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AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5876, AS REPORTED
OFFERED BY MR. MCKEON

Strike all after the enacting clause and insert the following:

1 **SECTION 1 SHORT TITLE.**

2 This Act may be cited as the “Stop Child Abuse in
3 Residential Programs for Teens Act of 2008”.

4 **SEC. 2. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
5 **GRANTS TO STATES TO PREVENT CHILD**
6 **ABUSE AND NEGLECT AT RESIDENTIAL PRO-**
7 **GRAMS.**

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

11 **“SEC. 114. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
12 **GRANTS TO STATES TO PREVENT CHILD**
13 **ABUSE AND NEGLECT AT RESIDENTIAL PRO-**
14 **GRAMS.**

15 **“(a) DEFINITIONS.**—In this section:

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

1 “(2) COVERED PROGRAM.—The term ‘covered
2 program’ means each location of a program that,
3 with respect to one or more children who are unre-
4 lated to the owner or operator of the program—

5 “(A) provides a residential environment,
6 such as—

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

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

14 “(iii) a therapeutic boarding school; or

15 “(iv) a behavioral modification pro-
16 gram; and

17 “(B) operates with a focus on serving chil-
18 dren with—

19 “(i) emotional, behavioral, or mental
20 health problems or disorders; or

21 “(ii) problems with alcohol or sub-
22 stance abuse.

23 “(3) PROTECTION AND ADVOCACY SYSTEM.—

24 The term ‘protection and advocacy system’ means a
25 protection and advocacy system established under

1 section 143 of the Developmental Disabilities Assist-
2 ance and Bill of Rights Act of 2000 (42 U.S.C.
3 15043).

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

6 “(1) not later than eighteen months after the
7 date of the enactment of this section, develop poli-
8 cies and procedures to prevent child abuse and ne-
9 glect at covered programs operating in such State,
10 including having in effect health and safety licensing
11 requirements applicable to and necessary for the op-
12 eration of each location of such covered programs
13 that include, at a minimum—

14 “(A) for the protection of every child at a
15 covered program, standards addressing—

16 “(i) the prohibition of child abuse and
17 neglect;

18 “(ii) the prohibition of disciplinary
19 techniques or other practices that involve
20 the withholding of essential food, water,
21 clothing, shelter, or medical care necessary
22 to maintain physical health, mental health,
23 and general safety;

24 “(iii) the protection and promotion of
25 the right of each child at such a program

1 to be free from physical and mechanical re-
2 straints and seclusion (as such terms are
3 defined in section 595 of the Public Health
4 Service Act (42 U.S.C. 290jj)) to the same
5 extent and in the same manner as a non-
6 medical, community-based facility for chil-
7 dren and youth is required to protect and
8 promote the right of its residents to be free
9 from such restraints and seclusion under
10 such section 595, including the prohibi-
11 tions and limitations described in sub-
12 section (b)(3) of such section;

13 “(iv) the prohibition of acts of phys-
14 ical or mental abuse designed to humiliate,
15 degrade, or undermine a child’s self-re-
16 spect; and

17 “(v) ensuring that each child at such
18 a program has reasonable access to a tele-
19 phone, and be informed of their right to
20 such access, for making and receiving
21 phone calls with as much privacy as pos-
22 sible, and ensuring that each child also has
23 access to the appropriate State or local
24 child abuse reporting hotline number, and

1 the national hotline number referred to in
2 subsection (d)(4)(B);

3 “(B) to ensure the staff qualifications and
4 expertise, policies and procedures requiring
5 staff members and volunteers who have direct
6 contact with children at covered programs, as a
7 condition of employment to—

8 “(i) submit to a criminal history
9 check, including a name-based search of
10 the National Sex Offender Registry estab-
11 lished pursuant to the Adam Walsh Child
12 Protection and Safety Act of 2006 (Public
13 Law 109-248; 42 U.S.C. 16901 et seq.), a
14 search of the State criminal registry or re-
15 pository in the State in which the covered
16 program is operating, and a Federal Bu-
17 reau of Investigation fingerprint check (an
18 individual shall be ineligible to serve in a
19 position with any contact with children at
20 a covered program if any such record
21 check reveals a felony conviction for child
22 abuse or neglect, spousal abuse, a crime
23 against children (including child pornog-
24 raphy), or a crime involving violence, in-
25 cluding rape, sexual assault, or homicide,

1 but not including other physical assault or
2 battery);

3 “(ii) become familiar with what con-
4 stitutes child abuse and neglect, as defined
5 by State law;

6 “(iii) become familiar with the re-
7 quirements, including with State law relat-
8 ing to mandated reporters, and procedures
9 for reporting child abuse and neglect in the
10 State in which such a program is located,
11 and each covered program shall notify ap-
12 propriate staff at such a program if their
13 position of employment meets the defini-
14 tion of a mandated reporter, as defined by
15 the State;

