

# CALIFORNIA LEGISLATIVE ACTION PACKET

**PURPOSE: ADVOCATING CHANGE TO CALIFORNIA LAWS TO BETTER PROTECT CHILDREN AND FAMILIES FROM FRAUD AND ABUSE.**

California offers two options for direct citizen legislative action. Californians can file initiatives and referendums.

For our purposes, an initiative is most appropriate because its purpose is to create or change existing laws. Referendums are for repealing laws.

Steps to take in changing California's laws:

1. Download California's Initiative and Referendum Guide from <http://www.sos.ca.gov/elections/ballot-measures/initiative-guide.htm> or e-mail [info@heal-online.org](mailto:info@heal-online.org) with subject "California's Initiative Guide" and we will send you a copy. Follow the guidelines in the handbook and contact the Office of the Secretary of State for help.
2. You may wish to set up a Political Action Committee (PAC) in support of your initiative so you can publicize your campaign and gain additional support. For more information on this process, visit <http://www.fppc.ca.gov/index.php?id=500>.
3. Californians should also connect with the Initiative and Referendum Institute at the University of Southern California for guidance and assistance. See: <http://www.iandrinstitute.org/>

## **CHILDREN AND YOUTH'S BILL OF RIGHTS**

HEAL recommends that the following children and youth's bill of rights be enacted into law in all States:

1. No child shall be involuntarily placed in a secured, lockdown facility without due process of law. (US Constitution, 14<sup>th</sup> Amendment—law supported by Supreme Court Rulings in Bellotti v. Baird (1979) U.S. Supreme Court and Ingraham v. Wright (1977) U.S. Supreme Court)
2. No child shall be forced to act as Staff or perform the duties of an employee of any institution involuntarily. (US Constitution, 13<sup>th</sup> Amendment—law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court )
3. No child shall be forced to act as Staff or perform the duties of an employee of any institution without fair compensation (i.e. minimum

wage). (US Constitution, 13<sup>th</sup> Amendment- law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)

## **CALIFORNIA**

### **Statute of Limitations Suggested Revision(s)**

California should include rape, sexual abuse, kidnapping, and exploitation of children in list of offenses with no statute of limitations.

HEAL recommends California Pen. §§ 799 - 803 be amended to include rape, sexual abuse, kidnapping, and exploitation/trafficking of children in the list of offenses having no Statute of Limitations.

Alaska provides one example of a State that includes kidnapping, rape, and sexual abuse in the list of offenses that have no Statute of Limitations for prosecution. (Source: ALASKA STAT. § 12.10.010)

HEAL recommends California revise California's Code of Civil Procedure SECTION 335-349.4 to extend the Statute of Limitations for child victims to file suit upon reaching age of majority. HEAL recommends child victims be given 20 years from time of injury or 15 years upon reaching age of majority to file a tort claim against the tortfeasor.

Alternatives to the above extension of time to file a claim for injured minors include judicial system providing accessible and competent attorneys required to represent minors on a contingency basis with no fees due unless case is won and amount to be paid to attorney may not exceed 50% of the damages and 50% total must include all attorney fees and expenses.

### **Child Abuse Laws Suggested Revision(s)**

Please amend our State's child abuse statutory definitions to include the following:

#### **Emotional Abuse**

#### **Citation: Ann. Stat. § 9:6-8.21 (New Jersey Statutory Definition)**

*Abused child or abused or neglected child* means a child under age 18 years who is in an institution, and:

- Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being
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- Who has been willfully isolated from ordinary social contact under circumstances that indicate emotional or social deprivation

The definitions and laws pertaining to child abuse and/or endangering the welfare of a child in our State are found in our Penal Code § 11166.05. Please amend our State's laws to include the above definitions as applied under our Child Endangerment, Child Welfare, and Child Abuse laws.

In addition, HEAL recommends that Abandonment/Desertion in CA Penal Code SECTION 270-273.75 be redefined to include the language in the following Kansas Statute:

Kansas § 38-2202. Definitions. "As used in the revised Kansas code for care of children, unless the context otherwise indicates: "Abandon" or "abandonment" means to forsake, desert or, (a) without making appropriate provision for substitute care, cease providing care for the child."

HEAL recommends that "appropriate provision for substitute care" be limited to the least restrictive environment within the child's community of residence and/or within the State of California if institutionalization is required.

### **\*\*Special Note: Unlicensed Facilities**

HEAL recommends that California amend laws (<http://www.cclد.ca.gov/res/pdf/ENFORCEMENT.pdf>) related to unlicensed residential facilities and that California criminalize the operation of any residential child care facility operating without a license as is done in Alabama and Arkansas.

