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3 SUBSTITUTE FOR HB440
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8 SYNOPSIS: Under existing law, there is no provision
9 for the state to license or register religious, or
10 faith-based facilities, alternative boarding
11 schools, outdoor programs, or residential
12 institutions that house children for counseling,
13 therapeutic, behavioral, or educational purposes
14 when on-site residency is required for periods over
15 24 hours.

16 This bill would provide for the registration
17 and regulation by the Department of Human Resources
18 of any religious, faith-based, or church nonprofit,
19 other nonprofit, or for profit organization that
20 houses children for counseling, therapeutic,
21 behavioral, or educational purposes when on-site
22 residency is required for periods over 24 hours.
23 This bill would require the Department of Human
24 Resources to promulgate rules establishing
25 registration and regulatory requirements.

26 This bill would establish accountability for
27 the welfare of any child enrolled in or housed at

1 any religious, faith-based, or church nonprofit,
2 other nonprofit, or for profit organization that
3 houses children for counseling, therapeutic,
4 behavioral, or educational purposes when on-site
5 residency is required for periods over 24 hours.

6 This bill would establish minimum
7 requirements for operation of any religious,
8 faith-based, or church nonprofit, other nonprofit,
9 or for profit organization that houses children for
10 counseling, therapeutic, behavioral, or educational
11 purposes when on-site residency is required for
12 periods over 24 hours.

13 This bill would require an employee,
14 volunteer, or applicant for employment or for a
15 volunteer position at such a facility to undergo a
16 criminal background investigation prior to having
17 unsupervised contact with the children.

18 This bill would establish fees and charges
19 associated with the registration of such
20 facilities.

21 This bill would prohibit the operation of
22 any youth residential facility, institution, or
23 program in the state under this act unless the
24 entity holds a current registration approval from
25 the Department of Human Resources.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 Relating to religious, faith-based, or church
5 nonprofit, other nonprofit, or for profit alternative boarding
6 schools, outdoor programs, or residential institutions that
7 house children for counseling, therapeutic, behavioral, or
8 educational purposes when on-site residency of children is
9 required for periods over 24 hours; to establish registration
10 and regulatory requirements; to establish accountability for
11 children enrolled at or housed by religious, or faith-based
12 facilities, institutions, and programs that house children for
13 periods of over 24 hours; to require an employee, volunteer,
14 or applicant for employment or a volunteer position to undergo
15 a criminal background investigation prior to having
16 unsupervised contact with children; to establish a provision
17 for fees and charges associated with the registration and
18 regulation of these facilities; and to prohibit the operation
19 of any youth residential facility, institution, or program in
20 the state under this act unless the entity holds a current
21 registration approval from the Department of Human Resources.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall be known and may be cited
24 as the Alabama Youth Residential Facility Abuse Prevention
25 Act.

26 Section 2. The Legislature finds that there is a
27 substantial need to protect children and youth from abuse and

1 neglect by persons entrusted with their physical custody, and
2 from persons or organizations that advertise, hold themselves
3 out, or lead others to believe that they will provide them
4 with health, therapeutic, rehabilitative, or disciplinary
5 services, and from persons employed or exercising authority
6 over them, and who they depend upon to provide the basic
7 necessities of life. The Legislature further finds that abuse
8 and neglect often take the form of the withholding of the
9 basic necessities of life, including food, water, shelter,
10 clothing, and health care through an affirmative act or
11 omission. It is the intent of the Legislature to implement a
12 baseline of registration and regulation requirements for
13 religious, faith-based, or church nonprofit, other nonprofit,
14 and for profit affiliated youth residential facilities and
15 institutions that have previously been exempt, and that
16 criminal penalties be imposed on any individual guilty of the
17 abuse or neglect of a child through an act or omission in
18 association with services provided by such an institution. The
19 Legislature further finds and declares the following:

20 (1) For several years, religious, faith-based, and
21 church nonprofit, other nonprofit, and for profit residential
22 affiliated facilities, institutions, and programs intended to
23 be a less restrictive option for treatment of children and
24 youth with substantial behavioral issues have been established
25 nationwide, with numerous allegations of abuse and neglect,
26 some resulting in death.

