

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1738

To assure the safety of American children in foreign-based and domestic institutions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2005

Mr. GEORGE MILLER of California (for himself, Mr. KILDEE, Mr. OWENS, Mr. McDERMOTT, and Mr. VAN HOLLEN) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To assure the safety of American children in foreign-based and domestic institutions, 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 “End Institutionalized  
5 Abuse Against Children Act of 2005”.

6 **SEC. 2. JUSTICE DEPARTMENT INVESTIGATIONS.**

7       (a) IN GENERAL.—In order to assure the safety and  
8 welfare of American children residing in foreign-based in-

stitutions, the Attorney General shall seek the cooperation of appropriate foreign authorities in order to investigate such facilities or institutions periodically. Such an investigation shall include a determination of the institution's compliance with any local safety, health, sanitation and educational laws and regulations, including all licensing requirements applicable to the staff of the institution and compliance with this section. The Attorney General shall seek the cooperation of appropriate foreign authorities to remedy any threat to the safety or welfare of those children, discovered through such an investigation.

(b) RULES AND ENFORCEMENT.—(1) The Attorney General shall make rules to protect the safety and wellbeing of American children who are kept in a foreign based institution for purposes of behavior modification.

(2) Whoever, being a United States citizen or national, or other private entity organized under the laws of the United States or of any State or political subdivision of the United States, violates a rule made under this subsection shall be subject to a civil penalty not to exceed \$50,000.

(c) DEFINITIONS.—As used in this section—

(1) the term “foreign-based institution” means any facility or institution—

1 (A) owned, operated, or managed by a  
2 United States citizen or other private entity or-  
3 ganized under the laws of the United States;  
4 and

5 (B) for persons, including persons who are  
6 residing in such facility or institution, for pur-  
7 poses of receiving care or treatment or behavior  
8 modification; and

9 (2) the term “American children” means Amer-  
10 ican citizens or nationals 18 years of age or younger.

11 **SEC. 3. AMENDMENTS TO DEPARTMENT OF STATE’S COUN-**  
12 **TRY REPORTS ON HUMAN RIGHTS PRAC-**  
13 **TICES.**

14 (a) PART I OF FOREIGN ASSISTANCE ACT OF  
15 1961.—Section 116 of the Foreign Assistance Act of 1961  
16 (22 U.S.C. 2151n) is amended by adding at the end the  
17 following new subsection:

18 “(g)(1) The report required by subsection (d) shall  
19 include, wherever applicable, a description of the nature  
20 and extent of child abuse or human rights violations  
21 against persons who are 18 years of age or younger at  
22 institutions described in paragraph (2) that are located  
23 in each foreign country.

24 “(2) An institution referred to in paragraph (1) is  
25 a facility or institution—

1           “(A) owned, operated, or managed by a United  
2 States citizen or other private entity organized under  
3 the laws of the United States; and

4           “(B) for persons, including persons who are re-  
5 siding in such facility or institution, for purposes of  
6 receiving care or treatment or behavior modifica-  
7 tion.”.

8           (b) PART II OF FOREIGN ASSISTANCE ACT OF  
9 1961.—Section 502B of the Foreign Assistance Act of  
10 1961 (22 U.S.C. 2304) is amended by adding at the end  
11 the following new subsection:

12           “(i)(1) The report required by subsection (b) shall in-  
13 clude, wherever applicable, a description of the nature and  
14 extent of child abuse or human rights violations against  
15 persons who are 18 years of age or younger at institutions  
16 described in paragraph (2) that are located in each foreign  
17 country.

18           “(2) An institution referred to in paragraph (1) is  
19 a facility or institution—

20           “(A) owned, operated, or managed by a United  
21 States citizen or other private entity organized under  
22 the laws of the United States; and

23           “(B) for persons, including persons who are re-  
24 siding in such facility or institution, for purposes of

1 receiving care or treatment or behavior modifica-  
2 tion.”.

