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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. SCHIFF introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# 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.

1 (M) CHILD ABUSE RESPONSE TRAINING.—  
2 Each staff member, including volunteers, at  
3 such a program shall be required, as a condi-  
4 tion of employment, to become trained in what  
5 constitutes child abuse and neglect, State law  
6 relating to mandated reporters, and procedures  
7 for reporting child abuse and neglect in the  
8 State in which such a program is located, and  
9 information on existing and appropriate na-  
10 tional, State, and local child abuse reporting  
11 hotline numbers.

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

20 (O) CRIMINAL HISTORY CHECK.—

21 (i) Each staff member, including vol-  
22 unteers, shall be required, as a condition of  
23 employment, to submit to a criminal his-  
24 tory check, including a name-based search  
25 of the National Sex Offender Registry es-

1            established 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(e)(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.”.