



**LEGISLATION & PUBLIC
INFORMATION UNIT**

1831 K Street
Sacramento, CA 95811-4114
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5807
www.disabilityrightsca.org

March 23, 2017

Honorable Matthew Harper
California State Assembly
Capitol Building, Room 5126
Sacramento, CA 95814

RE: AB 1095 (HARPER) - OPPOSE

Dear Assembly Member Harper:

Disability Rights California, a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **opposes AB 1095.**

Under existing state law, residential treatment facilities that are licensed to provide care for six or fewer persons are exempt from local zoning codes. Because of that exemption, such facilities do not need a conditional use permit from their local government to operate in a residential area. (That zoning exemption does not apply to facilities licensed to provide for seven persons or more.) This bill would exclude from the six or fewer person zoning exemption any residential treatment options that are "integral facilities," defined as two or more facilities that collectively serve seven or more persons that are owned or operated by the same entity. Based on this definition AB 1095 would eliminate the current zoning protection for residential treatment options which will contribute to discrimination against people with disabilities, unravel long-standing state law designed to promote effective treatment strategies, and would violate federal fair housing law.

By way of background, the six-or-under rule applies to a wide variety of facilities and helps ensure:

1. Integrated community services and residential options for a variety of people with disabilities;
2. Compliance with fair housing laws; and
3. That the state is better able to comply with its obligations under the Americans with Disabilities Act and the Olmstead Supreme Court decision to provide services to people with disabilities in the most integrated setting.

This long-standing exemption has served as a cornerstone of these important treatment and housing and civil rights goals in California. AB 1095 would veer sharply from these objectives.

The six-or-under rule has long been part of the drug and alcohol treatment continuum of care by ensuring that community-based residential treatment are available in supportive environments. This bill would restrict treatment availability. Siting these residences is often frustrated by NIMBY community opposition. This bill, like similar attempted restrictions in the past, heightens the problem by narrowing treatment options which allow adjacent residences to share resources, and most importantly, by stigmatizing small drug and alcohol treatment facilities. But the impact goes farther. Chipping away at the six-or-under rule as this bill does narrows the opportunities for persons with disabilities to live in community settings.

Furthermore, this bill violates state and local fair housing laws and the American with Disabilities Act, as it places unreasonable restrictions on what are often essentially residential uses serving people with disabilities, as well as on facilities serving people with disabilities. Such restrictions are not placed on other residential uses that do not serve people with disabilities. Fair housing laws prohibit spacing and location restrictions on housing for people with disabilities, such as the ones proposed by this bill. This is exacerbated by the fact that the bill applies to the provision of housing in one facility and services in another which is, on its face discriminatory against people with disabilities. If the effect of a restriction on housing, such as the restriction imposed in this bill, is to limit the existence of the current housing and the creation of new housing it violates federal Fair Housing law.

Finally, there would also be substantial costs imposed by AB 1095 on the Department of Health Care Services. If this bill were passed, the Department would have to determine which of California's approximate 1,500 facilities are now integral facilities and relicense them.

AB 1095 has a NIMBY purpose, is discriminatory, is contrary to our state's interest in mitigating problems related to addiction by having an adverse effect on treatment facilities, and will have a substantial cost on state and local governments. Protecting the opportunities for persons with disabilities to reside in the least restrictive community residential settings should be held inviolate.

For these reasons, we oppose this bill. Please contact me if you have any questions about our position on this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "Curtis Child", written in a cursive style.

Curtis Child
Legislative Director
Disability Rights California

cc: Madeleine Cooper, Legislative Director, Office of Assembly Member Harper
Honorable Chair and Members, Assembly Health Committee
Paula Villescaz, Principal Consultant, Assembly Health Committee