SHORT TITLE. This Act may be cited as the ‘‘Institutional Child Abuse Prevention Act of 2024’’ To address the issue of institutional child abuse within residential facilities and programs for youth.

The purpose of this Act is to revise the Child Abuse Prevention and Treatment Act (CAPTA) to incorporate institutional child abuse as a distinct form of child abuse, demanding mandatory reporting and preventive measures. The Act prohibits the use of any measures or interventions that fall within the scope of "institutional child abuse" ensuring that children under institutional care are protected from abusive and inhumane treatment.

PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this division are to recognize the pervasive issue of institutional child abuse, to help distinguish and identify markers of fraudulent and inherently abusive facilities and programs and identify the opportunities for improvement of established child protection systems to properly address and prevent institutional child abuse.

(b) FINDINGS.—Congress finds that:

(1) The ethical treatment of children within the United States is a pervasive issue that society has deemed to be important to the development and future of children and youth.

(2) A private sector of residential treatment facilities and programs tailored towards at-risk youth is a multi-billion dollar industry.

(3) Within this industry includes two distinct types of programs with vastly different methods of treatment and mistreatment of minors.

(a) What is referred to as “congregate care” is an established system of state sponsored and private facilities that provide therapeutic, clinical care or residential support to youth, adults and the elderly. Congregate care facilities are most commonly—

(i) Staffed by licensed clinicians

(ii) Supervised by doctorate level licensed physicians

(iii) Adhere to clinical standards and evidenced based therapies and treatments

(iv) Provide patients with clearly defined patients rights

(v) Provide access to communication with family, community, advocates, and law enforcement

(b) What is referred to as the “Troubled Teen Industry” is a network of residential facilities and programs catering to at-risk youth, particularly adolescents and their families at times of crisis or difficulties in school, relationships, or as a result of mental illness or emotional response to undiagnosed trauma. The facilities and programs that encapsulate the Troubled Teen Industry” typically—

(i) Include—

1) Residential Treatment Centers

2) Therapeutic Boarding Schools

3) Reform Schools
4) Wilderness Programs
5) Boot Camps
6) Religious Academies
7) Specialty Schools and Programs

(ii) Staffed by unlicensed, inadequately trained staff that are trained to–

1) enact harsh discipline,
2) to disregard the dignity of residents,
3) to use dangerous restraint techniques,
4) to believe that residents are “faking” injuries and illnesses,
5) to disregard medical emergencies, and
6) to under report incidents of abuse

(iii) Are not supervised by doctorate level licensed physicians. Contracts with licensed physicians are often part-time, uninvolved with the operations or policies of the program and do not assume liability for the activities carried out within the facilities.

(iv) Medications can be administered without consent of the resident, parents or guardians, and without consultation with a licensed psychiatrist. Injectable sedatives are often overused, used for unreasonable purposes and without the approval of a supervising physician.

(v) Do not adhere to clinical standards and do not provide evidence based programs

1) Marketing does claim to offer evidence based therapies, unsupported programs are often not advertised

(vi) Commitment is often involuntary, long term with an indefinite release date, approved for non-medical reasons and provides no avenue for grievance or appeal of involuntary commitment.

(vii) Programs are often punitive, providing harsh discipline, strict rules, dehumanizing “levels” of the program that encroach upon well being, dignity, communication and basic necessities

1) Transporting youth from state to state circumvents age of consent and medical autonomy rights.
2) There is no approval process for involuntary commitment; medical and mental health evaluations are not required for admittance.
3) Children and youth can be admitted for any reason parents deem appropriate; including convenience, minor defiance, substance abuse; absent addiction symptoms, educational performance, not adhering to parental expectations or religious affiliation, sexual orientation, as

result of custody disputes and attempts to escape CPS investigations.

a) Custody issues are often exacerbated by parental alienation

(viii) Therapies can often be experimental, controversial, or unethical such as—

1) Aversion Therapy
2) Conversion Therapy
3) Aversive Behavior Modification
4) Attack Therapy
5) Suicide prevention that involves punishment, social isolation and humiliating practices
6) Seclusion or solitary confinement that is unnecessary, long term and includes exposure to deplorable or harsh conditions; including—

a) no light or 24-hour lighting;
b) cold or overheated environments;
c) intentional overwhelming stimuli and
d) lack of basic necessities.

