

“WE CAN DO THIS THE EASY WAY OR THE HARD WAY”: INVOLUNTARY YOUTH TRANSPORT AND THE LACK OF OVERSIGHT

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The secure-transport industry, also known as the involuntary-youth-transport industry, comprises companies whose sole function is to physically escort youth to various treatment programs across the United States and abroad. This Note aims to provide an overview of the secure-transport industry, including how these companies operate, what a typical transport looks like, and the experiences of children who are transported. While research regarding the treatment outcomes of involuntarily transported teens is inconsistent, it is clear that this is a traumatic experience for transported children. By contrasting the intentions of the troubled-teen and secure-transport industries with the lived realities of the teens that these industries aim to serve, this Note argues for increased legislation to regulate these industries. Although legislative action has occurred in recent years, this Note illuminates the persisting pitfalls of such actions. Lastly, this Note urges a federal response to address the problems that continue to plague the secure-transport industry today.

TABLE OF CONTENTS

INTRODUCTION	548
I. BACKGROUND	550
A. The Troubled-Teen Industry	550
B. The Secure-Transport Industry	551
C. A Typical Transport	552
D. Experiences of Transported Youth.....	554
II. EMPIRICAL RESEARCH	556

* J.D. Candidate, University of Arizona James E. Rogers College of Law, 2026. I am incredibly grateful to the faculty and staff at Arizona Law for all they have done for me, especially Professor Christopher Griffin, my Note Advisor, and Professor Diana Simon, who has developed my legal writing and been an invaluable mentor to me. I also want to thank the amazing *Arizona Law Review* team for all of the work that went into making my Note everything it could be. Finally, thank you to my family. I would be nothing without your unwavering love and support.

III. PARENTAL & CHILD RIGHTS.....	558
A. A Brief History of Parental & Child Rights	558
B. The Current State of Parental & Child Rights in the United States	559
C. Parental Immunity	562
IV. CURRENT REGULATION OF THE SECURE-TRANSPORT INDUSTRY	564
A. Private Regulation.....	564
B. State Regulation.....	564
C. Federal Regulation.....	566
V. PROPOSED REGULATION OF THE SECURE-TRANSPORT INDUSTRY	567
CONCLUSION	569

INTRODUCTION

Two dark figures stood over Seth’s¹ bed and awoke him in the middle of the night.² Dressed in all black, they looked like they were wearing “military wannabe fatigues.”³ Seth’s initial thought was that these men were robbing his house.⁴ His next thought was that he was being abducted.⁵ One man asked his name.⁶ This question caught Seth off guard, and he realized he did not have a clue what these men were doing in his house.⁷

A fight broke out in the room as the men tried to drag Seth outside.⁸ Despite Seth’s attempts to resist, he was at a serious disadvantage.⁹ He was, after all, a “featherweight trying to go up against heavyweights.”¹⁰ The men dragged Seth into the hallway, where he caught a glimpse of his parents.¹¹ For a split second, Seth felt relief.¹² That feeling quickly vanished when, instead of helping, his parents stared back at him.¹³ They didn’t say much.¹⁴ Seth was being dragged out of his home in the middle of the night by two strange men, and he knew his parents had to be in on it.¹⁵

1. The following narrative is based on a real-life account of one person’s experience with the secure-transport industry. The individual’s name has been changed to preserve anonymity. *See* GOONED: *The Hard Way* (Spotify, Dec. 6, 2023).

2. *Id.* at 4:00.

3. *Id.* at 3:40.

4. *Id.* at 4:03.

5. *Id.* at 4:09.

6. *Id.* at 4:11.

7. *Id.* at 4:13.

8. *Id.* at 4:17.

9. *See id.* at 4:46.

10. *Id.* at 3:50.

11. *Id.* at 4:23.

12. *See id.* at 4:24.

13. *See id.* at 4:26.

14. *Id.* at 4:26.

15. *Id.* at 4:35.

The men pulled Seth outside and into their van.¹⁶ Seth continued to fight the entire way, but it was no use.¹⁷ He was outmatched.¹⁸ Once in the van, Seth was “black bagged.”¹⁹ The two men placed a dark cloth over Seth’s head so he couldn’t see where they were going.²⁰ The men physically restrained Seth with zip ties.²¹ He figured the men were driving him to the airport.²² Much to their dismay, Seth put up a fight the entire way.²³ The men decided they could not put Seth on a plane because he was causing too many problems.²⁴ They would have to drive him to their destination instead.²⁵ Although Seth didn’t know it at the time, their destination was a treatment center in Utah, where he would spend the next year of his life.²⁶

The secure-transport industry is a subset of the so-called troubled-teen industry that is largely unknown to the general public.²⁷ After being hired by a child’s parents, secure-transport employees come into the child’s home, often in the middle of the night, and take the child away to a treatment center across the country or abroad.²⁸ The practice of involuntarily transporting youth is essentially unregulated in the United States.²⁹ Oregon is the only state known to restrict what these companies can and cannot do during transport.³⁰ Despite the recent successful passage of the Stop Institutional Child Abuse Act, this industry remains unregulated at the federal level.³¹

This Note seeks to highlight an often overlooked and largely unknown industry and provide an explanation of the dangers it poses. Part I provides an overview of the secure-transport industry and explains what a typical transport might look like. Part II discusses the empirical research that has been done on the involuntary-youth-transport industry, as well as the ramifications of involuntarily transporting minors. Part II also discusses a possible ethical approach to secure transport and the problems with that approach. Part III briefly addresses the history of parental and child rights in the United States. Next, it addresses the current

16. *Id.* at 4:50.

17. *Id.* at 4:41.

18. *See id.* at 4:46.

19. *Id.* at 4:40.

20. *Id.* at 4:52.

21. *Id.* at 5:00.

22. *See id.* at 5:12.

23. *Id.* at 5:02.

24. *Id.* at 5:10.

25. *Id.* at 5:15.

26. *Id.* at 3:55.

27. Jim Salter, *Rules Sought for ‘Gooning,’ Taking Troubled Kids to Care*, U.S. NEWS & WORLD REP. (Sep. 27, 2022, at 06:15 MT), <https://www.usnews.com/news/us/articles/2022-09-27/rules-sought-for-gooning-taking-troubled-kids-to-care> [<https://perma.cc/WX3U-QKVJ>].

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.* *See generally* Stop Institutional Child Abuse Act, Pub. L. No. 118–194, 138 Stat. 2664 (2024) (intending to study and prevent child abuse in youth residential treatment programs).

tensions between child and parental rights. Part IV explores current regulations of the secure-transport industry and the federal attempts to impose further regulations. Finally, Part V addresses how the secure-transport industry could be regulated moving forward, either judicially or legislatively.

I. BACKGROUND

A. *The Troubled-Teen Industry*

The troubled-teen industry is a collection of organizations with the ostensible goal of helping youth struggling with a variety of issues, including substance abuse and addiction, mental-health disorders, eating disorders, and behavioral issues.³² These organizations include therapeutic boarding schools, residential treatment centers, wilderness programs, boot camps, and drug-rehabilitation centers.³³ Children may wind up in a treatment program by several different means.³⁴ For example, parents can privately place their child in these facilities, or youth under the government's care can be placed in these facilities by the state.³⁵ The troubled-teen industry in the United States is a multi-billion-dollar one,³⁶ receiving roughly \$23 billion annually from public funds.³⁷ Further, most of these organizations operate for profit.³⁸ While the exact numbers are unknown, it was estimated that between 120,000 and 200,000 American youth resided in some type of troubled-teen facility at any given moment in 2021.³⁹ Of those children, it was estimated that more than 50,000 of them were privately placed by their parents, as opposed to by the state or a mental-healthcare provider.⁴⁰

Treatment centers within the troubled-teen industry have long faced public scrutiny.⁴¹ For example, the National Disability Rights Network released a report in October of 2021 that detailed some common issues that plague for-profit treatment centers, such as physical, sexual, and emotional abuse; excessive or unjustified use of restraints and seclusion; misuse of psychiatric medications; and staffing

32. Catherine E. Krebs, *Five Facts About the Troubled Teen Industry*, ABA (Oct. 22, 2021), <https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/five-facts-about-troubled-teen-industry/> [<https://perma.cc/TK2B-RZAM>].