16 “(iv) be trained in emergency medical
17 care preparedness and response; and

18 “(v) be familiar with the signs, symp-
19 toms, and appropriate responses associated
20 with heatstroke, dehydration, and hypo-
21 thermia if the covered program is one de-
22 scribed in clause (i) or (ii) of subsection
23 (a)(2)(A);

1 “(C) to ensure the parents and legal
2 guardians are properly informed, policies and
3 procedures that—

4 “(i) require full disclosure, in writing,
5 of staff qualifications and their roles and
6 responsibilities at such program, including
7 medical, emergency response, and mental
8 health training, to parents of children at
9 such a program, including providing infor-
10 mation on any staff changes, including
11 changes to any staff member’s qualifica-
12 tions, roles, or responsibilities, not later
13 than 30 days after such changes occur;

14 “(ii) require parents and legal guard-
15 ians of a child attending such a program—

16 “(I) to notify, in writing, such
17 program of any medication the child
18 is taking;

19 “(II) to be notified within 24
20 hours of any changes to the child’s
21 medical treatment and the reason for
22 such change; and

23 “(III) to be notified within 24
24 hours of any missed dosage of pre-
25 scribed medication;

1 “(iii) require notifying parents and
2 legal guardians with children at such a
3 program of any—

4 “(I) on-site investigation of a re-
5 port of child abuse and neglect; and

6 “(II) violation of the health and
7 safety licensing requirements estab-
8 lished by the State described in this
9 paragraph; and

10 “(iv) require all promotional and in-
11 formational materials produced by such a
12 program to include a hyperlink to or the
13 URL address of the website created by the
14 Assistant Secretary pursuant to subsection
15 (d)(4)(A); and

16 “(D) such other standards or requirements
17 each State determines appropriate to provide
18 for the basic health and safety of children at
19 such a program;

20 “(2) develop policies and procedures to monitor
21 and enforce compliance with the licensing require-
22 ments developed in accordance with paragraph (1),
23 including—

24 “(A) establishing a process for conducting
25 unannounced site inspections of each location of

1 a covered program operating within a State to
2 determine compliance with the standards re-
3 quired under paragraph (1), and such inspec-
4 tions shall be conducted at each location of each
5 covered program not less often than once every
6 two years;

7 “(B) designating an agency to be respon-
8 sible, in collaboration and consultation with
9 State agencies providing human services (in-
10 cluding child protective services, and services to
11 children with emotional, psychological, develop-
12 mental, or behavioral dysfunctions, impair-
13 ments, disorders, or alcohol or substance
14 abuse), State law enforcement officials, the ap-
15 propriate protection and advocacy system, and
16 courts of competent jurisdiction, for monitoring
17 and enforcing such compliance;

18 “(C) establishing a State licensing applica-
19 tion process through which any individual seek-
20 ing to operate a covered program would be re-
21 quired to disclose all previous substantiated re-
22 ports of child abuse and neglect and all child
23 deaths at any businesses previously or currently
24 owned or operated by such individual, except
25 that such reports shall not contain any person-

1 ally identifiable information relating to the
2 identity of individuals who were the victims of
3 such child abuse and neglect;

4 “(D) establishing a system of investigation
5 that requires the appropriate State agency to
6 review each report of child abuse and neglect at
7 a covered program operating in the State within
8 60 days of receipt of the report, and submission
9 of findings to appropriate law enforcement or
10 other local entity where necessary, if the report
11 indicates—

12 “(i) a child fatality at such program;

13 or

14 “(ii) there is evidence of a pattern of
15 violations of the standards required under
16 paragraph (1) at such program; and

17 “(E) creating a database, to be integrated
18 with the annual State data reports required
19 under section 106(d), of reports of child abuse
20 and neglect at covered programs operating in
21 the State, except that such reports shall not
22 contain any personally identifiable information
23 relating to the identity of individuals who were
24 the victims of such child abuse and neglect; and

1 “(F) implementing a policy of graduated
2 sanctions, including fines and suspension and
3 revocation of licenses, against covered programs
4 operating in the State that are out of compli-
5 ance with such health and safety licensing re-
6 quirements;

7 “(3) if the State is not yet satisfying the re-
8 quirements of this subsection, in accordance with a
9 determination made pursuant to subsection (c), de-
10 velop policies and procedures for notifying the Sec-
11 retary and the appropriate protection and advocacy
12 system of any report of child abuse and neglect at
13 a covered program operating in the State not later
14 than 30 days after the appropriate State entity, or
15 subdivision thereof, determines such report should
16 be investigated and not later than 48 hours in the
17 event of a fatality;

18 “(4) if the Secretary determines that the State
19 is satisfying the requirements of this subsection, in
20 accordance with a determination made pursuant to
21 subsection (c), develop policies and procedures for
22 notifying the Secretary if—

