
NOTE

MANIPULATING PARENTS, EXPLOITING CHILDREN: THE NEED FOR GOVERNMENT OVERSIGHT OF PRIVATE YOUTH FACILITIES

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INTRODUCTION

In her 2020 YouTube documentary, *This is Paris*, Paris Hilton first revealed her experience with physical, sexual, and verbal abuse at the Provo Canyon School, where her parents sent her at age sixteen after she escaped from three other private youth facilities, known as “emotional growth centers.”¹ Describing the abuse she endured at all four facilities, she labeled Provo Canyon School as being the worst one.² The Provo Canyon School is a “therapeutic boarding school”³ in Utah whose website advertises treatment for a variety of mental health and behavioral problems, ranging from anxiety and ADHD to childhood schizophrenia, post-traumatic stress disorder, and notably, “sexual and gender identity disorder.”⁴ When she went public about her experience in 2020, Hilton used the hashtag #BreakingCodeSilence.⁵ Although the hashtag gained popularity and widespread use following Hilton’s documentary, the campaign dates back to 2014, when several advocacy groups, including WWASP Survivors, Safe Teen Schools, and Survivors of Institutional Abuse, collectively created it to give survivors of the Troubled Teen Industry a platform to tell their stories and a means to connect with one another.⁶

Hilton is not the only high-profile individual to have experience with the Troubled Teen Industry. In March of 2021, as #BreakingCodeSilence gained traction, Danielle Bregoli (stage name Bhad Bhabie) posted a series of YouTube videos speaking out about her experience at Turn-About Ranch in Utah.⁷ Bregoli rose to fame after her mother brought her onto the *Dr. Phil* show at age thirteen to get help with Bregoli as she was “out of control.”⁸ The episode, “I Want to Give Up my Car-Stealing, Knife-Wielding, Twerking 13-Year-Old Daughter Who Tried to Frame Me for a Crime,” ends with Bregoli being sent to Turn-About Ranch.⁹ This episode captured and reinforced fundamental public assumptions about the “troubled teens” housed in these facilities. Bregoli’s outlandish, out of control behavior on the show credited the narrative that only uncontrollable “bad kids” are sent away to residential programs and that these

¹ Paris Hilton, *The Real Story of Paris Hilton: This is Paris Official Documentary*, YOUTUBE (Sept. 14, 2020), <https://www.youtube.com/watch?v=wOg0TY1jG3w>.

² *Id.*

³ Sarah Golightley, *Troubling the Troubled Teen Industry: Adult Reflections on Youth Experiences of Therapeutic Boarding Schools*, 10 GLOB. STUD. OF CHILDHOOD 53, 54 (2020) (“[T]herapeutic boarding schools [are] residential schools that combine educational classes with group therapy, typically in a private, self-contained facility that runs year-round.”).

⁴ *Why Choose Provo Canyon School?*, PROVO CANYON SCHOOL, <https://provocanyon.com/about-us/why-choose-provo-canyon-school/> (last visited Dec. 20, 2023) [<https://perma.cc/BG2R-NKTV>].

⁵ Hilton, *supra* note 1.

⁶ *The Breaking Code Silence Movement*, BREAKING CODE SILENCE, <https://bcsnetwork.org> (last visited Dec. 20, 2023) [<https://perma.cc/ENV3-Q99Z>].

⁷ Danielle Bregoli, *Breaking Code Silence - Turn About Ranch Abuse*, YOUTUBE (Mar. 19, 2021), <https://www.youtube.com/watch?v=GteqbsYGvII>.

⁸ *Dr Phil: I Want to Give Up My Car Stealing, Knife-Wielding, Twerking 13-Year-Old Daughter Who Tried To Frame Me For A Crime* (CBS television broadcast Sept. 14, 2016).

⁹ *Id.*

facilities serve as a “tough love” solution where discipline will be enforced but youths will receive the care they need.¹⁰ Survivors have only begun to unravel these assumptions in the last few years.

This note will begin by defining the Troubled Teen Industry, providing background on the logistics of how youths are placed in Troubled Teen facilities, and enumerating examples of abuse and exploitation at private facilities to establish a pattern of wrongdoing and reveal how these individuals’ negative experiences are not isolated incidents, but rather emblematic of the problems that plague the industry.¹¹ Despite clear patterns of abuse, neglect, and exploitation, there are no federal regulations governing private residential facilities for minors.¹² With this background in mind, the legal framework informing the industry can be grouped into three buckets: parent’s rights, children’s rights, and consumer protection. I will explain the legal presumption that parents know and do the best for their children, and its consequence that minors have minimal, but not non-existent, avenues to challenge their treatment. Consumer protection law provides a more robust framework for challenging the legality of Troubled Teen facilities’ marketing and operations practices, and the United States Government Accountability Office (“GAO”) uncovered multiple incidents of unfair and deceptive trade practices at private facilities for minors. Finally, I will argue: (1) private residential facilities for youths should be subject to substantial state and federal oversight and regulation to prevent abuses; (2) when parental rights conflict with child welfare, child welfare should prevail; and (3) given the importance of the interest at stake, consumer protection demands more stringent regulations than the relatively lax “buyer beware” approach currently adopted by the Federal Trade Commission.

I. THE TROUBLED TEEN INDUSTRY: BACKGROUND AND CONTEXT

A. *Defining The Troubled Teen Industry*

The Troubled Teen Industry, estimated to generate at least a billion dollars annually, is a network of privately run facilities that advertise their ability to help youths struggling with a myriad of mental, emotional, and behavioral problems, dating back at least fifty years.¹³ Such facilities are not currently subject to any federal oversight or regulation.¹⁴ Troubled Teen Industry programs include wilderness therapy programs, boot camps, therapeutic boarding schools, and ranches.¹⁵ In a report on abuse, death, and deceptive marketing by these

¹⁰ *Id.*

¹¹ *See infra* Part II.

¹² Cathy Krebs, *Five Facts About the Troubled Teen Industry*, A.B.A. (Oct. 22, 2021), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/practice/2021/5-facts-about-the-troubled-teen-industry/>.

¹³ *See* Krebs, *supra* note 12; Alexander Stockton, *Can You Punish A Child’s Mental Health Problems Away?*, N.Y. TIMES (Oct. 11, 2022), <https://www.nytimes.com/interactive/2022/10/11/opinion/teen-mental-health-care.html>.

¹⁴ *See* Krebs, *supra* note 12.

¹⁵ *Id.*

programs, the GAO notes that no federal laws define what constitutes a residential program, and no standard definitions are recognized for specific types of programs.¹⁶ However, for purposes of their report, the GAO provides useful definitions of different types of troubled teen programs based on characteristics they identified during their investigation:

[1] Wilderness therapy programs place youth in different natural environments, including forests, mountains, and deserts. According to wilderness therapy program material, these settings are intended to remove the “distractions” and “temptations” of modern life from teens, forcing them to focus on themselves and their relationships. These programs are typically 28 days in length at a minimum, but parents can continue to enroll their child for longer at an additional cost.

[2] Boot camps are residential programs in which strict discipline and regime are dominant principles. Many boot camps emphasize behavioral modification elements, and some military-style boot camps also emphasize uniformity and austere living conditions. Boot camps might be included as part of a wilderness therapy school or therapeutic boarding, but many boot camps exist independently. These programs are offered year-round and some summer programs last up to 3 months.

[3] Boarding schools (also called academies) are generally advertised as providing academic education beyond the survival skills a wilderness therapy program might teach. These programs frequently enroll youth whose parents force them to attend against their will. The schools can include fences and other security measures to ensure that youth do not leave without permission. While these programs advertise year-round education, the length of stay varies for each student; contracts can require stays of up to 21 months or more.

[4] Ranch programs typically emphasize remoteness and large, open spaces available on program property. Many ranch programs advertise the therapeutic value of ranch-related work. These programs also generally provide an opportunity for youth to help care for horses and other animals. Although we could not determine the length of a typical stay at ranch programs, they operate year-round and take students for as long as 18 months.¹⁷

Each of these programs purports to offer services including mental health counseling, drug and alcohol rehabilitation, and behavior modification.¹⁸ Troubled teen facilities are typically total institutions; groups of youths may spend anywhere from a few months to several years largely cut off from the outside world, with their contact with family and friends being restricted or at least closely monitored.¹⁹ Youths enjoy limited to no privacy during their stays

¹⁶ U.S. GOV'T ACCOUNTABILITY OFF., GAO-08-713T, RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE, DEATH, AND DECEPTIVE MARKETING 5 (2008) [hereinafter U.S. GOV'T ACCOUNTABILITY OFF, RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE].

¹⁷ *Id.* at 5–6.

¹⁸ *Id.* at 1.

