

House Amendment to  
Senate File 2304

S-5125

1 Amend Senate File 2304, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting clause  
4 and inserting:

5 <Section 1. NEW SECTION. 237C.1 Definitions.

6 As used in this chapter, unless the context  
7 otherwise requires:

8 1. "*Administrator*" means the administrator of that  
9 division of the department designated by the director  
10 of human services to administer this chapter or the  
11 administrator's designee.

12 2. "*Child*" or "*children*" means an individual or  
13 individuals under eighteen years of age.

14 3. "*Children's residential facility*" means a  
15 private facility designed to serve children who have  
16 been voluntarily placed for reasons other than an  
17 exclusively recreational activity outside of their  
18 home by a parent or legal guardian and who are not  
19 under the custody or authority of the department of  
20 human services, juvenile court, or another governmental  
21 agency, that provides twenty-four hour care, including  
22 food, lodging, supervision, education, or other care on  
23 a full-time basis by a person other than a relative or  
24 guardian of the child, but does not include an entity  
25 providing any of the following:

26 a. Care furnished by an individual who receives  
27 the child of a personal friend as an occasional and  
28 personal guest in the individual's home, free of charge  
29 and not as a business.

30 b. Care furnished by an individual with whom a  
31 child has been placed for lawful adoption, unless  
32 that adoption is not completed within two years after  
33 placement.

34 c. Child care furnished by a child care facility as  
35 defined in section 237A.1.

1 d. Care furnished in a hospital licensed under  
2 chapter 135B or care furnished in a health care  
3 facility as defined in section 135C.1.

4 e. Care furnished by a juvenile detention home  
5 or juvenile shelter care home approved under section  
6 232.142.

7 f. Care furnished by a child foster care facility  
8 licensed under chapter 237.

9 g. Care furnished by an institution listed in  
10 section 218.1.

11 h. Care furnished by a facility licensed under  
12 chapter 125.

13 i. Care furnished by a psychiatric medical  
14 institution for children licensed under chapter 135H.

15 j. Care furnished by a bona fide religious  
16 institution.

17 4. "Department" means the department of human  
18 services.

19 Sec. 2. NEW SECTION. 237C.2 Purpose.

20 It is the policy of this state to provide  
21 appropriate protection for children who are separated  
22 from the direct personal care of their parents,  
23 relatives, or guardians and, therefore, the purpose  
24 of this chapter is to provide for the development,  
25 establishment, and enforcement of standards relating to  
26 the certification of children's residential facilities.

27 Sec. 3. NEW SECTION. 237C.3 Certification  
28 standards — consultation with other agencies.

29 1. The department of human services shall consult  
30 with the department of education, the department of  
31 inspections and appeals, the department of public  
32 health, the state fire marshal, and other agencies  
33 as determined by the department of human services  
34 to establish certification standards for children's  
35 residential facilities in accordance with this chapter.

1 2. Standards established by the department under  
2 this chapter shall at a minimum address the basic  
3 health and educational needs of children; protection  
4 of children from mistreatment, abuse, and neglect;  
5 background and records checks of persons providing  
6 care to children in facilities certified under this  
7 chapter; the use of seclusion, restraint, or other  
8 restrictive interventions; health; safety; emergency;  
9 and the physical premises on which care is provided  
10 by a children's residential facility. The background  
11 check requirements shall be substantially equivalent to  
12 those applied under chapter 237 for a child foster care  
13 facility provider.

14 Sec. 4. NEW SECTION. **237C.4 Rules and standards**  
15 **— requirements.**

16 1. Except as otherwise provided in this section,  
17 the department shall adopt rules pursuant to chapter  
18 17A to administer this chapter.

19 2. Before the administrator issues or reissues a  
20 certificate of approval to a children's residential  
21 facility under section 237C.7, the facility shall  
22 comply with standards adopted by the state fire marshal  
23 under chapter 100.

24 3. Rules governing sanitation, water, and waste  
25 disposal standards for children's residential  
26 facilities shall be adopted by the department of human  
27 services in consultation with the director of public  
28 health.

29 4. Rules governing educational programs and  
30 education services provided by children's residential  
31 facilities shall be adopted by the state board of  
32 education pursuant to section 282.34.

33 5. In the case of a conflict between rules adopted  
34 pursuant to subsections 2 and 3 and local rules, the  
35 more stringent requirement applies.