Alabama will shut down unlicensed facilities:

"If the Department representative determines, through investigation, that any person, group of persons or corporation is, or has been operating an unlicensed child care facility, the results of the investigation shall be reported to the Attorney General and to the appropriate District Attorney for prosecution. (Section 38-7-10, Code of Alabama 1975.)"

Source:

[http://dhr.alabama.gov/documents/MinimumStandards\\_ResidentialChildCareFacilities.pdf](http://dhr.alabama.gov/documents/MinimumStandards_ResidentialChildCareFacilities.pdf)

### **Arkansas' Ann. Code § 20-78-208. Unlicensed child care facility unlawful.**

(a) It shall be unlawful for any person, partnership, group, corporation, organization, or association to operate or assist in the operation of a child care facility which has not been licensed by the Division of Child Care and Early Childhood Education.

(b) It shall be unlawful for any person to falsify an application for licensure, to knowingly circumvent the authority of the Child Care Facility Licensing Act, 20-78-201 et seq., to knowingly violate the orders issued by the division, or to advertise the provision of child care which is not licensed or approved or exempt by the division.

(c) A violation of this section shall be a Class C misdemeanor.

### **Faith-Based Exemptions Suggested Revision(s)**

HEAL is using California's laws requiring all childcare providers be licensed and regulated regardless of faith-status as a model we wish for other states to adopt. California Health and Safety Code § 1596.792, which requires licensure of faith-based/religious childcare providers unless they meet standard exemption requirements such as caring solely for their own family members. (Source: <http://www.childcarelaw.org/docs/ganda-licenseexempt.pdf> and <http://law.onecle.com/california/health/1596.792.html>. ) therefore we have no recommendations for California in regards to this issue.

### **Educational Consultants/Referral Services Suggested Revision(s)**

HEAL recommends that California establish professional guidelines and professional licensure standards and certification requirements for any individual engaging in a business of making referrals to any mental health or educational institution.

### **Teen/Youth Transport Services Suggested Revision(s)**

HEAL recommends that California establish professional guidelines and professional licensure standards and certification requirements for any individual or business engaging in involuntary transport of youth for mental health, behavioral health, medical care, and/or educational purposes. HEAL recommends that anyone engaged in such a business at minimum be required to be licensed Emergency Medical Technicians (EMTs) with ambulance driver certification with special licensing/certification requirements for transport services taking children across state lines. HEAL recommends that only law enforcement personnel engaged in transporting adjudicated youth who have been court-ordered to a secured treatment facility be permitted to transport youth across state lines for such purposes and that private placements of youth be outlawed as we recommend all youth be recognized as having the right to due process when enrollment/placement violates a minor's civil liberty interests.

### **Seclusion and Restraint Suggested Revision(s)**

HEAL suggests California amend State laws regarding seclusion and restraint of children to match Sen. Harkin's (D-IA) and Rep. Miller's (D-CA) Keeping All Students Safe Act of 2011 (S. 2020, H.R. 1381).

## **Reparative/Conversion Therapy Revision(s)**

California's law banning reparative/conversion therapy on children and youth is our example of the law we support. HEAL believes the methods involved in reparative/conversion therapy are inhumane and harmful whether or not they are used to change sexual behavior or any legal behavior or beliefs that may not align with those of families or service providers seeking to use coercive thought reform/conversion therapy techniques to change behavior. See [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201120120SB1172](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1172) for more information. HEAL recommends California's law banning reparative/conversion therapy be amended to apply equally to all children and youth.

## **Facilities and Occupational and Professional Licensure Database Revision(s)**

HEAL recommends that California create an online searchable database including any and all programs offering 24-hour supervised care to children living outside the home whether the programs call themselves therapeutic boarding schools, boot camps, wilderness programs, residential treatment centers, specialty boarding schools, or the like. Arizona provides the most user-friendly searchable database on licensed facilities and the database includes inspection and complaint records. See <http://hsapps.azdhs.gov/ls/sod/SearchProv.aspx?type=BH>. HEAL recommends California create a searchable database similar to that provided by the State of Arizona.

HEAL recommends that California create an all-encompassing online searchable database of all individuals that hold occupational or professional licenses in California that allows for one-stop online verification to determine if an individual claiming occupational or professional licensure is properly licensed and in good-standing with the state. Utah provides the most user-friendly searchable database on licensed individuals and the database includes disciplinary records/actions. See <https://secure.utah.gov/llv/search/index.html>. HEAL recommends California create a searchable database similar to that provided by the State of Utah.

California may wish to include educator/teacher license verification with the overall professional licensure verification recommended above or continue to maintain a separate searchable database to verify educator qualifications as found here: <http://www.ctc.ca.gov/>.

The above measures would help California protect consumers from fraud and abuse by making such information easily accessible.

**Contact HEAL for Assistance:**

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