¹⁹ Press Release, Fed. Trade Comm'n, Evaluating Private Residential Treatment Programs for Troubled Teens (July 8, 2008), <https://www.ftc.gov/news-events/news/press-releases/2008/07/evaluating-private-residential-treatment-programs-troubled-teens>

and are often subject to very rigid daily schedules.²⁰

B. *How Youth Are Placed in Congregate Care*

The most common way teenagers are placed in troubled teen facilities is by their parents. Many facilities advertise their ability to treat a comically long list of problems, ranging from serious mental health crises to generic, undesirable behaviors and attitudes associated with adolescence.²¹ For example, Triangle Cross Ranch, a facility for troubled teen boys in Wyoming, describes itself as a “different kind of boarding school for boys,” ideal for troubled teens who are:

[(1) m]aking poor and even dangerous choices[; (2) a]cting entitled, selfish, or detached[; (3) m]anipulating family and others[; (4) l]ying, sneaking out, isolating from family[; (5) r]ebelling against authority[; (6) d]epressed, withdrawn, or self-destructive[; (7) s]truggling with anger, family discord, adoption issues[; (8) a]cademically behind or unmotivated[; (9) s]ocial media, peer pressure, and porn[; or (10) o]ther risky behaviors.²²

The Trinity Teen Solutions website, a facility for struggling teen girls owned by the same family that owns Triangle Cross Ranch, advertises itself as treating a similarly broad range of issues, placing substance abuse and self-harm in the

[<https://perma.cc/HVK8-9CU9>]; As defined by Professor Davies:

A total institution may be defined as a place of residence and work where a large number of like-situated individuals cut off from the wider society for an appreciable period of time together lead an enclosed formally administered round of life First, all aspects of life are conducted in the same place and under the same single authority. Second, each phase of the member's daily activity is carried out in the immediate company of a large batch of others, all of whom are treated alike and required to do the same things together. Third, all phases of the day's activities are tightly scheduled with one activity leading at a pre-arranged time into the next, the whole sequence of events being imposed from above by a system of explicit, formal rulings and a body of officials. Finally the various enforced activities are brought together into a single rational plan purportedly designed to fulfill the official aims of the institution.

Christie Davies, Goffman's Concept of the Total Institution: Criticisms and Revisions, 12 HUM. STUD. 77, 77–78 (1989).

²⁰ C. Jamie Matter, *The Troubled Teen Industry and Its Effects: An Oral History*, UNIV. OF N.H. INQUIRY J. (Spring 2022), <https://www.unh.edu/inquiryjournal/spring-2022/troubled-teen-industry-and-its-effects-oral-history> [<https://perma.cc/255V-LEHA>].

²¹ See *Triangle Cross Ranch, LLC*, TRIANGLE CROSS RANCH, <https://web.archive.org/web/20230827203106/https://trianglecrossranch.com/> (last visited Dec. 20, 2023) [<https://perma.cc/R53N-95RH?type=image>] (recently rebranded to Sunlight Mountain Boys Ranch); *Treatment Philosophy and Therapy for Troubled Teens*, TRINITY TEEN SOLUTIONS, <https://web.archive.org/web/20230211190413/https://www.trinityteensolutions.com/treatment-philosophy/> (last visited Dec. 20, 2023) [<https://perma.cc/J4L4-QT4W>] [hereinafter *Treatment Philosophy*, TRINITY TEEN SOLUTIONS]; *Admissions at Moonridge Academy: Who We Admit*, MOONRIDGE ACADEMY, <https://www.moonridgeacademy.com/Admissions> (last visited Dec. 20, 2023) [<https://perma.cc/VK5Y-JPC8>].

²² TRIANGLE CROSS RANCH, *supra* note 21.

same list as problems such as apathy and attention seeking.²³ Moonridge Academy, a treatment center for young girls in Utah, advertises itself as being equipped to treat acute problems such as depression and mood disorders, Post Traumatic Stress Disorder, and addictions, along with very general, seemingly low-level problems such as “low motivation” and “peer problems.”²⁴ Further, facilities often make broad claims about their success rates and the progress that teens will make in the program, stopping short of making explicit guarantees regarding results.²⁵ On the “Frequently Asked Questions” section of Trinity Teen Solutions website, in response to the question “are there any guarantees of success for my teen?,” the facility claims to have experienced a “higher rate of success than [their] competitors,” but qualifies that statement by asserting that any “success[es] and failures are directly related to your daughter’s personal motivation for change and how supportive her family is in her outcomes.”²⁶ In short, private youth programs appeal to parents partly by claiming to treat many of the generic difficulties associated with adolescence in addition to many acute mental health and behavioral conditions.

After parents or guardians make the choice to place their child in a troubled youth program, they must also decide how to deliver their child to the facility. For parents who are unwilling or unable to transport their child themselves, youth transportation companies function as independent third parties to transport children to troubled youth programs.²⁷ In her documentary, as well as a Washington Post article calling for reform, Paris Hilton described waking up in the middle of the night to find two men standing over her, who gave her the option of going “the easy way or the hard way.”²⁸ The men then physically carried her out of her home while she screamed for her parents, who she could see crying in their doorway, and transported her to Provo Canyon School in Utah.²⁹ This process, known as “gooning,” is a common practice across the United States for transporting youths to behavior reform programs.³⁰ Although

²³ *Treatment Philosophy*, TRINITY TEEN SOLUTIONS, *supra* note 21.

²⁴ MOONRIDGE ACADEMY, *supra* note 21.

²⁵ See *Frequently Asked Questions*, TRINITY TEEN SOLUTIONS, <https://web.archive.org/web/20230202141331/https://www.trinityteensolutions.com/> (last visited Dec. 20, 2023) [<https://perma.cc/NEF9-JWD9>] [hereinafter *FAQs*, TRINITY TEEN SOLUTIONS]; *About Us*, TRIANGLE CROSS RANCH, <https://web.archive.org/web/20230819234258/https://trianglecrossranch.com/about-us/> (last visited Dec. 20, 2023) [<https://perma.cc/T4ML-764H>]; *Turn-About Ranch Outcomes*, TURN-ABOUT RANCH, <https://www.turnaboutranch.com/therapy/outcomes/> (last visited Dec. 20, 2023) [<https://perma.cc/3986-L93H>].

²⁶ *FAQs*, TRINITY TEEN SOLUTIONS, *supra* note 25.

²⁷ Ira Robbins, *Kidnapping Incorporated: The Unregulated Youth-Transportation Industry and the Potential for Abuse*, 51 AM. CRIM. L. REV. 563, 567 (2014).

²⁸ Paris Hilton, *America’s Troubled Teen Industry Needs Reform so Kids Can Avoid the Abuse I Endured*, WASHINGTON POST (Oct. 18, 2021, 1:26 PM), <https://www.washingtonpost.com/opinions/2021/10/18/paris-hilton-child-care-facilities-abuse-reform/>.

²⁹ *Id.*

³⁰ “Gooning” is a process where strangers, typically brawny-looking men, wake up a teenager in the middle of the night and forcibly transport them to a residential program. Jim

“gooning” is commonplace, transporters do not always surprise youths in the middle of the night. Danielle Bregoli’s *Dr. Phil* episode concluded with a promotion for “Hired Power,” the youth transport service that took Bregoli directly from the studio to the ranch.³¹ The “after taping” segment depicts her yelling, throwing water, and generally resisting but shows that she “eventually agreed” to go with transporters and travel to Turn-About Ranch.³² Dr. Phil made clear just a few minutes prior, however, that this was not Bregoli’s choice—it was her mother’s.³³

Currently, the only state to regulate the secure transport industry is Oregon, which passed a law in 2021 prohibiting the use of “hoods, blindfolds, and handcuffs, among other things.”³⁴ No other state places any limitations outside of criminal law on the mechanisms by which minors may be transported and restrained.³⁵ There is no federal regulation of the secure transport industry.³⁶

C. Recent Media Attention and Criticism

In the aftermath of both Hilton and Bregoli speaking out about their experiences, the Troubled Teen Industry has received increasing media attention, both in news outlets and on social media as survivors utilize #BreakingCodeSilence to share their personal stories.³⁷ In the past few years, NBC has published multiple exposes of various troubled teen facilities, at least two of which stopped accepting new youth admissions following the publication of the respective articles.³⁸

Salter, *Rules Sought for ‘Gooning,’ Taking Troubled Kids to Care*, U.S. NEWS AND WORLD REP. (Sept. 27, 2022, 6:15 AM), <https://www.usnews.com/news/us/articles/2022-09-27/rules-sought-for-gooning-taking-troubled-kids-to-care>.

³¹ *Dr. Phil: I Want to Give Up My Car Stealing, Knife-Wielding, Twerking 13-Year-Old Daughter Who Tried To Frame Me For A Crime!*, *supra* note 8.

³² *Id.*

³³ *Id.*

³⁴ Salter, *supra* note 30.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Tyler Kingkade, *Girls Alleged Abuse at Circle of Hope Girls Ranch for Years. It Stayed Open Until They Got on TikTok*, NBC NEWS (Sept. 25, 2020, 12:51 PM), <https://www.nbcnews.com/news/us-news/girls-alleged-abuse-reform-school-years-it-stayed-open-until-n1241011> [hereinafter Kingkade, *Alleged Abuse at Circle of Hope*]; ICYMI, *The TikTokers Taking Down The Troubled Teen Industry*, SLATE (May 14, 2022, 5:00 AM), <https://slate.com/podcasts/icymi/2022/05/tiktok-troubled-teen-industry-tiktokkers-revealing-truth>.