33. *Id.*

34. *Id.*

35. *Id.*

36. *See id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *See, e.g., The Breaking Code Silence Movement*, #BREAKINGCODESILENCE, <https://bcsnetwork.org/> [<https://perma.cc/E856-ZWDZ>] (last visited Mar. 17, 2026); Dylan Stableford, *Paris Hilton Calls on Biden and Congress to Take Action Against the 'Troubled Teen Industry'*, YAHOO!NEWS (Oct. 20, 2021, at 10:18 MT), <https://www.yahoo.com/news/paris-hilton-capitol-hill-troubled-teen-industry-congregate-care-bill-171844396.html> [<https://perma.cc/2UCA-ED8R>]; Nora Ashleigh Barrie, *An Introduction to the Troubled Teen Industry*, SURVIVING THE TROUBLED TEEN INDUS. (Sep. 24, 2022), <https://thetroubledteenindustry.com/education-intro> [<https://perma.cc/Y6ER-G5BV>].

shortages.⁴² Despite the public scrutiny of treatment centers, other facets of the troubled-teen industry are less known to the general public.

B. The Secure-Transport Industry

One such facet is the so-called secure-transport industry. When parents decide their child requires treatment that they themselves cannot provide—and that the child would resist—they may face significant challenges in getting their child to a treatment facility. Some parents know or expect their child will not go willingly. Other parents fear their child may hurt themselves or others if they attempt to transport the child to a treatment center themselves.⁴³ Further, some minors threaten to, or do, run away if they discover their parents’ decision to place them in treatment.⁴⁴ All of these risks and concerns gave rise to the secure-transport industry.

This industry consists of companies that caregivers can hire “to physically escort an adolescent into residential care.”⁴⁵ The practice of involuntarily transporting youth to treatment centers is commonly known to youth in these facilities as being “gooned,” and the employees of these companies are called “goons.”⁴⁶ A person is informally called a goon if he or she is “a thug hired to commit acts of violence or intimidation”;⁴⁷ thus, the term is apropos for an employee of a secure-transport company. The exact prevalence of involuntary youth transport is unknown, but it is estimated that around 53% of youth in treatment enter the treatment facility through a secure youth-transport service.⁴⁸ Parents pay thousands of dollars for secure-transport companies to pick up their children and take them to

42. See generally NAT’L DISABILITY RTS. NETWORK, *DESPERATION WITHOUT DIGNITY: CONDITIONS OF CHILDREN PLACED IN FOR PROFIT RESIDENTIAL FACILITIES* (2021), https://www.ndrn.org/wp-content/uploads/2021/10/NDRN_Desperation_without_Dignity_Final.pdf [<https://perma.cc/W6CU-YFKP>] (explaining common issues in for-profit residential treatment facilities).

43. See *Involuntary Youth Transport: When Is It the Right Choice?*, ASSISTED INTERVENTIONS (Feb. 13, 2025), <https://assistedinterventions.com/involuntary-youth-transport/#:~:text=Involuntary%20youth%20transport%20is%20a%20service%20that,physical%20and%20emotional%20safety%20throughout%20the%20journey> [<https://perma.cc/G484-7FB4>].

44. See *id.*

45. Michael Gass et al., *Involuntary Youth Transport (IYT) to Treatment Programs: Best Practices, Research, Ethics, and Future Directions*, 39 CHILD & ADOLESCENT SOC. WORK J. 291, 292 (2021).

46. Salter, *supra* note 27.

47. *Goon*, COLLINS DICTIONARY, <https://www.collinsdictionary.com/us/dictionary/english/goon#:~:text=noun-,1.,esp%20in%20an%20industrial%20dispute> [<https://perma.cc/F5SS-2EW7>] (last visited Mar. 3, 2026).

48. Gass et al., *supra* note 45, at 292.

treatment facilities.⁴⁹ The transport could be as short as an hour or could last several days, depending on the distance between the child's home and the treatment center.⁵⁰

These companies are often established by former military or law-enforcement personnel.⁵¹ Despite this, many companies do not require their employees to have a background in the military or law enforcement.⁵² In fact, many companies do not require their employees to have any specific background training.⁵³ While some companies require their employees to be trained in crisis management, communication techniques, child control, CPR, and first aid, other companies have no such requirements.⁵⁴ There have even been reports of companies with employees with criminal records, including sexual-abuse crimes.⁵⁵ Researchers suggest that the use of a secure-transport company may be the most effective under the following circumstances: (a) the youth is in the precontemplation stage of change,⁵⁶ (b) unsafe parent-child dynamics exist in this relationship, (c) parents lack the abilities to carry out the transport, and when (d) there are concerns for the physical safety of the child.⁵⁷

C. A Typical Transport

In a typical transport, parents delegate their authority over their child to the transport company through a power of attorney, so the child can be transported legally.⁵⁸ Often the parents will first meet with the transport company without the child's knowledge.⁵⁹ At that time, the parents will sign a contract transferring temporary custody of the child to the company.⁶⁰ These contracts allow the company

49. See, e.g., U.S. YOUTH TRANSP. AGENCY, <https://usyta.com/#fees> [<https://perma.cc/SPZ2-9A9G>] (last visited Mar. 4, 2026) (charging \$2,195–\$4,895 plus airfare for domestic transport, \$595–\$6,595 for driving only, \$4,695 plus airfare for international transport, and \$1,195–\$6,995 per hour for private charter flights).

50. Anita R. Tucker et al., *The Role of Transport Use in Adolescent Wilderness Treatment: Its Relationship to Readiness to Change and Outcomes*, 44 CHILD & YOUTH CARE F. 671, 672 (2015).

51. Ira P. Robbins, *Kidnapping Incorporated: The Unregulated Youth-Transportation Industry and the Potential for Abuse*, 51 AM. CRIM. L. REV. 563, 567–68 (2014).

52. *Id.* at 568.

53. *Id.*

54. Jack Swint, *Want Your Troubled Kid to Disappear in the Middle of the Night*, W. VA. NEWS (June 16, 2011), <http://westvirginianews.blogspot.com/2011/01/want-your-troubled-kid-to-disappear-in.html> [<https://perma.cc/82VX-M3DS>].