(ix) Facilities and Programs restrict or deny open communication for residents to contact family, advocates, legal representation, law enforcement and child protective agencies 1) Residents are often coerced into not reporting abuse, fearing consequences, and enduring threats of violence and extended residency within the facility or program.

(x) Students are required to police other students as Jr Staff. This regularly creates an unhealthy social dynamic.

(c) There is no definition or mechanism to distinguish between Congregate Care and the “Troubled Teen Industry”

1) Parents are often misled to believe that a TTI facility operates as a congregate care facility

2) Educational consultants, mental health providers, judges and other trusted systems do not possess the training to distinguish congregate care from the troubled teen industry and often unknowingly refer parents to TTI facilities.

(4) The populations targeted and subsequently affected by this industry are commonly—

(a) Children and youth from the ages of 7 to 18, notwithstanding the involuntary choice to remain within the facility passed the age of majority.

(b) Children and youth displaced by the foster care system due to overcrowding, understaffed facilities and lack of available services to meet the needs of foster youth.

(i) A disproportionate over representation of marginalized populations, leading to a perpetuation of discrimination, unjust

criminalization and trauma caused by a system that fails to prioritize the needs of youth and their families.

(c) Children and youth labeled as “Troubled Teens”, although the justification for this label is not medically sound, discriminates against adolescents, attaches stigma to normal adolescent development and often ignores or mislabels the underlying issues influencing behavior.

(d) Children and youth that may suffer from mental illness or undiagnosed trauma.

(i) This population is underserved due to facilities being inadequately staffed and ill-equipped to treat mental health disorders and special needs.

(ii) This population is often exposed to punishment for the symptoms of their disorder, causing incidents that often lead to restraint, seclusion and forced sedation.

(e) Parents, guardians and extended family are often led to believe under false pretenses that the facility or program is safe, effective and the child is doing well. This often leads to—

(i) Financial exploitation

(ii) Parental alienation

(iii) Violations of parents rights

(iv) High pressure sales that refer parents to continue to keep residents longer than necessary or refer to alternative or secondary facilities and programs that extend the commitment of the resident

(f) The Troubled Teen Industry is not required to be accredited by any government or clinical accreditation body.

(i) TTI facilities and programs are approved by trade organizations that pose as accreditation bodies yet provide no enforcement of proposed standards

(5) Public funding of the troubled teen industry presents a burden on taxpayers who unknowingly fund tuition, residency and subpar care for youth placed by government sponsored systems. These pipelines include—

(a) Foster Care/ Social Services

(b) Juvenile Justice

(c) School Districts through IEPs

(d) Refugee Resettlement

(e) Medicaid insurance

(f) Sending states provide public funds to receiving states in compliance with the Interstate Compact on the Placement of Children to ensure welfare of displaced children. The same standards do not apply to licensing agencies authorized to inspect facilities and programs.

(6) Privately paid parent choice placement is not adequately tracked by existing ICPC systems and has been exempted from federal law (New ICPC of 2016)

(a) 11 states have ratified the New ICPC of 2016, observing the exemption to track parent placement

(b) There is no comprehensive approval process for out of state placements, this is particularly concerning when parents place children for non-medical reasons. This presents an opportunity for children and youth to be displaced and untraceable by child welfare systems.

(7) Conditions, policies and procedures carried out by facilities and programs identified as the troubled teen industry present concerns of human rights violations, susceptibility to abuse and fraudulent practices such as—

(a) Children and youth are forcefully removed from their homes, without consent or prior knowledge and often trafficked across state lines or out of the country in a way that is humiliating and traumatic;

(b) Children and youth/ residents are subjected to institutional child abuse as defined by Section (CAPTA + ICAPA 2024);

(c) Children and youth are subject to threats of physical violence, incarceration and solitary confinement if they attempt to report abuse or escape the facility or program;

(d) The prevelance of sexual abuse indicates that the environments of these facilities and programs presents a significant susceptibility to sexual abuse. This is due to—

(i) Power dynamics with staff presenting opportunity for coercion;

(ii) Lack of ability to report;

(iii) Lack of background checks and

(iv) Under reporting by staff

(e) The unnecessary use of strip searches and cavity searches are often overused and administered as punishment or humiliation.