³⁸ See Tyler Kingkade, *Teens Were Sent to Wyoming Ranches for Therapy. They say they Found a Nightmare of Hard Labor and Humiliation*, NBC NEWS (Sept. 7, 2022, 5:46 PM), <https://www.nbcnews.com/news/us-news/wyoming-christian-troubled-teen-ranches-abuse-rcna46112> [hereinafter Kingkade, *Teens Were Sent to Wyoming Ranches*]; Tyler Kingkade, *Wyoming Ranch for Troubled Teens Closes Following Abuse Allegations*, NBC NEWS (Oct. 6, 2022, 4:08 PM), <https://www.nbcnews.com/news/us-news/trinity-teen-solutions-wyoming-ranch-closes-abuse-allegations-rcna50762>; Tyler Kingkade & Liz Brown, *Christian Boys School in Missouri Under Investigation as Abuse Claims Mount*, NBC NEWS (Feb. 26, 2021, 9:19 PM), <https://www.nbcnews.com/news/us-news/christian-boys-school-missouri-under>

The Troubled Teen Industry has received international as well as domestic media attention. In November 2022, *60 Minutes Australia* featured both Paris Hilton and an Australian survivor of the Troubled Teen Industry, identified only as Emily.³⁹ The program discussed how youths from around the world may be sent to troubled teen facilities in the United States, especially when their home country has tighter restrictions on private youth programs.⁴⁰ After being “gooned” in the middle of the night and traveling with transporters from Australia to the United States, Emily spent ten weeks at a wilderness therapy program in Utah before being relocated to a therapeutic boarding school in remote Montana.⁴¹ There, she described receiving harsh punishments for minor infractions, such as being forced to dig up tree stumps, being denied food, and being forbidden from speaking with anyone for months at a time.⁴² The facility also employed “attack therapy,” a group therapy technique characterized by peers pointing out or ridiculing each other’s shortcomings.⁴³

Troubled Teen facilities are not the only parties interested in discrediting backlash and upholding the reputation of the industry. In addition to providing a platform for Hilton and Emily to describe the abuse they endured in their respective programs, the *60 Minutes* segment also featured an interview with Andy Goldstrom, a parent whose belief in the benefits of wilderness therapy and other private youth reform programs is so strong that he started a podcast and support group to guide parents through the process.⁴⁴ However, he was surprised by questions concerning allegations of abuse in troubled teen programs, initially asserting that the alleged abuse does not occur.⁴⁵ When the interviewer pushed back, asking if we should not believe the accounts of survivors who have lived through these programs, he asked for a “time out” because “this is not how the interview, I thought, was supposed to go.”⁴⁶ Of Paris Hilton specifically, he said “she came from a home where she was used to being, you know, spoiled, and her parents tried to reign her in. She was sent for some discipline. She did not like the discipline.”⁴⁷ Later, when the interviewer read a specific allegation of abuse from a survivor of the same program to which he had sent his daughter, he took his microphone off and ended the interview, stating he was “just a parent who’s trying to help [his daughter]. You know . . . trying to help the industry,” and that he was “not supposed to be on trial.”⁴⁸

-investigation-abuse-claims-mount-n1259030; Jim Salter, *Missouri Boarding School Under Investigation Will Shut Down*, AP NEWS (Jan 11, 2023, 3:59 PM), <https://apnews.com/article/crime-stockton-missouri-education-6d4bc69348f4349249e49b3ec7c29172>.

³⁹ *60 Minutes Austl., Survivors of the “Troubled Teen Industry” Speak Out and Fight Back*, YOUTUBE (Nov. 13, 2022), <https://www.youtube.com/watch?v=cFLaEnQ2Dp0>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *See id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

Social media, particularly TikTok, has provided a powerful platform for survivors of the Troubled Teen Industry to finally have an effective way to speak out. Survivors of Circle of Hope Girls Ranch in Missouri alleged abuse for decades, with complaints beginning the same year the ranch opened in 2006.⁴⁹ In 2008, the Missouri education department told a parent who made a complaint that they had no authority over the facility because it operated as a private boarding school.⁵⁰ In 2015, a mother complained to the social services department that her daughter had been restrained and fed nothing but soup at Circle of Hope, and the department responded that there was little they could do as the facility was classified as a private religious school.⁵¹ In 2018, the Missouri Department of Social Services determined in a preliminary finding that the facility's owner had abused a minor, but that the agency did not have the authority to force the ranch to close because it did not have licensing authority over the program.⁵² After receiving a concerned message from a family friend she had not spoken to in years, Amanda Householder, the daughter of the owners of Circle of Hope Girls Ranch, created a TikTok account in May of 2020 dedicated to exposing abuse occurring at the facility.⁵³ Videos from the account went viral and finally prompted the Cedar County Sheriff's Department and the Department of Social Services to open an investigation that resulted in two dozen girls being removed from the facility in August of 2020.⁵⁴ The owners of the ranch opted not to reopen it "rather than deal with the government" or the "'corrupt' [S]heriff's department."⁵⁵

Social media's influence in ending abuse at Circle of Hope Ranch did not end with the facility's closure. In March of 2021, Boyd and Stephanie Householder were criminally charged with dozens of counts of felony offenses related to the reported abuse at the ranch.⁵⁶ Owners of other facilities have been the targets of civil litigation: twenty-five former residents of Trinity Teen Solutions filed a federal class action lawsuit in December of 2020, alleging forced labor, trafficking, racketeering, negligence, and negligent infliction of emotional distress.⁵⁷ However, a judge later ruled in 2022 that the lawsuit could not proceed as a class-action, reasoning that the case hinged on too many fact-

⁴⁹ Kingkade, *Alleged Abuse at Circle of Hope*, *supra* note 37.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Tyler Kingkade & Liz Brown, *Circle of Hope Girls Ranch Owners Charged With Abuse After Women Spoke out on TikTok*, NBC NEWS (Mar. 10, 2021, 2:36 PM), <https://www.nbcnews.com/news/us-news/circle-hope-girls-ranch-owners-charged-abuse-after-women-spoke-n1260439>.

⁵⁷ Kamila Kudelska, *Twenty Five Girls Claim Abuse While At Clark Private Christian Residential Treatment Center*, WYOMING PUBLIC RADIO (Dec. 4, 2020, 4:14 PM), <https://www.wyomingpublicmedia.org/open-spaces/2020-12-04/twenty-five-girls-claim-abuse-while-at-clark-private-christian-residential-treatment-center> [https://perma.cc/6CEY-457G].

specific inquiries for each plaintiff, most notably parental consent for the “chores” and other labor performed on the ranch.⁵⁸

Some facilities that have been the subject of significant negative media attention have pushed back against accusations and maintained that they are mission-driven organizations doing positive work with struggling teenagers. The home page of Turn-About Ranch’s website features a banner exclaiming, “We Are Staying Committed to Our Mission!”⁵⁹ Clicking on the banner takes readers to a page addressing the recent media criticism to which the ranch has been subjected.⁶⁰ The first paragraph states:

There has been a lot of noise in the media lately; nevertheless, our mission has not changed—help youth and families who are struggling to find their way. We are a working cattle ranch in the old Southwest. We work hard, eat well, and take pride in what we do. We work with our hands. Sometimes we get dirty and sometimes we sleep on the floor. We hold people accountable and we work through the consequences of our actions. We help struggling youth. We have been performing this same mission for over thirty years.⁶¹

The page goes on to explain that Danielle Bregoli was one of their students and that she remains a valued member of the Turn-About Ranch family.⁶² The message asserts that when Bregoli graduated, she valued her time at the ranch, referencing a follow-up video featured on the *Dr. Phil* show in which Bregoli expresses that she feels better about who she is and does not feel like she “has to put on a front to impress anyone.”⁶³ The clip, which is prominently displayed on the webpage, features part of Bregoli’s graduation ceremony from the ranch, in which Bregoli notably states, “I thought that there was no way that I could ever survive here . . . I’m living proof, I survived.”⁶⁴

What is more notable are the several follow-up videos Turn-About Ranch omitted from their website. In one video, Bregoli’s mother states “the minute

⁵⁸ Leo Wolfson, *Trinity Teen Solutions, Wyoming Facility for Troubled Teens, Shuts Doors Despite Courtroom Win*, COWBOY STATE DAILY (Nov. 1, 2022), <https://cowboystatedaily.com/2022/11/01/trinity-teen-solutions-wyoming-facility-for-troubled-teens-shuts-doors-despite-courtroom-win/> [https://perma.cc/WA7M-3Q5D]; *Former Residents Suing Ranch for Troubled Teens Hope Court Case Can Proceed As A Class Action Lawsuit*, THE WYOMING TRUTH (Nov. 15, 2022), <https://wyomingtruth.org/former-residents-suing-ranch-for-troubled-teens-hope-court-case-can-proceed-as-a-class-action-lawsuit/> [https://perma.cc/9ABG-TA34].

⁵⁹ TURN-ABOUT RANCH, <https://www.turnaboutranch.com/> (last visited Dec. 20, 2023) [https://perma.cc/AFY8-EWDA].

⁶⁰ *Staying Committed to Our Mission!*, TURN-ABOUT RANCH (Apr. 21, 2021), <https://www.turnaboutranch.com/2021/04/staying-committed-to-our-mission/> [https://perma.cc/C9TZ-73ND].

