154 such operations. No such regulations shall prohibit the operation of  
155 any family child care home or group child care home in a residential  
156 zone, nor shall such regulations require any special zoning permit or  
157 special exception for such operation. No such regulations shall prohibit  
158 the use of receptacles for the storage of items designated for recycling  
159 in accordance with section 22a-241b or require that such receptacles  
160 comply with provisions for bulk or lot area, or similar provisions,  
161 except provisions for side yards, rear yards and front yards. No such  
162 regulations shall unreasonably restrict access to or the size of such  
163 receptacles for businesses, given the nature of the business and the  
164 volume of items designated for recycling in accordance with section  
165 22a-241b, that such business produces in its normal course of business,  
166 provided nothing in this section shall be construed to prohibit such  
167 regulations from requiring the screening or buffering of such  
168 receptacles for aesthetic reasons. Such regulations shall not impose  
169 conditions and requirements on manufactured homes having as their  
170 narrowest dimension twenty-two feet or more and built in accordance  
171 with federal manufactured home construction and safety standards or  
172 on lots containing such manufactured homes which are substantially  
173 different from conditions and requirements imposed on single-family  
174 dwellings and lots containing single-family dwellings. Such  
175 regulations shall not impose conditions and requirements on  
176 developments to be occupied by manufactured homes having as their  
177 narrowest dimension twenty-two feet or more and built in accordance  
178 with federal manufactured home construction and safety standards  
179 which are substantially different from conditions and requirements  
180 imposed on multifamily dwellings, lots containing multifamily  
181 dwellings, cluster developments or planned unit developments. Such  
182 regulations shall not prohibit the continuance of any nonconforming  
183 use, building or structure existing at the time of the adoption of such  
184 regulations or require a special permit or special exception for any  
185 such continuance. Such regulations shall not provide for the

186 termination of any nonconforming use solely as a result of nonuse for a  
187 specified period of time without regard to the intent of the property  
188 owner to maintain that use. Such regulations shall not terminate or  
189 deem abandoned a nonconforming use, building or structure unless  
190 the property owner of such use, building or structure voluntarily  
191 discontinues such use, building or structure and such discontinuance  
192 is accompanied by an intent to not reestablish such use, building or  
193 structure. The demolition or deconstruction of a nonconforming use,  
194 building or structure shall not by itself be evidence of such property  
195 owner's intent to not reestablish such use, building or structure. Unless  
196 such town opts out, in accordance with the provisions of subsection (j)  
197 of section 8-1bb, such regulations shall not prohibit the installation of  
198 temporary health care structures for use by mentally or physically  
199 impaired persons in accordance with the provisions of section 8-1bb if  
200 such structures comply with the provisions of said section. Any city,  
201 town or borough which adopts the provisions of this chapter may, by  
202 vote of its legislative body, exempt municipal property from the  
203 regulations prescribed by the zoning commission of such city, town or  
204 borough; but unless it is so voted municipal property shall be subject  
205 to such regulations.

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

208 (a) A rental agreement shall not provide that the tenant: (1) Agrees  
209 to waive or forfeit rights or remedies under this chapter and sections  
210 47a-21, 47a-23 to 47a-23b, inclusive, 47a-26 to 47a-26g, inclusive, 47a-35  
211 to 47a-35b, inclusive, 47a-41a, 47a-43 and 47a-46, or under any section  
212 of the general statutes or any municipal ordinance unless such section  
213 or ordinance expressly states that such rights may be waived; (2)  
214 authorizes the landlord to confess judgment on a claim arising out of  
215 the rental agreement; (3) agrees to the exculpation or limitation of any  
216 liability of the landlord arising under law or to indemnify the landlord  
217 for that liability or the costs connected therewith; (4) agrees to waive  
218 his right to the interest on the security deposit pursuant to section 47a-  
219 21; (5) agrees to permit the landlord to dispossess him without resort

220 to court order; (6) consents to the distraint of his property for rent; (7)  
 221 agrees to pay the landlord's attorney's fees in excess of fifteen per cent  
 222 of any judgment against the tenant in any action in which money  
 223 damages are awarded; (8) agrees to pay a late charge prior to the  
 224 expiration of the grace period set forth in section 47a-15a or to pay rent  
 225 in a reduced amount if such rent is paid prior to the expiration of such  
 226 grace period; [or] (9) agrees to pay a heat or utilities surcharge if heat  
 227 or utilities is included in the rental agreement; or (10) is prohibited  
 228 from operating a licensed family child care home, as described in  
 229 section 19a-77, or is otherwise restricted in the operation of such child  
 230 care home.