1     Sec. 5. NEW SECTION. 237C.5 Certificate of  
2 approval — certification required.

3     A person shall not operate a children's residential  
4 facility without a certificate of approval to operate  
5 issued by the administrator under this chapter.

6     Sec. 6. NEW SECTION. 237C.6 Bona fide religious  
7 institution — notification required.

8     1. If care is furnished by a facility that is  
9 a bona fide religious institution exempt from the  
10 definition of children's residential facility under  
11 section 237C.1, subsection 3, paragraph "j", but that  
12 would otherwise qualify as a children's residential  
13 facility under section 237C.1, subsection 3, the  
14 facility shall do all of the following:

15     a. Notify the department of human services in  
16 writing of the existence of the facility within thirty  
17 days of commencing operation.

18     b. Allow annually one scheduled inspection and  
19 one unannounced inspection of the facility by a  
20 representative of the department of inspections and  
21 appeals.

22     c. Authorize reasonable and timely access to  
23 clients and staff of the facility by a representative  
24 of the department of human services who is responsible  
25 for investigating an allegation of abuse.

26     d. Comply with standards adopted by the state fire  
27 marshal under chapter 100.

28     e. Meet the sanitation, water, and waste disposal  
29 standards adopted by rule by the department of human  
30 services under section 237C.4.

31     2. This section shall not be construed to require  
32 a facility that is a bona fide religious institution  
33 exempt from the definition of children's residential  
34 facility under section 237C.1, subsection 3, paragraph  
35 "j", but that would otherwise qualify as a children's

1 residential facility under section 237C.1, subsection  
2 3, to apply for or obtain a certificate of approval  
3 under section 237C.7.

4 Sec. 7. NEW SECTION. 237C.7 Certificate  
5 application and issuance — denial, suspension, or  
6 revocation.

7 1. A person shall apply for a certificate to  
8 operate a children's residential facility by completing  
9 and submitting to the administrator an application in  
10 a form and format approved by the administrator. The  
11 administrator shall issue or reissue a certificate  
12 of approval if the administrator determines that the  
13 applicant is or upon commencing operation will provide  
14 children's residential facility services in compliance  
15 with this chapter. A certificate of approval is valid  
16 for up to one year from the date of issuance for the  
17 period determined by the administrator in accordance  
18 with administrative rules providing criteria for making  
19 the determination.

20 2. The certificate of approval shall state on  
21 its face the name of the holder of the certificate,  
22 the particular premises for which the certificate is  
23 issued, and the number of children who may be cared for  
24 by the children's residential facility on the premises  
25 at one time under the certificate of occupancy issued  
26 by the state fire marshal or the state fire marshal's  
27 designee. The certificate of approval shall be posted  
28 in a conspicuous place in the children's residential  
29 facility.

30 3. The administrator may deny an application for  
31 issuance or reissuance of a certificate of approval  
32 or suspend or revoke a certificate of approval if  
33 the applicant or certificate holder, as applicable,  
34 fails to comply with this chapter or the rules adopted  
35 pursuant to this chapter or knowingly makes a false

1 statement concerning a material fact or conceals a  
2 material fact on the application for the issuance or  
3 reissuance of a certificate of approval or in a report  
4 regarding operation of the children's residential  
5 facility submitted to the administrator. All  
6 operations of a children's residential facility shall  
7 cease during a period of suspension or revocation. The  
8 administrator shall suspend or revoke a certificate  
9 of approval of a children's residential facility that  
10 fails to comply with section 282.34.

11 **Sec. 8. NEW SECTION. 237C.8 Restricted use of**  
12 **facility.**

13 A children's residential facility shall operate  
14 only in a building or on premises designated in the  
15 certificate of approval.

16 **Sec. 9. NEW SECTION. 237C.9 Reports and**  
17 **inspections.**

18 The administrator may require submission of reports  
19 by a certificate of approval holder and shall cause at  
20 least one annual unannounced inspection of a children's  
21 residential facility to assess compliance with  
22 applicable requirements and standards. The inspections  
23 shall be conducted by the department of inspections  
24 and appeals in addition to initial, renewal, and  
25 other inspections that result from complaints or  
26 self-reported incidents. The department of inspections  
27 and appeals and the department of human services may  
28 examine records of a children's residential facility  
29 and may inquire into matters concerning the children's  
30 residential facility and its employees, volunteers, and  
31 subcontractors relating to requirements and standards  
32 for children's residential facilities under this  
33 chapter.