55. *Id.*

56. The precontemplation stage of change is the first of the five stages of change. An individual in this stage has “no intention to change behavior in the foreseeable future.” *Stages of Change*, UNIV. R.I.: CANCER PREVENTION RSCH. CTR., <https://web.uri.edu/cprc/trans-theoretical-model/stages-of-change/#:~:text=Precontemplation%20is%20the%20stage%20at,or%20underaware%20of%20their%20problems> [<https://perma.cc/A3FZ-ZB9P>] (last visited Oct. 22, 2024). Most individuals in the precontemplation stage are unaware of or in denial about their problems. *Id.*

57. Gass et al., *supra* note 45, at 292.

58. Robbins, *supra* note 51, at 568.

59. *Id.*

60. *Id.*

to exercise virtually unlimited control over the adolescent.⁶¹ Additionally, “[t]hese contracts and the rights conferred are executed independently of the state, with no legal or judicial oversight outside of traditional contract law.”⁶² These power-of-attorney clauses are presumed valid because, statutorily, parents often have the right to temporarily transfer their fundamental rights to a third party of their choosing.⁶³ This includes the right of a parent to consent to acts that would otherwise be tortious on behalf of their child.⁶⁴ In some jurisdictions, once a parent has granted this authority over their child to a secure-transport company, the company is absolved from tort liability to the same extent the parents themselves would be.⁶⁵

Once these contracts are executed, the transport company will advise the parents on how it will conduct the transport.⁶⁶ These companies strongly advise parents not to reveal their plans to their children and to maintain the appearance of normality within the home as much as possible.⁶⁷ Typically, two transport staff members escort one adolescent client.⁶⁸ Often, agents from the company will arrive in the early morning hours to ensure that the child is home and asleep.⁶⁹ Transport companies prefer to transport clients in the middle of the night because the child will be disoriented and less likely to resist.⁷⁰ Parents are advised to leave the room once the child is woken up or to avoid being seen by the child at all.⁷¹ Shielding the parents allows the agents to focus solely on the child and to address any emotional outbursts if the child is restrained.⁷²

Ideally, staff for the secure youth-transport company are trained in deescalation techniques to manage a child without the use of physical force.⁷³ However, this aspiration does not mean that staff never use physical force.⁷⁴ Secure-transport companies utilize a variety of tactics to deal with noncompliant youth, such as verbal deescalation, implied or express threats of physical force, therapeutic holds,⁷⁵ and physical and mechanical restraints.⁷⁶

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.* at 569.

65. *See Blair v. Wills*, 420 F.3d 823, 828–29 (8th Cir. 2005).

66. *See Swint*, *supra* note 54.

67. *Id.*

68. Gass et al., *supra* note 45, at 292.

69. Swint, *supra* note 54.

70. Barrie, *supra* note 41.

71. Swint, *supra* note 54.

72. *Id.*

73. Gass et al., *supra* note 45, at 292.

74. *Id.*

75. A therapeutic hold “is a treatment technique in which a violent patient is physically contained by people.” Derek Miller, Mark C. Walker & Diane Friedman, *Use of a Holding Technique to Control the Violent Behavior of Seriously Disturbed Adolescents*, 40 HOSP. & CMTY. PSYCHIATRY 520, 520 (1989). Staff “take down” the patient and immobilize the patient’s limbs on the floor. *Id.* at 521 (internal quotations omitted). As soon as the child calms down, “staff release their grasp . . .” *Id.*

76. Gass et al., *supra* note 45, at 292.

After the parents or company staff wake up the child, staff will remove the child from the house and take the child to a waiting car.⁷⁷ It is standard practice not to allow minors any outside contact until they arrive at the treatment facility.⁷⁸ These companies stress removing the child from familiar surroundings as quickly as possible to decrease the likelihood that the child will attempt to flee.⁷⁹ Some companies use handcuffs to subdue every client regardless of the client's behavior.⁸⁰ Other companies do not use restraints at all.⁸¹ It is unclear what the majority of these transports actually look like and what level of force is typically used because these companies are not subject to required disclosures.⁸²

Albeit infrequently, some secure-transport companies have removed children from more public settings (e.g., their school) en route to treatment centers.⁸³ When children are taken from school, the secure-transport agents often do not disclose their true intentions to the school administrators.⁸⁴ For example, in *West Shield Investigations & Security Consultants*, the youth explained that two secure-transport employees removed her from her school by telling school personnel that they were detectives working for Child Protective Services.⁸⁵ The employees also displayed handcuffs and suggested they were carrying firearms.⁸⁶ The employees did not tell the youth where they were taking her after removing her from the school and putting her on a plane to a wilderness program in New Mexico.⁸⁷

D. Experiences of Transported Youth

Unsurprisingly, this process can be extremely traumatic for youth who are transported.⁸⁸ In fact, secure-transport companies have been referred to as “glorified human traffickers.”⁸⁹ Because parents are instructed not to tell their children the transport will happen, many children believe they are being kidnapped.⁹⁰ Other

77. Swint, *supra* note 54.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. Compare Barrie, *supra* note 41 (stating that many minors are “physically restrained with handcuffs, leg shackles, and/or blindfolds”), with Kathryn Rudlin, *Transporting Troubled Teens into a Treatment Program*, VERYWELL MIND (June 10, 2022), <https://www.verywellmind.com/transporting-or-escorting-teens-into-treatment-2610431> [<https://perma.cc/QK9X-GHBL>] (arguing that secure-transport companies treating minors aggressively is the “exception rather than the rule”).

83. Robbins, *supra* note 51, at 568.

84. *Id.*; see also *W. Shield Investigations & Sec. Consultants v. Superior Ct.*, 98 Cal. Rptr. 2d 612, 616 (Cal. Ct. App. 2000) (stating that transport employees in this case posed as detectives for Child Protective Services).

85. *W. Shield Investigations*, 98 Cal. Rptr. 2d at 615–16.

86. *Id.* at 616.

87. *Id.*

88. Gass et al., *supra* note 45, at 293.

89. Dawn Jerusha Post & Michael J. McFarland, *Abuse by Proxy*, ABA (May 15, 2024), <https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/spring2024-abuse-by-proxy/> [<https://perma.cc/EX6W-8J5Z>].

90. Elaine Clark, *Feels Like ‘Being Kidnapped’: What We Found Looking into Troubled-Teen Transporters*, KUER (Mar. 8, 2022, at 02:00 MT), <https://www.kuer.org/health>

youth report having “nightmares, flashbacks, emotional ‘numbing,’ inability to concentrate, angry outbursts, difficulty sleeping[,] or other symptoms.”⁹¹ Agents of secure-transport companies are notorious for telling these children, “We can do this the easy way . . . [o]r we can do this the hard way.”⁹²

Some people who were involuntarily transported to a treatment center have shared their stories on an online platform called Breaking Code Silence.⁹³ One woman recounted her experience with the secure-transport industry by writing, “I was woken up to three strangers standing above me, telling me to undress in front of them and that they were taking me to a school in Utah.”⁹⁴ She went on to say, “I will never forget being absolutely terrified and having no idea what was going on. My mom stood in the hallway and didn’t say a word. They drove me 13 hours to another state and city I had never been to.”⁹⁵ Another woman wrote, “I was woken up in my bedroom at 4 AM by strangers who put me in a van and drove me from Pennsylvania . . . I did not get to say goodbye to my family or dog[,] and I did not know where I was going.”⁹⁶ A third woman shared:

I was 15 years old when my mother woke me up around 3 am. It was February 1996. My mother was crying. She said I had to get up. There were 2 people in my room. They said I had a choice to do this the easy way or hard way and showed me handcuffs. I had no idea what was happening. In silence, I walked outside with two strangers. I didn’t get to say goodbye to my family. After asking several times “where are you taking me[,]” I was given a brochure. The next thing I knew, I was on an airplane.⁹⁷

-science-environment/2022-03-08/feels-like-being-kidnapped-what-we-found-looking-into-troubled-teen-transporters [https://perma.cc/H7S7-7GFF].

91. *Dangers of Teen Escort Transportation Services*, ALL FOR THE SAFE, THERAPEUTIC & APPROPRIATE USE OF RESIDENTIAL TREATMENT (May 13, 2014), <http://astartforteens.org/teen-escort-transport-may-cause-lifelong-trauma> [https://perma.cc/D9E2-2BA6].