(i) Medically unnecessary pap smears/ genital exams are routinely administered without consent of the resident and under coercion or threat of physical violence.

(f) The use of forced labor of children and youth, without compensation or for purposes of punishment.

(i) Residents are routinely given arbitrary physical tasks as punishment such as digging graves, moving rocks, pulling carts or carrying heavy objects for a long period of time.

(g) The troubled teen industry is run by a number of sophisticated, highly profitable enterprises that routinely fund false advertising campaigns, Multi-Level-Marketing schemes, provide financial incentives to Educational Consultants, Providers, and TV talk show hosts to refer children and youth to their facilities and programs.

(i) The troubled teen industry often threatens and engages in litigation aimed at quashing the free speech of survivors of institutional child abuse and their advocates to deter abuse reporting.

(h) The troubled teen industry frequently violates established laws, is shroud in secrecy, unaccountable to licencing and child protection agencies and often under-reporting child abuse, sexual abuse, critical incidents and death.

(i) Children and youth with serious health issues are uniquely susceptible to medical neglect and death due to failure to respond to medical crises.

(j) Restraint is often misused, administered without proper training, without adequate reason, as punishment for minor rule violations, violent in nature incorporating pressure points, limb submissions, undue pressure upon airways and causing injury and death.

(k) Cruel and unusual punishments as described in Section 103(6) are used to coerce and ensure compliance; causing fear, anxiety and trauma.

(8) No federal laws exist to set national standards of regulation, intervention and prevention of institutional child abuse.

(a) Institutional child abuse is neither defined, prohibited nor recognized by US law as a prevelent issue in need of being addressed.

(b) Survivors of institutional child abuse are not recognized as victims

(c) Services for the treatment of institutional child abuse rehabilitation is non-existent.

(9) Existing state laws governing the regulation of facilities and programs are inconsistent, inadequate and failing to protect youth from institutional child abuse.

(a) Some states have absolutely no oversight of this industry, and exemptions are provided to certain private programs allowing facilities and programs to go unmonitored and unregulated.

(b) Jurisdiction of authoritative agencies is inconsistent, proving difficult for interagency and interstate cooperation.

(c) Oversight agencies are commonly understaffed and lack funding to establish or improve systems of oversight, intervention and prevention.

(d) Some states do not utilize a digital database, are not tracking data related to institutional child abuse and are not providing this vital information to the public.

(e) States are not providing warnings to consumers nor are they internally evaluating unsupported programs and defunding historically abusive facilities and programs.

(f) Inspections are inadequate and licensing agents lack education and training tailored to TTI regulation and are often not focused on child abuse prevention.

(g) Lack of training for investigators and licensing agencies lead to missing indicators of institutional child abuse, misunderstanding reports of abuse, and victim blaming.

(h) There is no mechanism to audit and approve program methodology before granting licenses.

(i) Criteria for taking action against violations and revocation of licenses is limited.

(j) Children within facilities are not familiar with laws and their rights and are not afforded access to child advocates, legal representation or law enforcement. Therefore, they can not self advocate.

(k) Action is only taken after serious violations and incidents of death have occurred. Focus is on intervention rather than prevention.

(l) Accountability is often hindered by corruption and deference to enterprises that bring financial value to states and regulatory systems.

(m) Regulation without enforcement presents the issue of legitimizing fraudulent and historically abusive facilities and programs by licensing and providing technical assistance. This provides a false sense of security for parents and systems placing children at risk.

(n) Reform of existing policy is necessary to ensure ethical treatment of youth and abuse prevention within congregate care and regulators must acquire improved training to properly identify, intervene and prevent institutional child abuse.

(10) No international policy exists to address American owned facilities and programs operating in foreign countries. Placements out of the country are entirely untraceable.

(a) Children and youth placed in facilities and programs abroad often are not provided with Visas.

(b) There is no mechanism requiring embassies to provide for the welfare of American children and youth placed abroad.

(11) The United States Declaration of Independence acknowledges the inherent dignity and inalienable rights of all people, yet children and youth often face systemic denial of these rights and exploitation due to the absence of a federal law specifically granting child and youth rights.

(12) While some states do establish rights for youth, such as defining the age of consent and recognizing medical autonomy, these rights are often systematically undermined by the trafficking of children and youth into states that do not uphold these protections.