23 “(A) the State determines there is evidence
24 of a pattern of violations of the standards re-
25 quired under paragraph (1) at a covered pro-

1 gram operating in the State or by an owner or
2 operator of such a program; or

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

5 “(5) develop policies and procedures for estab-
6 lishing and maintaining a publicly available database
7 of all covered programs operating in the State, in-
8 cluding the name and each location of each such
9 program and the name of the owner and operator of
10 each such program, information on reports of child
11 abuse and neglect at such programs (except that
12 such reports shall not contain any personally identi-
13 fiable information relating to the identity of individ-
14 uals who were the victims of such child abuse and
15 neglect), violations of standards required under
16 paragraph (1), and all penalties levied against such
17 programs;

18 “(6) annually submit to the Secretary a report
19 that includes—

20 “(A) the name and each location of all cov-
21 ered programs, including the names of the own-
22 ers and operators of such programs, operating
23 in the State, and any violations of State licens-
24 ing requirements developed pursuant to sub-
25 section (b)(1); and

1 “(B) a description of State activities to
2 monitor and enforce such State licensing re-
3 quirements, including the names of owners and
4 operators of each covered program that under-
5 went a site inspection by the State, and a sum-
6 mary of the results and any actions taken; and

7 “(7) if the Secretary determines that the State
8 is satisfying the requirements of this subsection, in
9 accordance with a determination made pursuant to
10 subsection (c), develop policies and procedures to re-
11 port to the appropriate protection and advocacy sys-
12 tem any case of the death of an individual under the
13 control or supervision of a covered program not later
14 than 48 hours after the State is informed of such
15 death.

16 “(c) SECRETARIAL DETERMINATION.—The Secretary
17 shall not determine that a State’s licensing requirements,
18 monitoring, and enforcement of covered programs oper-
19 ating in the State satisfy the requirements of subsection
20 (b) unless—

21 “(1) the State implements licensing require-
22 ments for such covered programs that include all
23 standards, policies, and procedures required under
24 paragraph (1) of such subsection;

1 “(2) the State designates an agency to be re-
2 sponsible for monitoring and enforcing compliance
3 with such licensing requirements;

4 “(3) the State conducts unannounced site in-
5 spections of each location of such covered programs
6 not less often than once every two years;

7 “(4) the State creates a database of such cov-
8 ered programs, to include information on reports of
9 child abuse and neglect at such programs, except
10 that such reports shall not contain any personally
11 identifiable information relating to the identity of in-
12 dividuals who were the victims of such child abuse
13 and neglect; and

14 “(5) the State implements a policy of graduated
15 sanctions, including fines and suspension and rev-
16 ocation of licenses against such covered programs
17 that are out of compliance with the health and safe-
18 ty licensing requirements under paragraph (1) of
19 such subsection.

20 “(d) OVERSIGHT.—

21 “(1) IN GENERAL.—Beginning eighteen months
22 after the date of the enactment of this section, the
23 Secretary shall implement a process for continued
24 monitoring of each State that is determined to be
25 satisfying the licensing, monitoring, and enforcement

1 requirements of subsection (b), in accordance with a
2 determination made pursuant to subsection (c), with
3 respect to the performance of each such State re-
4 garding—

5 “(A) preventing child abuse and neglect at
6 covered programs operating in each such State;
7 and

8 “(B) enforcing the licensing standards de-
9 scribed in subsection (b)(1).

10 “(2) EVALUATIONS.—The process required
11 under paragraph (1) shall include in each State, at
12 a minimum—

13 “(A) a biennial review of the policies and
14 procedures established in each State described
15 in subsections (b)(1) and (b)(2); and

16 “(B) annually, a random sample of review
17 of cases of reports of child abuse and neglect
18 investigated at covered programs operating in
19 the State to assess the State’s performance
20 with respect to the appropriateness of response
21 to and investigation of reports of child abuse
22 and neglect at covered programs.

23 “(3) ENFORCEMENT.—If the Secretary deter-
24 mines, pursuant to an evaluation under this sub-
25 section, that a State is not adequately implementing,

1 monitoring, and enforcing the licensing requirements
2 of subsection (b)(1), the Secretary shall require, for
3 a period of not less than one year, that—

4 “(A) the State shall inform the Secretary
5 of each instance there is a report to be inves-
6 tigated of child abuse and neglect at a covered
7 program operating in the State; and

8 “(B) the Secretary and the appropriate
9 local agency may jointly investigate such report.

