~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 30, 2012

**S. 859**

Introduced by Senators Rose, Fair and Ford

S. Printed 5/30/12--H.

Read the first time February 29, 2012.

**THE COMMITTEE ON JUDICIARY**

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, 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 Sections 44-7-272 and 44-7-274 and inserting:

/ “Section 44-7-272. the residential treatment facility shall ensure that any resident required by law to register as a sex offender maintains an 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 parent or legal guardian 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./

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON 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. 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.

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