

114TH CONGRESS
1ST SESSION

H. R. 3060

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

JULY 14, 2015

Mr. SCHIFF (for himself, Ms. ROS-LEHTINEN, Mrs. NAPOLITANO, Ms. LEE, Mr. TAKANO, Mr. GRIJALVA, Ms. MOORE, Mr. TONKO, Mr. HINOJOSA, Mr. DESAULNIER, Mr. QUIGLEY, Mr. McDERMOTT, and Mr. TED LIEU of California) 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 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) SECRETARY.—The term “Secretary” means
2 the Secretary of Health and Human Services.

3 (2) CHILD.—The term “child” means an indi-
4 vidual who has not attained the age of 18.

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

9 (4) COVERED PROGRAM.—

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

17 (i) a program with a wilderness or
18 outdoor experience, expedition, or interven-
19 tion;

20 (ii) a boot camp experience or other
21 experience designed to simulate character-
22 istics of basic military training or correc-
23 tional regimes;

24 (iii) a therapeutic boarding school; or

1 (iv) a behavioral modification pro-
2 gram.

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

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

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

13 (5) MECHANICAL RESTRAINT.—The term “me-
14 chanical restraint” has the meaning given the term
15 in section 595(d)(1) of the Public Health Service
16 Act (42 U.S.C. 290jj(d)(1)).

17 (6) PHYSICAL RESTRAINT.—The term “physical
18 restraint” means a personal restriction that immo-
19 bilizes or reduces the ability of an individual to move
20 the individual’s arms, legs, torso, or head freely, ex-
21 cept that such term does not include voluntary phys-
22 ical escort (as such term is defined in section
23 595(d)(2) of the Public Health Service Act (42
24 U.S.C. 290jj(d)(2))).

1 (7) PROTECTION AND ADVOCACY SYSTEM.—The
 2 term “protection and advocacy system” means a sys-
 3 tem established by a State under section 143 of the
 4 Developmental Disabilities Assistance and Bill of
 5 Rights Act of 2000 (42 U.S.C. 15043).

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

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

14 **SEC. 3. STANDARDS AND ENFORCEMENT.**

15 (a) MINIMUM STANDARDS.—

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

22 (A) PROHIBITION ON CHILD ABUSE AND
 23 NEGLECT.—Child abuse and neglect shall be
 24 prohibited.

1 (B) PROHIBITION ON CERTAIN DISCIPLI-
2 NARY TECHNIQUES.—Disciplinary techniques or
3 other practices that involve the withholding of
4 essential food, water, clothing, shelter, or med-
5 ical care necessary to maintain physical health,
6 mental health, and general safety, shall be pro-
7 hibited.

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

12 (D) LIMITATION ON RESTRAINTS AND SE-
13 CLUSION.—

14 (i) The use of seclusion, mechanical
15 restraints, and physical restraints that im-
16 pair breathing or communication is prohib-
17 ited.

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

1 (E) ACCESS TO COMMUNICATIONS.—Each
2 child at such a program shall have reasonable
3 access to a telephone, and be informed of their
4 right to such access to maintain frequent con-
5 tact, including making and receiving scheduled
6 and unscheduled calls, unrestricted written cor-
7 respondence, and electronic communications
8 with as much privacy as possible, and shall
9 have access to existing and appropriate na-
10 tional, State, and local child abuse reporting
11 hotline numbers.

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

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

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

24 (I) PROGRAM POLICIES.—Policies to re-
25 quire—

1 (i) parents or legal guardians of a
2 child attending such a program to notify,
3 in writing, such program of any medication
4 the child is taking;

5 (ii) a licensed full-time clinician—

6 (I) to obtain consent from the
7 parents or legal guardians of the child
8 to make any change to the child's
9 medical treatment, except in the case
10 of an emergency;

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

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

22 (iii) the covered program to notify
23 parents or legal guardians of a child of any
24 changes to their treating provider team
25 within 48 hours.