1 (2) There are currently religious, faith-based, or
2 church nonprofit, other nonprofit, and for profit affiliated
3 youth residential facilities, institutions, and programs
4 operating in Alabama that are exempt from registration and
5 regulation by the State Department of Human Resources.

6 (3) These facilities, institutions, and programs are
7 owned and operated by for profit, or nonprofit organizations
8 defined in Section 501(c)(3) of the Internal Revenue Code.

9 (4) These facilities, institutions, and programs
10 advertise, both in state and out of state, that they provide
11 services for youth with behavioral or other issues to
12 individuals who may feel they have no other option.

13 (5) Victims of abuse and neglect of these
14 organizations nationwide have formed organizations to expose
15 the trauma, abuse, and neglect they experienced while
16 residents at or in these institutions, facilities, and
17 programs.

18 (6) Students and youth subject to enrollment or
19 attendance of these facilities have experienced a host of
20 other problems associated with the trauma, abuse, and neglect
21 experienced at these institutions, facilities, and programs.

22 (7) There is a lack of accountability regarding the
23 existence and status of children that are enrolled in or
24 housed at these institutions and facilities being residents of
25 both this state and other states.

1 (8) The states reserve the power to establish and
2 enforce laws protecting the welfare, safety, and health of the
3 public.

4 (9) It is the duty of the Legislature to ensure
5 proper licensing and regulation of residential facilities for
6 the protection and care of all citizens.

7 (10) It is the intent of the Legislature that the
8 state require registration of religious, faith-based, or
9 church nonprofit, other nonprofit, and for profit residential
10 institutions, alternative boarding schools, and outdoor
11 programs that house or contain children or youth for a period
12 over 24 hours to provide counseling, therapeutic,
13 disciplinary, or educational services when long-term on site
14 residency of children is required.

15 Section 3. For the purposes of this act, the
16 following terms shall have the following meanings:

17 (1) CHILD. A person under the age of 18 years.

18 (2) COMMUNITY TREATMENT FACILITY FOR YOUTHS. A
19 religious, faith-based, or church nonprofit, other nonprofit,
20 or for profit youth residential facility that provides mental
21 health treatment services to children in a group setting and
22 that has the capacity to provide secure containment.

23 (3) DEPARTMENT. The State Department of Human
24 Resources.

25 (4) DIRECTOR. The Director of the State Department
26 of Human Resources.

1 (5) LONG TERM YOUTH RESIDENTIAL FACILITY. A
2 religious, faith-based, or church nonprofit, other nonprofit,
3 or for profit long term residential facility, group care
4 facility, or similar facility as determined by the director,
5 providing 24-hour nonmedical care of youth in need of personal
6 services, supervision, or assistance essential for sustaining
7 the activities of daily living or for the protection of the
8 child and others and that has the capacity to provide secure
9 containment.

10 (6) PRIVATE ALTERNATIVE BOARDING SCHOOL. A
11 religious, faith-based, or church nonprofit, other nonprofit,
12 or for profit group home that provides children with 24-hour
13 residential care and supervision, which, in addition to
14 providing educational services, provides, or holds itself out
15 as providing, behavioral-based services to youth with social,
16 emotional, or behavioral issues and that has the capacity to
17 provide secure containment.

18 (7) PRIVATE ALTERNATIVE OUTDOOR PROGRAM. A
19 religious, faith-based, or church nonprofit, other nonprofit,
20 or for profit group home or residential facility that provides
21 children with 24-hour residential care and supervision, which
22 provides, or holds itself out as providing, behavioral-based
23 services in an outdoor living setting to children with social
24 or behavioral issues and that has the capacity to provide
25 secure containment or prohibits children from freely leaving
26 the area of operations for the program.

1 (8) RESTRICTIVE BEHAVIOR PRACTICES. Any
2 institutional practice or procedure that involves assisting a
3 child in gaining control of his or her behavior, protects a
4 child from self-harm, protects other children or staff
5 members, or prevents the destruction of property.

