HOUSE . . . . . No. 521

By Mr. Scibelli of Springfield, petition of Anthony M. Scibelli relative to the establishment of community residence facilities. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT RELATIVE TO THE ESTABLISHMENT OF COMMUNITY RESIDENCE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by insert-
2 ing after Chapter 40H the following chapter:—

3 **Chapter 40I.**
4 **COMMUNITY FACILITIES.**

5 *Section 1.* As used in this chapter, the following words shall
6 have the following meanings: —
7 "Community Residence", means a residential facility which
8 houses a program for five or more clients which is licensed or
9 operated by, or under contract for services with, any agency within
10 the executive office of human services or approved by the depart-
11 ment of education; provided however, that "community res-
12 idence" shall not include hospitals, as defined in section fifty-
13 two of chapter one hundred eleven; nursing homes, rest homes and
14 charitable homes for the aged, as defined in section seventy-one of
15 chapter one hundred eleven, unless such facility does not have as its
16 principal service the delivery of medical, nursing and/or convales-
17 cent care or care incident to old age; foster home care, as defined by
18 chapter eighteen B; correctional institutions and county correc-
19 tional facilities as defined in section one of chapter one hundred
20 twenty-five; jails as defined in chapter one hundred twenty-six;
21 congregate housing for the elderly, provided that these programs
22 are not being used for the purpose of deinstitutionalization; and

23 buildings located on property owned by the United States, the
24 Commonwealth or its political subdivisions, unless the building in
25 which the community residence is located is integrated into the
26 surrounding community. If more than one residential unit with
27 live-in staff of four or fewer clients is located in a multiple family
28 dwelling of fewer than five units, such unit shall be deemed a
29 "community residence" for the purposes of this chapter. If twenty
30 percent or more of the units in a multiple family dwelling of greater
31 than five units are each occupied by four or fewer clients or a
32 residential program with live-in staff, each unit so occupied shall be
33 deemed a "community residence" for the purposes of this act.

1 SECTION 2. The executive office of human services shall promul-
2 gate regulations governing the siting of community residences
3 within the Commonwealth. Such regulations shall be designed to
4 promote the deinstitutionalization of dependent persons in a
5 manner consistent with the health, safety and welfare of residents
6 of cities and towns in which community residences are located.
7 Such regulations shall include, but not be limited to, provisions
8 concerning the concentration of community residences in neigh-
9 borhoods or communities; the maximum number of community
10 residence beds which may be established in a city or town predicat-
11 ed upon the needs of dependent persons having said community as
12 the community of local tie; the bulk and height of structures, yard
13 sizes, lot area, set backs, open space, parking and building cover-
14 age.

1 SECTION 3. There shall be established in the executive office
2 of human services a statewide registry of community residential
3 facilities.
4 (*a*) *Registry*. The executive office of human services shall devel-
5 op in cooperation with the state agencies responsible for the plan-
6 ning, administration, licensing, regulation and operation of com-
7 munity residential facilities, and consistently with federal law, a
8 uniform data base for a statewide registry to include, but not be
9 limited to, the following information: —
10 (1) the nature of such community residence including the class
11 of client it is intended to serve;

12 (2) the title of the provider responsible for the operation of such
13 community residence;
14 (3) the title of the state agency contracting for said services;
15 (4) the geographical area in which such community residence is
16 located, including but not limited to street address, municipality,
17 local school district and health systems agency, except in the case
18 of a battered shelter, which shall only list the community in which it
19 is located;
20 (5) the number of clients or residents authorized to live within
21 such community residence; and
22 (6) the licensing authority of such community residence.
23 *(b) Reports.* The executive office of human services shall, no
24 later than February fifteenth, nineteen hundred eighty-one and
25 annually thereafter, prepare a report to the governor and the
26 legislature including the following information: —
27 (1) a registry of all community residences presently operating in
28 this state including the types of services provided, the number of
29 persons served, the number of persons authorized to reside therein,
30 the licensing authority by which it is governed and the municipality
31 in which it is located;
32 (2) the number of persons in the state presently receiving place-
33 ment in a community residence including the general type of
34 services being provided and the municipality in which they are
35 provided;
36 (3) an analysis of such information as previously described so as
37 to improve the ability of such state agencies responsible for the
38 planning, administration, licensing, regulation and operation of
39 such community residences to effectively identify existing and
40 future needs for persons and services in different areas and coordi-
41 nate their planning efforts to meet such needs.

1 SECTION 4. The executive office of human services shall have
2 the following powers and duties: —
3 (a) to request and receive appropriate information as required
4 by the provisions of this title from state agencies responsible for the
5 planning, administration, licensing, regulation or operation of
6 community residences, including a list of all community residences
7 heretofore or hereafter established by such agency; or pursuant to a

license or operating certificate issued by such agency;

(b) to compile and index such information received from state agencies responsible for the planning, administration, licensing, regulation or operation of community residential facilities in order to establish a comprehensive registry of such residences within the commonwealth of Massachusetts;

(c) to provide access to such registry to such state agencies responsible for the planning, administration, licensing, regulation or operation of community residential facilities so as to coordinate and integrate planning among such state agencies;

(d) to make available to municipalities a listing of such community residential facilities located within their jurisdiction or within an adjoining municipality in order to facilitate proper local planning efforts for the development of such community residential facilities; and

(e) to promulgate such regulations as may be necessary to protect information required to be kept confidential pursuant to law and to prevent the dissemination of any personally identifiable information of residents or clients of such community residential facilities.

SECTION 5. The executive office of human services shall annually report to the governor, legislature, cities and towns, area boards of human services agencies, regional planning agencies and other requesting parties, the anticipated need for community residences by department or agency on an area basis for the ensuing fiscal year. Said report may be augmented during the fiscal year if additional needs are identified by any department or agency.

SECTION 6. The State Treasurer, on or before November 20, 1981 and annually thereafter, shall pay to the cities and towns an amount equal to the taxes which would be paid on the assessed valuation of any community residence or residences within said city or town, provided however, that such residence is certified as a community residence by the Executive Office of Human Services. Such payments as may be due under this section shall be based upon an assessed valuation for each community residence as if it were residential property as defined in Section 2A of Chapter 59 of the Massachusetts General Laws.

SECTION 7. Any community residence in existence or under construction or renovation on the effective date of this act shall be deemed to have complied with the requirements of this act.

SECTION 8. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining portions.