

SUBJECT: Allowing counties to regulate halfway houses in unincorporated areas

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Coleman, Marquez, L. Gonzales, Gooden, Jackson, W. Smith, White

0 nays

2 absent — Hamilton, Paxton

WITNESSES: For — (*Registered, but did not testify*: Keith Elkins, Freedom of Information Foundation of Texas; Ken Whalen, Texas Daily Newspaper Association, Texas Press Association)

Against — (*Registered, but did not testify*: Jodie Smith, Texans Care for Children; Erica Surprenant, Texas Criminal Justice Coalition)

DIGEST: HB 230 would permit a county commissioners court to regulate the location of halfway houses in the unincorporated areas of the county and would allow for a process for licensing and inspection.

The bill would apply to a halfway house operated by a private entity, including a nonprofit organization, that did not have a contract with a state or local agency. The bill would exclude facilities offering chemical dependency treatment.

HB 230 would further define a halfway house as a facility housing two or more persons, not related by blood or by marriage, who are on community supervision, parole or mandatory supervision, or released on the equivalent of community supervision, parole, or mandatory supervision by another state or the federal government.

In any regulation of halfway houses, commissioners courts would be allowed to:

- restrict the facilities to particular areas;
- prohibit halfway houses within a certain distance from schools, churches, residential neighborhoods, or any other land use the commissioners court determines to be inconsistent with a halfway house; and
- restrict the density of halfway houses.

The bill would permit the commissioners court to require the owner or operator of the halfway house to obtain a license or permit and to renew that license or permit on a periodic basis. The process would also have to provide county authority to deny, suspend, or revoke any license or permit. Appeals would be subject to the jurisdiction of a district court.

HB 230 also would include provisions for inspections and fees for administering the regulation.

The owners or operators of a proposed halfway house would be required to publish notice in a newspaper of general circulation in the county of intent to establish the halfway house in the county and to post a prominent sign on the property. The advertising and posting would be required no later than 60 days before the filing of the application with the county.

HB 230 would grant the county the right to sue in district court for an injunction to prohibit violation of the county's halfway house regulation. The bill would make it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to violate county halfway house regulations.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 230 would allow for reasonable regulations on placement of halfway houses in unincorporated areas of the county. Local governments should have the authority to determine the appropriateness of locating these facilities where they were not close to employment or to public transportation. HB 230, which is modeled on current regulations on sexually oriented business in county, would provide for clear standards to separate these facilities from schools, churches, neighborhoods, or other halfway houses.

Newspaper advertising and sign posting requirements for proposed halfway houses would provide fair notice to neighbors and adjacent property owners. The public has a right to know, particularly information that could impact their safety and well-being or the value of their property.

HB 230 would provide counties with appropriate sanctions and due process to enforce the regulations. Violators should be subject to civil injunctions and criminal penalties as necessary.

**OPPONENTS
SAY:**

HB 230 would further restrict the already limited availability of safe and suitable housing for those transitioning back into society after being in the criminal justice system. The key factor for a successful return is having housing. The risk to public safety is higher when former offenders do not have a secure place to live and become more likely to return to a life of crime.

**OTHER
OPPONENTS
SAY:**

HB 230 should be revised to drop the criminal penalties. Regulating halfway houses is not analogous to restricting sexually oriented businesses. There would be a certain irony in placing at risk for prosecution those trying to help others make the transition out of the criminal justice system.

NOTES:

A similar bill, HB 1270 by Phillips, was set on the General State Calendar, but no further action was taken.