

GEORGIA LEGISLATIVE ACTION PACKET

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

Georgia does not permit direct citizen legislative action. HEAL recommends Georgia advocates create a petition directed at Georgia State Legislators (Georgia Governor, State House and Senate) requesting that the following recommended changes to State law be enacted. HEAL can support these efforts by creating an action alert to sign any petition created and for Georgia supporters to write their legislators supporting the petition and recommended changes.

Most States require that petitions and letters must be by, for, and/or from constituents of the State. HEAL does not currently have a Georgia chapter and we have provided this recommended action packet to assist Georgia advocates with information and support.

1. Create a petition (hard copy or online) suggesting one, some, or all of the recommended changes to Georgia's laws below. If you need help, just ask. The petition should be to "Georgia Lawmakers: State House of Representatives, State Senate, and Governor of Georgia". If you wish, you can copy/paste the recommendations below into the body of the petition. The petition should begin with, "We, the people of Georgia, demand state lawmakers enact the following laws, regulations, and policies:" (If you choose to create an online petition, make sure that you select that only Georgia residents may sign it to make sure the legislators accept the petition.)
2. Notify HEAL that the petition has been created and let us know if it is hard copy or online. If it is hard copy, we will promote your efforts and do our best to get you the local support you need. If the petition is online, send us the link and we will create an action alert asking Georgia supporters to sign your petition and write a letter to their legislators in Georgia in support of the policy changes you seek to have enacted.

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)

GEORGIA

Statute of Limitations Suggested Revision(s)

HEAL recommends Georgia Code Section 17-3-1, 2, 2.1 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 Georgia revise Georgia Code § 9-3 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 Georgia'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 Georgia are found in our Ann. Code § 19-7-5(b). Please amend our State's laws to include the above definitions as applied under our Child Endangerment, Child Welfare, and Child Abuse laws.

Georgia's Abandonment Law:

§ 16-5-72. Reckless abandonment

(a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of one year commits the offense of reckless abandonment of a child when the person willfully and voluntarily physically abandons such child with the intention of severing all parental or custodial duties and responsibilities to such child and leaving such child in a condition which results in the death of said child.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a felony and shall, upon conviction thereof, be punished by imprisonment for not less than ten nor more than 25 years.

In addition, HEAL recommends that Georgia's Reckless Abandonment Statute be amended and defined as 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 Georgia if institutionalization is required.

****Special Note: Unlicensed Facilities**

HEAL was unable to locate information on whether or not all residential children's facilities require licensing in Georgia. We did however find that faith-based programs/religious residential programs for youth are exempt from State licensing requirements. This alone poses a serious concern.

Faith-Based Exemptions Suggested Revision(s)

HEAL recommends Georgia's O.C.G.A. §20-2-690 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 Georgia 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 Georgia.

Educational Consultants/Referral Services Suggested Revision(s)

HEAL recommends that Georgia 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 Georgia 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 Georgia 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 Georgia 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)

HEAL recommends that Georgia 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 Georgia create a searchable database similar to that provided by the State of Arizona.

HEAL recommends that Georgia create an all-encompassing online searchable database of all individuals that hold occupational or professional licenses in Georgia 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. Georgia has a fairly inclusive search feature that covers most professions with exceptions such as medical doctors and social workers. But, all professions requiring licensure should be included in the search feature available at <https://secure.sos.state.ga.us/myverification/>. 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 Georgia improve its searchable database to be similar to that provided by the State of Utah.

Georgia 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.gapsc.com/Certification/Lookup.aspx>.

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

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