

Union Calendar No. 421

110TH CONGRESS
2D SESSION

H. R. 5876

[Report No. 110-669]

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

APRIL 23, 2008

Mr. GEORGE MILLER of California (for himself, Mrs. MCCARTHY of New York, Mr. PAYNE, Mr. HARE, Mr. HINOJOSA, Mr. SCOTT of Virginia, Mr. GRIJALVA, Mr. DAVIS of Illinois, Mr. KILDEE, Ms. WOOLSEY, and Mr. KUCINICH) introduced the following bill; which was referred to the Committee on Education and Labor

MAY 22, 2008

Additional sponsors: Mr. LEWIS of Georgia, Mr. COHEN, Mr. SESTAK, Mr. McDERMOTT, Ms. HIRONO, Ms. DELAURO, Mr. HOLT, and Mr. YARMUTH

MAY 22, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 23, 2008]

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 2008”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *ASSISTANT SECRETARY.*—*The term “Assist-*
9 *ant Secretary” means the Assistant Secretary for*
10 *Children and Families of the Department of Health*
11 *and Human Services.*

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

14 (3) *CHILD ABUSE AND NEGLECT.*—*The term*
15 *“child abuse and neglect” has the meaning given such*
16 *term in section 111 of the Child Abuse Prevention*
17 *and Treatment Act (42 U.S.C. 5106g).*

18 (4) *COVERED PROGRAM.*—

19 (A) *IN GENERAL.*—*The term “covered pro-*
20 *gram” means each location of a program not op-*
21 *erated by a governmental entity that, with re-*
22 *spect to one or more children who are unrelated*
23 *to the owner or operator of the program—*

24 (i) *provides a residential environment,*
25 *such as—*

1 (I) a program with a wilderness
2 or outdoor experience, expedition, or
3 intervention;

4 (II) a boot camp experience or
5 other experience designed to simulate
6 characteristics of basic military train-
7 ing or correctional regimes;

8 (III) a therapeutic boarding
9 school; or

10 (IV) a behavioral modification
11 program; and

12 (ii) operates with a focus on serving
13 children with—

14 (I) emotional, behavioral, or men-
15 tal health problems or disorders; or

16 (II) problems with alcohol or sub-
17 stance abuse.

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

20 (i) a hospital licensed by the State;

21 (ii) a foster family home or group
22 home that provides 24-hour substitute care
23 for children place away from their parents
24 or guardians and for whom the State child
25 welfare services agency has placement and

1 *care responsibility and that is licensed and*
2 *regulated by the State as a foster family*
3 *home or group home; or*

4 (iii) *a psychiatric residential treat-*
5 *ment facility that is certified as meeting the*
6 *requirements specified in regulations pro-*
7 *mulgated for such facilities under section*
8 *1905(h)(1)(A) of the Social Security Act*
9 *and that provides psychiatric services for*
10 *which medical assistance is available under*
11 *a State plan under title XIX of such Act.*

12 (5) *PROTECTION AND ADVOCACY SYSTEM.—The*
13 *term “protection and advocacy system” means a pro-*
14 *tection and advocacy system established under section*
15 *143 of the Developmental Disabilities Assistance and*
16 *Bill of Rights Act of 2000 (42 U.S.C. 15043).*

17 (6) *STATE.—The term “State” has the meaning*
18 *given such term in section 111 of the Child Abuse*
19 *Prevention and Treatment Act.*

20 **SEC. 3. STANDARDS AND ENFORCEMENT.**

21 (a) *MINIMUM STANDARDS.—*

22 (1) *IN GENERAL.—Not later than 180 days after*
23 *the date of the enactment of this Act, the Assistant*
24 *Secretary for Children and Families of the Depart-*
25 *ment of Health and Human Services shall require*

1 *each location of a covered program that individually*
2 *or together with other locations has an effect on inter-*
3 *state commerce, in order to provide for the basic*
4 *health and safety of children at such a program, to*
5 *meet the following minimum standards:*