6 (9) YOUTH SOCIAL REHABILITATION FACILITY. A
7 religious, faith-based, or church nonprofit, other nonprofit,
8 or for profit residential facility that provides 24-hour
9 nonmedical social rehabilitation services in a group setting
10 to children recovering from mental illness or substance abuse
11 who are in need of temporary assistance, guidance, or
12 counseling and that has the capacity to provide secure
13 containment.

14 (10) YOUTH TRANSITIONAL CARE FACILITY. A religious,
15 faith-based, or church nonprofit, other nonprofit, or for
16 profit group care facility that provides 24-hour nonmedical
17 care of children in need of professional services,
18 supervision, or assistance essential for sustaining the
19 activities of daily living or for the protection of the
20 individual or others and that have the capacity to provide
21 secure containment.

22 Section 4. (a) Commencing on January 1, 2018, the
23 department shall register any religious, faith-based, or
24 church nonprofit, other nonprofit, or for profit affiliated
25 youth residential facility, youth social rehabilitation
26 facility, community treatment facility for youths, youth
27 transitional care facility, long term youth residential

1 facility, private alternative boarding school, private
2 alternative outdoor program, and any organization entrusted
3 with the residential care of children in any organizational
4 form or combination defined by this section, whenever children
5 are housed at the facility or location of the program for a
6 period of more than 24 hours. At a minimum, registered youth
7 residential institution or organization under this section
8 shall do all of the following:

9 (1) Be owned and operated on a for profit or
10 nonprofit basis.

11 (2) Prepare and maintain a current, written plan of
12 operation, as defined by the department.

13 (3) Offer 24-hour, nonmedical care and supervision
14 to youth who are voluntarily admitted by a parent or legal
15 guardian, or referred by a court.

16 (4) Admit only children 12 years of age or older.

17 (5) Provide written notification on a standard form
18 to the department or local county Department of Human
19 Resources office where the facility is located within 48 hours
20 of the arrival, enrollment, or admittance of any child to the
21 institution, facility, or program as directed by the
22 department.

23 (6) Have a ratio of one staff person to every four
24 youths.

25 (7) Provide each prospective youth and his or her
26 parent or legal guardian with an accurate written description
27 of the programs and services to be provided while the child is

1 a resident at the facility. If it advertises or promotes
2 special care, programs, or environments for persons with
3 behavioral, emotional, substance abuse, or social challenges,
4 the written description shall include how its programs and
5 services are intended to achieve the advertised or promoted
6 claims.

7 (8) Ensure that all individuals providing mental
8 health or behavioral-based services to youth at the facility
9 are licensed or certified by the appropriate agency,
10 department, or accrediting body, as specified by the
11 department through agency rules.

12 (9) Prepare and implement a comprehensive health
13 plan to ensure that each medical, dental, mental health, and
14 other health needs of the child are met adequately and
15 promptly.

16 (10) Explain its disciplinary practices individually
17 with each child at the time the child is placed or enrolled in
18 the institution, facility, or program.

19 (11) Obtain written consent for the use of any
20 restrictive behavior management practice from the parents or
21 legal guardian of the child.

22 (12) Not use secure containment or manual or
23 mechanical restraints.

24 (13) Not allow the performance of any acts, tactics,
25 techniques, or procedures for purposes of abusing,
26 humiliating, degrading, isolating, or ostracizing a child from

1 other children located or housed at the institution, facility,
2 or program by any staff member or child.

3 (14) Not utilize restrictive behavior management
4 practices as a means of punishment, for the convenience of
5 staff members, or as a substitute for a treatment program.

6 (15) Ensure that each child is provided with three
7 nutritious meals daily, either at the institution, facility,
8 program operations site itself, or in the community.

9 (16) Select, store, prepare, and serve food in a
10 sanitary and palatable manner.

11 (17) Ensure that every child is afforded the
12 opportunity to participate freely in religious activities and
13 or services in accordance with his or her own faith or with
14 that of his or her parents.

15 (18) Maintain a bond or liability insurance of no
16 less than five hundred thousand dollars (\$500,000) per
17 incident and show proof of the current status of the policy or
18 bond prior to registration by the department.

19 (19) Include its facility, institution, or program
20 registration number in all advertisements.

