

FLORIDA LEGISLATIVE ACTION PACKET

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

Florida offers one option for direct citizen legislative action. Floridians can file initiatives.

Steps to take in changing Florida's laws:

1. Download Florida's Initiative and Guide from <http://election.dos.state.fl.us/constitutional-amendments/init-peti-process.shtml> or e-mail info@heal-online.org with subject "Florida'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://election.dos.state.fl.us/forms/index.shtml#polcom>.

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, 14th 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, 13th 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, 13th Amendment- law supported by Supreme Court Ruling in Tinker v. Des Moines Independent School District (1969) U.S. Supreme Court)

FLORIDA

Statute of Limitations Suggested Revision(s)

HEAL recommends Florida's Ann. Stat. 775.15 be amended to include kidnapping, sexual abuse/rape of minors, and physical assault/battery resulting in serious injury or death of a child in the list of offenses having no Statute of Limitations.

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

Alabama includes assault and battery resulting in serious injury or death in list of offenses having no statute of limitation for prosecution. (Source: ALA. CODE § 15-3-5)

HEAL recommends Florida revise Florida Ann. Stat. 95.11 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 Florida'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
-
- 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 Ann. Stat. § 39.01. Please amend our State's laws to include the above definitions as applied under our Child Endangerment, Child Welfare, and Child Abuse laws.

****Special Note: Unlicensed Facilities**

Unlicensed facilities are allowed in Florida. This is something the Florida legislature has sought to address since the 2012 Tampa Bay Times articles by Alexandra Zayas were published exposing wide abuses in unlicensed, faith-based, residential youth facilities. In 2012, the Florida legislature introduced HB 7129 to require licensure of residential youth facilities operating in FL. That legislation was watered down in Committee. Here is the summary information on HB 7129:

The bill amends ss. 409.175 and 409.176 related to boarding schools and residential child caring agencies and family foster homes. The bill makes the following changes to these sections of law:

- ☐ Provides clarification to boarding school accreditation requirements and adds academic accrediting sources to the list of choices in statute.
- ☐ Provides clarification regarding boarding school registration requirements as a private school and sets a timeframe for applying for accreditation. The bill directs the Department of Education (DOE) to remove boarding schools who fail to comply with these requirements.
- ☐ Requires boarding schools to report to the Department of Children and Families (DCF) on accreditation progress.
- ☐ Requires level 2 background screening of boarding school employees or contractors with direct student contact.
- ☐ Sets a timeframe of 24 hours for the qualified association under s. 409.176, F.S., to notify DCF when a specified violation relating to harming children occurs.
- ☐ Sets a timeframe of 3 days for the qualified association to notify DCF of facilities who are not licensed or properly registered for residential child care.
- ☐ Grants DCF the authority to fine the qualified association for failure to comply with statutory requirements.

Source:

<http://www.flsenate.gov/Session/Bill/2013/7129/Analyses/yQB5sRCRbezI=PL=D/J9j41Z7WfZBI=%7C14/Public/Bills/7100-7199/7129/Analysis/h7129c.HHSC.PDF>

The new rules/laws referenced in HB 7129 are reportedly to go in effect on July 1st, 2013.

Florida should not rely on private, third-party oversight of residential programs and homes for youth. A brief investigation into the financial relationships between the so-called independent oversight agency and the programs monitored by that agency raises serious concerns regarding corruption and a shameful failure to protect children and youth for financial gain.

Faith-Based Exemptions Suggested Revision(s)

Florida allows faith-based programs to operate without a license or effective oversight. HB 7129 (above) places additional responsibility on “independent” membership or accreditation agencies (i.e. FACCCA), but, fails to place the responsibility for protecting children and families on government authorities/regulators.

Source: http://georgiavoices.org/wp-content/uploads/2011/11/AG_faith_based_exemptions_063011_FINAL.pdf and specifically Florida Ann. Stat. 435.

HEAL recommends Florida adopt the language found in 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>.)

HEAL recommends that Florida clearly defines Ministry so that charlatans cannot pose as ministries while hurting children, exploiting families, and defrauding parents. Merriam-Webster defines ministers as follows:

min·is·ter

noun \ˈmi-nə-stər\

Definition of *MINISTER*

1

: [agent](#)

2

a : one officiating or assisting the officiant in church worship

b : a clergyman especially of a Protestant communion

(Source: <http://www.merriam-webster.com/dictionary/ministers?show=0&t=1361078281>)

And, Ministry is defined as:

Definition of *MINISTRY*

1

: [ministration](#)

2

: the office, duties, or functions of a [minister](#)

3

: the body of [ministers](#) of religion : [clergy](#)

(Source: <http://www.merriam-webster.com/dictionary/ministry>)

A ministry by standard definition does not include nor extend to operating for-profit residential treatment centers, group homes, nor unlicensed academic nor behavioral health programs. It includes officiating in church worship. To extend the word ministry to cover all operations and facilities that claim faith-based/religious status sacrifices public welfare and safety and does so without a sound basis in reasoning. As shown, the State of California does not permit child-caring agencies exemption from licensure and regulation based on faith. Nor should any other State, including Florida.

Educational Consultants/Referral Services Suggested Revision(s)

HEAL recommends that Florida 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 Florida 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 Florida 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)

HEAL suggests that Florida enact a law similar to California's law banning reparative/conversion therapy on children and youth. 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 for more information.

Facilities and Occupational and Professional Licensure Database Revision(s)

Florida provides an efficient database for verifying licensure and reviewing complaints/inspection records. The service is available here: [http://apps.ahca.myflorida.com/dm_web/\(S\(v3s3y1y3w1s42n4pihczuyem\)\)/Default.aspx](http://apps.ahca.myflorida.com/dm_web/(S(v3s3y1y3w1s42n4pihczuyem))/Default.aspx). HEAL has no additional recommendations on facility database access in Florida.

Florida provides an efficient database for verifying licensure and reviewing complaint records. This service is available here: <http://ww2.doh.state.fl.us/IRM00PRAES/PRASLIST.ASP>.

Florida 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 at <http://www.fldoe.org/edcert/public.asp>.

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

Contact HEAL for Assistance:

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