6 *(A) Child abuse and neglect shall be prohib-*
7 *ited.*

8 *(B) Disciplinary techniques or other prac-*
9 *tices that involve the withholding of essential*
10 *food, water, clothing, shelter, or medical care*
11 *necessary to maintain physical health, mental*
12 *health, and general safety, shall be prohibited.*

13 *(C) The protection and promotion of the*
14 *right of each child at such a program to be free*
15 *from physical and mechanical restraints and se-*
16 *clusion (as such terms are defined in section 595*
17 *of the Public Health Service Act (42 U.S.C.*
18 *290jj)) to the same extent and in the same man-*
19 *ner as a non-medical, community-based facility*
20 *for children and youth is required to protect and*
21 *promote the right of its residents to be free from*
22 *such restraints and seclusion under such section*
23 *595, including the prohibitions and limitations*
24 *described in subsection (b)(3) of such section.*

1 (D) Acts of physical or mental abuse de-
2 signed to humiliate, degrade, or undermine a
3 child's self-respect shall be prohibited.

4 (E) Each child at such a program shall
5 have reasonable access to a telephone, and be in-
6 formed of their right to such access, for making
7 and receiving phone calls with as much privacy
8 as possible, and shall have access to the appro-
9 priate State or local child abuse reporting hot-
10 line number, and the national hotline number
11 referred to in subsection (c)(2).

12 (F) Each staff member, including volun-
13 teers, at such a program shall be required, as a
14 condition of employment, to become familiar
15 with what constitutes child abuse and neglect, as
16 defined by State law.

17 (G) Each staff member, including volun-
18 teers, at such a program shall be required, as a
19 condition of employment, to become familiar
20 with the requirements, including with State law
21 relating to mandated reporters, and procedures
22 for reporting child abuse and neglect in the State
23 in which such a program is located.

24 (H) Full disclosure, in writing, of staff
25 qualifications and their roles and responsibilities

1 at such program, including medical, emergency
2 response, and mental health training, to parents
3 or legal guardians of children at such a pro-
4 gram, including providing information on any
5 staff changes, including changes to any staff
6 member's qualifications, roles, or responsibilities,
7 not later than 10 days after such changes occur.

8 (I) Each staff member at a covered program
9 described in subclause (I) or (II) of section
10 2(4)(A)(i) shall be required, as a condition of
11 employment, to be familiar with the signs, symp-
12 toms, and appropriate responses associated with
13 heatstroke, dehydration, and hypothermia.

14 (J) Each staff member, including volun-
15 teers, shall be required, as a condition of employ-
16 ment, to submit to a criminal history check, in-
17 cluding a name-based search of the National Sex
18 Offender Registry established pursuant to the
19 Adam Walsh Child Protection and Safety Act of
20 2006 (Public Law 109–248; 42 U.S.C. 16901 et
21 seq.), a search of the State criminal registry or
22 repository in the State in which the covered pro-
23 gram is operating, and a Federal Bureau of In-
24 vestigation fingerprint check. An individual shall
25 be ineligible to serve in a position with any con-

1 *tact with children at a covered program if any*
2 *such record check reveals a felony conviction for*
3 *child abuse or neglect, spousal abuse, a crime*
4 *against children (including child pornography),*
5 *or a crime involving violence, including rape,*
6 *sexual assault, or homicide, but not including*
7 *other physical assault or battery.*

8 *(K) Policies and procedures for the provi-*
9 *sion of emergency medical care, including poli-*
10 *cies for staff protocols for implementing emer-*
11 *gency responses.*

12 *(L) All promotional and informational ma-*
13 *terials produced by such a program shall include*
14 *a hyperlink to or the URL address of the website*
15 *created by the Assistant Secretary pursuant to*
16 *subsection (c)(1)(A).*

17 *(M) Policies to require parents or legal*
18 *guardians of a child attending such a pro-*
19 *gram—*

20 *(i) to notify, in writing, such program*
21 *of any medication the child is taking;*

22 *(ii) to be notified within 24 hours of*
23 *any changes to the child's medical treat-*
24 *ment and the reason for such change; and*

1 (iii) to be notified within 24 hours of
2 any missed dosage of prescribed medication.

