

115TH CONGRESS
1ST SESSION

H. R. 3024

To require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2017

Mr. SCHIFF introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Child Abuse in
5 Residential Programs for Teens Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CHILD.—The term “child” means an indi-
9 vidual who has not attained the age of 18.

1 (2) CHILD ABUSE AND NEGLECT.—The term
2 “child abuse and neglect” has the meaning given
3 such term in section 3 of the Child Abuse Preven-
4 tion and Treatment Act (42 U.S.C. 5101 note).

5 (3) COVERED PROGRAM.—

6 (A) IN GENERAL.—The term “covered pro-
7 gram” means each facility of a program oper-
8 ated by a public or private entity that, with re-
9 spect to one or more children who are unrelated
10 to the owner or operator of the program, pur-
11 ports to provide treatment or modify behaviors
12 in a residential environment, such as—

13 (i) a program with a wilderness or
14 outdoor experience, expedition, or interven-
15 tion;

16 (ii) a boot camp experience or other
17 experience designed to simulate character-
18 istics of basic military training or correc-
19 tional regimes;

20 (iii) a therapeutic boarding school; or

21 (iv) a behavioral modification pro-
22 gram.

23 (B) EXCLUSION.—The term “covered pro-
24 gram” does not include—

25 (i) a hospital licensed by the State; or

1 (ii) a foster family home that provides
2 24-hour substitute care for children placed
3 away from their parents or guardians and
4 for whom the State child welfare services
5 agency has placement and care responsi-
6 bility and that is licensed and regulated by
7 the State as a foster family home.

8 (4) MECHANICAL RESTRAINT.—The term “me-
9 chanical restraint” has the meaning given the term
10 in section 595(d)(1) of the Public Health Service
11 Act (42 U.S.C. 290jj(d)(1)).

12 (5) PHYSICAL RESTRAINT.—The term “physical
13 restraint” means a personal restriction that immo-
14 bilizes or reduces the ability of an individual to move
15 the individual’s arms, legs, torso, or head freely, ex-
16 cept that such term does not include voluntary phys-
17 ical escort (as such term is defined in section
18 595(d)(2) of the Public Health Service Act (42
19 U.S.C. 290jj(d)(2))).

20 (6) PROTECTION AND ADVOCACY SYSTEM.—The
21 term “protection and advocacy system” means a sys-
22 tem established by a State under section 143 of the
23 Developmental Disabilities Assistance and Bill of
24 Rights Act of 2000 (42 U.S.C. 15043).

1 (7) SECLUSION.—The term “seclusion” means
2 the involuntary confinement of a child alone in a
3 room or area from which the child is physically pre-
4 vented from leaving.

5 (8) SECRETARY.—The term “Secretary” means
6 the Secretary of Health and Human Services.

7 (9) STATE.—The term “State” has the mean-
8 ing given such term in section 3 of the Child Abuse
9 Prevention and Treatment Act (42 U.S.C. 5101
10 note).

11 **SEC. 3. STANDARDS AND ENFORCEMENT.**

12 (a) MINIMUM STANDARDS.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of the enactment of this Act, the Sec-
15 retary shall require each covered program, in order
16 to provide for the basic health and safety of children
17 at such a program, to meet the following minimum
18 standards:

19 (A) PROHIBITION ON CHILD ABUSE AND
20 NEGLECT.—Child abuse and neglect shall be
21 prohibited.

22 (B) PROHIBITION ON CERTAIN DISCIPLI-
23 NARY TECHNIQUES.—Disciplinary techniques or
24 other practices that involve the withholding of
25 essential food, water, clothing, shelter, or med-

1 ical care necessary to maintain physical health,
2 mental health, and general safety, shall be pro-
3 hibited.

4 (C) PROHIBITION ON PHYSICAL OR MEN-
5 TAL ABUSE.—Acts of physical or mental abuse
6 designed to humiliate, degrade, or undermine a
7 child’s self-respect shall be prohibited.

8 (D) LIMITATION ON RESTRAINTS AND SE-
9 CLUSION.—

10 (i) The use of seclusion, mechanical
11 restraints, and physical restraints that im-
12 pair breathing or communication is prohib-
13 ited.

14 (ii) Physical restraints other than the
15 restraints described in clause (i) may be
16 used (if not contraindicated) only in emer-
17 gency situations in which a child presents
18 an imminent danger of harm to self or oth-
19 ers and only after less restrictive interven-
20 tions have been determined to be ineffec-
21 tive.