92. Jessica Schreifels, David Fuchs & Will Craft, ‘Blindfolds, Hoods and Handcuffs’: How Some Teenagers Come to Utah Youth Treatment Programs, KUER (Mar. 8, 2022, at 02:00 MT), <https://www.kuer.org/health-science-environment/2022-03-08/blindfolds-hoods-and-handcuffs-how-some-teenagers-come-to-utah-youth-treatment-programs> [https://perma.cc/5GR6-E7RU].

93. *Survivors Breaking Code Silence*, BREAKING CODE SILENCE, <https://www.breakingcodesilence.org/survivor-stories/> [https://perma.cc/2CBA-S4XL] (last visited Oct. 22, 2024).

94. *Mandi’s Story*, BREAKING CODE SILENCE (Oct. 17, 2021), <https://www.breakingcodesilence.org/mandis-story/> [https://perma.cc/5NUQ-NDPN].

95. *Id.*

96. *Julia’s Story*, BREAKING CODE SILENCE (Oct. 17, 2021), <https://www.breakingcodesilence.org/julias-story/> [https://perma.cc/P8FJ-EC26].

97. *Sara’s Story*, BREAKING CODE SILENCE (Oct. 17, 2021), <https://www.breakingcodesilence.org/saras-story/> [https://perma.cc/TU29-VVBU].

One man explained that he was handcuffed, placed into the back of a van, and driven to Miami.⁹⁸ The following morning, he was flown to Jamaica, and he remained “in handcuffs for the entire trip.”⁹⁹

II. EMPIRICAL RESEARCH

Researchers have studied involuntary youth transport and the effect it has on children who are transported.¹⁰⁰ One study suggests that being involuntarily transported to a treatment center does not negatively impact the outcome of a child’s treatment when placed in a wilderness therapy program.¹⁰¹ This study asked 165 children and their parents to fill out reporting forms upon arriving at and departing from a wilderness treatment center.¹⁰² The study found that the parents of transported children were more likely to indicate at intake that their children suffered from problematic behaviors that were socially related, such as “truancy, sexual problems, running away from home, destruction of property[,] and substance abuse.”¹⁰³ The parents’ perception of these problems may explain why they chose to hire a secure-transport company in the first place.¹⁰⁴ Further, this study concluded that treatment may have had a greater and more positive impact on children who were transported involuntarily, possibly because these children had “higher levels of dysfunction at intake,” which allowed for these children to make a greater change during treatment.¹⁰⁵ Other researchers have attacked this study on ethical and empirical grounds, saying that the “findings of no difference were random, rather than systematic” and calling for “[f]urther independent and rigorous research.”¹⁰⁶

One problem with these types of studies is that quantitative findings do not account for children’s voices and experiences.¹⁰⁷ As previously mentioned, being involuntarily transported can be very traumatic for youth.¹⁰⁸ After following nine minors who were involuntarily transported to treatment centers, a study by Gass et al. found that the stress and trauma of the transport led to one of the minors being diagnosed with post-traumatic stress disorder.¹⁰⁹ This study emphasizes the importance of avoiding retraumatizing children through involuntary transport because youth in residential care already have high rates of complex trauma.¹¹⁰ It supports the assertion that although involuntary youth transport may be necessary in

98. *Josh’s Story*, BREAKING CODE SILENCE (Sep. 20, 2021), <https://www.breakingcodesilence.org/josh-s-story/> [<https://perma.cc/AN5G-ZHLL>].

99. *Id.*

100. *See, e.g.*, Tucker et al., *supra* note 50, at 671; Nevin J. Harper, Doug Magnuson & Will W. Dobud, *A Closer Look at Involuntary Treatment and the Use of Transport Service in Outdoor Behavioral Healthcare (Wilderness Therapy)*, 42 CHILD & YOUTH SERVS. 200, 200 (2021); Gass et al., *supra* note 45, at 292.

101. Tucker et al., *supra* note 50, at 683.

102. *Id.* at 676.

103. *Id.* at 682.

104. *Id.*

105. *Id.* at 683.

106. Harper, Magnuson & Dobud, *supra* note 100, at 200.

107. Gass et al., *supra* note 45, at 293.

108. *Id.*

109. *Id.*

110. *Id.* at 291.

some situations, there should be a set of ethical guidelines that regulate this practice.¹¹¹

This study proposes a five-step process for caregivers and mental-health professionals to use when deciding if it is ethical to use involuntary transport.¹¹²

First, before deciding whether to utilize involuntary youth transport, mental-health professionals and caregivers should determine if the child is displaying behavioral health symptoms severe enough to warrant treatment, and if so, find a treatment program that has successfully helped children with similar needs.¹¹³

Second, caregivers and mental-health professionals should determine if the youth is an immediate or severe risk to themselves or others, if the youth is unwilling to consent to treatment, or if the youth lacks the capacity to consent to treatment.¹¹⁴ If the child agrees to attend treatment, either completely or reluctantly, involuntary transport is likely unnecessary.¹¹⁵

Third, mental-health professionals and caregivers need to weigh the potential harm caused by involuntary transport against the harm prevented by it.¹¹⁶ The following factors should be considered in this analysis: family dynamics, harm to the child and others, retraumatization, the treatment's value, the minor's autonomy, and the child's history with treatment and transport.¹¹⁷

Fourth, caregivers and mental-health professionals need to decide if involuntary transport is the "least restrictive option that stands to promote the most benefit and reduce harm" that is available under the circumstances.¹¹⁸

Finally, once the decision to use involuntary transport has been made, this study advocates for procedures that maintain the maximum "autonomy, respect, and dignity for the youth throughout the entire [transportation] process."¹¹⁹

On the contrary, in direct response to the five-step ethical approach discussed above, another research paper by Magnuson, Dobud, and Harper asserts that involuntary youth transport may never be ethical, at least in the context of transporting children to wilderness therapy programs.¹²⁰ The Magnuson paper asserts that subjecting youth to the use of "zip ties, restraints, handcuffs, [and] midnight removal from their beds and homes" can never be ethically justified, "even

111. *Id.*

112. *Id.* at 296–97.

113. *Id.* at 296.

114. *Id.*

115. *See id.*

116. *Id.*

117. *Id.* at 297.

118. *Id.*

119. *Id.*

120. *See generally* Doug Magnuson, Will Dobud & Nevin J. Harper, *Can Involuntary Youth Transport into Outdoor Behavioral Healthcare Treatment Programs (Wilderness Therapy) Ever Be Ethical?*, 41 CHILD & ADOLESCENT SOC. WORK J. 417 (2024) (arguing that the Gass ethical approach is deeply flawed and that it may never be ethical to involuntarily transport youth to wilderness treatment programs).

by claiming . . . that their treatment outcomes are equivalent to non-transported youth.”¹²¹ It asserts that because involuntary-transport companies use methods derived from police and security-services tactics instead of from social work or child-care protocols, they violate professional ethical codes.¹²² This paper also emphasizes the danger in the fact that parents who are struggling with their children can place them in a treatment program “without the involvement of any judicial system, physician, judge, or other unbiased third party with regulatory oversight related to the protection of child rights.”¹²³

The Magnuson paper attacks the credibility and efficiency of the five-step ethical process outlined above in the Gass study, arguing that it misinterprets source material, ignores opposing research and literature on involuntary transport, does not explain its reasoning, and does not provide an application of the five-step process.¹²⁴ Further, the Magnuson paper argues that treatment facilities and involuntary transport companies take advantage of parents at a time when they are desperate for a way to help their child and present them with an inaccurate representation of what their options are.¹²⁵ It goes on to say that the children involved in the secure-transport industry experience serious pain from the lack of dignity and autonomy.¹²⁶ The paper concludes by arguing that children who need to be involuntarily transported to wilderness treatment facilities are not the type of children who will benefit from the wilderness therapy experience anyway.¹²⁷

III. PARENTAL & CHILD RIGHTS

A. A Brief History of Parental & Child Rights

The United States’s current system of expansive parental rights is rooted in the English common-law tradition of coverture.¹²⁸ Coverture designated the husband of each legally recognized family as the family’s sole legal representative.¹²⁹ Under this regime, wives and children were not legally recognized as individuals, and instead, “the entire family was reduced to one person—the husband—in the eyes of the state.”¹³⁰ Much like wives during this time, children born under coverture were subject to their fathers’ near-complete control, publicly and privately.¹³¹ The rationale for coverture was largely based on the assumption that husbands and fathers represented their wives’ and children’s interests in the public and private

121. *Id.* at 418.