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*; Dr. Phil, *I Just Feel Ok With Who I Am Now. I Don’t Have to Put on a Front to Impress Anyone*, YOUTUBE (Feb. 10, 2017), <https://www.youtube.com/watch?v=akxYw76Osvg&list=PL2h7Wy4Xi82gkJA94xuYHPSAT2FydpVyu&index=13>.

⁶⁴ Dr. Phil, *I Just Feel Ok With Who I Am Now. I Don’t Have to Put on a Front to Impress Anyone*, *supra* note 63.

we left the ranch, she started to test me,” and explains that since coming home from the ranch, Bregoli has not abided by the contract they established when she came home or returned to school.⁶⁵ In an interview with Bregoli at her home, a producer asks, “when you were at Turn-About, you said that you learned that material things don’t matter as much anymore?,” to which Bregoli responds “that was just a show, damn. I just said that so I could get outta [sic] there.”⁶⁶

Bregoli’s regression to past behavior after her time at the ranch is not an uncommon response after leaving an abusive troubled teen facility.⁶⁷ A former resident of Trinity Teen Solutions, Kelsie VanMeveren, stated “I wanted to ruin my life when I got out,” noting that her harmful behaviors only heightened after she left the facility.⁶⁸

D. Juvenile Detention Centers

Privately run facilities are often shielded from substantial oversight, but even publicly run facilities housing minors in state custody may evade meaningful external regulation where oversight is not sufficiently robust. One notable example is Ware Youth Center (“Ware”), a juvenile detention facility in Coushatta, Louisiana that faced scrutiny and investigation after two teenagers committed suicide at the facility within seventy-two hours of each other.⁶⁹ In October of 2022, the New York Times published an exposé detailing the poor conditions at Ware and a lengthy history of sexual abuse and institutional cover-ups.⁷⁰ The article notes that state oversight of the facility is often “superficial and easy to manipulate.”⁷¹ A former Ware guard stated that before inspections, “new bedding and rugs” would suddenly appear, children would have “their hair done,” and inspectors would rely on Ware officials to choose which children to interview.⁷² Kenny Loftin, the director of Ware, reportedly stated that oversight was a unnecessary and that he was not worried because if he shut Ware’s doors, the Department of Children and Family services would face backlash for putting

⁶⁵ Dr. Phil, *The Minute We Left the Ranch, She Started to Test Me*, YOUTUBE (Feb. 10, 2017), <https://www.youtube.com/watch?v=ZTjFA2Ow2oc&list=PL2h7Wy4Xi82gkJA94xuYHPSAT2FydpVyu&index=6>.

⁶⁶ Dr. Phil, *Y’all Can Put Me in a Program for Six Years and I’m Gonna Come Out The Same Person I Went In*, YOUTUBE (Feb. 10, 2017), <https://www.youtube.com/watch?v=fq57g9hWYeg&list=PL2h7Wy4Xi82gkJA94xuYHPSAT2FydpVyu&index=12>.

⁶⁷ See Matter, *supra* note 20.

⁶⁸ Leo Wolfson, *‘I wanted to ruin my life when I got out’: Trinity Teen Solutions Owners Denounce Claims*, CODY ENTERPRISE (Dec. 1, 2021), https://www.codyenterprise.com/news/local/article_2636d50c-34eb-11eb-8e63-e3723ba2296b.html.

⁶⁹ Vickie Welborn, *2 Teens Commit Suicide at Ware Youth Center*, KTBS NEWS (Feb. 11, 2019), https://www.ktbs.com/news/2-teens-commit-suicide-at-ware-youth-center/article_e6e9fcd8-2e2c-11e9-89f5-b7259a240088.html [https://perma.cc/4XFW-ZSGN].

⁷⁰ Megan Shutzer & Rachel Lauren Mueller, *‘Dying Inside’: Chaos and Cruelty in Louisiana Juvenile Detention*, N.Y. TIMES (Oct. 30, 2022), www.nytimes.com/interactive/2022/10/29/us/juvenile-detention-abuses-louisiana.html.

⁷¹ *Id.*

⁷² *Id.*

the public at risk.⁷³

Louisiana earned a reputation in the 1990s for operating one of the country's worst juvenile justice systems.⁷⁴ The state continues to be known as the "lockup capital of the world," and "relie[s] heavily on solitary confinement" for both adult and juvenile inmates.⁷⁵ NBC News reported on the unacceptable conditions at the state's Acadiana Center for Youth at St. Martinville ("St. Martinville"), noting that youths were held in solitary confinement for days at a time, were treated with violence by the guards, and were deprived of an education.⁷⁶ The article notes that conditions have improved in recent months, with some—but not all—teens being allowed out of their cells during the day and math and English instruction now being offered at the facility.⁷⁷ However, the facility still provides less education than is required by law, and youths are still shackled when they leave the common areas in front of their cells.⁷⁸ Despite being a state facility, St. Martinville is not subject to oversight by external agencies.⁷⁹ Although the "Department of Children and Family Services inspects and licenses juvenile group homes and detention facilities" that house youths when they are "first accused of crimes, only the Office of Juvenile Justice has authority over secure care facilities such as St. Martinville where teens are placed" after sentencing.⁸⁰ In 2019, a legislative task force identified this as a "glaring gap in oversight" and recommended that the facilities be inspected by an outside agency, but such a change has not been implemented.⁸¹

Louisiana's juvenile detention centers are not representative of the conditions of juvenile incarceration across the United States.⁸² Nonetheless, the tragedies that have occurred at Louisiana juvenile facilities in recent years illustrate that the mere availability of state or federal oversight is insufficient to ensure the safety of minors.⁸³ To be effective, such oversight and regulatory authority must be consistently and rigorously implemented.

Having been accused or convicted of crimes, teens in the criminal legal system have been labeled as "troubled" by the state rather than their parents. However, problems with being taken seriously by adults often persist regardless of where the youth are held and who placed them there. Youths housed in juvenile detention centers face similar credibility challenges to those housed in privately run facilities. Youths who alleged sexual abuse at Ware were dismissed, and the adults entrusted with their care made comments such as "most of the girls in

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Erin Einhorn et al., 'No Light. No Nothing.' *Inside Louisiana's Harshest Juvenile Lockup*, NBC News (March 10, 2022, 6:00 AM), <https://www.nbcnews.com/news/us-news/Louisiana-juvenile-detention-st-martinville-rcna19227>.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *See id.*

there, it's hard to believe what they say. They're not in there for going to church on Sunday" or "you can't believe what these kids say These kids come from all over the place, from down south, New Orleans, Baton Rouge. They're different, they're a lot rougher."⁸⁴ Absent routine inspection by independent agencies who take complaints at face value and who hold legitimate enforcement powers, youth are unlikely to be taken seriously. Consequently, these teens cannot be kept safe.

II. LEGAL BACKGROUND

Private residential facilities for minors are not subject to any federal regulation or oversight.⁸⁵ Individual states impose varying regulatory requirements on private facilities, but many do not have any licensing, accreditation, registration, or approval requirements for private schools.⁸⁶ Beyond the current lack of meaningful government oversight, the existing legal framework informing conversations about the Troubled Teen Industry can largely be grouped into three categories: parents' rights, children's rights, and consumer protection. As will be shown below, the law is presumptively deferential to almost all decisions parents make on their children's behalf.⁸⁷ This creates unique challenges for limiting parents' rights to place their minor children out of the home in private facilities.

However, children do have competing rights that the law is sometimes willing to protect, such as those regarding child labor, abuse, and education.⁸⁸ Where states specifically exempt religious facilities from regulations, children may have an equal protection claim in that they are not afforded the same protections as their peers in public schools.⁸⁹

Finally, the Troubled Teen Industry is implicated in consumer protection laws, as evidenced by a GAO report that uncovered numerous examples of deceptive

⁸⁴ Shutzer & Mueller, *supra* note 70.

⁸⁵ Krebs, *supra* note 12.

⁸⁶ See generally U.S. DEP'T OF EDUC., STATE REGULATION OF PRIVATE SCHOOLS (2009).

⁸⁷ See generally Meyer v. Nebraska, 262 U.S. 390 (1923); Pierce v. Soc'y of Sisters, 268 U.S. 510 (1925); Wisconsin v. Yoder, 406 U.S. 205 (1972); Troxel v. Granville, 530 U.S. 57 (2000). But see Prince v. Massachusetts, 321 U.S. 158 (1944).

⁸⁸ See Prince, 321 U.S. at 172; Duchesne v. Sugarman, 566 F.2d 817, 825 (2d Cir. 1977).

⁸⁹ For instance, some scholars have argued that:

. . . there is no reason to believe that a religious school would be unable to maintain a distinctively religious character even if it were subject to all of the statutory regulations to which public schools are now subject. Moreover, this concern is also irrelevant, because if the constitutional right of children to equal protection of the laws requires that states eviscerate all significant distinctions between public and non-public schools, then ex hypothesis they have no sufficient reason for not doing so.

James G. Dwyer, The Children We Abandon: Religious Exemptions to Child Welfare and Education Laws as Denials of Equal Protection to Children of Religious Objectors, 74 N.C. L. Rev. 1321, 1384 (1996).

marketing and unfair trade practices by private residential facilities for minors.⁹⁰ Although not subject to any particularized consumer protection laws, such private facilities are still subject to general prohibitions on fraud and deception.⁹¹

A. *Existing Government Oversight and Regulation*

In 2008, the GAO published a report titled “Residential Programs: Selected Cases of Death, Abuse, and Deceptive Marketing,” after investigating eight closed cases of abuse and death of youths at private treatment facilities between 1994 and 2006.⁹² The report found that in those eight cases, “ineffective management and operating practices, as well as untrained staff contributed to the death and abuse of youths in selected programs.”⁹³ Despite this finding more than a decade ago, most private residential facilities for youths are still not subject to any federal regulation or oversight.⁹⁴ There is one limited exception: psychiatric residential treatment facilities (“PRTFs”) that receive Medicaid funding are overseen by the Department of Health and Human Services.⁹⁵ To receive Medicaid funding, PRTFs must adhere to regulations concerning “restraint and seclusion techniques,” and are “required to report serious incidents” and deaths to state Medicaid agencies.⁹⁶ However, for all other types of private troubled teen facilities, there are no consistent regulations at the state level, and many states go so far as to “completely exempt religious boarding schools from licensing requirement and from oversight from education and child welfare authorities.”⁹⁷

Many states do not have licensing, accreditation, registration, or approval requirements for private schools.⁹⁸ For example, Utah, which receives more troubled teens than any other state,⁹⁹ makes accreditation optional for private schools and has no requirements for licensing, registration, or approval.¹⁰⁰ Utah further allows private and parochial schools to exempt themselves from the state prohibition on corporal punishment by creating a school policy and notifying parents or guardians of the exemption.¹⁰¹ Missouri, home to more than 100 Christian boarding schools offering “hope for wayward teens,” mandates

⁹⁰ U.S. GOV'T ACCOUNTABILITY OFF., RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE, *supra* note 16, at 2.

⁹¹ *Id.* at 16.

⁹² *Id.* at 2.

⁹³ *Id.* at 3.

⁹⁴ Krebs, *supra* note 12.

⁹⁵ U.S. GOV'T ACCOUNTABILITY OFF., RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE, *supra* note 16, at 7.

⁹⁶ *Id.*

⁹⁷ Krebs, *supra* note 12.

⁹⁸ See generally U.S. DEP'T OF EDUC., *supra* note 86; a fifty-state survey of state requirements of private schools is beyond the scope of this project—states selected are those that are home to the highest proportion of troubled teen facilities or that have particularly notable facilities tied up in legislation.

⁹⁹ Salter, *supra* note 30.

¹⁰⁰ U.S. DEP'T OF EDUC., *supra* note 86, at 272.

¹⁰¹ *Id.*

registration for private schools, but has no requirements for licensing, approval, or accreditation.¹⁰² Wyoming does not require registration, approval, or accreditation, and generally mandates licensing but exempts religious K–12 schools from this requirement.¹⁰³

The impact on a child’s education after they leave a troubled teen facility depends on the accreditation and licensing status of the program and that state’s requirement. Trinity Teen Solutions and Triangle Cross Ranch, respectively the girls and boys therapeutic boarding schools located in Wyoming, are faith-based Catholic schools and are therefore exempt from state licensing requirements.¹⁰⁴ Schools exempt from licensing requirements are not required to meet student performance standards or to teach a standardized curriculum.¹⁰⁵ Circle of Hope Girls Ranch, a now-closed facility that was located in Missouri, included a disclaimer on the education section of its website stating that although they were registered with the Missouri Board of Education, it was not regionally accredited.¹⁰⁶ The facility identified itself as a “ministry with sincerely held religious convictions against government control and oversight over the academic aspects of our institution,” noting that the state of Missouri does not require them to obtain accreditation to operate or to grant diplomas.¹⁰⁷ However, other school districts and universities had their own policies about whether or not to accept unaccredited credits, so there was no guarantee that credits earned at the Ranch would transfer over to other schools.¹⁰⁸

B. Parents’ Rights

Parents have constitutionally protected rights to the care, custody, and control of their children and, as a result, wield nearly unfettered rights to raise their children as they see fit and to make decisions on their behalf.¹⁰⁹ The court in *Parham v. J.R.* held that a child voluntarily committed to a state mental health hospital by a parent or guardian does not have a due process right to challenge the commitment in an adversary proceeding.¹¹⁰ Delivering the opinion of the court, then-Chief Justice Burger noted the law’s presumption that parents are better suited than their children to make decisions and exercise judgment, and that the natural bonds of the family will lead parents to act in their children’s best

¹⁰² Salter, *supra* note 30; U.S. DEP’T OF EDUC., *supra* note 86, at 154.

¹⁰³ U.S. DEP’T OF EDUC., *supra* note 86, at 313.

¹⁰⁴ TRIANGLE CROSS RANCH, *supra* note 21; *Treatment Philosophy*, TRINITY TEEN SOLUTIONS, *supra* note 21; U.S. DEP’T OF EDUC., *supra* note 86, at 313.

¹⁰⁵ U.S. DEP’T OF EDUC., *supra* note 86, at 314.

¹⁰⁶ CIRCLE OF HOPE GIRLS RANCH, https://web.archive.org/web/20100501163023/http://circleofhopegirlsranh.org/index_files/education.htm (last visited Dec. 20, 2023).

¹⁰⁷ *Id.*

¹⁰⁸ *See id.*

¹⁰⁹ *See generally* Meyer v. Nebraska, 262 U.S. 390 (1923); Pierce v. Soc’y of Sisters, 268 U.S. 510 (1925); Wisconsin v. Yoder, 406 U.S. 205 (1972); Troxel v. Granville, 530 U.S. 57 (2000). *But see* Prince v. Massachusetts, 321 U.S. 158 (1944).

¹¹⁰ Parham v. J.R., 442 U.S. 584, 603–04 (1979).

interests.¹¹¹

Parham thus establishes that parents have the right to commit their children to institutions for healthcare and education without the oversight or intervention of the state.¹¹² Further, the child has no legal avenue to challenge their confinement in any facility so long as their parent authorizes their stay.¹¹³ At a psychiatric facility, there is at least one procedural safeguard in place: the hospital superintendent must determine that the child needs to be admitted to the hospital.¹¹⁴ In privately run facilities for troubled youths, there are no procedural safeguards to protect children's interests.¹¹⁵ Children do not have legal standing to challenge their parents' decision to send them to a private residential program, and without the requirement that a medical professional determine whether inpatient treatment is in the child's best interest, meaningful checks on parental authority to confine children to residential programs remain absent.¹¹⁶

Parental consent was asserted as an affirmative defense to allegations that Triangle Cross Ranch and Trinity Teen Solutions used the teenagers in their care for forced labor.¹¹⁷ Former residents alleged that they worked for six to ten hours per day, and that they laid irrigation pipes, chopped wood, baled hay, and shoveled manure.¹¹⁸ Lawyers for the ranches claimed that labor performed by residents was "merely chores," a component of the treatment program, and that parents never expected their children to receive wages for work performed at the ranches.¹¹⁹ A judge denied the ranches' motion for summary judgment, noting that if the lawsuit's allegations are true, the labor performed would "exceed what a parent would consent to."¹²⁰ Allegations of this type are not uncommon; troubled teen facilities in Indiana, Missouri, Mississippi, Oregon, Ohio, and Utah have also been accused of forcing youths to perform manual labor, either as a component of their treatment program or as punishment.¹²¹

C. Children's Rights

Despite the substantial deference the state affords to parents in matters of childrearing, courts have drawn some lines around parental rights to protect child welfare. One of those lines is drawn at child labor; neither religious exercise nor family privacy exempts parents from the prohibition on child labor.¹²² The court

¹¹¹ *Id.*

¹¹² *Id.*; *Pierce*, 268 U.S. at 534–35.

¹¹³ *Parham*, 442 U.S. at 603–04.

¹¹⁴ *Id.* at 602.

¹¹⁵ *Id.* at 603–04.

¹¹⁶ *See id.*; *Pierce*, 268 U.S. at 534–35; Kingkade, *Alleged Abuse at Circle of Hope supra* note 37.