34 **Sec. 10. NEW SECTION. 237C.10 Injunctive relief**  
35 **— civil action.**

1 1. A person who establishes, conducts, manages,  
2 or operates a children's residential facility without  
3 a certificate of approval required pursuant to this  
4 chapter, or a children's residential facility with  
5 a certificate of approval that is not operating in  
6 compliance with rules adopted pursuant to this chapter  
7 or section 282.34, may be restrained by temporary  
8 or permanent injunction from providing children's  
9 residential facility services or from other involvement  
10 with child care. The action may be instituted by the  
11 state or a county attorney.

12 2. The parent or legal guardian of a child who is  
13 placed in a children's residential facility, the state,  
14 the department of education, or the school district  
15 in which the children's residential facility is  
16 located, may bring a civil action seeking relief from  
17 conduct constituting a violation of this chapter or  
18 section 282.34 or to prevent, restrain, or remedy such  
19 violation. A civil action brought by the department  
20 of education shall be limited to seeking relief from  
21 conduct constituting a violation of section 282.34.  
22 Multiple petitioners may join in a single action under  
23 this subsection.

24 3. If successful in obtaining injunctive relief  
25 under this section, the petitioner shall be awarded  
26 reasonable attorney fees and court costs.

27 Sec. 11. NEW SECTION. 237C.11 **Notice and hearings**  
28 **— judicial review.**

29 The procedure governing notice and hearing to deny  
30 an application or suspend or revoke a certificate of  
31 approval shall be in accordance with rules adopted by  
32 the department.

33 Sec. 12. NEW SECTION. 282.34 **Educational programs**  
34 **for children's residential facilities.**

35 1. A children's residential facility operating

1 under a certificate of approval issued under chapter  
2 237C shall do all of the following:

3     *a.* Provide an educational program and appropriate  
4 education services to children residing in the  
5 children's residential facility by contracting with the  
6 school district in which the children's residential  
7 facility is located, contracting with an accredited  
8 nonpublic school, or becoming accredited as a nonpublic  
9 school through the standards and accreditation process  
10 described in section 256.11 and adopted by rule by the  
11 state board of education.

12     *b.* Display prominently in all of its major  
13 publications and on its internet site a notice  
14 accurately describing the educational program and  
15 educational services provided by the children's  
16 residential facility.

17     *c.* Include in any promotional, advertising,  
18 or marketing materials regarding the children's  
19 residential facility, available in print or via  
20 the internet, all fees charged by the children's  
21 residential facility for the services offered or  
22 provided by the children's residential facility and its  
23 refund policy for the return of refundable portions of  
24 any fees.

25     2. The state board of education shall adopt by rule  
26 pursuant to chapter 17A standards for the following:

27     *a.* Educational programs and appropriate educational  
28 services provided under this section.

29     *b.* Contracts between children's residential  
30 facilities and school districts or accredited nonpublic  
31 schools.

32     *c.* Notices displayed in accordance with subsection  
33 1, paragraph "b".

34     3. A contract that fails to comply with any of the  
35 requirements of subsection 1, or with standards adopted



1 by the state board of education under subsection 2, is  
2 void.

3 Sec. 13. REPEAL. Chapter 237B, Code 2016, is  
4 repealed.

5 Sec. 14. REPORT REQUIREMENT. By January 1, 2017,  
6 the department of human services, the department of  
7 education, the department of public health, and the  
8 state fire marshal shall each submit a report to the  
9 general assembly concerning their progress in adopting  
10 rules as appropriate under sections 237C.4 and 282.34,  
11 as enacted by this Act.

12 Sec. 15. EXISTING FACILITY OPERATED BY BONA FIDE  
13 RELIGIOUS INSTITUTION. A facility in existence on the  
14 effective date of this Act, and which is exempt from  
15 the definition of children's residential facility under  
16 section 237C.1, subsection 3, paragraph "j", but which  
17 would otherwise qualify as a children's residential  
18 facility under section 237C.1, subsection 3, shall  
19 notify the department of human services in writing of  
20 its existence within thirty days of the effective date  
21 of this Act.>