

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 2008

6
7 H. P. 2067 House of Representatives, February 19, 1982
Submitted by the Department of Mental Health and Mental Retar-
dation pursuant to Joint Rule 24.

8 On Motion of Mr. LaPlante of Sabattus reconsidered reference and
on further motion of same Gentleman, Referred to the Committee on
Judiciary. Sent up for concurrence and ordered printed.

9 EDWIN H. PERT, Clerk
Presented by Representative Benoit of South Portland.

Cosponsors: Senator Violette of Aroostook and Representative
Gowen of Standish.

10 STATE OF MAINE
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 AN ACT to Permit and Regulate the
16 Location of Group Homes in Residential
17 Districts.
18

19 Be it enacted by the People of the State of Maine as follows:

20 30 MRSA §4962, sub-§2 is enacted to read:

21 2. Community living arrangements. In order to imple-
22 ment the policy of this State that mentally handicapped or
23 developmentally disabled persons should not be excluded by
24 municipal zoning ordinances from the benefits of normal res-
25 idential surroundings, a state approved, authorized, certi-
26 fied or licensed group home, foster home or Intermediate
27 Care Facility for Mentally Retarded group home for 8 or
28 fewer mentally handicapped or developmentally disabled per-
29 sons shall be considered a permitted single family residen-
30 tial use of property for the purposes of zoning.

31 A. Within 10 days after receipt of an application for
32 initial approval, authorization, certification or
33 licensure of a group home, foster home or Intermediate

1 Care Facility for Mentally Retarded group home, the
2 Commissioner of Mental Health and Mental Retardation
3 shall notify the municipality, where the proposed
4 facility would be located, of receipt of the applica-
5 tion and forward a copy of the application to the
6 municipality.

7 (1) The municipality shall review the application
8 and report, within 15 days of receipt of the noti-
9 fication, to the commissioner the number of exist-
10 ing or proposed similar facilities whose property
11 lines are within the 1,500-foot radius of the
12 property line of the proposed facility.

13 (2) The municipality shall, within 15 days of
14 receipt of the notification, give written notice
15 of the proposal to locate a group home, foster
16 home or Intermediate Care Facility for Mentally
17 Retarded group home within the municipality to
18 those residents whose property lines are within a
19 1,500-foot radius of the property line of the pro-
20 posed facility.

21 (3) If the proposed group home, foster home or
22 Intermediate Care Facility for Mentally Retarded
23 group home is to be located in a single family
24 residential zone, the governing body of the munic-
25 ipality, within 30 days of receipt of the noti-
26 fication, may hold a public hearing to receive
27 comments and objections on the proposed group
28 home, foster home or Intermediate Care Facility
29 for Mentally Retarded group home. Comments and
30 objections shall be limited to:

31 (a) Vehicular access, circulation and park-
32 ing;

33 (b) Pedestrian circulation;

34 (c) Proximity of proposed use of commercial
35 shopping facilities, medical facilities,
36 public transportation, fire protection and
37 police protection; and

38 (d) Compliance with all applicable building,
39 plumbing and other safety codes. The Commis-
40 sioner of Mental Health and Mental Retarda-
41 tion, or his representative, shall attend any
42 such public hearing.

1 (4) The municipality, within 10 days of any
2 public hearing held pursuant to subparagraph (3),
3 shall file a written report with the Commissioner
4 of Mental Health and Mental Retardation concerning
5 the comments or objections made at the public
6 hearing. The commissioner, within 15 days of
7 receipt of the report, shall respond in writing to
8 the municipality concerning his findings on each
9 objection or comment.

10 (5) The municipality may, at any time after
11 establishment of a group home, foster home or
12 Intermediate Care Facility for Mentally Retarded
13 group home, file a written complaint with the Com-
14 missioner of Mental Health and Mental Retardation
15 concerning those matters identified in
16 subparagraph (3). The commissioner, within 30
17 days of receipt of a complaint, shall respond in
18 writing to the municipality concerning his find-
19 ings on each matter identified in the complaint.
20 Prior to preparing his response, the commissioner,
21 at his discretion, may hold a public hearing on
22 the complaint.

23 B. No state agency may approve, authorize, certify or
24 license a group home, foster home or Intermediate Care
25 Facility for Mentally Retarded group home:

26 (1) When another such facility exists within a
27 1,500-foot radius, unless permitted by the zoning
28 ordinance of the municipality of the proposed
29 location; or

30 (2) When the authorization, certification or
31 licensure of the facility would substantially con-
32 tribute to the excessive concentration of group
33 homes, foster homes or Intermediate Care Facility
34 for Mentally Retarded group homes within the
35 municipality.

36 C. A state approved, authorized, certified or licensed
37 foster home caring for 4 or fewer minors is exempt from
38 the restrictions of paragraph B.

39 D. The applicants for approval, authorization, certi-
40 fication or licensure of a group home, foster home or
41 Intermediate Care Facility for Mentally Retarded group
42 home may apply for an exemption from the restrictions
43 in paragraph B, and that exemption may be granted at
44 the discretion of the municipality. Two group homes,

1 foster homes or Intermediate Care Facility for Mentally
2 Retarded group homes may be adjacent if the municipal-
3 ity approves the arrangement and if both facilities
4 comprise essential components of a single program.

5 E. This subsection does not apply to group homes,
6 foster homes or Intermediate Care Facility for Mentally
7 Retarded group homes approved, authorized, certified or
8 licensed prior to April 1, 1982, nor to such homes for
9 which application has been made prior to that date.

10 STATEMENT OF FACT

11 The purpose of this bill is twofold. First, this bill
12 establishes explicit provisions for the notification and
13 involvement of municipalities and neighborhood residents in
14 the establishment of community residences. Secondly, this
15 bill facilitates implementation of the Federal Pineland Con-
16 sent Decree and state laws favoring community living for
17 handicapped persons as articulated in Title 34, sections
18 2001, 2052, 2141, 2147, 2601 and 2611. Many parents, handi-
19 capped persons and local service organizations have been
20 frustrated in their attempts to carry out the statutory
21 intent that mentally handicapped or developmentally disabled
22 persons be able to live in small family-style homes insofar
23 as possible. This bill clarifies problems originating from
24 ambiguous or narrow interpretations of local zoning ordi-
25 nances by allowing small residential homes to be considered
26 as single-family households for zoning purposes.