21 (20) Require that all employees of the facility or
22 program undergo a child abuse and neglect clearance and a
23 criminal background check prior to the approval of the
24 registration of the facility or program and require that all
25 employees obtain a criminal background check and child abuse
26 and neglect clearance annually thereafter.

1 (21) Ensure that prior to employment, residence, or
2 initial presence in the facility, institution, or with the
3 program, all employees undergo a criminal background check.

4 (22) Maintain a smoke free environment in all
5 buildings on the facility, institution, or program premises
6 and in all vehicles used to transport children.

7 (23) Obtain a fire safety clearance approved by the
8 local fire authority.

9 (24) If it offers access to, or holds itself out as
10 offering access to, mental health services, ensure that those
11 services are provided by a licensed mental health provider.

12 (25) If it advertises or includes in its marketing
13 materials reference to providing alcohol or substance abuse
14 treatment, ensure that the treatment is provided by a licensed
15 or certified alcoholism or drug abuse recovery or treatment
16 facility.

17 (26) Not admit a child who has been assessed by a
18 licensed mental health professional as seriously emotionally
19 disturbed, unless the child does not require care in a
20 licensed health facility and the State Department of Mental
21 Health has certified that the facility houses a program that
22 meets the standards to provide mental health treatment
23 services for a child having a serious emotional disturbance,
24 as defined in Rule 290-8-9 of the Alabama Administrative Code.

25 (27) Immediately provide a written report on a
26 standard form to the department and law enforcement agency of
27 all fatalities and accidents requiring hospitalization or

1 medical care by a physician occurring at the facility,
2 institution, or program.

3 (28) Prohibit any staff member or child to possess
4 any firearms, harmful chemicals, or other weapons within or on
5 the grounds of the institution, facility, or program.

6 (b) Submit a staff training plan to the department
7 as part of its plan of operation. In addition to the training
8 required of facility, institutional, or program staff, the
9 staff training plan shall include, but not be limited to,
10 training in all of the following subject areas:

11 (1) Children's rights, as described in subsection
12 (c).

13 (2) Physical and psycho-social needs of youth.

14 (3) Appropriate responses to emergencies, including
15 an emergency intervention plan.

16 (4) Laws and regulations pertaining to residential
17 care and housing facilities for children.

18 (c) (1) Any child that is enrolled in or a resident
19 of a religious, faith-based, or church nonprofit, other
20 nonprofit, or for profit affiliated youth residential
21 facility, youth social rehabilitation facility, community
22 treatment facility for youths, youth transitional care
23 facility, long term youth residential facility, private
24 alternative boarding school, private alternative outdoor
25 program, and any organization entrusted with the residential
26 care of children in any organizational form or combination
27 defined by this section shall be afforded the following rights

1 and any other rights adopted by the department through rule,
2 which shall be publicly posted and accessible to youth:

3 a. To be afforded dignity in his or her personal
4 relationships with staff, youth, and other persons.

5 b. To live in a safe, healthy, and comfortable
6 environment where he or she is treated with respect.

7 c. To be free from physical, sexual, emotional, or
8 other abuse or corporal punishment.

9 d. To be granted a reasonable level of personal
10 privacy in accommodations, personal care and assistance, and
11 visits.

12 e. To confidential care of his or her records and
13 personal information, and to approve release of those records
14 prior to the release of them, except as otherwise authorized
15 or required by law.

16 f. To care, supervision, and services that meet his
17 or her individual needs and that are delivered by staff who
18 are sufficient in numbers, qualifications, and competency to
19 meet his or her needs and ensure his or her safety.

20 g. To be served food and beverages of the quality
21 and in the quantity necessary to meet his or her nutritional
22 and physical needs.

23 h.1. To present grievances and recommend changes in
24 policies, procedures, and services to the facility's staff,
25 management, and governing authority, or any other person
26 without the possibility of restraint, coercion,

1 discrimination, reprisal, threat, or other retaliatory
2 actions.

3 2. To have the registered entity take prompt actions
4 to respond to grievances presented pursuant to subparagraph 1.

5 i. To be able to contact parents or legal guardians,
6 including visits and scheduled and unscheduled private
7 telephone conversations, written correspondence, and
8 electronic communications, unless prohibited by court order.