122. *Id.* at 419.

123. *Id.* at 420.

124. *Id.* at 420–21.

125. *Id.* at 423.

126. *Id.* at 422.

127. *Id.* at 423.

128. Anne C. Dailey & Laura A. Rosenbury, *The New Parental Rights*, 71 DUKE L.J. 75, 85 (2021).

129. *Id.* at 85–86. Notably, because coverture only applied to legally recognized families, enslaved husbands were not considered the legal representatives of their families. *Id.* at 86.

130. *Id.*

131. *Id.* at 89.

spheres.¹³² While wives are no longer subject to coverture, children are still essentially subject to coverture under the expansive system of parental rights in the United States today.¹³³

B. The Current State of Parental & Child Rights in the United States

The Supreme Court has long recognized parents' rights to make decisions concerning the "care, custody, and control of their children."¹³⁴ The Court has held that parental rights are fundamental and protected by the Due Process Clause of the Fourteenth Amendment.¹³⁵ In fact, these fundamental rights are "perhaps the oldest of the fundamental liberty interests recognized by" the Supreme Court.¹³⁶ In 1923, the Supreme Court stated that the Due Process Clause of the Fourteenth Amendment "[w]ithout [a] doubt" protected the right to "establish a home and bring up children."¹³⁷ In 1944, the Court stated that "[i]t is cardinal with us that the custody, care[,] and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."¹³⁸

While firmly rooted in Supreme Court precedent, parental rights are not beyond all regulation.¹³⁹ The state acting as *parens patriae* can limit parents' control over their children to protect a child's general well-being.¹⁴⁰ For example, the state may limit a parent's control by requiring parents to provide their children with food, clothing, housing, and education.¹⁴¹ Further, the state can intervene if a child is being

132. *Id.* at 90.

133. *Id.* For a more detailed discussion of child coverture, its persistence, and its effects, see generally Dailey & Rosenbury, *supra* note 128 (explaining that child coverture is the basis for expansive parental rights in the United States today).

134. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion) (holding that a Washington statute that allowed a third party, like a grandparent, to petition the court for visitation rights over the parents' objections was unconstitutional).

135. *Id.* at 66. Fundamental rights are subject to a strict scrutiny analysis when infringed upon.

136. *Id.* at 65.

137. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). While the stability of other previously recognized fundamental rights has been called into question following the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), it seems very unlikely this fundamental right will be overturned because cases describing this right explain how parental rights are rooted in the history and culture of the United States. *See, e.g., Troxel*, 530 U.S. at 66 ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition." (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972))).

138. *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

139. *Id.*

140. *Id.*

141. Ruth Farrugia, *Parental Responsibility and State Intervention*, 31 CAL. W. INT'L L.J. 127, 128 (2000).

abused or neglected.¹⁴² However, there is a strong presumption that a fit parent will “act in the best interests of their children.”¹⁴³ This presumption means that if a parent adequately cares for their child, “there will normally be no reason for the state to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that” child.¹⁴⁴

The presumption that a fit parent is in the best position to make decisions for their child is also predicated on the presumption that children are incapable of making fundamental choices regarding their own lives.¹⁴⁵ This incapacity is based on the premise that children lack the intellectual and emotional maturity necessary to make decisions that could profoundly impact their futures.¹⁴⁶ As a result, parents have broad discretion to control their “children’s emotional, intellectual, moral, spiritual, and everyday lives.”¹⁴⁷

This broad discretion gives parents almost unlimited power to make medical decisions for their children.¹⁴⁸ In fact, in *Parham v. J.R.*, the Court held that children voluntarily placed in a state mental hospital by their parents do not have a constitutional right to challenge that placement in an adversary proceeding.¹⁴⁹ *Parham* also established that parents have the right to commit their children to healthcare institutions without the oversight of the state and that children do not have a mechanism to challenge that decision if their parent has authorized the commitment.¹⁵⁰ The Court reasoned that because children cannot make sound judgments concerning their medical care or treatment, the parents must be the ones to make those judgments.¹⁵¹ This decision again reflects the presumption that the “natural bonds of affection lead parents to act in the best interests of their children.”¹⁵² When a minor is admitted to a state psychiatric facility, the superintendent of that facility must find that the child needs to be admitted to that state facility.¹⁵³ However, there is no similar requirement when the child’s parents place them in a privately run facility.¹⁵⁴ As a result, there are

142. See, e.g., *State ex rel. Allen Cnty. Child. Servs. Bd. v. Mercer Cnty. C.P. Ct.*, Prob. Div., 81 N.E.3d 380, 390 (Ohio 2016) (O’Connor, C.J., dissenting) (“The state has broad authority to intervene to protect children from abuse and neglect.”).

143. *Troxel v. Granville*, 530 U.S. 57, 68 (2000) (plurality opinion).

144. *Id.* at 68–69.

145. Sabrina S. Long, *The Attorney-Child Relationship—Do the Parents or the Child Control?*, 20 J. LEGAL PRO. 287, 288 (1995–1996).

146. *Id.*

147. Dailey & Rosenbury, *supra* note 128, at 92.

148. Elizabeth Bartholet, *Ratification by the United States of the Convention on the Rights of the Child: Pros and Cons from a Child’s Rights Perspective*, 633 ANNALS AM. ACAD. POL. & SOC. SCI. 80, 89 (2011).

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

150. *See id.*

151. *Id.* at 603.

152. *Id.* at 602.

153. *Id.* at 604.

154. Elyse Wyatt, Note, *Manipulating Parents, Exploiting Children: The Need for Government Oversight of Private Youth Facilities*, 33 B.U. PUB. INT. L.J. 103, 118 (2024).

no meaningful checks on a parent's ability to send their child to a treatment facility.¹⁵⁵

Current U.S. common law in this area reflects a tension between parental rights and the state's right to protect children's best interests while providing little in the way of actual children's rights.¹⁵⁶ However, children are provided with a few important rights. For example, in *Kent v. United States*, the Supreme Court held that juveniles have due process rights in juvenile court proceedings.¹⁵⁷ In *In re Gault*, the Court established that children have Fourteenth Amendment protections.¹⁵⁸ Nine years later, the Supreme Court stated that "[c]onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution, and possess constitutional rights."¹⁵⁹ Despite these protections, children's constitutional rights are limited due to the rights of their parents and because the state has "broader authority to regulate" children than it does adults.¹⁶⁰

Due to these limitations and despite what the Supreme Court has said, in practice, children in the United States have very few constitutionally protected rights. In *Vernonia School District 47J v. Acton*, the Court said that "minors lack some of the most fundamental rights of self-determination They are subject, even as to their physical freedom, to the control of their parents or guardians."¹⁶¹

Despite the current state of children's rights in America, a discussion of parental and child rights would be incomplete without mentioning the Convention on the Rights of the Child ("CRC").¹⁶² Interestingly, while other countries have taken steps to broaden children's rights, the United States has not.¹⁶³ In November 1989, the United Nations adopted the CRC.¹⁶⁴ Despite taking a leading role in drafting the CRC, the United States is the only United Nations member state that has not ratified it.¹⁶⁵ The CRC strives to recognize children as a vulnerable group in need of protection but also as individual members of society with distinct rights.¹⁶⁶

155. *Id.*

156. Barholet, *supra* note 148, at 85.

157. *Kent v. United States*, 383 U.S. 541, 562 (1966).