1 (J) NOTIFICATION PROCEDURES.—Proce-
2 dures for notifying immediately, to the max-
3 imum extent practicable, but not later than
4 within 6 hours, parents or legal guardians with
5 children at such a program and the appropriate
6 protection and advocacy system of any—

7 (i) on-site investigation of a report of
8 child abuse and neglect;

9 (ii) violation of the health and safety
10 standards described in this paragraph; and

11 (iii) violation of State licensing re-
12 quirements.

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

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

(M) CHILD ABUSE RESPONSE TRAINING.—

Each staff member, including volunteers, at such a program shall be required, as a condition of employment, to become trained in what constitutes child abuse and neglect, State law relating to mandated reporters, and procedures for reporting child abuse and neglect in the State in which such a program is located, and information on existing and appropriate national, State, and local child abuse reporting hotline numbers.

(N) MEDICAL RESPONSE TRAINING.—Each

staff member, including volunteers, at such a program shall be required, as a condition of employment, to become trained in recognizing the signs, symptoms, and appropriate responses associated with common medical emergencies and mental health crisis, including suicide and worsening symptoms of mental illness.

(O) CRIMINAL HISTORY CHECK.—

(i) Each staff member, including volunteers, shall be required, as a condition of employment, to submit to a criminal history check, including a name-based search of the National Sex Offender Registry es-

1 tablished pursuant to the Adam Walsh
2 Child Protection and Safety Act of 2006
3 (42 U.S.C. 16901 et seq.), a search of the
4 State criminal registry or repository in the
5 State in which the covered program is op-
6 erating, and a Federal Bureau of Inves-
7 tigation fingerprint check. An individual
8 shall be ineligible to serve in a position
9 with any contact with children at a covered
10 program if any such record check reveals a
11 violent felony conviction that, by virtue of
12 its nature, proximity in time, or other fac-
13 tor, presents a direct increase to a child's
14 risk of harm in the program as determined
15 by the Secretary.

16 (ii) The covered program shall provide
17 an independent process by which an appli-
18 cant or staff member who is determined to
19 be ineligible as a result of a criminal his-
20 tory check under clause (i) shall have the
21 right—

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

24 (II) within 10 business days after
25 receipt of the report, to appeal, in

1 order to dispute the accuracy of the
2 information obtained through the
3 check.

4 (P) INFORMATIONAL MATERIALS.—Full
5 disclosure, in writing on promotional and infor-
6 mational materials produced by such a pro-
7 gram, shall be given to parents or legal guard-
8 ians of children at such a program, which shall
9 include—

10 (i) the name and location of a covered
11 program, including the names of any own-
12 ers and operators;

13 (ii) the numbers and percentages of
14 children who terminated participation prior
15 to completion of that program in the past
16 5 years, including discharges against med-
17 ical advice;

18 (iii) any past violations of the stand-
19 ards under section 3(a)(1) and any pen-
20 alties levied against the program as a re-
21 sult of such violations;

22 (iv) its most updated status with
23 State licensing requirements;

24 (v) the number of deaths that oc-
25 curred in that program for up to a period

1 of 10 years, including the cause of each
2 death;

3 (vi) the names of owners and opera-
4 tors that have violated State licensing re-
5 quirements;

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

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

15 (Q) TREATMENT AND DISCHARGE
16 PLANS.—Covered programs shall work with the
17 parent or legal guardian and the child’s com-
18 munity providers in the development, modifica-
19 tion, and implementation of treatment and dis-
20 charge plans, including a plan for community
21 reintegration and linkage to community-based
22 providers and supports.

23 (R) PROHIBITION ON DISCRIMINATION.—
24 Ensure that no person shall, on the basis of ac-
25 tual or perceived race, color, religion, national

1 origin, sex, gender identity, sexual orientation,
2 or disability, be subjected to discrimination
3 under any program or activity, in whole or in
4 part, covered by this Act.

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

10 (T) OTHER STANDARDS.—Any other
11 standards the Secretary determines appropriate
12 to provide for the basic health and safety of
13 children at such a program.