9 j. To be fully informed, as evidenced by the youth's
10 written acknowledgment, prior to, or at the time of, arrival
11 or admission to the facility, institution, or program, of the
12 rules governing the youth's rights, conduct, and
13 responsibilities.

14 k. To receive in the admission agreement information
15 that details the planned programs and services for the youth.

16 l. To have his or her parents or legal guardians
17 remove him or her from the facility at any time unless
18 prevented from doing so by a court order.

19 m. To consent to have visitors or telephone calls
20 during reasonable hours, privately and without prior notice,
21 if the visitors or telephone calls do not disrupt planned
22 activities and are not prohibited by court order or by the
23 youth's parent or legal guardian.

24 n. To be free of corporal punishment, excessive
25 medication, physical restraints of any kind, and deprivation
26 of basic necessities, unnecessary seclusion including
27 education, as a punishment, deterrent, or incentive.

1 o. To be afforded the opportunity to enroll in, make
2 progress toward, and complete a program leading to a General
3 Education Development Certificate or other high school diploma
4 equivalent upon being housed or located at the facility,
5 institution, or program for a period of more than 30 days.

6 p. To have fair and equal access to all available
7 services, placement, care, treatment, and benefits and to not
8 be subjected to discrimination or harassment on the basis of
9 actual or perceived race, ethnic group identification,
10 ancestry, national origin, color, religion, sex, mental or
11 physical disability, or physical condition.

12 q. To be free from abusive, humiliating, degrading,
13 or traumatizing actions.

14 r. To be free to attend religious services of their
15 choice.

16 s. Any other rights the department adopts by rule;
17 however, the department is not responsible or liable for
18 violation of the above rights, including acts or omissions by
19 facility employees.

20 (2) This section shall not apply to any facility
21 administered, operated, licensed, or certified by the State
22 Department of Education, Department of Corrections, Department
23 of Youth Services, the Military Department, state recognized
24 military academies, institutes, or boot camps, the Alabama
25 School of Mathematics and Science, Alabama School of Fine
26 Arts, any state school for the deaf or blind, or any other
27 governmental entity or to a school that does not require

1 residency as requirement for services provided. This section
2 further shall not apply to outdoor activities for youth
3 designed to be primarily recreational or for entertainment,
4 including, but not limited to, any camp inspected and
5 permitted by the Alabama Department of Public Health,
6 activities organized by Boy Scouts, Girl Scouts, Camp Fire, or
7 other similar church sponsored organizations, or any camp
8 exclusively serving children with a medical diagnosis for a
9 physical condition or illness, or any runaway or homeless
10 shelter, or any similar place that supplies room and or board
11 only, provided that the resident is free to leave that
12 facility by his or her own volition at any time.

13 (3) The Department of Public Health shall regularly
14 license and inspect the food preparation areas of the
15 facilities under this statute for health and safety purposes.

16 (4) Law enforcement agencies shall have access to
17 the private property of the facilities under this statute in
18 furtherance of their duties to investigate abuse or neglect,
19 or for any other lawful purpose.

20 Section 5. (a) Any employee, volunteer, or applicant
21 for employment or for a volunteer position at or with any
22 religious, faith-based, or church nonprofit, other nonprofit,
23 or for profit affiliated youth residential facility, youth
24 social rehabilitation facility, community treatment facility
25 for youths, youth transitional care facility, long term youth
26 residential facility, private alternative boarding school,
27 private alternative outdoor program, and any organization

1 entrusted with the residential care of children or youth in
2 any organizational form or combination thereof defined by this
3 section, or as defined by the department, shall be subject to
4 a criminal background investigation prior to having
5 unsupervised contact with the children in accordance with
6 subdivision (1) of subsection (a) of Section 38-13-3, Code of
7 Alabama 1975.

8 Section 6. (a) (1) The department may charge a fee
9 for the registration. The fee may be set by rule of the
10 department and may be based on the type of facility and the
11 capacity of the facility. After the initial registration
12 approval, the department may charge a renewal fee annually on
13 each anniversary of the effective date of the registration.
14 The fees are for the purpose of administering the registration
15 program and enforcing the requirements specified in this act
16 and shall be set accordingly.