(13) The international community condemns torture. Yet american children and youth held within TTI facilities and programs are subject to grave human rights violations that have been identified by the UN Convention on Torture to constitute torture.

(14) Criminal and civil prosecution of institutional child abuse is rarely successful due to lack of established laws prohibiting institutional child abuse and case law to establish precedence.

(a) Established law protects facilities and programs from malpractice lawsuits when they are licensed by the state.

(15) The United States should engage in both bilateral and multilateral efforts to eliminate the troubled teen industry by defining and prohibiting such practices. Additionally, promoting cooperation among state agencies to ensure comprehensive oversight and abuse prevention is essential. Encouraging states to update their policies and procedures to effectively address institutional child

abuse and establish systems in states that lack them is crucial to protect vulnerable youth.

SECTION 3

(A) Institutional Child Abuse: —

For purposes of this Act the term “institutional child abuse” means the physical or mental injury, sexual abuse, negligent treatment or maltreatment of a child in an institution responsible for the child’s welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.

DEFINITIONS

For purposes of this Act–

(1) INSTITUTION.— The term “institution” in the context of this act means a facility or outdoor program operated by a public or private entity that provides care to youth.

(2) INSTITUTIONAL PHYSICAL ABUSE.— The term “institutional physical abuse” means any intentional act resulting in physical harm, injury, or pain which may include hitting, punching, strangulation, suffocation, kicking, shoving, slapping, burning, using excessive force, improper use of restraint, tasers, electric skin shock devices or any other actions or techniques that cause bodily injury, suffering, extreme exhaustion or endanger the child's physical well-being.

(A) IMPROPER USE OF RESTRAINT.— The term “improper use of restraint” means the inappropriate use of physical, chemical, or mechanical restraints, not medically authorized, for convenience or discipline, or contrary to federal or state licensing requirements.

(B) IMPROPER PHYSICAL RESTRAINT.—The term ‘‘physical restraint’’ means a personal restriction that immobilizes or reduces the ability of an individual to move the individual’s arms, legs, torso, or head freely, except that such term does not include mechanical restraint or chemical restraint.

(C) IMPROPER CHEMICAL RESTRAINT.— The term ‘‘chemical restraint’’ means a drug or medication used on a child to control behavior or restrict freedom of movement that is not—

(i) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional’s authority under State law, for the standard treatment of a child's medical or psychiatric condition; and administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional’s authority under State law.

(D) IMPROPER MECHANICAL RESTRAINT.— The term “mechanical restraint” means the use of devices as a means of restricting a child’s freedom of movement.

(3) INSTITUTIONAL SEXUAL ABUSE.— The term “institutional sexual abuse” means nonconsensual sexual conduct, such as unwanted touching, rape, molestation, indecent liberties, sexual coercion, explicit photographing or recording, voyeurism, indecent exposure,non-medical genital exams; including any sexual conduct between a staff member and a child in the facility, regardless of claimed consent.

(4) INSTITUTIONAL PSYCHOLOGICAL ABUSE.— The term “institutional psychological abuse” means the intentional verbal or nonverbal actions that threaten, humiliate, harass, coerce, intimidate, isolate, confine, or punish a child, cruel and unusual punishment, including misusing therapeutic practices that result in mental injury.

(A) CRUEL AND UNUSUAL PUNISHMENT. — The term “cruel and unusual punishment” refers to any punishment, discipline, or treatment administered within institutional care that, by its nature or severity, causes physical or psychological harm or suffering to a child and it encompasses actions or omissions that are disproportionately severe, humiliating, or degrading in nature, to an extent that exceeds accepted societal norms, reasonable disciplinary measures, or contemporary interpretations of decency, human rights, and child welfare.

(5) INSTITUTIONAL NEGLECT.— The term “institutional neglect” means acts or failures to act by an institution resulting in death, severe physical or emotional harm, sexual abuse or exploitation, or an imminent risk of serious harm, including but not limited to medical neglect.

(A) INSTITUTIONAL MEDICAL NEGLECT.— The term “institutional medical neglect” means the failure to seek or provide medical, dental, or psychiatric care necessary to prevent serious harm, including but not limited to improper use of medication or sedation.