158. *In re Gault*, 387 U.S. 1, 30–31 (1967); *see also* Robbins, *supra* note 51, at 572 (explaining that children have "diminished constitutional rights due to their age" but are still granted equal-protection rights with some limitations).

159. *Planned Parenthood of Cent. Mo. v. Danforth*, 428 U.S. 52, 74 (1976).

160. *Id.*

161. *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 654 (1995).

162. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sep. 2, 1990) [hereinafter CRC].

163. Barholet, *supra* note 148, at 80.

164. CRC, *supra* note 162.

165. Soo Jee Lee, Note, *A Child's Voice vs. a Parent's Control: Resolving a Tension Between the Convention on the Rights of the Child and U.S. Law*, 117 COLUM. L. REV. 687, 689 (2017). In 2015, Somalia ratified the CRC, which left the United States as the only United Nations member state not to ratify the CRC. *Id.* at 688 n.4.

166. *Id.* at 687.

One key right the CRC seeks to implement is children's right to participation.¹⁶⁷ For example, Article 12 of the CRC explains that states "shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."¹⁶⁸ Article 12 seeks to give children a stronger right to participate in important matters, such as medical decisions.¹⁶⁹ Additionally, the CRC seeks to increase children's right to be protected against abuse and neglect by imposing upon the state an affirmative duty to protect children.¹⁷⁰ On the contrary, the Supreme Court has held that children have no constitutionally guaranteed right to protection against abuse and neglect from their parents, and that the state has no constitutionally mandated duty to protect children.¹⁷¹

The United States has been under both internal and external pressure to ratify the CRC.¹⁷² Conversely, some advocates are fighting against ratification.¹⁷³ These advocates are concerned that adopting the CRC will replace the presumption that parents are acting in the best interest of their child with a new presumption that gives deference to what the state believes is in the child's best interest.¹⁷⁴

C. Parental Immunity

Another legal issue particularly relevant to the secure-transport industry is the doctrine of parental immunity. Parental immunity is a tort doctrine that was created in 1891.¹⁷⁵ Without citing any precedent or common-law tradition, the Supreme Court of Mississippi held in *Hewellette v. George* that it would be contrary to public policy to allow minors to bring tort actions against their parents.¹⁷⁶ *Hewellette* created blanket immunity that protected parents from any tort action by

167. *Id.* at 692. For a more in-depth discussion of the pros and cons of the United States increasing children's participation rights through the CRC, see Bartholet, *supra* note 148, at 88–91.

168. CRC, *supra* note 162, at art. 12.

169. Bartholet, *supra* note 148, at 89–90.

170. *Id.* at 93.

171. *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 191, 195–96 (1989) (holding that the state's failure to act to protect a boy whose father beat him until he was permanently injured was not a deprivation of liberty under the Due Process Clause despite the state receiving complaints and having reason to believe the boy's father was abusing him).

172. Lee, *supra* note 165, at 688.

173. Gillian Jones, *Legislative Update: Parental Rights Amendment*, 32 CHILD. LEGAL RTS. J. 75, 76 (2012).

174. *Id.*

175. Irene Hansen Saba, *Parental Immunity from Liability in Tort: Evolution of a Doctrine in Tennessee*, 36 U. MEM. L. REV. 829, 832 (2006).

176. See *Hewellette v. George*, 9 So. 885, 887 (Miss. 1891), *overruled by* *Glaskox ex rel. Denton v. Glaskox*, 614 So. 2d 906 (Miss. 1992) (holding a parent was immune from tort liability when her daughter sued her under false imprisonment for placing her in a mental institution).

an unemancipated child.¹⁷⁷ Absolute parental immunity spread quickly and was adopted by the majority of states.¹⁷⁸ The rationales for this doctrine included the preservation of parental rights, family harmony, and family assets.¹⁷⁹

As time went on, exceptions were carved out, especially for malicious and willful torts.¹⁸⁰ Other exceptions included allowing actions for cases involving parental abandonment, negligent supervision, negligent child-rearing, and reckless or intentional actions.¹⁸¹ Further, this doctrine was not adopted in all states, and it was not uniformly applied in the states that did adopt it.¹⁸² Parental immunity has been chipped away at in many states, and others have completely abolished it.¹⁸³

Despite its waning popularity, the parental-immunity doctrine still remains in some form in many states.¹⁸⁴ In the states where it does remain, courts often take one of three approaches when determining how to apply parental immunity. First, some courts recognize parental immunity when the parents' actions fall within their authority and discretion.¹⁸⁵ Second, other courts apply a reasonably prudent parent standard.¹⁸⁶ This approach asks if the actions taken by the parent were the kind of actions an average, reasonably prudent parent would have taken in a similar situation.¹⁸⁷ Third, some courts and the Second Restatement of Torts have abolished

177. *See id.*; *see also* Saba, *supra* note 175, at 833 (“[T]he Hewellette court created an absolute bar to tort actions by unemancipated minor children against their parents[,] which had foundation in neither precedent nor statute, nor English common law.”).

178. Robbins, *supra* note 51, at 574. Only eight states and the District of Columbia never adopted any form of the parental-immunity doctrine. Saba, *supra* note 175, at 836. It is arguable that Nevada never adopted parental immunity, which would bring the total up to nine states and the District of Columbia. *Id.* at 837.

179. Robbins, *supra* note 51, at 574.

180. *See, e.g.*, Emery v. Emery, 289 P.2d 218, 224 (Cal. 1955) (holding that emancipated daughters could maintain a suit against their father for a willful tort); *see also* Robbins, *supra* note 51, at 574 (explaining that malicious and willful torts were exceptions to the parental-immunity doctrine).

181. Robbins, *supra* note 51, at 574.

182. Saba, *supra* note 175, at 835–36.

183. Robbins, *supra* note 51, at 574.

184. *Id.* at 575.

185. *Id.*; *see also, e.g.*, Goller v. White, 122 N.W.2d 193, 198 (Wis. 1963) (abrogating the parental-immunity doctrine except in two situations: “(1) where the alleged negligent act involves an exercise of parental authority over the child; and (2) where the alleged negligent act involves an exercise of ordinary parental discretion with respect to the provision of food, clothing, housing, medical and dental services, and other care”); Hebel v. Hebel, 435 P.2d 8, 15 (Alaska 1967); Wagner v. Smith, 340 N.W.2d 255, 256 (Iowa 1983).

186. Robbins, *supra* note 51, at 575; *see also, e.g.*, Broadbent *ex rel.* Broadbent v. Broadbent, 907 P.2d 43, 50 (Ariz. 1995) (“A parent is not immune from liability for tortious conduct directed toward his child solely by reason of that relationship. . . . [However,] a parent is not liable for an act or omission that injured his child if the parent acted as a reasonable and prudent parent in the situation would.”); Gibson v. Gibson, 479 P.2d 648, 653 (Cal. 1971) (“The standard to be applied is the traditional one of reasonableness, but viewed in light of the parental role. Thus, we think the proper test of a parent’s conduct is this: what would an ordinarily reasonable and prudent Parent have done in similar circumstances?”).