14 (2) REGULATIONS.—

15 (A) INTERIM REGULATIONS.—Not later
16 than 180 days after the date of enactment of
17 this Act, the Secretary shall promulgate and en-
18 force interim regulations to carry out paragraph
19 (1).

20 (B) PUBLIC COMMENT.—The Secretary
21 shall, for a 90-day period beginning on the date
22 of the promulgation of interim regulations
23 under subparagraph (A) of this paragraph, so-
24 licit and accept public comment concerning such

1 regulations. Such public comment shall be sub-
2 mitted in written form.

3 (C) FINAL REGULATIONS.—Not later than
4 90 days after the conclusion of the 90-day pe-
5 riod referred to in subparagraph (B) of this
6 paragraph, the Secretary shall promulgate and
7 enforce final regulations to carry out paragraph
8 (1).

9 (b) MONITORING AND ENFORCEMENT.—

10 (1) REVIEW PROCESS.—Not later than 180
11 days after the date of enactment of this Act, the
12 Secretary shall implement a review process for over-
13 seeing, investigating, and evaluating reports of child
14 abuse and neglect at covered programs received by
15 the Secretary from the appropriate State, in accord-
16 ance with section 114(b)(3) of the Child Abuse Pre-
17 vention and Treatment Act, as added by section 7
18 of this Act. Such review process shall—

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

22 (B) include consultation and collaboration
23 with relevant Federal and State agencies.

24 (2) CIVIL PENALTIES.—Not later than 180
25 days after the date of enactment of this Act, the

1 Secretary shall promulgate regulations establishing
2 civil penalties for violations of the standards re-
3 quired under subsection (a)(1). The regulations es-
4 tablishing such penalties shall incorporate the fol-
5 lowing:

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

11 (B) DEPOSIT TO TREASURY.—All penalties
12 collected under this subsection shall be depos-
13 ited in the appropriate account of the Treasury
14 of the United States.

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

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

23 (1) assisting States in implementing oversight
24 mechanisms to ensure compliance with the standards
25 under subsection (a)(1);

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

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

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

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

20 **SEC. 5. REPORT.**

21 Not later than 1 year after the date of enactment
22 of this Act and annually thereafter, the Secretary of
23 Health and Human Services, in coordination with the At-
24 torney General shall submit to the Committee on Edu-
25 cation and Labor of the House of Representatives and the

1 Committee on Health, Education, Labor, and Pensions of
 2 the Senate, a report on the activities carried out by the
 3 Secretary and the Attorney General, as authorized and
 4 mandated under this Act.

5 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

6 There is authorized to be appropriated to the Sec-
 7 retary of Health and Human Services \$5,000,000 for each
 8 of fiscal years 2016 through 2020 to carry out this Act
 9 (excluding the amendment made by section 7 of this Act).

10 **SEC. 7. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
 11 **GRANTS TO STATES TO PREVENT CHILD**
 12 **ABUSE AND NEGLECT AT RESIDENTIAL PRO-**
 13 **GRAMS.**

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

17 **“SEC. 114. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
 18 **GRANTS TO STATES TO PREVENT CHILD**
 19 **ABUSE AND NEGLECT AT RESIDENTIAL PRO-**
 20 **GRAMS.**

21 “(a) DEFINITIONS.—In this section:

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

24 “(2) COVERED PROGRAM.—

1 “(A) IN GENERAL.—The term ‘covered
2 program’ means each facility of a program op-
3 erated by a public or private entity that, with
4 respect to one or more children who are unre-
5 lated to the owner or operator of the program,
6 purports to provide treatment or modify behav-
7 iors in a residential environment, such as—

8 “(i) a program with a wilderness or
9 outdoor experience, expedition, or interven-
10 tion;

11 “(ii) a boot camp experience or other
12 experience designed to simulate character-
13 istics of basic military training or correc-
14 tional regimes;

15 “(iii) a therapeutic boarding school; or

16 “(iv) a behavioral modification pro-
17 gram.