3 (N) Procedures for notifying parents or
4 legal guardians with children at such a program
5 of any—

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

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

10 (iii) violation of State licensing stand-
11 ards developed pursuant to section
12 114(b)(1) of the Child Abuse Prevention and
13 Treatment Act, as added by section 8 of this
14 Act.

15 (O) Other standards the Assistant Secretary
16 determines appropriate to provide for the basic
17 health and safety of children at such a program.

18 (2) REGULATIONS.—

19 (A) INTERIM REGULATIONS.—Not later than
20 180 days after the date of the enactment of this
21 Act, the Assistant Secretary shall promulgate
22 and enforce interim regulations to carry out
23 paragraph (1).

24 (B) PUBLIC COMMENT.—The Assistant Sec-
25 retary shall, for a 90-day period beginning on

1 *the date of the promulgation of interim regula-*
2 *tions under subparagraph (A) of this paragraph,*
3 *solicit and accept public comment concerning*
4 *such regulations. Such public comment shall be*
5 *submitted in written form.*

6 (C) *FINAL REGULATIONS.*—*Not later than*
7 *90 days after the conclusion of the 90-day period*
8 *referred to in subparagraph (B) of this para-*
9 *graph, the Assistant Secretary shall promulgate*
10 *and enforce final regulations to carry out para-*
11 *graph (1).*

12 (b) *MONITORING AND ENFORCEMENT.*—

13 (1) *INSPECTIONS.*—*The Assistant Secretary shall*
14 *establish a process for conducting unannounced site*
15 *inspections of each location of a covered program to*
16 *determine compliance with the standards required*
17 *under subsection (a)(1). Such inspections shall—*

18 (A) *begin not later than the date on which*
19 *the Assistant Secretary promulgates interim reg-*
20 *ulations under subsection (a)(2)(A); and*

21 (B) *be conducted at each location of each*
22 *covered program not less often than once every*
23 *two years, until such time as the Assistant Sec-*
24 *retary has determined a State has appropriate*
25 *health and safety licensing requirements, moni-*

1 *toring, and enforcement of covered programs in*
2 *such State, as determined in accordance with*
3 *section 114(c) of the Child Abuse Prevention and*
4 *Treatment Act, as added by section 8 of this Act.*

5 *(2) ON-GOING REVIEW PROCESS.—Not later than*
6 *180 days after the date of the enactment of this Act,*
7 *the Assistant Secretary shall implement an on-going*
8 *review process for investigating and evaluating re-*
9 *ports of child abuse and neglect at covered programs*
10 *received by the Assistant Secretary from the appro-*
11 *priate State, in accordance with section 114(b)(3) of*
12 *the Child Abuse Prevention and Treatment Act, as*
13 *added by section 8 of this Act. Such review process*
14 *shall—*

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

18 *(B) include an assessment of the State's*
19 *performance with respect to appropriateness of*
20 *response to and investigation of reports of child*
21 *abuse and neglect at covered programs and ap-*
22 *propriateness of legal action against responsible*
23 *parties in such cases;*

1 (C) be completed not later than 60 days
2 after receipt by the Assistant Secretary of such
3 a report;

4 (D) not interfere with an investigation by
5 the State or a subdivision thereof; and

6 (E) be implemented in each State in which
7 a covered program operates until such time as
8 each such State has satisfied the requirements
9 under section 114(c) of the Child Abuse Preven-
10 tion and Treatment Act, as added by section 8
11 of this Act, as determined by the Assistant Sec-
12 retary, or two years has elapsed from the date
13 that such review process is implemented, which-
14 ever is later.

