

April 23, 2008

The Honorable George Miller  
Chair, Committee on Education and Labor  
United States House of Representatives  
2205 Rayburn Office Building  
Washington, DC 20015

Dear Representative Miller:

I write on behalf of the American Bar Association (ABA) to commend you for your leadership investigating practices and holding hearings regarding practices and reports of abuse and neglect of children and youth at private residential treatment programs. We further commend you for introducing legislation this week, the Stop Child Abuse in Residential Programs for Teens Act, to provide much-needed oversight and to establish public accountability for such programs.

The American Bar Association has long supported federal and state efforts to improve, through legislation, the protection of children and youth, as now would be extended to private treatment facilities by the proposed Act. As far back as 1980, our House of Delegates called for statutory reform that would require legal protections for abused and neglected children receiving out-of-home placement services. In 1990 we endorsed a policy on safe foster care, stating that children removed from parental custody and placed by governmental agencies in foster care licensed and regulated by state and local governments had a right to be protected from abuse, physical violence, and sexual assault while in custody. In 1992, in urging reauthorization of the Juvenile Justice and Delinquency Prevention Act, we called for continuing improvement in the conditions of juvenile confinement facilities, an issue still needing attention as Congress contemplates another reauthorization of that Act.

Most recently, in February 2007, our Association urged enactment of state, territorial, and tribal laws to require licensing, regulating, and monitoring of residential treatment facilities not funded by public or government systems but rather functioning as privately-operated overnight facilities offering treatment to at-risk children and youth under age 18 for emotional, behavioral, educational, substance abuse, and social issues or problems. Based on this policy, we support the provision in your bill to create new federal support for states to require licensure of, or otherwise regulate, private residential treatment facilities. We further support a requirement that there be government monitoring and enforcement of program operational standards. By defining clearly which programs are included and imposing minimum legal requirements to operate and maintain them, including standards regarding staff qualifications and residents' physical and emotional safety, the proposed legislation will help to assure that the facilities will actually meet the educational, mental health, and other treatment needs of teens who come to reside there. Parents of troubled children need to be given greater confidence when they must place their child in a residential facility, that their child will be safe, properly cared for, their human rights and dignity protected, and that the staff of the facility is appropriately qualified to help their child.

For such parents, the Stop Child Abuse in Residential Programs for Teens Act represents a significant and necessary federal step to help protect American children and youth from abuse and neglect in residential care. In particular, we commend the bill's encompassing within the definition of covered programs, a broad array of residential care services that focus on serving children with emotional, behavioral, mental health, or alcohol/substance abuse problems when placed into facilities other than those operated by the state, state-accredited hospitals, group homes for foster children, or certified psychiatric treatment facilities (all of which already have protections for children built into existing, enforceable, regulatory structures throughout the country).

The ABA believes that the federal Child Abuse Prevention and Treatment Act, which is due for reauthorization, is an appropriate vehicle to address the abuse and neglect of children in residential care programs. If the Department of Health and Human Services (HHS) is provided, through new appropriations, with adequate resources to do so, we support the bill's requirement that HHS, through development of regulations after a period of public comment, require covered residential care facilities to meet the set of minimum safety-related standards set forth in the bill, as well as the performance by HHS of other specific tasks related to institutional maltreatment of children and youth. Under the bill, HHS would carry out a range of tasks, such as developing a required state facility monitoring/inspection process, as well as a process for states responding to and investigating reports of institutional maltreatment and taking legal action to protect children from abuse and neglect in facilities where appropriate. HHS can also serve an important role, not currently being performed by the federal government, by maintaining a website with a database (with information provided by the states) that lists information on covered programs and how they comply with, or if they have violated, the federal standards as well as instances of child maltreatment and deaths within the facility.

The bill's establishment of a national toll-free hotline for reporting child maltreatment in covered facilities, with appropriate follow-up, is another important provision, as is mandated congressional reports on HHS institutional abuse/neglect activities. Given the complexity of public responses to institutional maltreatment of children, we note the bill appropriately gives states three years to develop and refine their institutional abuse and neglect policies and procedures.

For all these reasons, the ABA strongly supports the Stop Child Abuse in Residential Programs for Teens Act, and we urge your colleagues to support it so that it may soon be acted upon by the full House of Representatives and become law.

Sincerely,

A handwritten signature in cursive script that reads "Denise A. Cardman". The signature is written in black ink and is positioned above the typed name and title.

Denise A. Cardman  
Acting Director