22 (E) ACCESS TO COMMUNICATIONS.—Each
23 child at such a program shall have reasonable
24 access to a telephone, and be informed of their
25 right to such access to maintain frequent con-

1 tact, including making and receiving scheduled
2 and unscheduled calls, unrestricted written cor-
3 respondence, and electronic communications
4 with as much privacy as possible, and shall
5 have access to existing and appropriate na-
6 tional, State, and local child abuse reporting
7 hotline numbers.

8 (F) STAFF-TO-CHILD RATIO.—An appro-
9 priate ratio of medical, clinical, and line staff to
10 children, as determined by the Secretary, to en-
11 sure child safety and the efficacy of treatment.

12 (G) SENIOR MANAGEMENT.—Not less than
13 one full-time licensed clinician or mental health
14 practitioner, as defined by State law, shall be
15 employed as a senior manager of such a pro-
16 gram.

17 (H) LICENSED CLINICIAN.—Not less than
18 one licensed clinician, as defined by State law,
19 shall be present at all times at such a program.

20 (I) PROGRAM POLICIES.—Policies to re-
21 quire—

22 (i) parents or legal guardians of a
23 child attending such a program to notify,
24 in writing, such program of any medication
25 the child is taking;

1 (ii) a licensed full-time clinician—

2 (I) to obtain consent from the
3 parents or legal guardians of the child
4 to make any change to the child's
5 medical treatment, except in the case
6 of an emergency;

7 (II) in the case of an emergency,
8 to notify the parents or guardians
9 within 24 hours after any change to
10 the child's medical treatment and the
11 reason for such change; and

12 (III) to notify the parents or
13 guardians within 24 hours after any
14 changes to the child's prescribed
15 medication or any missed dosage of
16 prescribed medication, and the reason
17 for such change or occurrence; and

18 (iii) the covered program to notify
19 parents or legal guardians of a child of any
20 changes to their treating provider team
21 within 48 hours.

22 (J) NOTIFICATION PROCEDURES.—Proce-
23 dures for notifying immediately, to the max-
24 imum extent practicable, but not later than
25 within 6 hours, parents or legal guardians with

1 children at such a program and the appropriate
2 protection and advocacy system of any—

3 (i) on-site investigation of a report of
4 child abuse and neglect;

5 (ii) violation of the health and safety
6 standards described in this paragraph; and

7 (iii) violation of State licensing re-
8 quirements.

9 (K) STAFF DISCLOSURES.—Full disclosure,
10 in writing, of staff qualifications and their roles
11 and responsibilities at such a program, includ-
12 ing any medical, emergency response, and men-
13 tal health training received by such staff, shall
14 be given to parents or legal guardians of chil-
15 dren at such a program.

16 (L) DISCLOSURE OF RIGHT OF ACTION.—
17 Full disclosure, in writing, of the private right
18 of action established under subsection (b)(3) of
19 this Act, shall be given to parents or legal
20 guardians of children at such a program.

21 (M) CHILD ABUSE RESPONSE TRAINING.—
22 Each staff member, including volunteers, at
23 such a program shall be required, as a condi-
24 tion of employment, to become trained in what
25 constitutes child abuse and neglect, State law

1 relating to mandated reporters, and procedures
2 for reporting child abuse and neglect in the
3 State in which such a program is located, and
4 information on existing and appropriate na-
5 tional, State, and local child abuse reporting
6 hotline numbers.

7 (N) MEDICAL RESPONSE TRAINING.—Each
8 staff member, including volunteers, at such a
9 program shall be required, as a condition of em-
10 ployment, to become trained in recognizing the
11 signs, symptoms, and appropriate responses as-
12 sociated with common medical emergencies and
13 mental health crisis, including suicide and wors-
14 ening symptoms of mental illness.

15 (O) CRIMINAL HISTORY CHECK.—

16 (i) Each staff member, including vol-
17 unteers, shall be required, as a condition of
18 employment, to submit to a criminal his-
19 tory check, including a name-based search
20 of the National Sex Offender Registry es-
21 tablished pursuant to the Adam Walsh
22 Child Protection and Safety Act of 2006
23 (42 U.S.C. 16901 et seq.), a search of the
24 State criminal registry or repository in the
25 State in which the covered program is op-

erating, and a Federal Bureau of Investigation fingerprint check. An individual shall be ineligible to serve in a position with any contact with children at a covered program if any such record check reveals a violent felony conviction that, by virtue of its nature, proximity in time, or other factor, presents a direct increase to a child's risk of harm in the program as determined by the Secretary.

