State of Tennessee

PUBLIC CHAPTER NO. 992

SENATE BILL NO. 2375

By Bell, Bailey, Bowling, Green, Gresham, Roberts, Stevens

Substituted for: House Bill No. 2040

By Farmer, Carter, Travis, Wirgau, Hardaway, Powers

AN ACT to amend Tennessee Code Annotated, Title 13; Title 68 and Title 71, relative to temporary family healthcare structures.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 7, is amended by adding the following as a new part:

13-7-501.

(a) For purposes of this section:

(1) "Caregiver" means an adult who provides care for a mentally or physically impaired person within this state, and who is related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for whom the adult is caring;

(2) "Mentally or physically impaired person" means a person who is a resident of this state and who requires assistance with two (2) or more activities of daily living, as certified in a writing provided by a physician licensed under title 63, chapter 6 or 9; and

(3) "Temporary family healthcare structure" means a transportable healthcare environment that is specifically designed with environmental controls, biometric and other remote monitoring technology, sensors, and communication systems to support extended home-based medical care, rehabilitation, and the provision of home- and community-based support and assistance for an older adult or person with a disability on the property where family members or unpaid caregivers who participate in the person's care reside. A temporary family healthcare structure:

(A) Is primarily assembled at a location other than its site of installation;

(B) Is limited to one (1) occupant who shall be the older adult or person with a disability who requires extended home-based medical care, rehabilitation, or the provision of home and community-based support and assistance;

(C) Meets the accessibility guidelines of the federal department of housing and urban development and the Americans with Disabilities Act, compiled in 42 U.S.C. § 12131 et seq.;

(D) Has no more than five hundred (500) gross square feet; and

(E) Complies with applicable provisions of title 68, chapter 120, part 1, and codes adopted by a county pursuant to title 5. Placing the

temporary family healthcare structure on a permanent foundation shall not be required or permitted.

(b)(1) For all purposes under this chapter, zoning ordinances may consider as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings, any temporary family healthcare structures that are:

(A) For use by a caregiver in providing care for a mentally or physically impaired person; and

(B) On property owned or occupied by the caregiver as their residence.

(2) Temporary family healthcare structures shall comply with any local requirements for accessory dwelling structures of this type. Temporary family healthcare structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one (1) temporary family healthcare structure shall be allowed on a lot or parcel of land.

(c) Any person proposing to install a temporary family healthcare structure shall first obtain a permit from the local governing body, for which the local government may charge a fee of up to one hundred dollars ($100). The local government may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The local government may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family healthcare structure remains on the property. This evidence may involve the inspection by the locality of the temporary family healthcare structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

(d) Any temporary family healthcare structure installed pursuant to this section shall comply with any local codes and ordinances to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the department of health.

(e) No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family healthcare structure or elsewhere on the property.

(f) Any temporary family healthcare structure installed pursuant to this section shall be removed by the property owner within thirty (30) days from which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. The local government may fine the property owner up to fifty dollars ($50.00) per day for a violation of this section, with each day constituting a separate offense.

(g) The local governing body, or planning commission on its behalf, may revoke the permit granted pursuant to subsection (c) if the permit holder violates this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The local codes department or building inspector is vested with all necessary authority on behalf of the governing body of the locality to ensure compliance with this section.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 14, is amended by adding the following language as a new, appropriately designated section:

(a) As part of the plan to expand cost-effective community-based residential alternatives to institutional care as required pursuant to § 71-5-1411(a), the bureau of TennCare shall seek written guidance from the centers for medicare and medicaid services regarding whether a temporary family healthcare structure, as defined in § 13-7-501, may be covered in whole or in part under the program established pursuant to this part, and, if so, shall, upon appropriation by the general assembly specifically to cover temporary family healthcare structures, seek federal approval of a waiver amendment to offer such benefit to eligible older adults and persons with disabilities who choose temporary family healthcare structures in lieu of care in other settings.

(b) Any waiver approved pursuant to subsection (a) shall apply only to a person who:

(1) Meets the CHOICES 2 activities of daily living criteria;

(2) Meets financial eligibility requirements for medical assistance under this chapter; and

(3) Is either:

(A) A person with a developmental or intellectual disability, as defined in § 33-1-101, who is related to the owner or occupier of the property; or

(B) An older adult who is related to the owner or occupier of the property.

SECTION 3. This act shall take effect July 1, 2016, the public welfare requiring it.

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PASSED: April 18, 2016

RON RAMSEY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of April 2016

BILL HASLAM, *GOVERNOR*