CHAPTER 84

HOUSE Substitute for SENATE BILL No. 91

AN ACT concerning community planning; relating to placement of sexually violent predators; zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and K.S.A. 2008 Supp. 59-29a11 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-764 is hereby amended to read as follows: 12-764. (a) *For development rights vested prior to July 1, 2009:*

(1) For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire.

(2) For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit.

(3) The governing body may provide in zoning regulations for earlier vesting of development rights, however, vesting shall occur in the same manner for all uses of land within a land-use classification under the adopted zoning regulations.

(b) For development rights vested on and after July 1, 2009:

(1) For the purpose of residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within 10 years of recording a plat, the development rights in such shall expire. For purposes of this section, residential developments may include single family housing; multiple family housing such as apartments, duplexes, townhomes and similar configurations; condominiums; and manufactured and modular homes.

(2) For all purposes other than residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed. If substantial amounts of the work have not been completed within 10 years of the issuance of such permits, the development rights shall expire.

(3) The governing body may provide in zoning regulations for earlier vesting of development rights, however, vesting shall occur in the same manner for all uses of land within a land-use classification under the adopted zoning regulations.

~~(d) The provisions of this section shall become effective on and after January 1, 1992.~~

Sec. 2. K.S.A. 2008 Supp. 59-29a11 is hereby amended to read as follows: 59-29a11. (a) Nothing in this act shall prohibit a person from filing a petition for transitional release, conditional release or final discharge pursuant to this act. However, if a person has previously filed a petition for transitional release, conditional release or final discharge without the secretary of the department of social and rehabilitation services approval and the court determined either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the secretary's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

(b) No transitional release or conditional release facility or building shall be located within 2,000 feet of a licensed child care facility, registered family day care home, an established place of worship, any residence in which a child under 18 years of age resides, or the real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12. This subsection shall not apply to any state ~~correctional~~ institution or facility.

(c) Transitional release or conditional release facilities or buildings shall be subject to all regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, such municipality's building regulatory codes, subdivision regulations or other nondiscriminatory regulations.

(d) On and after January 1, 2009, the secretary of social and rehabilitation services shall place no more than eight sexually violent predators in any one county on transitional release or conditional release.

(e) The secretary of social and rehabilitation services shall submit an annual report to the governor and the legislature during the first week of the regular legislative session detailing activities related to the transitional release and conditional release of sexually violent predators. The report shall include the status of such predators who have been placed in transitional release or conditional release including the number of any such predators and their locations; information regarding the number of predators who have been returned to the sexually violent predator treatment program at Larned state hospital along with the reasons for such return; and any plans for the development of additional transitional release or conditional release facilities.

Sec. 3. K.S.A. 12-764 and K.S.A. 2008 Supp. 59-29a11 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 13, 2009.