3 **SEC. 4. GRANTS TO SUPPORT INSPECTIONS OF CHILD RESI-**  
4 **DENTIAL TREATMENT FACILITIES.**

5 (a) IN GENERAL.—The Child Abuse Prevention and  
6 Treatment Act (42 U.S.C. 5101 et seq.) is amended by  
7 adding at the end the following new title:

8 **“TITLE III—GRANTS TO STATES**  
9 **TO SUPPORT INSPECTIONS**  
10 **OF CHILD RESIDENTIAL**  
11 **TREATMENT FACILITIES**

12 **“SEC. 301. GRANTS TO STATES.**

13 “The Secretary is authorized to make grants to  
14 States to support inspections of child residential treatment  
15 facilities.

16 **“SEC. 302. APPLICATION.**

17 “The Secretary may not make a grant to a State  
18 under section 301 unless the State submits to the Sec-  
19 retary an application for the grant at such time, in such  
20 form and manner, and containing such information as the  
21 Secretary may reasonably require.

22 **“SEC. 303. ELIGIBILITY.**

23 “(a) IN GENERAL.—The Secretary may not make a  
24 grant to a State under section 301 unless the State has  
25 in effect laws to require the licensing of child residential

1 treatment facilities in accordance with the requirements  
2 of subsection (b) and the State is enforcing such State  
3 laws in accordance with the requirements of subsection  
4 (c).

5 “(b) LICENSING REQUIREMENTS.—The licensing re-  
6 quirements referred to in subsection (a) are the following:

7 “(1) The State requires any person who oper-  
8 ates a child residential treatment facility to be  
9 issued a license for the operation of the facility, and  
10 the license is in effect.

11 “(2) The facility meets applicable standards of  
12 the State for the provision of treatment services for  
13 children with emotional, psychological, develop-  
14 mental, or behavioral dysfunctions, impairments, or  
15 chemical dependencies.

16 “(3) In the case of each child who is a resident  
17 of the facility and whose domicile is another State,  
18 the facility meets the standards of such other State  
19 for the operation of such a facility, including any li-  
20 censing standards.

21 “(4) With respect to State law that prohibits  
22 the physical or mental abuse of children and the ne-  
23 glect of children, the law of the State in which the  
24 facility is located applies to the facility standards for  
25 the care of children who are residents of the facility,

1 including enforcement standards, that are equivalent  
2 to the standards applied by the State to parents or  
3 legal guardians.

4 “(5) The State requires periodic, unannounced  
5 inspections of the facility to determine compliance  
6 with applicable law, including law regarding the li-  
7 censing of health professionals and law regarding  
8 the standards referred to in paragraph (4).

9 “(c) ENFORCEMENT REQUIREMENTS.—The enforce-  
10 ment requirements referred to in subsection (a) are the  
11 following:

12 “(1) IN GENERAL.—

13 “(A) CIVIL PENALTY.—A person who oper-  
14 ates a child residential treatment facility in vio-  
15 lation of the requirements under subsection (b)  
16 is subject to a civil penalty of \$250 per day  
17 until the violation is corrected, except that the  
18 number of days for which the penalty is as-  
19 sessed may not exceed 60 days.

20 “(B) ORDER TO TERMINATE OPER-  
21 ATIONS.—With respect to a violation of the re-  
22 quirements under subsection (b), if a civil pen-  
23 alty under subparagraph (A) for the violation is  
24 assessed for 60 days, the State orders that the

1 child residential treatment facility involved ter-  
2minate all operations.

3 “(2) ABUSE OR NEGLECT.—

4 “(A) CIVIL PENALTY.—If a child residen-  
5tial treatment facility engages in the abuse or  
6neglect of a child who is a resident of the facil-  
7ity, each person who owns or operates the facil-  
8ity, and each of the officers, employees, or con-  
9tractors thereof who engaged in the abuse or  
10neglect, is subject to a civil penalty for each  
11such violation in an amount determined by the  
12State, but not less than \$20,000 for all viola-  
13tions adjudicated in a single proceeding.