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

233 Sec. 5. (NEW) (*Effective October 1, 2019*) In any renter's or  
 234 homeowner's insurance policy providing coverage for the operator of a  
 235 licensed family child care home or group child care home, such  
 236 operator may name such operator's landlord, association of unit  
 237 owners for a condominium or unit owners' association of a common  
 238 interest community, as applicable, as an additional insured on such  
 239 policy. For the purposes of this section, "family child care home" and  
 240 "group child care home" have the same meanings as provided in  
 241 section 19a-77 of the general statutes, "landlord" has the same meaning  
 242 as provided in section 47a-1 of the general statutes, "condominium"  
 243 and "association of unit owners" have the same meanings as provided  
 244 in section 47-68a of the general statutes, and "unit owners' association"  
 245 and "common interest community" have the same meanings as  
 246 provided in section 47-202 of the general statutes.

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>	New section
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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.

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

#### **Explanation**

The bill makes numerous changes concerning the municipal regulation of family and group child care homes. It also requires municipalities to certify to the Office of Policy and Management that their zoning regulations meet certain state requirements. These changes have no fiscal impact.

House "A" requires municipalities to certify to the Office of Policy and Management that their zoning regulations meet certain state requirements. This has no fiscal impact.

#### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sHB 6291 (as amended by House "A")\******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 licensed 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 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 child care homes from operating in such zones.

Under the bill, each municipality must provide the Office of Policy Management (OPM), annually beginning by December 1, 2019, with a statement that (1) its zoning regulations treat group and family child care homes the same as residential properties or (2) it will bring the regulations into compliance within a specific timeframe.

The bill also:

1. 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);
2. extends to group child care homes the requirement that the

Office of Early Childhood (OEC) inspect child care homes for evident sources of lead poisoning during licensing inspections and have tested any paint chips it finds (§2); and

3. prohibits rental agreements from barring or restricting tenants from operating licensed family child care homes (§ 4).

EFFECTIVE DATE: October 1, 2019

\*House Amendment "A" (1) requires municipalities to provide the certification about their regulation of family and group child care homes on an annual basis to OPM, rather than just once to the Office of Early Childhood, and modifies its required components; (2) eliminates provisions (a) prohibiting rental agreements and condominium covenants from barring family and group child care homes and (b) making municipalities ineligible for any state grants if they violate the restrictions on regulating family and group child care homes; and (3) makes minor and conforming changes.

### **MUNICIPAL REPORTING REQUIREMENT**

Annually, beginning by December 1, 2019, the bill requires each municipality's chief planning official to submit to OPM a sworn statement regarding its compliance with the laws restricting the municipal regulation of licensed group and family child care homes, as amended by the bill. The statement must:

1. declare that its zoning regulations (a) treat licensed group and family child care homes the same as single and multifamily dwellings and (b) do not prohibit their operation in a residential zone or require any special zoning permit or special exception for their operation or
2. provide the specific timeframe by which the municipality will bring its zoning regulations into compliance with these requirements.

### **LIMITS ON MUNICIPAL REGULATIONS**

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

By law, zoning regulations cannot prohibit family or group child care homes from operating in residential zones. Under the bill, zoning regulations additionally cannot prohibit municipalities from issuing special zoning permits or exemptions to either type of homes (special permits and exceptions are synonymous; they allow recipients 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 comply with all codes and ordinances applicable to residential properties. The bill similarly limits a municipality's authority to regulate group child care homes.

**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)

Planning and Development Committee

Joint Favorable

Yea 12 Nay 8 (04/17/2019)