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HOUSE BILL NO. 218

INTRODUCED BY L. SMITH, C. KNUDSEN, M. CAFERRO, D. LOGE, B. KEENAN, B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS; PROVIDING ADDITIONAL REQUIREMENTS FOR LICENSURE; INCREASING THE FREQUENCY OF ONSITE INSPECTIONS BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 52-2-805 AND 52-2-810, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 52-2-805, MCA, is amended to read:

**"52-2-805. Requirements for licensure -- restrictions -- rulemaking.** (1) The department shall

require applicants and licensees:

(a) to submit a set of fingerprints for each person associated with the program who has direct access to program participants for the purpose of conducting a criminal and child protection background check by the Montana department of justice and the federal bureau of investigation. This background investigation must include information pertaining to criminal convictions, reports of domestic violence, and substantiated child abuse or neglect of children.

(b) to maintain and to provide verification of policies of insurance in a form and in an adequate amount as determined by rule.

(2) In developing minimum standards for licensed programs, the department ~~may~~shall adopt rules that pertain to ensuring the health and safety of program participants, including:

(a) a procedure for a licensed program to report the use of a restraint or seclusion to the department within 1 business day after the day on which the use of the restraint or seclusion occurs;

(b) guidelines for written policies and procedures of the licensed program, including policies and procedures on suicide prevention and for implementation of the requirements and restrictions in subsections (3) and (4);

**Amendment - 1st Reading-white - Requested by: Laura Smith - (H) Human Services**

- 2023

68th Legislature 2023

Drafter: Milly Allen, 406-444-9280

HB0218.001.005

1 (c) a procedure for the department to review and approve the licensed program's policies and  
2 procedures; and

3 (d) a procedure for submitting a complaint about a licensed program to the department and a  
4 requirement that each licensed program publicly post information that describes how to submit a complaint  
5 about the licensed program to the department.

6 (3) A licensed program may not:

7 (a) use as a punishment, deterrent, or incentive:

8 (i) physical discipline of any means, including but not limited to hitting, dragging, shaking, biting,  
9 pinching, and other forms of corporal punishment; or

10 (ii) deprivation of basic necessity, including education;

11 (b) engage in abusive, humiliating, degrading, or traumatizing actions against a youth; ~~or~~

12 (c) admit a youth who:

13 (i) is under 12 years of age; or

14 (ii) has been assessed by a licensed mental health professional as seriously emotionally

15 disturbed, unless the ~~youth assessment does not require care in a licensed health facility indicate a need for~~  
16 ~~residential or inpatient behavioral health treatment~~ and the department has certified that the program meets the  
17 standards to provide mental health treatment services for a child having a serious emotional disturbance

18 ~~pursuant to 52-2-310.; or~~

19 ~~(d) sexually abuse, exploit, or harass an enrolled youth, including but not limited to:~~

20 ~~(i) requiring that a youth report sexual history or sexual assaults in group or private settings; and~~

21 ~~(ii) nonconsensual physical contact that has no therapeutic purpose.~~

22 (4) A licensed program must:

23 (a) allow a parent or guardian to remove a youth from the licensed program; and

24 (b) unless otherwise prohibited by law or court order, facilitate weekly confidential ~~video~~

25 communication between a youth and the youth's family, including parents, guardians, foster parents, and  
26 siblings, as applicable."

27

28 **Section 2.** Section 52-2-810, MCA, is amended to read:

