109TH CONGRESS
1ST SESSION

H. R. _____

To assure the safety of American children in foreign-based and domestic institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GEORGE MILLER of California introduced the following bill; which was referred to the Committee on ___________________

A BILL

To assure the safety of American children in foreign-based and domestic institutions, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “End Institutionalized Abuse Against Children Act of 2005”.

5 SEC. 2. JUSTICE DEPARTMENT INVESTIGATIONS.

6 (a) IN GENERAL.—In order to assure the safety and welfare of American children residing in foreign-based in-
stitutions, the Attorney General shall seek the cooperation of appropriate foreign authorities in order to investigate such facilities or institutions periodically. Such an investigation shall include a determination of the institution’s compliance with any local safety, health, sanitation and educational laws and regulations, including all licensing requirements applicable to the staff of the institution and compliance with this section. The Attorney General shall seek the cooperation of appropriate foreign authorities to remedy any threat to the safety or welfare of those children, discovered through such an investigation.

(b) RULES AND ENFORCEMENT.—(1) The Attorney General shall make rules to protect the safety and wellbeing of American children who are kept in a foreign based institution for purposes of behavior modification.

(2) Whoever, being a United States citizen or national, or other private entity organized under the laws of the United States or of any State or political subdivision of the United States, violates a rule made under this subsection shall be subject to a civil penalty not to exceed $50,000.

(c) DEFINITIONS.—As used in this section—

(1) the term “foreign-based institution” means any facility or institution—
(A) owned, operated, or managed by a United States citizen or other private entity organized under the laws of the United States; and

(B) for persons, including persons who are residing in such facility or institution, for purposes of receiving care or treatment or behavior modification; and

(2) the term “American children” means American citizens or nationals 18 years of age or younger.

SEC. 3. AMENDMENTS TO DEPARTMENT OF STATE'S COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

(a) PART I OF FOREIGN ASSISTANCE ACT OF 1961.—Section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n) is amended by adding at the end the following new subsection:

“(g)(1) The report required by subsection (d) shall include, wherever applicable, a description of the nature and extent of child abuse or human rights violations against persons who are 18 years of age or younger at institutions described in paragraph (2) that are located in each foreign country.

“(2) An institution referred to in paragraph (1) is a facility or institution—
“(A) owned, operated, or managed by a United States citizen or other private entity organized under the laws of the United States; and

“(B) for persons, including persons who are residing in such facility or institution, for purposes of receiving care or treatment or behavior modification.”.

(b) PART II OF FOREIGN ASSISTANCE ACT OF 1961.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection:

“(i)(1) The report required by subsection (b) shall include, wherever applicable, a description of the nature and extent of child abuse or human rights violations against persons who are 18 years of age or younger at institutions described in paragraph (2) that are located in each foreign country.

“(2) An institution referred to in paragraph (1) is a facility or institution—

“(A) owned, operated, or managed by a United States citizen or other private entity organized under the laws of the United States; and

“(B) for persons, including persons who are residing in such facility or institution, for purposes of
receiving care or treatment or behavior modification.”.

SEC. 4. GRANTS TO SUPPORT INSPECTIONS OF CHILD RESIDENTIAL TREATMENT FACILITIES.

(a) In General.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new title:

“TITLE III—GRANTS TO STATES TO SUPPORT INSPECTIONS OF CHILD RESIDENTIAL TREATMENT FACILITIES

“SEC. 301. GRANTS TO STATES.

“The Secretary is authorized to make grants to States to support inspections of child residential treatment facilities.

“SEC. 302. APPLICATION.

“The Secretary may not make a grant to a State under section 301 unless the State submits to the Secretary an application for the grant at such time, in such form and manner, and containing such information as the Secretary may reasonably require.

“SEC. 303. ELIGIBILITY.

“(a) In General.—The Secretary may not make a grant to a State under section 301 unless the State has in effect laws to require the licensing of child residential
treatment facilities in accordance with the requirements of subsection (b) and the State is enforcing such State laws in accordance with the requirements of subsection (c).

“(b) LICENSING REQUIREMENTS.—The licensing requirements referred to in subsection (a) are the following:

“(1) The State requires any person who operates a child residential treatment facility to be issued a license for the operation of the facility, and the license is in effect.

“(2) The facility meets applicable standards of the State for the provision of treatment services for children with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

“(3) In the case of each child who is a resident of the facility and whose domicile is another State, the facility meets the standards of such other State for the operation of such a facility, including any licensing standards.