15 (3) CIVIL PENALTIES.—Not later than 180 days
16 after the date of the enactment of this Act, the Assist-
17 ant Secretary shall promulgate regulations estab-
18 lishing civil penalties for violations of the standards
19 required under subsection (a)(1). The regulations es-
20 tablishing such penalties shall incorporate the fol-
21 lowing:

22 (A) Any owner or operator of a covered pro-
23 gram at which the Assistant Secretary has found
24 a violation of the standards required under sub-

1 *section (a)(1) may be assessed a civil penalty not*
2 *to exceed \$50,000 per violation.*

3 *(B) All penalties collected under this sub-*
4 *section shall be deposited in the appropriate ac-*
5 *count of the Treasury of the United States.*

6 *(c) DISSEMINATION OF INFORMATION.—The Assistant*
7 *Secretary shall establish, maintain, and disseminate infor-*
8 *mation about the following:*

9 *(1) Websites made available to the public that*
10 *contains, at a minimum, the following:*

11 *(A) The name and each location of each*
12 *covered program, and the name of each owner*
13 *and operator of each such program, operating in*
14 *each State, and information regarding—*

15 *(i) each such program’s history of vio-*
16 *lations of—*

17 *(I) regulations promulgated pur-*
18 *suant to subsection (a); and*

19 *(II) section 114(b)(1) of the Child*
20 *Abuse Prevention and Treatment Act,*
21 *as added by section 8 of this Act;*

22 *(ii) each such program’s current status*
23 *with the State licensing requirements under*
24 *section 114(b)(1) of the Child Abuse Preven-*

1 *tion and Treatment Act, as added by sec-*
2 *tion 8 of this Act;*

3 *(iii) any deaths that occurred to a*
4 *child while under the care of such a pro-*
5 *gram, including any such deaths that oc-*
6 *curred in the five year period immediately*
7 *preceding the date of the enactment of this*
8 *Act;*

9 *(iv) owners or operators of a covered*
10 *program that was found to be in violation*
11 *of the standards required under subsection*
12 *(a)(1), or a violation of the licensing stand-*
13 *ards developed pursuant to section*
14 *114(b)(1) of the Child Abuse Prevention and*
15 *Treatment Act, as added by section 8 of this*
16 *Act, and who subsequently own or operate*
17 *another covered program; and*

18 *(v) any penalties levied under sub-*
19 *section (b)(3), any judgments or orders*
20 *issued by a court pursuant to section 5, and*
21 *any other penalties levied by the State,*
22 *against each such program.*

23 *(B) Information on best practices for help-*
24 *ing adolescents with mental health disorders,*
25 *conditions, behavioral challenges, or alcohol or*

1 *substance abuse, including information to help*
2 *families access effective resources in their com-*
3 *munities.*

4 (2) *A national toll-free telephone hotline to re-*
5 *ceive complaints of child abuse and neglect at covered*
6 *programs and violations of the standards required*
7 *under subsection (a)(1).*

8 (d) *ACTION.—The Assistant Secretary shall establish*
9 *a process to—*

10 (1) *ensure complaints of child abuse and neglect*
11 *received by the hotline established pursuant to sub-*
12 *section (c)(2) are promptly reviewed by persons with*
13 *expertise in evaluating such types of complaints;*

14 (2) *immediately notify the State, appropriate*
15 *local law enforcement, and the appropriate protection*
16 *and advocacy system of any credible complaint of*
17 *child abuse and neglect at a covered program received*
18 *by the hotline;*

19 (3) *investigate any such credible complaint not*
20 *later than 30 days after receiving such complaint to*
21 *determine if a violation of the standards required*
22 *under subsection (a)(1) has occurred; and*

23 (4) *ensure the collaboration and cooperation of*
24 *the hotline established pursuant to subsection (c)(2)*
25 *with other appropriate National, State, and regional*

1 *hotlines, and, as appropriate and practicable, with*
2 *other hotlines that might receive calls about child*
3 *abuse and neglect at covered programs.*

