**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4148**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Limehouse, Murphy and Horne

Document Path: l:\council\bills\swb\6182ac11.docx

Companion/Similar bill(s): 859

Introduced in the House on April 28, 2011

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Residential treatment facilities for children and adolescents that prohibit licensure by DHEC

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/28/2011 House Introduced and read first time ([House Journal‑page 5](file:///h:\hj%20archive\2011\04-28-11.docx))

4/28/2011 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 5](file:///h:\hj%20archive\2011\04-28-11.docx))

**VERSIONS OF THIS BILL**

[4/28/2011](file:///p:\pprever\2011-12\4148_20110428.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 44‑7‑272, 44‑7‑274, 44‑7‑276, and 44‑7‑278 SO AS TO ESTABLISH PROVISIONS FOR RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN AND ADOLESCENTS THAT PROHIBIT LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL OF A FACILITY UNLESS IT IS AT LEAST ONE THOUSAND FEET FROM A SCHOOL, CHILDCARE FACILITY, PARK, PUBLIC SWIMMING POOL, AND MASS TRANSPORTATION STOPS, THAT PROHIBIT THE ADMISSION OF OUT‑OF‑STATE CLIENTS THAT ARE OR WOULD BE REQUIRED TO REGISTER FOR THE SEX OFFENDER REGISTRY AND TO PROVIDE THAT A FACILITY IN VIOLATION OF THIS PROVISION IS SUBJECT TO SANCTIONS, THAT REQUIRE THE DEPARTMENT TO DEVELOP LEVELS OF FACILITY LICENSURE, AND LEVELS OF LICENSURE FOR PROGRAMS WITHIN A FACILITY, BASED UPON CLIENT DISORDERS AND BEHAVIOR AND SUPERVISION, SAFETY, AND SECURITY FACTORS WITHIN EACH FACILITY OR PROGRAM LEVEL, AND THAT REQUIRE THESE FACILITIES TO NOTIFY LAW ENFORCEMENT UPON A CLIENT LEAVING THE FACILITY WITHOUT PERMISSION AND TO MAINTAIN RECORDS OF THESE MATTERS, WHICH ARE SUBJECT TO INSPECTION BY THE DEPARTMENT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑272. The Department of Health and Environmental Control must not issue a license pursuant to this article for a residential treatment facility for children and adolescents unless the facility is at least one thousand feet from a school, childcare facility, park, public swimming pool, and mass transportation stop.

Section 44‑7‑274. A residential treatment facility for children and adolescents licensed in this State must not admit a child from another state or country to the facility if the child is or would be required to register with the sex offender registry in this State pursuant to Article 7, Chapter 3, Title 23. A violation of this section subjects the facility to immediate removal of the child, an order to cease operations, licensure suspension or revocation, or a civil penalty imposed by the department or any combination of these.

Section 44‑7‑276. (A) The Department of Health and Environmental Control shall develop criteria for levels of residential treatment facilities, or programs within a facility, for children and adolescents. This criteria must be based upon the type of client the facility serves, what client treatment specializations the facility offers, if any, the severity of the disorders of children who may be accepted into the care of the facility, whether clients who may be served by the facility may have a criminal history and if so, what types of offenses are accepted, and other factors the department may promulgate in regulation. These criteria must be used by the department to establish levels of licensure, or levels of licensure for programs within a facility, pursuant to client disorders and behavior from a lesser to a greater degree of:

(1) the need for and amount of client supervision;

(2) client violence, or potential violence; and

(3) the danger, or potential danger, to others that clients may pose.

(B) Based upon the levels of licensure for a facility, or program within a facility, the department shall develop supervision, safety, security, and recordkeeping requirements in regulation for each level, and other regulations as the department may consider necessary to carry out its responsibilities under this chapter. A residential treatment facility for children and adolescents must comply with these requirements in order to be licensed and to obtain license renewal.

Section 44‑7‑278. If a child in residential treatment facility for children and adolescents leaves the facility without permission, and the child’s whereabouts are unknown, the facility immediately shall report the incident to local law enforcement, including a physical description of the child, any criminal history, and any behavioral or conduct problems that may pose a threat to the safety of the public. The facility also shall maintain an incident report on the matter including information that must be included in the report as prescribed by the department in regulation. These reports must be maintained for five years and are subject to inspection by the department at anytime upon request.”

SECTION 2. The provisions of Sections 44‑7‑272, 44‑7‑274, and 44‑7‑276 of the 1976 Code, as added by Section 1 of this act, apply to residential treatment facilities for children and adolescents, as defined in Section 44‑7‑130 of the 1976 Code, or programs within such a facility, that submit an application for licensure on or after the effective date of this act. However, beginning in 2012, licensure renewal for a residential treatment facility for children or adolescents, or a program within a facility, must comply with the provisions of Section 44‑7‑274 in order to obtain licensure renewal, and beginning in 2013, licensure renewal for residential treatment facilities for children and adolescents, or programs within a facility, must comply with the provisions of Sections 44‑7‑276 in order to obtain licensure renewal.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