187. Robbins, *supra* note 51, at 575.

blanket parental immunity but maintained some parental privileges, like that of parental discipline.¹⁸⁸

IV. CURRENT REGULATION OF THE SECURE-TRANSPORT INDUSTRY

A. Private Regulation

The secure-transport industry is currently unregulated at the federal level and virtually unregulated at the state level. One private organization, the Association of Mediation and Transport Services (“AMATS”), was formed to promote the ethical transport of youth to treatment facilities.¹⁸⁹ AMATS was founded by several secure-transport companies that agreed to set standards and best practices for secure youth transport.¹⁹⁰ AMATS provides educational opportunities, supports legislative initiatives, and attempts to strengthen relationships between secure-transport companies and clients in the mental-health community.¹⁹¹ Other secure-transport companies can join AMATS if they adhere to the AMATS Standard of Professional Excellence.¹⁹² These standards include a promise to uphold the law in order to maintain the safety of the client; provide transparency about the destination and mode of travel to the client; conduct criminal background checks on all employees; and abide by a no-tolerance policy for lies, threats, intentional misrepresentation, or intimidation.¹⁹³

B. State Regulation

Aside from privately imposed standards of conduct, Oregon was the first state to regulate involuntary youth transport.¹⁹⁴ In 2022, Oregon imposed several regulations on secure-transport companies.¹⁹⁵ These regulations require secure-transport companies to be licensed by the state.¹⁹⁶ They also impose staffing regulations¹⁹⁷ and dictate policies and procedures that secure-transport companies must follow, including ensuring the transported child has sufficient access to restrooms, food, and drinks.¹⁹⁸ Perhaps most importantly, Oregon now prohibits the use of mechanical restraints, such as handcuffs and zip ties.¹⁹⁹ The use of other

188. RESTATEMENT (SECOND) OF TORTS § 895G (A.L.I. 1979); *see also* Robbins, *supra* note 51, at 575 (explaining the approaches courts take when applying the parental-immunity doctrine); *Winn v. Gilroy*, 681 P.2d 776, 784 (Or. 1984) (adopting the Restatement (Second) of Torts approach when determining parents’ tort liability toward their children).

189. *About, ASS’N OF MEDIATION & TRANSP. SERVS.*, <https://www.amats.org/about-amats> [<https://perma.cc/WGN2-2N6E>] (last visited Mar. 17, 2026).

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. Salter, *supra* note 27.

195. *See, e.g.*, OR. ADMIN. R. 419-480-0040 (2022); *id.* 419-480-0080; *id.* 419-400-0150(3)(C)(ii).

196. *Id.* 419-480-0020(1)–(2).

197. *Id.* 419-480-0040.

198. *Id.* 419-480-0080.

199. *Id.* 419-400-0150(b)(3)(C)(ii).

physical restraints is also subject to regulation.²⁰⁰ Oregon State Senator Sara Gelser Blouin, the proponent for the regulating legislation, stated, “[n]o more hoods, or blindfolds, or handcuffs These are not kids who have committed any crimes. These are just kids who parents are struggling with. And some have a very significant need for care or support, but not for blindfolds and hoods and handcuffs.”²⁰¹ Reports stated that similar legislation was to be introduced in Missouri, but no such legislation has passed.²⁰²

Further, Utah recently amended its laws to regulate a few aspects of the secure-transport industry.²⁰³ Although not as aggressive as Oregon’s legislation, it does provide some accountability for youth-transport companies.²⁰⁴ Utah now requires secure-transport companies to register with the state office.²⁰⁵ When registering, the company must prove it has “a business insurance policy that provides at least \$1,000,000 in coverage” and provide “a valid business license from the state where the youth transportation company is headquartered.”²⁰⁶ Further, this amendment imposes a criminal penalty for referring individuals to youth-transportation companies in exchange for payment of any kind.²⁰⁷ Notably, this amendment requires that any individual who transports a child for a secure-transport company be subject to a background check.²⁰⁸ Unlike in Oregon, Utah currently has no regulations governing what types of restraints can be used or what minimum rights children must have.²⁰⁹ Despite Utah’s regulations not being as expansive as Oregon’s, it is important that Utah has implemented some regulations because Utah is considered the epicenter of the United States’s troubled-teen industry.²¹⁰ In fact, more children are sent to Utah for treatment than to any other

200. *Id.* 419-400-0180.

201. Schreifels, Fuchs & Craft, *supra* note 92.

202. Salter, *supra* note 27.

203. *Compare, e.g.*, OR. ADMIN. R. 419-400-0180 (2022) (governing when secure-transport agencies and treatment facilities can use restraints and involuntary seclusion), *and* OR. ADMIN. R. 419-480-0080 (2022) (requiring secure-transport companies to adhere to well-written and comprehensive policies and procedures, including policies and procedures covering topics outlined in this rule), *with* UTAH CODE ANN. § 26B-2-125(3) (West 2024) (requiring youth-transport companies to register with the state office, provide a valid business license, and provide proof of insurance), UTAH CODE ANN. § 26B-2-707(5)(a) (West 2024) (prohibiting compensation for referring an individual to a secure-transport company), *and* UTAH CODE ANN. § 26B-2-120 (West 2024) (requiring background checks for all individuals who transport children for secure-transport companies).

204. *See* UTAH CODE ANN. § 26B-2-125(3) (West 2024); *id.* § 26B-2-707(5)(a); *id.* § 26B-2-120.

205. *Id.* § 26B-2-125(3)(a).

206. *Id.* § 26B-2-125(3)(b).

207. *See id.* § 26B-2-707(5)(a).

208. *Id.* § 26B-2-120.

209. *See id.* § 26B-2-125; *id.* § 26B-2-707; *id.* § 26B-2-120.

210. Jessica Miller, *How Utah Became the Leading Place to Send the Nation’s Troubled Teens*, APM REPORTS (Apr. 5, 2022), <https://www.apmreports.org/story/2022/04/05/how-utah-leads-nation-troubled-teens> [<https://perma.cc/9FCB-VQBH>].

state in the country.²¹¹ Between 2015 and 2020, “34 percent of all teens who crossed state lines to enter a youth treatment facility went to Utah.”²¹²

C. Federal Regulation

Currently, there are no federal laws regulating the secure-transport industry, and attempts to enact federal legislation for this facet of the troubled-teen industry have been unsuccessful thus far.²¹³ In October of 2021, Paris Hilton²¹⁴ stood atop Capitol Hill and announced the Accountability for Congregate Care Act.²¹⁵ Representative Ro Khanna from California and Senator Jeff Merkley from Oregon cosponsored this bill.²¹⁶ Breaking Code Silence was also a key proponent of this legislation.²¹⁷ This bill largely focused on protecting youth in congregate-care facilities by implementing a youth bill of rights that did things such as regulating the use of solitary confinement and chemical or physical restraints.²¹⁸ This bill was said to include regulations for secure-transport companies.²¹⁹

In April of 2023, this proposal was renamed the Stop Institutional Child Abuse Act and introduced to Congress.²²⁰ On December 23, 2024, this Act was passed into law.²²¹ The Act has two main functions: “[t]o study and prevent child abuse in youth residential programs.”²²² “The Stop Institutional Child Abuse Act is expected to provide greater oversight and data transparency for institutional youth treatment programs.”²²³ Despite being a win for those seeking reform of the

211. *Id.*

212. *Id.*

213. *See, e.g.,* Salter, *supra* note 27.

214. Paris Hilton has become a fierce advocate for reform in congregate-care facilities since she opened up about her own experience at a Utah treatment facility when she was a teen. Stableford, *supra* note 41. In 2020, Hilton released a documentary recounting her traumatic experience titled “This Is Paris.” PARIS HILTON, *The Real Story of Paris Hilton | This Is Paris Official Documentary | Paris Hilton*, (YouTube, Sep. 13, 2020), <https://www.youtube.com/watch?v=wOg0TY1jG3w> [<https://perma.cc/85ZJ-8R2W>].