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

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

14 **SEC. 5. PRIVATE RIGHT OF ACTION.**

15 (a) *MAINTENANCE OF ACTION.*—*Any person suffering*
16 *an injury-in-fact traceable to a violation of a regulation*
17 *promulgated pursuant to section 3(a) may bring suit or*
18 *a claim demanding relief.*

19 (b) *RELIEF.*—*A court hearing a claim or suit under*
20 *subsection (a) may order any appropriate equitable remedy*
21 *and award damages, including punitive damages and rea-*
22 *sonable attorneys' fees, for a violation of a regulation pro-*
23 *mulgated pursuant to section 3(a).*

24 (c) *LIMITATION.*—*The provisions of section 7 of the*
25 *Civil Rights of Institutionalized Persons Act (42 U.S.C.*

1 1997e) shall not apply to any action brought under this
2 Act.

3 **SEC. 6. REPORT.**

4 *Not later than one year after the date of the enactment*
5 *of this Act and annually thereafter, the Secretary of Health*
6 *and Human Services, in coordination with the Attorney*
7 *General shall submit to the Committee on Education and*
8 *Labor of the House of Representatives and the Committee*
9 *on Health, Education, Labor, and Pensions of the Senate,*
10 *a report on the activities carried out by the Assistant Sec-*
11 *retary and the Attorney General under this Act, includ-*
12 *ing—*

13 *(1) a description of the number and types of cov-*
14 *ered programs inspected by the Assistant Secretary*
15 *pursuant to section 3(b)(1);*

16 *(2) a description of types of violations of health*
17 *and safety standards found by the Assistant Secretary*
18 *and any penalties assessed;*

19 *(3) a summary of findings from on-going reviews*
20 *conducted by the Assistant Secretary pursuant to sec-*
21 *tion 3(b)(2);*

22 *(4) a summary of State progress in meeting the*
23 *requirements of this Act, including the requirements*
24 *under section 114 of the Child Abuse Prevention and*
25 *Treatment Act, as added by section 8 of this Act; and*

1 (5) *a summary of the Secretary’s oversight ac-*
 2 *tivities and findings conducted pursuant to subsection*
 3 *(d) of such section 114.*

4 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

5 *There is authorized to be appropriated to the Secretary*
 6 *of Health and Human Services \$50,000,000 for each of fis-*
 7 *cal years 2009 through 2013 to carry out this Act (exclud-*
 8 *ing the amendment made by section 8 of this Act).*

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

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

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

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

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

23 *“(2) COVERED PROGRAM.—*

24 *“(A) IN GENERAL.—The term ‘covered pro-*
 25 *gram’ means each location of a program oper-*

1 *ated by a public or private entity that, with re-*
2 *spect to one or more children who are unrelated*
3 *to the owner or operator of the program—*

4 “(i) *provides a residential environ-*
5 *ment, such as—*

6 “(I) *a program with a wilderness*
7 *or outdoor experience, expedition, or*
8 *intervention;*

9 “(II) *a boot camp experience or*
10 *other experience designed to simulate*
11 *characteristics of basic military train-*
12 *ing or correctional regimes;*

13 “(III) *a therapeutic boarding*
14 *school; or*

15 “(IV) *a behavioral modification*
16 *program; and*

17 “(ii) *operates with a focus on serving*
18 *children with—*

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

21 “(II) *problems with alcohol or*
22 *substance abuse.*

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

25 “(i) *a hospital licensed by the State;*

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

9 “(iii) a psychiatric residential treat-
10 ment facility that is certified as meeting the
11 requirements specified in regulations pro-
12 mulgated for such facilities under section
13 1905(h)(1)(A) of the Social Security Act
14 and that provides psychiatric services for
15 which medical assistance is available under
16 a State plan under title XIX of such Act.

17 “(3) *PROTECTION AND ADVOCACY SYSTEM.*—The
18 term ‘protection and advocacy system’ means a pro-
19 tection and advocacy system established under section
20 143 of the Developmental Disabilities Assistance and
21 Bill of Rights Act of 2000 (42 U.S.C. 15043).