¹¹⁷ *See Kingkade, Teens Were Sent to Wyoming Ranches, supra* note 38.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *See id.*

¹²² *Prince v. Massachusetts*, 321 U.S. 158, 168–69 (1944) (holding that state laws prohibiting child labor in specified places are constitutional even where they may burden religious practices or parental decision making).

in *Prince v. Massachusetts* noted that neither religious freedom nor parental decision-making are absolute freedoms, and that the state's particular interest in child welfare justifies the exercise of broader authority over children than adults, including mandating school attendance and prohibiting child labor.¹²³ Further, the Trafficking Victims Protection Act of 2000 ("TVPA") makes clear that trafficking includes forced labor and violations of labor, public health, and human rights standards.¹²⁴ In a pending appeal against Trinity Teen Solutions, the attorney for the plaintiffs plans to raise a novel question of law to determine the effect, if any, of parental consent on the operation of the TVPA as it relates to labor performed by minors.¹²⁵

While the law purports to protect children from explicit abuse and neglect by their parents, the line between legally permissible physical discipline and impermissible abuse is tenuous. All states still permit parents to use corporal punishment as a form of discipline in their homes.¹²⁶ Nineteen states permit corporal punishment in both public and private schools, with some of those states allowing corporal punishment without prior parental consent and others allowing parents to "opt-out" of corporal punishment for their child.¹²⁷ Notably, only two states—New Jersey and Iowa—prohibit corporal punishment in private schools.¹²⁸ Although all states allow parents to use "reasonable corporal punishment" at home, few, if any, have appropriately defined what "reasonable corporal punishment" encompasses or drawn a clear line between reasonable corporal punishment and maltreatment.¹²⁹ In short, children do not share the right not to be hit with their adult counterparts, so long as the person hitting them (1) is a parent or was authorized by a parent and (2) does not cause "serious injury."¹³⁰

Although the law has generally considered minors incompetent to consent to (or refuse) medical treatment, minors have limited rights to consent on their own behalf.¹³¹ Minors may have broad rights to consent where they have court-ordered emancipation or situational emancipation.¹³² Many states grant minors

¹²³ *Id.*

¹²⁴ Victims of Trafficking and Violence Protection Act of 2000, Pub L. No. 106-386, 114 Stat. 1464, 1466 (2000).

¹²⁵ *Former Residents Suing Ranch*, THE WYOMING TRUTH, *supra* note 58.

¹²⁶ Tracy Connor, *Corporal Punishment: Legal and Common*, NBC NEWS (Sept. 16, 2014, 3:29 PM), <https://www.nbcnews.com/storyline/nfl-controversy/corporal-punishment-legal-common-n204416>; Jacqueline Howard, *These Are The Countries Where Spanking is Illegal*, CNN (Mar. 12, 2018), <https://www.cnn.com/2018/03/12/health/spanking-laws-parenting-without-borders-intl/index.html>.

¹²⁷ Gillian Grant, *Corporal Punishment in U.S. Schools*, L. J. FOR SOC. JUST. (Nov. 22, 2021).

¹²⁸ *Id.*

¹²⁹ Doriane Lambelet Coleman et al., *Where and How to Draw the Line Between Reasonable Corporal Punishment and Abuse*, 73 L. & CONTEMP. PROB. 107, 108 (2010).

¹³⁰ Connor, *supra* note 126; Grant, *supra* note 127.

¹³¹ See Ann McNary, *Consent to Treatment of Minors*, 11 INNOVATIONS IN CLINICAL NEUROSCIENCE 43, 43 (2014).

¹³² *Id.*

the right to consent to specific types of treatment, typically including substance abuse treatment, mental health care, and reproductive health care, although the age at which states declare minors competent to consent to these types of treatment varies.¹³³ State laws affording minors the right to consent to specific types of medical treatment are generally framed in terms of privacy and contemplate minors affirmatively seeking medical treatment that they wish to keep confidential.¹³⁴ If a minor would not seek medical care if they would have to inform their parents of their need for that care, states typically recognize that it is preferable to allow and incentivize minors to seek treatment privately.¹³⁵ However, the right to consent to specific types of health care and to receive treatment in confidence is not necessarily accompanied by the right to refuse that type of health care. As established in *Parham*, minors may be subject to medical treatment, including mental health and inpatient care, without their consent.¹³⁶

While affirming the general right to family privacy, courts have also recognized that children have a cognizable interest in remaining in the home with their parents.¹³⁷ Indeed, children have a specific interest in avoiding “dislocat[ion] from the emotional attachments that derive from the intimacy of daily association.”¹³⁸ Removing a child from their parent’s custody thus implicates a liberty interest that triggers a due process right. However, this right has traditionally been conceptualized in the context of children being removed from a parent’s custody against the wishes of the parent; whether children have a protected interest in remaining in their parents’ physical custody when the parents themselves seek to relinquish custody is less clear.¹³⁹ Acknowledging the lack of clarity on this issue, Justice Stevens argued in a dissent that it seems “extremely likely that, to the extent parents and families have fundamental liberty interests in preserving such intimate relationships, so, too, do children have these interests, and so, too, must their interests be balanced in the equation.”¹⁴⁰

D. Consumer Protection

Private residential programs are not subject to any particularized federal laws or regulations relating to their marketing content or practices; however, they are still subject to general consumer protection laws prohibiting fraud and

¹³³ *Id.*

¹³⁴ See Priya R. Pathak & Adriana Chou, *Confidential Care for Adolescents in the United States Healthcare System*, J. FOR PATIENT CENTERED RSCH. AND REVS. 46, 47 (2019).

¹³⁵ See *id.* at 48.

¹³⁶ *Parham v. J.R.*, 442 U.S. 584, 603–04 (1979).

¹³⁷ *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977); *Troxel v. Granville*, 530 U.S. 57, 89 (2000) (Stevens J., dissenting).

¹³⁸ *Duchesne*, 566 F.2d at 825 (holding that a state statute allowing any third party to petition a superior court for visitation rights and authorizing that court to grant visitation rights wherever it is in the best interest of the child unconstitutionally infringes on parental rights).

¹³⁹ See *id.*; *Troxel*, 530 U.S. at 88–89 (Stevens J., dissenting).

¹⁴⁰ *Troxel*, 530 U.S. at 88 (2000) (Stevens J., dissenting).

deception.¹⁴¹ Posing as the fictitious parents of troubled teenagers, GAO agents spoke with representatives from several residential treatment programs and uncovered examples of deceptive marketing and questionable industry practices.¹⁴² Private residential programs routinely charge high tuition costs; wilderness therapy programs, boarding schools, and boot camps surveyed by GAO officials charge thousands of dollars per month in tuition, with two wilderness programs charging over 13,000 dollars per month in tuition—before additional fees for enrollment, medical care, uniforms, supplemental or individual therapy.¹⁴³ The GAO documented deceptive marketing practices with respect to tax incentives and health insurance reimbursements intended to make the high costs associated with the programs appear more manageable to prospective parents.¹⁴⁴ GAO agents also uncovered false statements related to education and admissions; undisclosed conflicts of interest; and questionable practices regarding the health of teenagers in treatment and the methods of convincing reluctant parents to enroll their children.¹⁴⁵

Multiple agents and representatives connected to residential programs represented to GAO officials posing as the parents of troubled teens that there were significant tax incentives for enrolling their children.¹⁴⁶ A charitable foundation represented that charitable donations to residential facilities credited toward a child's tuition would be tax deductible, and that parents who were unable to afford a residential program could solicit family and friends to make tax-deductible donations to the program on their child's behalf, which would then be applied to the child's tuition.¹⁴⁷ An Internal Revenue Service ("IRS") official informed the GAO that the foundation is potentially committing tax fraud and that those who engage in this practice may be responsible for back taxes, interest, and penalties.¹⁴⁸ An agent for a referral service stated that behavioral modification schools are classified as "specialty schools" and that tuition payments and the cost of transporting the child to and from the facility are tax deductible.¹⁴⁹ However, the two programs the agent recommended do not meet the IRS criteria for special schools.¹⁵⁰ Further, § 213 of the Internal Revenue Tax Code establishes that only those otherwise uncompensated medical expenses and transportation to treatment exceeding 7.5% of the taxpayer's gross income may be deductible. The full amount spent on treatment and transportation to treatment is not deductible, as suggested by the referral agent.¹⁵¹

Other programs made deceptive and potentially risky statements regarding the

¹⁴¹ U.S. GOV'T ACCOUNTABILITY OFF., RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE, *supra* note 16, at 16.

¹⁴² *Id.*

¹⁴³ *Id.* at 24.

¹⁴⁴ *Id.* at 16.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* at 17.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 19.

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 19–20.

future reimbursement of program costs as medical expenses.¹⁵² A representative for a Texas wilderness therapy program assured parents that upon their child's completion of the program, the program would generate an itemized bill that could be submitted to the family's insurance company for reimbursement.¹⁵³ The program's representative emphasized that the parents should not call the insurance company ahead of time for pre-approval because then they would be "up the creek."¹⁵⁴ Representatives for a health insurance and a behavioral health company informed GAO officials that parents who follow this advice risk not being reimbursed, especially if they fail to seek pre-approval.¹⁵⁵ The same representative for the Texas wilderness therapy program made false statements about the transferability of education credits that youths earn while enrolled in the program, asserting that credits earned are "fully transferable" and that other institutions "can't deny" the credit; in reality, education credits can be denied by schools for any reason.¹⁵⁶

In 2008, following the publication of the GAO's report on abuse, death, and deceptive marketing in residential treatment programs, the Federal Trade Commission ("FTC") urged caution to parents considering residential programs for their children, noting that such facilities are not subject to federal regulations and are often not subject to state licensing and monitoring.¹⁵⁷ To provide guidance to parents considering these programs, the FTC authored a publication warning parents that many private facilities will advertise online and make claims about staff credentials, the level of treatment residents receive, accreditation, transferability of education credits, success rates, and endorsements.¹⁵⁸ Before enrolling their children in one of these programs, the FTC urged, parents should substantiate these claims by taking the following steps: seeking proof of claims regarding credentials, accreditation, and educational endorsements; visiting the facility in person; and getting all promises in writing.¹⁵⁹

The FTC recommends that parents independently contact state licensing agencies to verify licensure and that, regardless of licensing status, parents ask for copies of all public information. This would include "any complaints or actions filed against the program, site visit evaluations, violations, and corrective actions." The agency counsels paying particular attention to reports of "unsanitary or unsafe living conditions, nutritionally compromised diets,

¹⁵² *See id.* at 17.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 17.

