



**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.disabilityrightscalifornia.org

April 11, 2017

Honorable Ed Hernandez
Chair, Health Committee
California State Senate
Capitol Building, Room 2080
Sacramento, CA 95814

RE: SB 34 (BATES) – OPPOSE

Dear Senator Hernandez:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **opposes SB 34**. This bill is scheduled for hearing in the Senate Health Committee on April 19, 2017.

The California Community Care Facilities Act provides for the licensing and regulation of community care facilities, including alcoholism or drug abuse recovery or treatment facilities, by the State Department of Social Services. Current law also provides that a treatment facility that serves six or fewer persons, regardless of their relationship, to be considered a residential use of property and excludes the treatment facilities from local zoning ordinances to the extent they are considered anything other than a residential use of property.

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. SB 34 veers 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 is 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 this legislative session and the past, heightens the problem by creating new barriers to opening and keeping open recovery and treatment facilities.

Specifically, SB 34 would do the following:

1. Require the Department of Health Care Services (DHCS) to deny an application to a facility if there is another facility within 300 feet unless a city or county otherwise authorizes a separation of less than 300 feet;
2. Expand the types of recovery and treatment services for which DHCS must ensure are being provided at a facility or residence;
3. Expand the definition of “incidental medical services” for the purposes of approving a license to provide those services in the facility to include: controlling, administering or monitoring a patient’s medications; testing of bodily fluids; and collecting bodily fluids for testing; and,
4. Create a new misdemeanor crime for the violation of the licensing provisions.

Individually and collectively these provisions would, in a facially illegal way, limit the number of substance abuse facilities. Chipping away at the six-or-under rule, as this bill does, narrows the opportunities for persons with disabilities to live in community settings.

Both the California Fair Employment and Housing Act and the federal Fair Housing Amendments Act of 1988 prohibit any discrimination against people with disabilities. Under both laws, recovering drug addicts and recovering alcoholics are persons with disabilities protected from discrimination. (See the federal Fair Housing Amendments Act regulations at 24 CFR 100.201.) This bill imposes significant restrictions and regulations on individuals with these disabilities, and people who associate with or are perceived to be individuals with these disabilities, who choose to live together. No such restrictions or regulations are imposed upon similar individuals not living together who do not have these disabilities.

Fair Housing laws prohibit spacing and location restrictions on housing for persons with disabilities. If the effect of a restriction on housing is to limit the existence of the current housing and the creation of new housing it violates federal Fair Housing law. There are several ways SB 34 would reduce and limit housing opportunities for persons with disabilities.

First, requiring that DHCS must deny an application for any facility that would be located within 300 feet of another facility unless allowed by the city or county permits the local government to control the location of the facilities and thereby determine the number of treatment facilities that may be available. Prohibiting such a limitation is the cornerstone of Fair Housing laws restrictions.

Second, instilling local prosecutors subject to local political pressures with the authority to prosecute the newly-created crime would establish new burdens on facility providers to meet enhanced licensing requirements that would also have the effect of limiting treatment options for persons with disabilities due to alcohol and drug addictions. Again, federal Fair Housing law prohibits regulation that has the impact of limiting housing options for persons with disabilities.

Third, the elaboration of fourteen new examples of recovery and treatment services that serve as a definition of nonmedical services required for licensure serve to impose additional burdens on treatment providers to meet regulatory requirements in an effort to limit the actual number of facilities that may be able to meet the documentary requirements.

SB 34 has a NIMBY purpose, is discriminatory, 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. Unfortunately, SB 34 seeks to undo those protections.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis Child". The signature is fluid and cursive, with the first name "Curtis" and last name "Child" clearly distinguishable.

Curtis Child
Legislative Director
Disability Rights California

cc: Honorable Patricia Bates, California State Senate
Sarah Couch, Legislative Aide, Office of Senator Bates
Honorable Members, Senate Health Committee
Reyes Diaz, Principal Consultant, Senate Health Committee