

# 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.