

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 817

By Senator Chapman

[Introduced March 19, 2025; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
 2 designated §16B-22-1, §16B-22-2, §16B-22-3, §16B-22-4, §16B-22-5, and §16B-22-6,
 3 relating to regulating private alternative adolescent residential or outdoor programs.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 22. PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR
 PROGRAMS.**

§16B-22-1. Definitions.

1 As used in the article:

2 "Critical incident" means an occurrence of any of the following:

3 (1) Self-harm or a suicide emergency;

4 (2) A restraint, seclusion, or emergency safety intervention occurring at the program
 5 whether medical attention is or is not required;

6 (3) A denial or unreasonable medical delay of required medical attention to the child in the
 7 program;

8 (4) An admittance or a transport of a child in the program to or from a medical facility;

9 (5) An incident or allegation of abuse or harm to a child while in the program;

10 (6) A use of force, coercion, or deception in transporting a child to or from the program,
 11 unless the program did not conduct or pay for the transport;

12 (7) A police report or investigation involving a child or an individual who has or had access
 13 to the program;

14 (8) A physical condition of the program's facility that jeopardizes the health, safety, or well-
 15 being of a child; or

16 (9) Any additional occurrence or condition that the Director defines as a critical incident.

17 "Director" means the director of the Office of Health Facility Licensure and Certification or
 18 his or her designee.

19 "Direct access" means that an individual has or likely will have person-to-person spoken or
20 physical contact with or access to a program participant.

21 "Inspector General" means the Inspector General of the Office of the Inspector General as
22 described in §16B-2-1 of this code, or his or her designee.

23 "License" means a written document issued by the department that the license holder has
24 complied with this part and the applicable standards and rules for programs.

25 "Licensee" means the holder of a license issued by the department in accordance with the
26 provisions of this part.

27 "Office of Health Facilities Licensure and Certification" means the West Virginia Office of
28 Health Facility Licensure and Certification within the Office of the Inspector General.

29 "Person associated with the program" means any owner, partner, member, employee, or
30 contractor providing professional or occupational services to a program.

31 "Program" means each location of a facility or program operated by a public or private
32 entity that, with respect to one or more youth who are unrelated to the owner or operator of the
33 facility or program in a residential environment including but not limited to:

34 (1) A program with a wilderness or outdoor experience, expedition, or intervention;

35 (2) A bootcamp experience or other experience designed to simulate characteristics of
36 basic military training or correctional regimes; or

37 (3) An education or therapeutic boarding school.

38 The term does not include: recreational programs such as boy scouts, girl scouts, or 4-H
39 clubs; organizations, boarding schools, or residential schools with a sole focus on academics;
40 residential training or vocational programs with a sole focus on education and vocational training;
41 youth camps with a focus on recreation and faith-related activities; or an organization, boarding
42 school, or residential school that is an adjunct ministry of a church.

43 "Program participant" means any adolescent to whom services are being provided by the
44 program.

§16B-22-2. Programs to obtain license.

1 The Inspector General shall designate the director of the Office of Health Facilities
2 Licensure and Certification to enforce the provisions of this article, except as otherwise stated.

3 No person, partnership, association, or corporation, or any local governmental unit or any
4 division, department, board, or agency thereof may operate a program unless the operation has
5 been approved and licensed by the director in accordance with the provisions of this article and the
6 rules lawfully promulgated hereunder.

§16B-22-3. Licensure requirements.

1 (a) The director shall require applicants and licensees:

2 (1) To submit a set of fingerprints for each person associated with the program who has
3 direct access to program participants for the purpose of conducting a criminal and child protection
4 background check according to §16B-15-1 et seq. of this code.