17 (2) The department, at least every five years, shall
18 analyze initial application fees and annual fees issued by it
19 to ensure the appropriate fee amounts are charged.

20 (b) In addition to fees established by the
21 department, the department shall also charge the following
22 fees:

23 (1) A fee in the amount of 50 percent of the
24 established application fee when an existing registered entity
25 moves a facility to a new physical address.

26 (2) A fee in the amount of 50 percent of the
27 established application fee when a corporate registered entity

1 changes the person having the authority to select a majority
2 of the board of directors.

3 (3) A fee in the amount of fifty dollars (\$50) when
4 an existing registered entity seeks to either increase or
5 decrease the approved capacity of the facility.

6 (4) An orientation fee of fifty dollars (\$50) for
7 attendance by any individual at a department-sponsored
8 information or orientation session.

9 (5) A probation monitoring fee equal to the current
10 annual fee, in addition to the current annual fee for that
11 category and capacity for each year a registered entity has
12 been placed on probation as a result of an adjudication
13 pursuant to the Administrative Procedure Act, Chapter 22,
14 Title 41, Code of Alabama 1975.

15 (6) A late fee that represents an additional 50
16 percent of the established current annual fee when any
17 registered entity fails to pay the current annual registration
18 fee on or before the due date as indicated by postmark on the
19 payment.

20 (7) A fee to cover any costs incurred by the
21 department for processing payments including, but not limited
22 to, insufficient funds charges, charges for credit and debit
23 transactions, and postage due charges.

24 (8) A plan of correction fee of at least two hundred
25 dollars (\$200) when any registered entity does not implement a
26 plan of correction on or prior to the date specified by a
27 corrective action plan issued to it by the department.

1 (9) Additional fees established by the department by
2 rule as necessary to regulate registered entities for
3 institutions and organizations subject to this act.

4 (c) The revenues collected from registration fees
5 pursuant to this section shall be utilized by the department
6 for the purpose of ensuring the health and safety of all
7 individuals provided care and supervision by entities
8 registered under this act and to support operations of the
9 registration program, including, but not limited to,
10 monitoring facilities for compliance with registration laws
11 and rules, and other administrative activities in support of
12 the registration program. The revenues collected shall be used
13 in addition to any other funds appropriated in the budget act
14 in support of the registration program. The department shall
15 adjust the fees collected pursuant to this section as
16 necessary.

17 (d) The failure of an applicant or registrant to pay
18 all applicable and accrued fees and civil penalties shall
19 constitute grounds for denial or forfeiture of registration
20 approval.

21 Section 7. (a) All youth residential facilities and
22 organizations under this section shall be subject to a
23 quarterly inspection by the department or its designee at a
24 minimum and shall be responsible for providing necessary
25 information as determined by the department to ensure the
26 safety and welfare of residents. All youth residential

1 facilities and organizations under this act shall provide at a
2 minimum the following to the department upon request:

3 (1) The names of all children currently enrolled,
4 registered, or housed at the facility or program.

5 (2) The names of all personnel currently employed or
6 contracted for employment for or at the facility, institution,
7 or program.

8 (3) The plan of operation, all written policies,
9 procedures, and standard practices.

10 (4) The child-to-staff ratios.

11 (5) The staff qualifications and proof of training.

12 (6) Proof of the implementation of childrens' needs
13 and services plan.

14 (7) A written fire evacuation and natural disaster
15 plan and maintain a record of routine drills of the plan.

16 (8) Proof of liability insurance with coverage of no
17 less than the amount specified in subsection 3(a) of this act.

18 (9) Proof of immunization against disease of all
19 children housed or contained at the facility or in the program
20 with proof of exemption of a child due to parental beliefs,
21 which exemption shall be permitted.

22 (b) All youth residential facilities and
23 organizations under this section shall inform the parents or
24 authorized guardian or adult representative of the child of
25 their rights including the following at a minimum:

26 (1) To enter and inspect the facility, institution,
27 or program as determined by law.

1 (2) To file a complaint against the registered
2 entity with the department without discrimination against the
3 parent or the child housed by or located at the facility or
4 program.