(ii) The covered program shall provide an independent process by which an applicant or staff member who is determined to be ineligible as a result of a criminal history check under clause (i) shall have the right—

(I) to obtain a copy of the report resulting from the check; and

(II) within 10 business days after receipt of the report, to appeal, in order to dispute the accuracy of the information obtained through the check.

(P) INFORMATIONAL MATERIALS.—Full disclosure, in writing on promotional and infor-

1 mational materials produced by such a pro-
2 gram, shall be given to parents or legal guard-
3 ians of children at such a program, which shall
4 include—

5 (i) the name and location of a covered
6 program, including the names of any own-
7 ers and operators;

8 (ii) the numbers and percentages of
9 children who terminated participation prior
10 to completion of that program in the past
11 5 years, including discharges against med-
12 ical advice;

13 (iii) any past violations of the stand-
14 ards under this paragraph and any pen-
15 alties levied against the program as a re-
16 sult of such violations;

17 (iv) its most updated status with
18 State licensing requirements;

19 (v) the number of deaths that oc-
20 curred in that program for up to a period
21 of 10 years, including the cause of each
22 death;

23 (vi) the names of owners and opera-
24 tors that have violated State licensing re-
25 quirements;

(vii) information on evidence-based or promising practices employed as treatment of a covered program, including information to aid parents in finding community-based resources; and

(viii) any national, State, and local telephone hotline numbers made available to children and staff to report complaints of abuse and violations.

(Q) TREATMENT AND DISCHARGE PLANS.—Covered programs shall work with the parent or legal guardian and the child’s community providers in the development, modification, and implementation of treatment and discharge plans, including a plan for community reintegration and linkage to community-based providers and supports.

(R) PROHIBITION ON DISCRIMINATION.—Ensure that no person shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability, be subjected to discrimination under any program or activity, in whole or in part, covered by this Act.

1 (S) EVIDENCE-BASED PRACTICES.—En-
2 sure that covered programs employ safe, evi-
3 dence-based practices, and that children are
4 protected against harmful or fraudulent prac-
5 tices including isolation and restraints.

6 (T) OTHER STANDARDS.—Any other
7 standards the Secretary determines appropriate
8 to provide for the basic health and safety of
9 children at such a program.

10 (2) REGULATIONS.—

11 (A) INTERIM REGULATIONS.—Not later
12 than 180 days after the date of the enactment
13 of this Act, the Secretary shall promulgate and
14 enforce interim regulations to carry out para-
15 graph (1).

16 (B) PUBLIC COMMENT.—The Secretary
17 shall, for a 90-day period beginning on the date
18 of the promulgation of interim regulations
19 under subparagraph (A) of this paragraph, so-
20 licit and accept public comment concerning such
21 regulations. Such public comment shall be sub-
22 mitted in written form.

23 (C) FINAL REGULATIONS.—Not later than
24 90 days after the conclusion of the 90-day pe-
25 riod referred to in subparagraph (B) of this

1 paragraph, the Secretary shall promulgate and
2 enforce final regulations to carry out paragraph
3 (1).

4 (b) MONITORING AND ENFORCEMENT.—

5 (1) REVIEW PROCESS.—Not later than 180
6 days after the date of the enactment of this Act, the
7 Secretary shall implement a review process for over-
8 seeing, investigating, and evaluating reports of child
9 abuse and neglect at covered programs received by
10 the Secretary from the appropriate State, in accord-
11 ance with section 115(b)(3) of the Child Abuse Pre-
12 vention and Treatment Act, as added by section 7
13 of this Act. Such review process shall—

14 (A) include an investigation to determine if
15 a violation of the standards required under sub-
16 section (a)(1) has occurred; and

17 (B) include consultation and collaboration
18 with relevant Federal and State agencies.

19 (2) CIVIL PENALTIES.—Not later than 180
20 days after the date of the enactment of this Act, the
21 Secretary shall promulgate regulations establishing
22 civil penalties for violations of the standards re-
23 quired under subsection (a)(1). The regulations es-
24 tablishing such penalties shall incorporate the fol-
25 lowing:

1 (A) AMOUNT.—Any owner or operator of a
2 covered program at which the Secretary has
3 found a violation of the standards required
4 under subsection (a)(1) may be assessed a civil
5 penalty not to exceed \$50,000 per violation.