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

20 “(i) a hospital licensed by the State;

21 or

22 “(ii) a foster family home that pro-
23 vides 24-hour substitute care for children
24 placed away from their parents or guard-
25 ians and for whom the State child welfare

1 services agency has placement and care re-
2 sponsibility and that is licensed and regu-
3 lated by the State as a foster family home.

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

6 “(1) not later than 3 years after the date of en-
7 actment of this section, develop policies and proce-
8 dures to prevent child abuse and neglect at covered
9 programs operating in such State, including stand-
10 ards that meet or exceed the standards required
11 under section 3(a)(1) of the Stop Child Abuse in
12 Residential Programs for Teens Act of 2015;

13 “(2) provide a private right of action under
14 State law for any person who suffers injury by rea-
15 son of a violation of the standards required under
16 paragraph (1);

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

20 “(A) establishing and monitoring health
21 and safety licensing requirements applicable to
22 and necessary for the operation of each location
23 of such covered programs in the State; and

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

1 “(4) develop policies and procedures for timely
2 notification to the Secretary and the appropriate
3 protection and advocacy system if—

4 “(A) the State determines there is evidence
5 of a pattern of violations of the standards re-
6 quired under paragraph (1) at a covered pro-
7 gram operating in the State or by an owner or
8 operator of such a program; or

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

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

16 “(c) OVERSIGHT.—if the Secretary determines that
17 the State is not satisfying the requirements of this sub-
18 section within 3 years of enactment of this Act, the Sec-
19 retary shall provide assistance to the State to satisfy such
20 requirements or withhold funding until such policies and
21 procedures are established.”.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
23 112(a)(1) of the Child Abuse Prevention and Treatment
24 Act (42 U.S.C. 5106h(a)(1)) is amended by striking
25 “\$120,000,000” and all that follows through the period

1 and inserting “\$200,000,000 for each of fiscal years 2016
2 through 2020.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) COORDINATION WITH AVAILABLE RE-
5 SOURCES.—Section 103(c)(1)(D) of the Child Abuse
6 Prevention and Treatment Act (42 U.S.C.
7 5104(c)(1)(D)) is amended by inserting after “spe-
8 cific” the following: “(including reports of child
9 abuse and neglect occurring at covered programs
10 (except that such reports shall not contain any per-
11 sonally identifiable information relating to the iden-
12 tity of individuals who were the victims of such child
13 abuse and neglect), as such term is defined in sec-
14 tion 114)”.

15 (2) FURTHER REQUIREMENT.—Section
16 106(b)(1) of the Child Abuse Prevention and Treat-
17 ment Act (42 U.S.C. 5106a(b)(1)) is amended by
18 adding at the end the following new subparagraph:

19 “(D) FURTHER REQUIREMENT.—To be eli-
20 gible to receive a grant under this section, a
21 State shall comply with the requirements under
22 section 114(b) and shall include in the State
23 plan submitted pursuant to subparagraph (A) a
24 description of the activities the State will carry

1 out to comply with the requirements under such
2 section 114(b).”.

3 (3) ANNUAL STATE DATA REPORTS.—Section
4 106(d) of the Child Abuse Prevention and Treat-
5 ment Act (42 U.S.C. 5106a(d)) is amended—

6 (A) in paragraph (1), by inserting before
7 the period at the end the following: “(including
8 reports of child abuse and neglect occurring at
9 covered programs (except that such reports
10 shall not contain any personally identifiable in-
11 formation relating to the identity of individuals
12 who were the victims of such child abuse and
13 neglect), as such term is defined in section
14 114)”;

15 (B) in paragraph (6), by inserting before
16 the period at the end the following: “or who
17 were in the care of a covered program, as such
18 term is defined in section 114”.

19 (d) CLERICAL AMENDMENT.—Section 1(b) of the
20 Child Abuse Prevention and Treatment Act (42 U.S.C.
21 5101 note) is amended by inserting after the item relating
22 to section 113 the following new item:

“Sec. 114. Additional eligibility requirements for grants to States to prevent
child abuse and neglect at residential programs.”.

○