¹⁵⁷ Press Release, Fed. Trade Comm'n, Evaluating Private Residential Treatment Programs for Troubled Teens (July 8, 2008), <https://www.ftc.gov/news-events/news/press-releases/2008/07/evaluating-private-residential-treatment-programs-troubled-teens> [<https://perma.cc/ZZ9Z-VTGY>].

¹⁵⁸ FED. TRADE COMM'N, CONSIDERING A PRIVATE RESIDENTIAL TREATMENT PROGRAM FOR A TROUBLED TEEN? QUESTIONS FOR PARENTS AND GUARDIANS TO ASK (July 2008), <https://files.eric.ed.gov/fulltext/ED505060.pdf> [<https://perma.cc/QJ3L-42HL>].

¹⁵⁹ *Id.*

exposure to extreme environmental conditions or extreme physical exertion, inadequate staff supervision . . . physical or sexual abuse of youth by program staff or other residents, and any violation of youth or family rights.”¹⁶⁰ The FTC also recommends that parents confirm with their children that they are receiving the promised level of care after they are enrolled.¹⁶¹ However, later in the same publication, the FTC recommends that parents clarify whether or not they can contact and speak with their child whenever they want to—and whether or not their child can do the same—noting that some programs prohibit, monitor, or otherwise restrict both written and verbal communication between enrolled children and their parents.¹⁶²

III. ARGUMENT

Given the current lack of regulations and oversight, federal and state governments must act to ensure that children are protected from the experiences endured by Hilton and Bregoli, and that parents cannot abuse their nearly unlimited power to confine their children to Troubled Teen facilities. So-called “therapeutic boarding schools” and other Troubled Teen Industry programs do not provide effective treatment to struggling teenagers and mislead concerned parents about their therapeutic capacity.¹⁶³ Such facilities are hotbeds of child abuse and neglect, and yet remain largely unregulated by either the state or federal government.¹⁶⁴ Teenagers experiencing social, emotional, and other mental health problems should be classified as a vulnerable class in need of additional protection from the state and federal government. Minors have a liberty interest in not being separated from their parents or confined in residential programs, and without the procedural safeguard recognized in *Parham* of a hospital superintendent authorizing their confinement, minors are denied the due process owed to them prior to the deprivation of that interest.¹⁶⁵ Any residential facility housing minors ought to be subject to significant state and federal regulation, oversight, and scrutiny, regardless of receipt of government funding or religious status.

Privately run youth facilities claiming to treat mental, emotional, and behavioral issues prey on and manipulate struggling parents, capitalizing on parents’ nearly unlimited rights to make decisions for their children.¹⁶⁶ By advertising an ability to treat such a wide range of conditions and behaviors, troubled teen facilities employ a psychological phenomenon analogous to the

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ See U.S. GOV’T ACCOUNTABILITY OFF., RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE, *supra* note 16, at 19.

¹⁶⁴ See *id.*; Press Release, Fed. Trade Comm’n, *supra* note 157.

¹⁶⁵ *Parham v. J.R.*, 442 U.S. 584, 602 (1979); *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977).

¹⁶⁶ See sections II.C, II.D, III.B, and III.D.

Barnum Effect to convince parents to entrust the facility with their child's care.¹⁶⁷ Just as the Barnum Effect results in individuals who take personality quizzes feeling as though vague, generally applicable descriptors are highly accurate descriptions of themselves, offering to treat a laundry list of mental illnesses, personal struggles, and undesirable adolescent behaviors heightens the likelihood that parents will identify at least one of the problems the facility claims to treat as applying to their child. More insidiously, including undesirable but developmentally appropriate behaviors on a list of problems the facility claims to be able to cure will inevitably give parents the impression that something is wrong with their child that they are not equipped to handle on their own and that professional help is necessary to weather their child's adolescence. Further, by claiming to cure such a wide range of behavioral problems, some facilities give the impression that parents can essentially wave a magic wand and in the space of a few months or years be reunited with a child who no longer struggles with any of the problems they were sent away for exhibiting.¹⁶⁸ Marissa Linderman, the director of advocacy for Unsilenced, argues for de-pathologizing being a teenager.¹⁶⁹ She notes that teenagers are supposed to have an attitude, say no, push boundaries, and sometimes give their parents a hard time.¹⁷⁰ By pathologizing developmentally appropriate behaviors, facilities do a disservice to teens and parents.

It is time to abandon the legal fictions that parents (1) always know what is in their children's best interest and (2) always act according to that best interest. Undoubtedly, most parents make decisions on behalf of their children in good faith. But a core function of the law is to protect the vulnerable from their guardians' misguided actions. There is often a tension between parents' rights and children's rights; parents may have sincere, deeply held beliefs about child rearing that conflict with what health and welfare experts know to be in children's best interests, and more importantly, with what the law requires for children in terms of health care and access to education.¹⁷¹ Where such a conflict arises, children's rights should be prioritized over parents' rights.

In a powerful dissent from a case concerning grandparent visitation rights over parental objections, Justice Stevens argued that "the constitutional protection against arbitrary state interference with parental rights should not be extended to prevent the states from protecting children against the arbitrary exercise of parental authority that is not in fact motivated by an interest in the welfare of the

¹⁶⁷ Also known as the "fallacy of personal validation," the Barnum Effect is the tendency to believe that vague predictions or general personality descriptions, such as those offered by astrology, have specific applications to oneself. *APA Dictionary of Psychology: Barnum Effect*, AM. PSYCHOL. ASS'N, <https://dictionary.apa.org/barnum-effect> [<https://perma.cc/XDT3-PT8U>].

¹⁶⁸ See TRIANGLE CROSS RANCH, *supra* note 21; *Treatment Philosophy*, TRINITY TEEN SOLUTIONS, *supra* note 21; MOONRIDGE ACADEMY, *supra* note 21.

¹⁶⁹ 60 Minutes Austl., *supra* note 39.

¹⁷⁰ *Id.*

¹⁷¹ See Dwyer, *supra* note 89, at 1321.

child.”¹⁷² Arguing that children have a protected liberty interest in preserving intimate familial relationships, Stevens asserted that prior cases recognizing children as constitutionally protected actors “require that this Court reject any suggestion that when it comes to parental rights, children are so much chattel.”¹⁷³ This is not to suggest that children should have the right to make most decisions for themselves, but where the child has an interest at stake, such as their interest in remaining in their home or access to high-quality healthcare or education, they should have opportunities to meaningfully advocate for themselves and the state should be able to intervene on their behalf.¹⁷⁴ With many troubled teen facilities, children’s liberty, education, and physical and mental health are at stake; therefore, they should have an opportunity to seek injunctive relief to prevent their admission and subsequent confinement.

Moreover, religious exemptions should be eliminated entirely with regard to the provision of education, healthcare, or general welfare of children in the care of private facilities. A school or treatment center’s religious affiliation ought to be irrelevant to the application and enforcement of regulations, with predictable, uniform standards applying to every facility housing minors in a given state.¹⁷⁵ As Dwyer observes, to hold otherwise denies equal protection to the children of religious parents.¹⁷⁶ Children are powerless to control their parents’ religious beliefs, and any attempt to classify them separately from their peers or to deny them the benefits and protections guaranteed to children of non-religious parents ought to be subject to at least intermediate scrutiny.¹⁷⁷

After parents have entrusted a troubled teen facility with their child’s care, a near-total lack of accountability and transparency allow abuses to occur.¹⁷⁸ The risk of abuse is compounded by the often unwinnable credibility contest between “troubled” youths and congregate care facilities. Indeed, in their responses to recent allegations of abuse by former residents, program owners have responded by attacking their accusers’ credibility, effectively asserting that now-adults ought always to be defined by their status as “troubled” when they were teenagers.¹⁷⁹ While adult former residents of troubled teen programs have gained traction by speaking out years after the fact, it is difficult to imagine that current residents or even teenagers who recently left treatment would be taken seriously. Consequently, in addition to establishing minimum standards for treating youths in private facilities and providing consistent oversight to ensure those standards are being met, regulations should focus on accountability and transparency. To

¹⁷² *Troxel v. Granville*, 530 U.S. 57, 89 (2000) (Stevens, J., dissenting).

¹⁷³ *Id.*

¹⁷⁴ *See Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977); Dwyer, *supra* note 89, at 1328.

¹⁷⁵ *See generally* Dwyer, *supra* note 89.

¹⁷⁶ *Id.*

¹⁷⁷ *See id.*

¹⁷⁸ *See* Tyler Kingkade et al., *Paris Hilton Pushes for Bill to Crack Down on Abusive Youth Facilities*, NBC NEWS, (Oct. 21, 2021, 9:57 AM) <https://www.nbcnews.com/news/us-news/paris-hilton-bill-troubled-teen-facilities-rcna3349>.

