

# Adult Criminal Sex Offender Group Homes

This Act attempts to balance the need for housing registered adult sex offenders with citizen concerns about housing such offenders in residential areas. The Act generally limits the number of registered sex offenders who can live together in residential housing at two. However, it grants exceptions to this rule and gives cities and counties the authority to exceed the limit if the cities and counties meet certain criteria when locating residential housing for registered sex offenders.

Submitted as:

Idaho

HB 417

Status: Enacted into law in 2008.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as “An Act to Address the Number of  
2 Adult Sex Offenders Who Can Reside Together.”

3  
4           Section 2. [*Adult Criminal Sex Offenders -- Prohibited Group Dwelling -- Exceptions.*]

5           (A) For purposes of this section:

6                   (1) “Reside” and “residing” mean occupying the residential dwelling unit as a  
7 fixed place of abode or habitation for any period and to which place the person has the intention  
8 of returning after a departure or absence therefrom regardless of the duration of absence.

9                   (2) “Residential dwelling unit” includes, but is not limited to, single family  
10 dwellings and units in multifamily dwellings including units in duplexes, apartment dwellings,  
11 mobile homes, condominiums and townhouses in areas zoned as residential. For the purposes of  
12 this section, a state or federally licensed health care or convalescent facility is not a residential  
13 dwelling unit.

14           (B) Except as otherwise provided in this section, when a person is required to register  
15 pursuant to [insert citation], that person may not reside in any residential dwelling unit with more  
16 than [one (1)] other person who is also required to register pursuant to [insert citation]. If, on the  
17 effective date of this section, any person required to register pursuant to [insert citation], is  
18 legally residing in a residential dwelling unit with more than [one (1)] other person required to so  
19 register, the person may continue to reside in that residential dwelling unit without violating the  
20 provisions of this section, provided that no additional people so required to register shall move  
21 into that residential dwelling unit if the person moving in would be in violation of this section.

22           (C)       (1) A judge of the district court may, upon petition and after an appropriate  
23 hearing, authorize a person required to register pursuant to [insert citation], to reside in a  
24 residential dwelling unit with more than [one (1)] other person who is also required to register  
25 pursuant to this Act, if the judge determines that:

26                   (a) Upon clear and convincing evidence that not doing so would deprive  
27 the petitioner of a constitutionally guaranteed right; and

28                   (b) That such right is more compelling under the facts of the case than is  
29 the interest of the state and local government in protecting neighboring citizens, including  
30 minors, from risk of physical or psychological harm. Such risk of harm shall be presumed absent

31 clear and convincing evidence to the contrary given the applicant's status as a person required to  
32 register pursuant to [insert citation];

33 (2) Any exception allowed under this section shall be limited to alleviate only a  
34 deprivation of constitutional right which is more compelling than the interest of the state and  
35 local government in minimizing the risk of harm to the neighboring citizens;

36 (3) Any order of exception under this section shall be made a part of the registry  
37 maintained pursuant to [insert citation].

38 (D) Any city or county may establish standards for the establishment and operation of  
39 residential houses for registered sex offenders which exceed the number of registered sex  
40 offenders allowed to reside in a residential dwelling unit under subsection (B) of this section.  
41 Applicable standards shall include establishing procedures to allow comment of neighboring  
42 residents within a specified distance, and may include, but are not limited to:

43 (1) Designating permissible zones in which such houses may be located;

44 (2) Designating permissible distances between such houses;

45 (3) Designating the maximum number of registered sex offenders allowed to  
46 reside in such houses;

47 (4) Designating qualifications and standards for supervision and care of such  
48 houses and the residents;

49 (5) Designating requirements and procedures to qualify as the operator of such  
50 houses, including any requirement that the residents be engaged in treatment or support programs  
51 for sex offenders and related addiction treatment or support programs; and

52 (6) Designating any health and safety requirements which are different than those  
53 applicable to other residential dwelling units in the zone.

54 (E) No person or entity shall operate a residence house for registered sex offenders in  
55 violation of the limitations of subsection (B) of this section except as otherwise provided under  
56 subsection (D) of this section. If, on the effective date of this section, any individual or entity is  
57 operating an existing residence house for people required to register pursuant to this Act, and  
58 when such individual or entity also requires such people to be participants in a sex offender  
59 treatment or support program such individual or entity shall not be precluded from continuing to  
60 operate such residence house, provided that:

61 (1) The residence house shall not operate at a capacity exceeding [eight (8)]  
62 residents in the dwelling unit and [two (2)] residents per bedroom, or the existing number of  
63 residents, whichever is less;

64 (2) Once the governing city or county enacts an ordinance pursuant to subsection  
65 (D) of this section establishing standards for the operation of a residence house for sex offenders,  
66 the operator of the residence house shall, no later than [one (1)] year after enactment of the  
67 ordinance, comply with all standards of the ordinance, except any requirement that is less than  
68 the maximum capacity provided for under subsection (E)(1) of this section or which requires a  
69 relocation of the residence;

70 (3) The burden of proving that an existing residence house qualifies for  
71 continuing operation under this subsection shall be upon the operator of the residence house;

72 (4) Any change in the use of an existing residence house shall void the exception  
73 for the continuing operation of the house under the provisions of this section.

74 (F) If any person required to register pursuant to [insert citation], is on parole or  
75 probation under the supervision of the [state department of correction], the [department] shall be  
76 notified by the person or the person's agent of any intent to reside with another person required to  
77 register under [insert citation]. The [department] must approve the living arrangement in advance  
78 as consistent with the terms of the parole or probation, and consistent with the objective of

79 reducing the risk of recidivism. The [department] shall establish rules governing the application  
80 of this subsection.

81 (G) Any person who knowingly and with intent violates the provisions of this section is  
82 guilty of a [misdemeanor].

83 (H) Any city or county is entitled to injunctive relief against any person or entity  
84 operating a residence house within its jurisdiction in violation of this section.

85

86 Section 3. [*Severability.*] [Insert severability clause.]

87

88 Section 4. [*Repealer.*] [Insert repealer clause.]

89

90 Section 5. [*Effective Date.*] [Insert effective date.]