5 (b) In developing minimum standards for licensed programs, the director shall propose
6 rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code that
7 pertain to ensuring the health and safety of program participants, including:

8 (1) A procedure for a licensed program to report the use of a chemical, physical,
9 mechanical, or environmental restraint or seclusion to the department within one business day
10 after the day on which the use of the chemical, physical, mechanical, or environmental restraint or
11 seclusion occurs;

12 (2) Guidelines for written policies and procedures of the licensed program, including
13 policies and procedures on suicide prevention and for implementation of the requirements and
14 restrictions in subsections (c) and (d) of this section;

15 (3) A procedure for the department to review and approve the licensed program's policies
16 and procedures;

17 (4) A procedure for submitting a complaint about a licensed program to the department and
18 law enforcement and a requirement that each licensed program publicly post information that

19 describes how to submit a complaint about the licensed program to the department and law
20 enforcement; and

21 (5) A procedure for responding to critical incidents.

22 (c) A licensed program may not: (1) use physical discipline or the threat of physical
23 discipline as a punishment, deterrent, incentive, or to gain compliance; (2) deprive a youth of basic
24 necessity or inherent right, including education; (3) admit a youth who is under the age approved in
25 the licensure or has a condition not allowed to be treated under the licensure; or (4) sexually
26 abuse, exploit, or harass an enrolled youth.

27 (d) A licensed program shall: (1) allow a parent or guardian to remove a youth from the
28 licensed program; and (2) unless otherwise prohibited by law or court order, facilitate weekly
29 confidential and unsupervised video communication between a youth and the youth's parents,
30 guardians, or foster parents.

31 (e) A licensed program shall provide a fixed number telephone to the child abuse hotline
32 operated by the Department of Human Services that is readily available to enrolled participants 24
33 hours a day.

§16B-22-4. Inspector General to establish legislative rules.

1 The Inspector General shall propose rules for legislative approval in accordance with the
2 provisions of §29A-3-1 et seq. and §16B-20-3 of this code not in conflict with any provision of this
3 article, as he or she finds necessary in order to ensure adequate care and accommodations for
4 consumers _____ of _____ programs.

§16B-22-5. Suspension; revocation.

1 (a) The director, in consultation with the Inspector General, may suspend or revoke a
2 license issued hereunder if the provisions of this article or of the rules are violated.

3 (b) Before any such license is suspended or revoked, however, written notice shall be
4 given the licensee, stating the grounds of the complaint, and the date, time, and place set for the
5 hearing on the complaint, which date may not be less than 30 days from the time notice is given.

6 The notice shall be sent by registered mail to the licensee at the address where the hospice
7 concerned is located. The licensee shall be entitled to be represented by legal counsel at the
8 hearing.

9 (c) If a license is revoked as herein provided, a new application for a license shall be
10 considered by the director, in consultation with the Inspector General, if, when and after the
11 conditions upon which revocation was based have been corrected and evidence of this fact has
12 been furnished. A new license shall then be granted after proper inspection has been made and all
13 provisions of this article and rules promulgated hereunder have been satisfied.

14 (d) All of the pertinent provisions of §29A-5-1 et seq. of this code shall apply to and govern
15 any hearing authorized and required by the provisions of this article and the administrative
16 procedure in connection with and following any such hearing, with like effect as if the provisions of
17 §29A-5-1 et seq. of this code were set forth in extenso in this section.

18 (e) Any applicant or licensee who is dissatisfied with the decision of the Board of Review as
19 a result of the hearing provided in this section may, within 30 days after receiving notice of the
20 decision, appeal to the West Virginia Intermediate Court of Appeals for judicial review of the
21 decision.

22 (f) The court may affirm, modify, or reverse the decision of the Board of Review and
23 either the applicant or licensee or the Inspector General may appeal from the court's decision to
24 the Supreme Court of Appeals.

§16B-22-6. Violations; penalties; injunction.

1 Any person, partnership, association, or corporation, and any local governmental unit or
2 any division, department, board, or agency thereof establishing, conducting, managing, or
3 operating a program without first obtaining a license therefor as herein provided, or violating any
4 provisions of this article or any legislative rule lawfully promulgated thereunder, is guilty of a
5 misdemeanor, and, upon conviction thereof, shall be punished for the first offense by a fine of not
6 more than \$1,500, with confinement in the county jail for a period of not more than 90 days, or both

- 7 fined and confined. Each day of a continuing violation after conviction shall be considered a
8 separate offense.

NOTE: The purpose of this bill is to license facilities treating youth in West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.