5 (3) To view the child's records associated with the
6 facility, institution, or program including treatment,
7 disciplinary, and other actions the department determines to
8 be vital to his or her situational awareness as a parent or
9 guardian.

10 (4) To review the registered entity's public file at
11 the appropriate department online site or physical location.

12 (5) To view the prominently displayed list of child
13 or youth rights associated with this act or those enumerated
14 per department rules.

15 (6) To view copies of any report that documents any
16 finding of noncompliance by the department.

17 (7) To view copies of any documentation issued to
18 the registered entity documenting the department's intent to
19 revoke the registration approval of the facility, institution,
20 or program.

21 Section 8. (a) On or before January 1, 2018, the
22 department shall adopt rules to implement this act, in
23 consultation with interested parties, including
24 representatives of any institution with any combination of
25 organizational characteristics defined by this section, former
26 residents of long-term youth residential facilities, advocates
27 for youth, and private concerned parties. Until rules are

1 adopted by the department and become effective any existing
2 child or youth residential organization, facility,
3 institution, boarding school, or program operating in this
4 state shall be governed by the rules applicable to residential
5 care facilities regulated by the Department of Human Resources
6 pursuant to published minimum standards for residential child
7 care facilities. Any institution, facility, or program subject
8 to this act, operating prior to January 1, 2018, shall comply
9 with the department's registration requirements on or before
10 July 1, 2017.

11 (b) The department may adopt emergency rules to
12 implement this section.

13 (c) The department shall have the authority to act
14 in loco parentis for any child covered under this section in
15 need of immediate health, welfare, protective, or other
16 critical services until that child's parent or guardian can be
17 contacted and is able to make those decisions in the interest
18 of the child.

19 (d) No religious, faith-based, or church nonprofit,
20 other nonprofit, or for profit affiliated youth residential
21 facility, youth social rehabilitation facility, community
22 treatment facility for youths, youth transitional care
23 facility, long term youth residential facility, private
24 alternative boarding school, private alternative outdoor
25 program, and any organization entrusted with the residential
26 care of children in any organizational form or combination

1 defined by this section may operate in this state without a
2 current registration approval from the department.

3 (e) Nothing in this section shall prohibit a
4 religious, faith-based, or church nonprofit, other nonprofit,
5 or for profit residential, rehabilitation, community
6 treatment, transitional care facility, or private alternative
7 boarding school or outdoor program that utilizes religious,
8 prayer, or spiritual means as the basis for its program or
9 services from providing those services in accordance with its
10 religious beliefs. Any such facility or program shall include
11 in its advertising that it bases its services or treatment on
12 religious principles. Such facility or program shall provide
13 to any applicant a detailed explanation of its faith-based
14 programs. Such facility or program may require participants to
15 participate in these programs, notwithstanding any other
16 provision of this chapter. This chapter shall not give the
17 department the authority to regulate or prohibit
18 religious-based treatment; provided, however, the treatment
19 shall not be used to violate or circumvent any of the other
20 requirements of this chapter related to the physical safety
21 and condition of any child or the condition of the facility.

22 (f) Nothing in this section shall prohibit a
23 religious, faith-based, or church nonprofit, other nonprofit,
24 or for profit residential, rehabilitation, community
25 treatment, or transitional care facility, or a private
26 alternative boarding school, or outdoor program that utilizes
27 religious, prayer, or spiritual means as the basis for its

1 services from providing those services in accordance with its
2 religious beliefs.

3 (g) Nothing in this section shall give the
4 department the authority to regulate or prohibit
5 religious-based treatment or services, provided that, the
6 treatment or services are not in violation of any requirements
7 of this section as it relates to the safety and welfare of
8 children.

9 (h) Nothing in this section shall be construed or
10 interpreted to authorize any state agency to license or
11 regulate a non-residential private, nonpublic, church or
12 nonprofit school offering instruction in grades K-12, or any
13 combination thereof, that houses or contains children or youth
14 for a period of less than 24 hours.

15 Section 9. This act shall not be interpreted to
16 supersede any other law requiring the reporting or
17 investigation of child abuse or neglect.

18 Section 10. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.