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

24 “(1) not later than three years after the date of
25 the enactment of this section, develop policies and

1 *procedures to prevent child abuse and neglect at cov-*
2 *ered programs operating in such State, including*
3 *having in effect health and safety licensing require-*
4 *ments applicable to and necessary for the operation of*
5 *each location of such covered programs that include,*
6 *at a minimum—*

7 *“(A) standards that meet or exceed the*
8 *standards required under section 3(a)(1) of the*
9 *Stop Child Abuse in Residential Programs for*
10 *Teens Act of 2008;*

11 *“(B) the provision of essential food, water,*
12 *clothing, shelter, and medical care necessary to*
13 *maintain physical health, mental health, and*
14 *general safety of children at such programs;*

15 *“(C) policies for emergency medical care*
16 *preparedness and response, including minimum*
17 *staff training and qualifications for such re-*
18 *sponses; and*

19 *“(D) notification to appropriate staff at*
20 *covered programs if their position of employment*
21 *meets the definition of mandated reporter, as de-*
22 *finied by the State;*

23 *“(2) develop policies and procedures to monitor*
24 *and enforce compliance with the licensing require-*

1 *ments developed in accordance with paragraph (1),*
2 *including—*

3 *“(A) designating an agency to be respon-*
4 *sible, in collaboration and consultation with*
5 *State agencies providing human services (includ-*
6 *ing child protective services, and services to chil-*
7 *dren with emotional, psychological, develop-*
8 *mental, or behavioral dysfunctions, impairments,*
9 *disorders, or alcohol or substance abuse), State*
10 *law enforcement officials, the appropriate protec-*
11 *tion and advocacy system, and courts of com-*
12 *petent jurisdiction, for monitoring and enforcing*
13 *such compliance;*

14 *“(B) a State licensing application process*
15 *through which any individual seeking to operate*
16 *a covered program would be required to disclose*
17 *all previous substantiated reports of child abuse*
18 *and neglect and all child deaths at any busi-*
19 *nesses previously or currently owned or operated*
20 *by such individual, except that such reports shall*
21 *not contain any personally identifiable informa-*
22 *tion relating to the identity of individuals who*
23 *were the victims of such child abuse and neglect;*

1 “(C) conducting unannounced site inspec-
2 tions not less often than once every two years at
3 each location of a covered program;

4 “(D) creating a database, to be integrated
5 with the annual State data reports required
6 under section 106(d), of reports of child abuse
7 and neglect at covered programs operating in the
8 State, except that such reports shall not contain
9 any personally identifiable information relating
10 to the identity of individuals who were the vic-
11 tims of such child abuse and neglect; and

12 “(E) implementing a policy of graduated
13 sanctions, including fines and suspension and
14 revocation of licences, against covered programs
15 operating in the State that are out of compliance
16 with such health and safety licensing require-
17 ments;

18 “(3) if the State is not yet satisfying the require-
19 ments of this subsection, in accordance with a deter-
20 mination made pursuant to subsection (c), develop
21 policies and procedures for notifying the Secretary
22 and the appropriate protection and advocacy system
23 of any report of child abuse and neglect at a covered
24 program operating in the State not later than 30
25 days after the appropriate State entity, or subdivi-

1 *sion thereof, determines such report should be inves-*
2 *tigated and not later than 48 hours in the event of*
3 *a fatality;*

4 *“(4) if the Secretary determines that the State is*
5 *satisfying the requirements of this subsection, in ac-*
6 *cordance with a determination made pursuant to sub-*
7 *section (c), develop policies and procedures for noti-*
8 *fying the Secretary if—*

9 *“(A) the State determines there is evidence*
10 *of a pattern of violations of the standards re-*
11 *quired under paragraph (1) at a covered pro-*
12 *gram operating in the State or by an owner or*
13 *operator of such a program; or*