215. Stableford, *supra* note 41.

216. *Id.*

217. Caleb Brennan, Sara Tiano & Michael Fitzgerald, *Youth Advocates Again Push Congress to Crack Down on ‘Troubled Teen’ Industry*, IMPRINT (Aug. 18, 2022, 17:35 MT), <https://imprintnews.org/top-stories/youth-advocates-congress-troubled-teen-industry/67243> [<https://perma.cc/XX5S-L8J3>].

218. Salter, *supra* note 27.

219. *Id.*

220. Kati Mapa, *Bipartisan Stop Institutional Child Abuse Act Introduced*, CHILD WELFARE LEAGUE OF AM., <https://www.cwla.org/bipartisan-stop-institutional-child-abuse-act-introduced/> [<https://perma.cc/GM8F-B6YG>] (last visited Jan. 25, 2025); *see also* Brennan, Tiano & Fitzgerald, *supra* note 217 (“[T]he Accountability for Congregate Care Act, was renamed the Stop Institutional Child Abuse Act . . .”).

221. Stop Institutional Child Abuse Act, Pub. L. No. 118–194, 138 Stat. 2664, 2664 (2024).

222. *Id.*

223. *Policy Brief: S.1351 – Stop Institutional Child Abuse Act*, SOC. CURRENT (Jan. 24, 2025), <https://www.social-current.org/2025/01/policy-brief-s-1351-stop-institutional-child-abuse-act/> [<https://perma.cc/N72H-R5ZF>].

troubled-teen industry, the final version of this Act made no mention of regulating the secure-transport industry.²²⁴

V. PROPOSED REGULATION OF THE SECURE-TRANSPORT INDUSTRY

There are four main ways the secure-transport industry could be regulated: judicially, privately, locally by states, or federally. Judicial regulation of the secure-transport industry would be difficult. For over 100 years, courts have recognized the fundamental right of parents to raise their children as they see fit.²²⁵ Judicial regulation of this industry would require recognizing greater rights for children. In its most recent high-profile case dealing with fundamental rights, the Supreme Court overturned the right to an abortion because that right was not “deeply rooted in the Nation’s history and traditions.”²²⁶ As previously explained, the right of parents to raise their children as they see fit is a right that seems to be entrenched in the United States’s history.²²⁷ Considering the history of this right, it appears unlikely that the Court would impose regulations on the secure-transport industry, as that would expand children’s rights and limit parents’ rights.

Furthermore, private regulation of this industry will likely be ineffective. Private regulators would not have the same power or authority as governmental regulators. As a result, private regulators could not force secure-transport companies to comply with their standards. For example, private regulators would not be able to impose criminal sanctions on companies that violate their regulations. Additionally, previous attempts to privately create regulatory schemes have not been widely adopted. Finally, while some secure-transport companies state their own broad set of ethical guidelines on their website,²²⁸ there is no regulating body to hold these companies accountable if they stray from those stated goals.

State regulation of the teen-transport industry is also likely to fall short. Companies that transport children often cross state lines. This creates jurisdictional issues regarding where a claim would or could be litigated and which state’s law would govern the action. This could also create confusion for secure-transport companies because laws would inevitably vary from state to state. The state also has limited power and can only regulate violations that occur within its borders.

Regulating the youth-transport industry at the federal level would be most effective.²²⁹ If a federal statute were in place and a company violated that statute, there would be no question of jurisdiction. Federal courts would have jurisdiction to

224. See Stop Institutional Child Abuse Act, Pub. L. No. 118–194, 138 Stat. 2664 (2024).

225. Meyer v. Nebraska, 262 U.S. 390, 399 (1923); see *supra* Part III.

226. Dobbs v. Jackson Women’s Health Org., 597 U.S. 215, 250 (2022). It seems very unlikely this fundamental right will be overturned because cases describing this right explain how parental rights are rooted in the history and culture of the United States.

227. See *supra* Part III.

228. See, e.g., NEXT STEP YOUTH TRANSP. SERVS., <https://www.nextstepyouthtransport.com/> [<https://perma.cc/D4XL-8EZJ>] (last visited Mar. 15, 2025) (“We believe that every child is entitled to be: [t]reated with respect[, t]old the truth about what is happening[, g]iven the details about what we do[, s]poken to in a professional AND kind way[.]”).

229. Salter, *supra* note 27.

hear these types of claims because the claim would come from a federal law, which creates federal question jurisdiction.²³⁰ Additionally, federal regulation would streamline the regulation of these companies. Secure-transport companies would only need to know and abide by one set of regulations instead of needing to know and abide by differing regulations depending on the state they are currently in.

Importantly, the federal Legislature would likely have the power to regulate the secure-transport industry under the Commerce Clause of the Constitution.²³¹ This clause permits Congress to regulate persons or things that travel across state lines in interstate commerce.²³² As transport companies regularly transport children across the country, this is the easiest way to ensure legislative authority.²³³

In 2014, Ira P. Robbins proposed a model for what federal regulation of the secure-transport industry could look like.²³⁴ This model first stated that a child could only be transported involuntarily if a neutral and detached fact-finder first conducted a proceeding and found that four requirements were met.²³⁵ First, the minor must demonstrate “a risk of harm to himself/herself or others.”²³⁶ Second, the minor must be “experiencing significant impairment in his/her ability to perform socially.”²³⁷ Third, the minor must “benefit from care and treatment by the behavioral-modification facility.”²³⁸ Finally, there must be “no appropriate less-restrictive alternative.”²³⁹

The proposed model goes on to dictate standards and requirements for secure-transport companies.²⁴⁰ These include ensuring prospective employees have a valid driver’s license, pass a drug test, and do not have a criminal history.²⁴¹ This also requires that employees complete a minimum number of training hours, be subject to maximum driving times, and that there be two employees for every transported child.²⁴² Further, this model legislation regulates the use of restraints and implements standards to ensure the safety of transported youth.²⁴³ Finally, this model proposes that a violation of these regulations would result in a monetary penalty.²⁴⁴ This model could serve as a starting point for what regulation of the secure-transport industry could look like today.

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230. 28 U.S.C. § 1331.
231. *United States v. Lopez*, 514 U.S. 549, 558 (1995).
232. *Id.*
233. *See Salter*, *supra* note 27.
234. Robbins, *supra* note 51, at 597–600.
235. *Id.* at 597–98.
236. *Id.* at 598.
237. *Id.*
238. *Id.*
239. *Id.* at 598.
240. *Id.* at 598–99.
241. *Id.* at 598.
242. *Id.*
243. *Id.* at 599.
244. *Id.*

CONCLUSION

Despite increased awareness about the problems that plague troubled-teen facilities, the practice of involuntarily transporting youth is still widely unknown by the general public. For regulations to be implemented, a larger subset of the population likely needs to be aware of this industry and its issues. The Legislature's failure to include regulations for the secure-transport industry in the recently passed Stop Institutional Child Abuse Act shows how this industry continues to be overlooked in the United States. With increased awareness, it is more likely that the public will influence lawmakers to enact federal legislation regulating the secure-transport industry. While the research regarding the lasting effects of involuntary youth transport is inconsistent, it is clear from personal accounts that many children who were transported involuntarily experience lasting trauma. Not only is the transport distressing, but the lack of regulation of this industry also provides a heightened risk of abuse of children who pass through it. Federal legislation is needed to protect children in this vulnerable position and to help maintain their dignity, no matter what state they are taken from or where they end up.