10 “(4) DISSEMINATION OF INFORMATION.—The
11 Secretary shall establish, maintain, and disseminate
12 information about the following:

13 “(A) Websites made available to the public
14 that contain, at a minimum, the following:

15 “(i) The name and each location of
16 each covered program, and the name of
17 each owner and operator of each such pro-
18 gram, operating in each State, and infor-
19 mation regarding—

20 “(I) each such program’s current
21 status with the standards, policies and
22 procedures required under subsections
23 (b)(1) and (b)(2);

24 “(II) each such program’s cur-
25 rent status with the State licensing;

1 “(III) any deaths that occurred
2 to a child while under the care of such
3 a program, including any such deaths
4 that occurred in the five year period
5 immediately preceding the date of the
6 enactment of this section;

7 “(IV) owners or operators of a
8 covered program that was found to be
9 in violation of the standards required
10 under subsection (b)(1), who subse-
11 quently own or operate another cov-
12 ered program; and

13 “(V) any penalties levied under
14 subsection (b)(2)(F).

15 “(ii) Information on best practices for
16 helping adolescents with mental health dis-
17 orders, conditions, behavioral challenges, or
18 alcohol or substance abuse, including infor-
19 mation to help families access effective re-
20 sources in their communities.

21 “(B) A national toll-free telephone hotline
22 to receive complaints of child abuse and neglect
23 at covered programs and violations of the
24 standards required under subsection (b)(2).

1 “(5) ACTION.—The Secretary shall establish a
2 process to—

3 “(A) ensure complaints of child abuse and
4 neglect received by the hotline established pur-
5 suant to paragraph (4)(B) are promptly re-
6 viewed by persons with expertise in evaluating
7 such types of complaints;

8 “(B) immediately notify the State, appro-
9 priate local law enforcement, and the appro-
10 priate protection and advocacy system of any
11 credible complaint of child abuse and neglect at
12 a covered program received by the hotline;

13 “(C) ensure the collaboration and coopera-
14 tion of the hotline with other appropriate Na-
15 tional, State, and regional hotlines, and, as ap-
16 propriate and practicable, with other hotlines
17 that might receive calls about child abuse and
18 neglect at covered programs.

19 “(6) REPORT.—Not later than one year after
20 the date of the enactment of this Act and annually
21 thereafter, the Secretary of Health and Human
22 Services shall submit to the Committee on Edu-
23 cation and Labor of the House of Representatives
24 and the Committee on Health, Education, Labor,
25 and Pensions of the Senate a summary report on the

1 oversight activities and findings carried out by the
2 Secretary, including—

3 “(A) a description of the policies and pro-
4 cedures established by each State, pursuant to
5 subsection (b)(2); and

6 “(B) a description of the random sample
7 of review of cases of reports of child abuse and
8 neglect investigated at covered programs pursu-
9 ant to subsection (d)(2)(B).”.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
11 112 of the Child Abuse Prevention and Treatment Act (42
12 U.S.C. 5106h) is amended by inserting before the period
13 at the end the following: “, and such sums as may be nec-
14 essary for each of fiscal years 2009 through 2013”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) COORDINATION WITH AVAILABLE RE-
17 SOURCES.—Section 103(c)(1)(D) of the Child Abuse
18 Prevention and Treatment Act (42 U.S.C.
19 5104(c)(1)(D)) is amended by inserting after “spe-
20 cific” the following: “(including reports of child
21 abuse and neglect occurring at covered programs
22 (except that such reports shall not contain any per-
23 sonally identifiable information relating to the iden-
24 tity of individuals who were the victims of such child

1 abuse and neglect), as such term is defined in sec-
2 tion 114)”.’.

3 (2) FURTHER REQUIREMENT.—Section
4 106(b)(1) of the Child Abuse Prevention and Treat-
5 ment Act (42 U.S.C. 5106a(b)(1)) is amended by
6 adding at the end the following new subparagraph:

7 “(C) FURTHER REQUIREMENT.—To be eli-
8 gible to receive a grant under this section, a
9 State shall comply with the requirements under
10 section 114(b) and shall include in the State
11 plan submitted pursuant to subparagraph (A) a
12 description of the activities the State will carry
13 out to comply with the requirements under such
14 section 114(b).”.

15 (3) ANNUAL STATE DATA REPORTS.—Section
16 106(d) of the Child Abuse Prevention and Treat-
17 ment Act (42 U.S.C. 5106a(d)) is amended—

18 (A) in paragraph (1), by inserting before
19 the period at the end the following: “(including
20 reports of child abuse and neglect occurring at
21 covered programs (except that such reports
22 shall not contain any personally identifiable in-
23 formation relating to the identity of individuals
24 who were the victims of such child abuse and

1 neglect), as such term is defined in section
2 114)”; and

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

7 (d) CLERICAL AMENDMENT.—Section 1(b) of the
8 Child Abuse Prevention and Treatment Act (42 U.S.C.
9 5101 note) is amended by inserting after the item relating
10 to section 113 the following new item:

“Sec. 114. Additional eligibility requirements for grants to States for child
abuse and neglect prevention and treatment programs.”.

