~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 21, 2012

**S. 859**

Introduced by Senators Rose and Fair

S. Printed 2/21/12--S.

Read the first time April 28, 2011.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 859) 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, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 44‑7‑130(18) of the 1976 Code is amended to read:

“(18) ‘Children and adolescents in need of mental health treatment’ in a residential treatment facility means a child or adolescent under age ~~eighteen or a child or adolescent under age~~ twenty‑one ~~who is a client of, committed to the custody of, or in the legal custody of an agency of the State of South Carolina~~ who manifests a substantial disorder of cognitive or emotional process, which lessens or impairs to a marked degree that child’s or adolescent’s capacity either to develop or to exercise age‑appropriate or age‑adequate behavior. The behavior includes, but is not limited to, marked disorders of mood or thought processes, severe difficulties with self‑control and judgment including behavior dangerous to self or others, and serious disturbances in the ability to care for and relate to others.”

SECTION 2. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑272. A child or adolescent who is admitted to a residential treatment facility for children and adolescents to whom the sex offender registry applies must register pursuant to the requirements of Section 23‑3‑460. The facility shall ensure that any resident to whom the sex offender registry applies maintains up to date registration.

Section 44‑7‑274. If a child or adolescent in a residential treatment facility for children and adolescents leaves the facility premises without permission, the facility shall immediately report the incident to local law enforcement and inform them if the child may pose a threat to the safety of the public. The facility also shall immediately report the incident to the responsible party of the child or adolescent. The facility 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 submitted to the department within ten days after the incident, maintained in accordance with the regulation, and are subject to inspection by the department at any time, upon request.

Section 44‑7‑276. (A) The department shall develop criteria for residential treatment of children and adolescents.

(B) Based upon the needs of the residents, the department shall develop supervision, safety, security, and recordkeeping requirements in regulation as the department considers 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 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. /

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**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 TO 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 REQUIRES A FACILTY TO NOTIFY LAW ENFORCEMENT OF THE ADMISSION OF A CHILD WHO HAS CHARGES FOR A VIOLENT CRIME PENDING OR WHO HAS BEEN CONVICTED OF A VIOLENT CRIME WITHIN THE PREVIOUS FIVE YEARS, TO PROVIDE SANCTIONS FOR FACILITIES IN VIOLATION OF THIS REQUIREMENT, AND TO REQUIRE A CHILD TO REGISTER AS A SEX OFFENDER IF THE PROVISIONS OF REGISTRATION APPLY TO THAT CHILD’S OFFENSE; 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, as defined in Section 44-7-130, 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) If a residential treatment facility for children and adolescents licensed in this State admits a child to the facility who has charges pending trial or adjudication for a violent offense, as defined in Section 16-1-60, or who, within the previous five years has been adjudicated or convicted of or pled guilty or nolo contendere to a violent offense, as defined in Section 16-1-60, the facility shall notify local law enforcement upon admission of the child. 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.

(B) A child who is admitted to a residential treatment facility for children and adolescents to whom the sex offender registry applies must be registered pursuant to the requirements of Article 7, Chapter 3, Title 23.

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 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 2013, licensure renewal for a residential treatment facility for children or adolescents, or a program within a facility, must comply with the provisions of Section 44‑7‑276 in order to obtain licensure renewal. A residential treatment facility for children and adolescents shall notify local law enforcement of children in the care of the facility of this act’s effective date who meet the notification requirements of Section 44-7-274, as added by Section 1 of this act.

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. Except as otherwise provided for in this act, this act takes effect upon approval by the Governor.

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