6 (B) DEPOSIT TO TREASURY.—All penalties
7 collected under this subsection shall be depos-
8 ited in the appropriate account of the Treasury
9 of the United States.

10 (3) PRIVATE RIGHT OF ACTION.—Any person
11 who suffers injury by reason of a violation of this
12 section may maintain a civil action against the viola-
13 tor to obtain appropriate compensatory damages and
14 injunctive relief or other equitable relief.

15 (c) ACTION.—The Secretary shall establish a process
16 to assist States in the oversight and enforcement of this
17 Act, which shall include—

18 (1) assisting States in implementing oversight
19 mechanisms to ensure compliance with the standards
20 under subsection (a)(1);

21 (2) maintaining oversight of covered programs
22 in cases in which a State has not established mecha-
23 nisms sufficient to ensure compliance with the
24 standards under subsection (a)(1) within 3 years
25 after the date of the enactment of this Act; and

1 (3) encouraging the use of local, State, or na-
2 tional hotline numbers for the reporting of child
3 abuse and any other resources the Secretary deter-
4 mines to be appropriate.

5 **SEC. 4. ENFORCEMENT BY THE ATTORNEY GENERAL.**

6 If the Secretary determines that a violation of section
7 (3)(a)(1) has not been remedied through the enforcement
8 process described in subsection (b)(2) of such section, the
9 Secretary shall refer such violation to the Attorney Gen-
10 eral for appropriate action. Regardless of whether such a
11 referral has been made, the Attorney General may, sua
12 sponte, file a complaint in any court of competent jurisdic-
13 tion seeking equitable relief or any other relief authorized
14 by this Act for such violation.

15 **SEC. 5. REPORT.**

16 Not later than 1 year after the date of the enactment
17 of this Act and annually thereafter, the Secretary of
18 Health and Human Services, in coordination with the At-
19 torney General shall submit to the Committee on Edu-
20 cation and Labor of the House of Representatives and the
21 Committee on Health, Education, Labor, and Pensions of
22 the Senate, a report on the activities carried out by the
23 Secretary and the Attorney General, as authorized and
24 mandated under this Act.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Sec-
3 retary of Health and Human Services \$5,000,000 for each
4 of fiscal years 2018 through 2022 to carry out this Act
5 (excluding the amendment made by section 7 of this Act).

6 **SEC. 7. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
7 **GRANTS TO STATES TO PREVENT CHILD**
8 **ABUSE AND NEGLECT AT RESIDENTIAL PRO-**
9 **GRAMS.**

10 (a) IN GENERAL.—Title I of the Child Abuse Preven-
11 tion and Treatment Act (42 U.S.C. 5101 et seq.) is
12 amended by adding at the end the following new section:

13 **“SEC. 115. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
14 **GRANTS TO STATES TO PREVENT CHILD**
15 **ABUSE AND NEGLECT AT RESIDENTIAL PRO-**
16 **GRAMS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) CHILD.—The term ‘child’ means an indi-
19 vidual who has not attained the age of 18.

20 “(2) COVERED PROGRAM.—

21 “(A) IN GENERAL.—The term ‘covered
22 program’ means each facility of a program op-
23 erated by a public or private entity that, with
24 respect to one or more children who are unre-
25 lated to the owner or operator of the program,

1 purports to provide treatment or modify behav-
2 iors in a residential environment, such as—

3 “(i) a program with a wilderness or
4 outdoor experience, expedition, or interven-
5 tion;

6 “(ii) a boot camp experience or other
7 experience designed to simulate character-
8 istics of basic military training or correc-
9 tional regimes;

10 “(iii) a therapeutic boarding school; or

11 “(iv) a behavioral modification pro-
12 gram.

13 “(B) EXCLUSION.—The term ‘covered pro-
14 gram’ does not include—

15 “(i) a hospital licensed by the State;
16 or

17 “(ii) a foster family home that pro-
18 vides 24-hour substitute care for children
19 placed away from their parents or guard-
20 ians and for whom the State child welfare
21 services agency has placement and care re-
22 sponsibility and that is licensed and regu-
23 lated by the State as a foster family home.