“(4) With respect to State law that prohibits the physical or mental abuse of children and the neglect of children, the law of the State in which the facility is located applies to the facility standards for the care of children who are residents of the facility,
including enforcement standards, that are equivalent to the standards applied by the State to parents or legal guardians.

“(5) The State requires periodic, unannounced inspections of the facility to determine compliance with applicable law, including law regarding the licensing of health professionals and law regarding the standards referred to in paragraph (4).

“(e) ENFORCEMENT REQUIREMENTS.—The enforcement requirements referred to in subsection (a) are the following:

“(1) IN GENERAL.—

“(A) CIVIL PENALTY.—A person who operates a child residential treatment facility in violation of the requirements under subsection (b) is subject to a civil penalty of $250 per day until the violation is corrected, except that the number of days for which the penalty is assessed may not exceed 60 days.

“(B) ORDER TO TERMINATE OPERATIONS.—With respect to a violation of the requirements under subsection (b), if a civil penalty under subparagraph (A) for the violation is assessed for 60 days, the State orders that the
child residential treatment facility involved terminate all operations.

“(2) ABUSE OR NEGLECT.—

“(A) CIVIL PENALTY.—If a child residential treatment facility engages in the abuse or neglect of a child who is a resident of the facility, each person who owns or operates the facility, and each of the officers, employees, or contractors thereof who engaged in the abuse or neglect, is subject to a civil penalty for each such violation in an amount determined by the State, but not less than $20,000 for all violations adjudicated in a single proceeding.

“(B) CRIMINAL PENALTY.—If a child residential treatment facility engages in the abuse or neglect of a child who is a resident of the facility, each person who owns or operates the facility, and each of the officers, employees, or contractors thereof who engaged in the abuse or neglect, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

“(C) ABUSE OR NEGLECT.—For purposes of subparagraphs (A) and (B), the term ‘abuse or neglect’, with respect to a child, means a
knowing act or omission that the officer, employee, or contractor involved knows or should know will result in death, serious physical or emotional harm, sexual abuse or exploitation, or will present an imminent risk of serious harm.

“SEC. 304. USE OF FUNDS.

“A State that receives a grant under section 301 shall use amounts under the grant to—

“(1) hire and train individuals who have appropriate expertise in the health profession, including the mental health profession, to carry out periodic, unannounced inspections of child residential treatment facilities in accordance with section 303(b)(5); and

“(2) collect and maintain data from the inspections of such child residential treatment facilities to be included in the report required by section 306.

“SEC. 305. MAINTENANCE OF EFFORT.

“A State that receives a grant under section 301 shall use amounts under the grant only to supplement the level of non-Federal funds that, in the absence of amounts under the grant, would be expended for activities authorized under the grant, and not to supplant those non-Federal funds.
**SEC. 306. REPORT.**

“The Secretary may not make a grant to a State under section 301 unless the State agrees that it will submit to the Secretary for each fiscal year for which it receives a grant under such section a report that contains such information as the Secretary may reasonably require, including a detailed description of the number of child residential treatment facilities located in the State, the number of children residing at such facilities, the State domicile of each child prior to entry at such a facility, and the age, gender, and disability (if any) of each child at such a facility.

**SEC. 307. DEFINITIONS.**

“In this title:

“(1) CHILD.—The term ‘child’ means an individual 18 years of age or younger.

“(2) CHILD RESIDENTIAL TREATMENT FACILITY; FACILITY.—The term ‘child residential treatment facility’ or ‘facility’ means a facility that—

“(A) provides a 24-hour group living environment for one or more children who are unrelated to the owner or operator of the facility; and

“(B) offers for the children room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth
or rehabilitation services for youths with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(4) STATE.—The term ‘State’ means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this title $50,000,000 for each of the fiscal years 2006 and 2007.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended by adding at the end the following:

“TITLE III—GRANTS TO STATES TO SUPPORT INSPECTIONS OF CHILD RESIDENTIAL TREATMENT FACILITIES

Sec. 301. Grants to States.
Sec. 302. Application.
Sec. 303. Eligibility.
Sec. 304. Use of funds.
Sec. 305. Maintenance of effort.
Sec. 306. Report.
Sec. 307. Definitions.
Sec. 308. Authorization of appropriations.”.