¹⁷⁹ *See* Kingkade, *Alleged Abuse at Circle of Hope*, *supra* note 37; Kingkade, *Teens Were Sent to Wyoming Ranches*, *supra* note 38.

start, states should require that all facilities housing youths away from their parents: (1) provide unlimited and unmonitored contact with parents or guardians; (2) be subject to routine visitation and review by the department of children and family services (or the equivalent department in a given state), including the opportunity to interview residents alone; and (3) document all treatment and disciplinary practices.

Given that family law and education law are largely creatures of the state, states should regulate to act as the first line of defense for children. However, given the frequency with which youths are transported across state lines to be placed in congregate care, federal regulation is essential to avoid jurisdictional problems and to ensure that youths have a remedy in states that underregulate the Troubled Teen Industry.¹⁸⁰ In part because the Troubled Teen Industry generates so much money, federal regulation would also function to prevent, or at least discourage, states from intentionally underregulating to incentivize private facilities to move to that state.

Private youth residential programs demand particularized consumer protection laws. Given the very high cost of placing children in residential programs, parents who fall victim to deceptive marketing may be financially vulnerable by the time their child leaves treatment—the juncture at which they would be most likely to litigate.¹⁸¹ The GAO report on deceptive marketing documented multiple instances of parents being misled regarding tax incentives and medical insurance reimbursement.¹⁸² It follows that parents who fell victim to deceptive marketing and other misleading statements or practices might have depleted their savings or otherwise taken on significant debt to fund their child's treatment; upon discovering that they were financially misled or that their child did not receive the care they were promised, they are likely less able to afford the assistance of counsel to bring a cause of action against the offending facility. Simultaneously, parents who could afford to spend thousands or tens of thousands of dollars out of pocket may not qualify for legal aid services to litigate their claims. The FTC publication warning parents to do their research before enrolling their child in a residential program, while necessary as an interim measure while more specific consumer protection laws are enacted, takes an inappropriately “buyer beware” approach with such high-stakes consumption.¹⁸³ Residential programs ought not to be treated comparably to deceptively marketed toys that are prone to breaking or have sharp edges when at stake are months and years out of children's lives during formative years.

Survivors of the Troubled Teen Industry call for reforms that center on

¹⁸⁰ Salter, *supra* note 30.

¹⁸¹ MAIA SZALAVITZ, *HELP AT ANY COST* 358 (2006) (the cost of treatment programs can vary wildly, but often runs into the tens of thousands of dollars. One Utah facility cost 2,000 dollars per month and had a minimum recommended stay of eighteen months, meaning parents following this recommendation would spend a minimum of 36,000 dollars).

¹⁸² U.S. GOV'T ACCOUNTABILITY OFF., *RESIDENTIAL PROGRAMS: SELECTED CASES OF ABUSE*, *supra* note 16, at 17–18.

¹⁸³ See FED. TRADE COMM'N, *supra* note 158.

transparency and accountability for private youth facilities.¹⁸⁴ Paris Hilton exposed a systemwide lack of transparency and accountability as the primary factors that have allowed the industry to mislead parents and the child welfare system for decades.¹⁸⁵ Hilton worked with lawmakers to advocate for meaningful legislation to prevent child abuse in facilities for troubled teens.¹⁸⁶ In October 2021, Representative Ro Khanna of California drafted legislation “that would give children in youth facilities the right to call their parents, be free from restraints, and have access to clean drinking water and nutritional meals—none of which is currently ensured for thousands of children in these facilities nationwide.”¹⁸⁷ Three Democratic members of Congress—Rep. Rosa DeLauro of Connecticut, Rep. Adam Schiff of California, and Sen. Jeff Merkley of Oregon—agreed to co-sponsor the bill once it would be ultimately introduced to Congress.¹⁸⁸ Advocates working with Khanna’s office said they also intend to establish a “Bill of Rights” for youths in congregate care, which would include the right to proper toiletries and nutrition; prohibit facilities from withholding sleep, meals, or nutrition; and prohibit facilities from placing youths in isolation rooms, closets, or cages as punishment.¹⁸⁹

Representative Khanna’s bill became the Accountability for Congregate Care Act, eventually renamed the Stop Institutional Child Abuse Act (“SICAA”).¹⁹⁰ SICAA was introduced to Congress in April 2023, having been substantially watered down since it was first imagined.¹⁹¹ SICAA does not contain a Youth in Congregate Care Bill of Rights, as was originally discussed by representatives and advocacy organizations.¹⁹² The absence of a Bill of Rights is SICAA’s fundamental shortcoming, as the Bill would otherwise have made express the right (1) to physical well-being; (2) to social and emotional well-being; (3) to have essential needs met; (4) to individualized and appropriate treatment that is culturally competent, trauma-informed, and most supportive of each youth’s personal liberty and development; and (5) to be free from abusive, humiliating, degrading, or traumatizing treatment by staff or other youth.¹⁹³ The most significant function of SICAA, if passed, will be to create a Federal Work Group

¹⁸⁴ See Kingkade et al., *supra* note 178; *The Stop Institutional Child Abuse Act*, BREAKING CODE SILENCE, <https://www.breakingcodesilence.org/acca/> (last visited Dec. 20, 2023) [<https://perma.cc/N854-C4SZ>]; *The Stop Institutional Child Abuse Act (SCIAA)*, UNSILENCED, <https://www.unsilenced.org/the-stop-insitutional-child-abuse-act-sicaa/> (last visited Dec. 20, 2023) [<https://perma.cc/7L32-STHE>].

¹⁸⁵ Kingkade et al., *supra* note 178.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ BREAKING CODE SILENCE, BREAKING CODE SILENCE ORGANIZATION AND POLICY OVERVIEW (2022), <https://www.breakingcodesilence.org/acca/policy-memo/>.

¹⁹¹ Stop Institutionalized Child Abuse Act, H.R. 2955, 118th Cong. (2023).

¹⁹² Stop Institutionalized Child Abuse Act, H.R. 2955, 118th Cong. (2023); BREAKING CODE SILENCE, BREAKING CODE SILENCE ORGANIZATION AND POLICY OVERVIEW (2022).

¹⁹³ BREAKING CODE SILENCE, BREAKING CODE SILENCE ORGANIZATION AND POLICY OVERVIEW (2022).

on Youth Residential Programs (“Work Group”) to “improve the dissemination and implementation of best practices regarding the health and safety, care, treatment, and appropriate placement of youth in youth residential programs.”¹⁹⁴ The Work Group’s primary responsibilities would relate to developing recommendations regarding best practices and supporting the implementation of those practices, in consultation with federal agencies, field experts, and advocates.¹⁹⁵ The text of the Bill does not make any reference to penalties, sanctions, or other consequences that may be imposed on youth residential programs that fail to uphold the standards recommended by the Work Group.¹⁹⁶ Nonetheless, *Breaking Code Silence* and *Unsilenced* both advocate for the passage of SICAA, which is pending before Congress as of the publication of this note.¹⁹⁷

CONCLUSION

The Troubled Teen Industry is a billion-dollar industry.¹⁹⁸ Nearly unfettered parental rights and lack of meaningful government oversight and regulation converge to allow for the abuse and exploitation of particularly vulnerable minors. Minors struggling with behavioral issues and mental illness—so-called “troubled teens”—are a class deserving of heightened governmental protection. Lacking the ability to meaningfully advocate for their own treatment, teenagers rely on their parents to provide adequate care and to support them as they prepare for adulthood. Where parents fall short, given the gravity of the interests at stake, the legislature and the courts have an obligation to step in and protect youths from harm.

It is essential to center survivors’ voices in responding to abuses in the Troubled Teen Industry. The Youth in Congregate Care Bill of Rights would address many of the problems with transparency that plague the industry, as facilities would be prohibited from restricting minors’ contact with their guardians, child protective services, law enforcement, or other advocates.¹⁹⁹ Accompanied by more robust consumer protection laws, a general willingness to prioritize minors’ wellbeing over parents’ wishes, and giving legal force to minors’ liberty interest in remaining in their homes, enactment of SICAA would work to prevent many of the unchecked abuses in the Troubled Teen Industry. The most important component of SICAA provides for the joint commission to work with states to ensure the closure of facilities unable or unwilling to comply with the Youth in Congregate Care Bill of Rights.²⁰⁰ Only with that type of meaningful follow-through can lawmakers send the message that child abuse is

¹⁹⁴ Stop Institutionalized Child Abuse Act, H.R. 2955, 118th Cong. § 2(a) (2023).

¹⁹⁵ *Id.* at § 2.

¹⁹⁶ Stop Institutionalized Child Abuse Act, H.R. 2955, 118th Cong. (2023).

¹⁹⁷ *The Stop Institutional Child Abuse Act*, *BREAKING CODE SILENCE*, *supra* note 184; *UNSILENCED*, *supra* note 184.

¹⁹⁸ Stockton, *supra* note 13.

¹⁹⁹ *The Stop Institutional Child Abuse Act*, *BREAKING CODE SILENCE*, *supra* note 184.

²⁰⁰ *Id.*

never tolerated, and more pertinently, that there should be no such thing as a residential facility for minors shielded from prying government eyes.