14 *“(B) there is a child fatality at a covered*
15 *program operating in the State;*

16 *“(5) develop policies and procedures for estab-*
17 *lishing and maintaining a publicly available data-*
18 *base of all covered programs operating in the State,*
19 *including the name and each location of each such*
20 *program and the name of the owner and operator of*
21 *each such program, information on reports of child*
22 *abuse and neglect at such programs (except that such*
23 *reports shall not contain any personally identifiable*
24 *information relating to the identity of individuals*
25 *who were the victims of such child abuse and neglect),*

1 *violations of standards required under paragraph (1),*
2 *and all penalties levied against such programs;*

3 *“(6) annually submit to the Secretary a report*
4 *that includes—*

5 *“(A) the name and each location of all cov-*
6 *ered programs, including the names of the own-*
7 *ers and operators of such programs, operating in*
8 *the State, and any violations of State licensing*
9 *requirements developed pursuant to subsection*
10 *(b)(1); and*

11 *“(B) a description of State activities to*
12 *monitor and enforce such State licensing require-*
13 *ments, including the names of owners and opera-*
14 *tors of each covered program that underwent a*
15 *site inspection by the State, and a summary of*
16 *the results and any actions taken; and*

17 *“(7) if the Secretary determines that the State is*
18 *satisfying the requirements of this subsection, in ac-*
19 *cordance with a determination made pursuant to sub-*
20 *section (c), develop and policies and procedures to re-*
21 *port to the appropriate protection and advocacy sys-*
22 *tem any case of the death of an individual under the*
23 *control or supervision of a covered program not later*
24 *than 48 hours after the State is informed of such*
25 *death.*

1 “(c) *SECRETARIAL DETERMINATION.*—*The Secretary*
2 *shall not determine that a State’s licensing requirements,*
3 *monitoring, and enforcement of covered programs operating*
4 *in the State satisfy the requirements of this subsection (b)*
5 *unless—*

6 “(1) *the State implements licensing requirements*
7 *for such covered programs that meet or exceed the*
8 *standards required under subsection (b)(1);*

9 “(2) *the State designates an agency to be respon-*
10 *sible for monitoring and enforcing compliance with*
11 *such licensing requirements;*

12 “(3) *the State conducts unannounced site inspec-*
13 *tions of each location of such covered programs not*
14 *less often than once every two years;*

15 “(4) *the State creates a database of such covered*
16 *programs, to include information on reports of child*
17 *abuse and neglect at such programs (except that such*
18 *reports shall not contain any personally identifiable*
19 *information relating to the identity of individuals*
20 *who were the victims of such child abuse and neglect);*

21 “(5) *the State implements a policy of graduated*
22 *sanctions, including fines and suspension and revoca-*
23 *tion of licenses against such covered programs that*
24 *are out of compliance with the health and safety li-*
25 *censing requirements under subsection (b)(1); and*

1 “(6) after a review of assessments conducted
2 under section 3(b)(2)(B) of the Stop Child Abuse in
3 Residential Programs for Teens Act of 2008, the Sec-
4 retary determines the State is appropriately inves-
5 tigating and responding to allegations of child abuse
6 and neglect at such covered programs.

7 “(d) OVERSIGHT.—

8 “(1) IN GENERAL.—Beginning two years after
9 the date of the enactment of the Stop Child Abuse in
10 Residential Programs for Teens Act of 2008, the Sec-
11 retary shall implement a process for continued moni-
12 toring of each State that is determined to be satis-
13 fying the licensing, monitoring, and enforcement re-
14 quirements of subsection (b), in accordance with a de-
15 termination made pursuant to subsection (c), with re-
16 spect to the performance of each such State regard-
17 ing—

18 “(A) preventing child abuse and neglect at
19 covered programs operating in each such State;
20 and

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

23 “(2) EVALUATIONS.—The process required under
24 paragraph (1) shall include in each State, at a min-
25 imum—