24 “(b) ELIGIBILITY REQUIREMENTS.—To be eligible to
25 receive a grant under section 106, a State shall—

1 “(1) not later than 3 years after the date of the
2 enactment of this section, develop policies and proce-
3 dures to prevent child abuse and neglect at covered
4 programs operating in such State, including stand-
5 ards that meet or exceed the standards required
6 under section 3(a)(1) of the Stop Child Abuse in
7 Residential Programs for Teens Act of 2017;

8 “(2) provide a private right of action under
9 State law for any person who suffers injury by rea-
10 son of a violation of the standards required under
11 paragraph (1);

12 “(3) develop policies and procedures to enforce
13 compliance with the requirements developed in ac-
14 cordance with paragraph (1), including—

15 “(A) establishing and monitoring health
16 and safety licensing requirements applicable to
17 and necessary for the operation of each location
18 of such covered programs in the State; and

19 “(B) conducting unannounced site inspec-
20 tions at each location of a covered program;

21 “(4) develop policies and procedures for timely
22 notification to the Secretary and the appropriate
23 protection and advocacy system if—

24 “(A) the State determines there is evidence
25 of a pattern of violations of the standards re-

1 quired under paragraph (1) at a covered pro-
2 gram operating in the State or by an owner or
3 operator of such a program; or

4 “(B) there is a child fatality at a covered
5 program operating in the State; and

6 “(5) annually submit to the Secretary a report
7 that includes all covered programs within their juris-
8 diction, including any violations by each program or
9 any information deemed by the Secretary to be nec-
10 essary for enforcement of this Act.

11 “(c) OVERSIGHT.—If the Secretary determines that
12 the State is not satisfying the requirements of this sub-
13 section not later than 3 years after the date of the enact-
14 ment of this section, the Secretary shall provide assistance
15 to the State to satisfy such requirements or withhold fund-
16 ing until such policies and procedures are established.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
18 112(a)(1) of the Child Abuse Prevention and Treatment
19 Act (42 U.S.C. 5106h(a)(1)) is amended by striking
20 “\$120,000,000” and all that follows through the period
21 and inserting “\$200,000,000 for each of fiscal years 2018
22 through 2022.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) COORDINATION WITH AVAILABLE RE-
25 SOURCES.—Section 103(c)(1)(D) of the Child Abuse

1 Prevention and Treatment Act (42 U.S.C.
2 5104(c)(1)(D)) is amended by inserting after “spe-
3 cific” the following: “(including reports of child
4 abuse and neglect occurring at covered programs
5 (except that such reports shall not contain any per-
6 sonally identifiable information relating to the iden-
7 tity of individuals who were the victims of such child
8 abuse and neglect), as such term is defined in sec-
9 tion 115)”.

10 (2) FURTHER REQUIREMENT.—Section
11 106(b)(1) of the Child Abuse Prevention and Treat-
12 ment Act (42 U.S.C. 5106a(b)(1)) is amended by
13 adding at the end the following new subparagraph:

14 “(D) FURTHER REQUIREMENT.—To be eli-
15 gible to receive a grant under this section, a
16 State shall comply with the requirements under
17 section 115(b) and shall include in the State
18 plan submitted pursuant to subparagraph (A) a
19 description of the activities the State will carry
20 out to comply with such requirements.”.

21 (3) ANNUAL STATE DATA REPORTS.—Section
22 106(d) of the Child Abuse Prevention and Treat-
23 ment Act (42 U.S.C. 5106a(d)) is amended—

24 (A) in paragraph (1), by inserting before
25 the period at the end the following: “(including

1 reports of child abuse and neglect occurring at
2 covered programs (except that such reports
3 shall not contain any personally identifiable in-
4 formation relating to the identity of individuals
5 who were the victims of such child abuse and
6 neglect), as such term is defined in section
7 115)”; and

8 (B) in paragraph (6), by inserting before
9 the period at the end the following: “or who
10 were in the care of a covered program, as such
11 term is defined in section 115”.

12 (d) CLERICAL AMENDMENT.—Section 1(b) of the
13 Child Abuse Prevention and Treatment Act (42 U.S.C.
14 5101 note) is amended by inserting after the item relating
15 to section 114 the following new item:

“Sec. 115. Additional eligibility requirements for grants to States to prevent
child abuse and neglect at residential programs.”.