14 “(B) CRIMINAL PENALTY.—If a child resi-  
15dential treatment facility engages in the abuse  
16or neglect of a child who is a resident of the fa-  
17cility, each person who owns or operates the fa-  
18cility, and each of the officers, employees, or  
19contractors thereof who engaged in the abuse or  
20neglect, shall be fined in accordance with title  
2118, United States Code, or imprisoned not more  
22than five years, or both.

23 “(C) ABUSE OR NEGLECT.—For purposes  
24of subparagraphs (A) and (B), the term ‘abuse  
25or neglect’, with respect to a child, means a

1 knowing act or omission that the officer, em-  
2 ployee, or contractor involved knows or should  
3 know will result in death, serious physical or  
4 emotional harm, sexual abuse or exploitation, or  
5 will present an imminent risk of serious harm.

6 **“SEC. 304. USE OF FUNDS.**

7 “A State that receives a grant under section 301 shall  
8 use amounts under the grant to—

9 “(1) hire and train individuals who have appro-  
10 priate expertise in the health profession, including  
11 the mental health profession, to carry out periodic,  
12 unannounced inspections of child residential treat-  
13 ment facilities in accordance with section 303(b)(5);  
14 and

15 “(2) collect and maintain data from the inspec-  
16 tions of such child residential treatment facilities to  
17 be included in the report required by section 306.

18 **“SEC. 305. MAINTENANCE OF EFFORT.**

19 “A State that receives a grant under section 301 shall  
20 use amounts under the grant only to supplement the level  
21 of non-Federal funds that, in the absence of amounts  
22 under the grant, would be expended for activities author-  
23 ized under the grant, and not to supplant those non-Fed-  
24 eral funds.

1 **“SEC. 306. REPORT.**

2 “The Secretary may not make a grant to a State  
3 under section 301 unless the State agrees that it will sub-  
4 mit to the Secretary for each fiscal year for which it re-  
5 ceives a grant under such section a report that contains  
6 such information as the Secretary may reasonably require,  
7 including a detailed description of the number of child res-  
8 idential treatment facilities located in the State, the num-  
9 ber of children residing at such facilities, the State domi-  
10 cile of each child prior to entry at such a facility, and the  
11 age, gender, and disability (if any) of each child at such  
12 a facility.

13 **“SEC. 307. DEFINITIONS.**

14 “In this title:

15 “(1) CHILD.—The term ‘child’ means an indi-  
16 vidual 18 years of age or younger.

17 “(2) CHILD RESIDENTIAL TREATMENT FACIL-  
18 ITY; FACILITY.—The term ‘child residential treat-  
19 ment facility’ or ‘facility’ means a facility that—

20 “(A) provides a 24-hour group living envi-  
21 ronment for one or more children who are unre-  
22 lated to the owner or operator of the facility;  
23 and

24 “(B) offers for the children room or board  
25 and specialized treatment, behavior modifica-  
26 tion, rehabilitation, discipline, emotional growth

1 or rehabilitation services for youths with emo-  
2 tional, psychological, developmental, or behav-  
3 ioral dysfunctions, impairments, or chemical de-  
4 pendencies.

5 “(3) SECRETARY.—The term ‘Secretary’ means  
6 the Secretary of Health and Human Services.

7 “(4) STATE.—The term ‘State’ means each of  
8 the several States, the District of Columbia, and the  
9 Commonwealth of Puerto Rico.

10 **“SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to carry out  
12 this title \$50,000,000 for each of the fiscal years 2006  
13 and 2007.”.

14 (b) CLERICAL AMENDMENT.—The table of contents  
15 of the Child Abuse Prevention and Treatment Act (42  
16 U.S.C. 5101 note) is amended by adding at the end the  
17 following:

“TITLE III—GRANTS TO STATES TO SUPPORT INSPECTIONS OF  
CHILD RESIDENTIAL TREATMENT FACILITIES

“Sec. 301. Grants to States.

“Sec. 302. Application.

“Sec. 303. Eligibility.

“Sec. 304. Use of funds.

“Sec. 305. Maintenance of effort.

“Sec. 306. Report.

“Sec. 307. Definitions.

“Sec. 308. Authorization of appropriations.”.

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