1 “(A) an investigation not later than 60
2 days after receipt by the Secretary of a report
3 from a State, or a subdivision thereof, of child
4 abuse and neglect at a covered program oper-
5 ating in the State, and submission of findings to
6 appropriate law enforcement or other local entity
7 where necessary, if the report indicates—

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

9 or

10 “(ii) there is evidence of a pattern of
11 violations of the standards required under
12 subsection (b)(1) at such program or by an
13 owner or operator of such program;

14 “(B) annually, a random sample of review
15 of cases of reports of child abuse and neglect in-
16 vestigated at covered programs operating in the
17 State to assess the State’s performance with re-
18 spect to the appropriateness of response to and
19 investigation of reports of child abuse and ne-
20 glect at covered programs and the appropriate-
21 ness of legal actions taken against responsible
22 parties in such cases; and

23 “(C) unannounced site inspections of cov-
24 ered programs operating in the State to monitor
25 compliance with the standards required under

1 *section 3(a) of the Stop Child Abuse in Residen-*
2 *tial Programs for Teens Act of 2008.*

3 “(3) *ENFORCEMENT.*—*If the Secretary deter-*
4 *mines, pursuant to an evaluation under this sub-*
5 *section, that a State is not adequately implementing,*
6 *monitoring, and enforcing the licensing requirements*
7 *of subsection (b)(1), the Secretary shall require, for a*
8 *period of not less than one year, that—*

9 “(A) *the State shall inform the Secretary of*
10 *each instance there is a report to be investigated*
11 *of child abuse and neglect at a covered program*
12 *operating in the State; and*

13 “(B) *the Secretary and the appropriate*
14 *local agency shall jointly investigate such re-*
15 *port.”.*

16 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*Section*
17 *112(a)(1) of the Child Abuse Prevention and Treatment Act*
18 *(42 U.S.C. 5106h(a)(1)) is amended by inserting before the*
19 *period at the end the following: “, and \$200,000,000 for*
20 *each of fiscal years 2009 through 2013”.*

21 (c) *CONFORMING AMENDMENTS.*—

22 (1) *COORDINATION WITH AVAILABLE RE-*
23 *SOURCES.*—*Section 103(c)(1)(D) of the Child Abuse*
24 *Prevention and Treatment Act (42 U.S.C.*
25 *5104(c)(1)(D)) is amended by inserting after “spe-*

1 *cific” the following: “(including reports of child abuse*
2 *and neglect occurring at covered programs (except*
3 *that such reports shall not contain any personally*
4 *identifiable information relating to the identity of in-*
5 *dividuals who were the victims of such child abuse*
6 *and neglect), as such term is defined in section 114)”.*

7 (2) *FURTHER REQUIREMENT.—Section 106(b)(1)*
8 *of the Child Abuse Prevention and Treatment Act (42*
9 *U.S.C. 5106a(b)(1)) is amended by adding at the end*
10 *the following new subparagraph:*

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

19 (3) *ANNUAL STATE DATA REPORTS.—Section*
20 *106(d) of the Child Abuse Prevention and Treatment*
21 *Act (42 U.S.C. 5106a(d)) is amended—*

22 (A) *in paragraph (1), by inserting before*
23 *the period at the end the following: “(including*
24 *reports of child abuse and neglect occurring at*
25 *covered programs (except that such reports shall*

1 *not contain any personally identifiable informa-*
2 *tion relating to the identity of individuals who*
3 *were the victims of such child abuse and neglect),*
4 *as such term is defined in section 114)”; and*

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

9 *(d) CLERICAL AMENDMENT.—Section 1(b) of the Child*
10 *Abuse Prevention and Treatment Act (42 U.S.C. 5101 note)*
11 *is amended by inserting after the item relating to section*
12 *113 the following new item:*

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

Union Calendar No. 421

110TH CONGRESS
2^D SESSION

H. R. 5876

[Report No. 110-669]

A BILL

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

MAY 22, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed