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HOUSE BILL NO. 218

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PRIVATE

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ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS; PROVIDING ADDITIONAL

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REQUIREMENTS FOR LICENSURE; INCREASING THE FREQUENCY OF ONSITE INSPECTIONS BY THE

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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; PROVIDING RULEMAKING AUTHORITY;

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AND AMENDING SECTIONS 52-2-805 AND 52-2-810, MCA."

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

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

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

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require applicants and licensees:

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(a) to submit a set of fingerprints for each person associated with the program who has direct

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access to program participants for the purpose of conducting a criminal and child protection background check

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by the Montana department of justice and the federal bureau of investigation. This background investigation

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must include information pertaining to criminal convictions, reports of domestic violence, and substantiated child

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abuse or neglect of children.

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(b) to maintain and to provide verification of policies of insurance in a form and in an adequate

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amount as determined by rule.

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(2) In developing minimum standards for licensed programs, the department ~~may~~shall adopt rules

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that pertain to ensuring the health and safety of program participants, including:

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(a) a procedure for a licensed program to report the use of a restraint or seclusion to the

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department within 1 business day after the day on which the use of the restraint or seclusion occurs;

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(b) guidelines for written policies and procedures of the licensed program, which at a minimum

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must include: including policies and procedures on suicide prevention and for implementation of the

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requirements and restrictions in subsections (3) and (4);

1 (i) admission criteria, including a process to determine appropriateness of placement with  
2 consideration given to age, sex, behavioral health needs, and developmental status of referred youth;  
3 (ii) assessment and delivery of physical and behavioral health, including suicide prevention;  
4 (iii) participant rights and a grievance policy, including:  
5 (A) policies to prevent and report sexual abuse and harassment of enrolled participants; and  
6 (B) unless otherwise prohibited by law or court order, facilitation of weekly confidential video  
7 communication without program staff present between a youth and the youth's family, including parents,  
8 guardians, foster parents, and siblings, as applicable; and  
9 (iv) a discharge process, including a process to allow a parent or guardian to remove a youth from  
10 the licensed program at any time;  
11 (c) a procedure for the department to review and approve the licensed program's policies and  
12 procedures; and  
13 (d) a procedure for submitting a complaint about a licensed program to the department and a  
14 requirement that each licensed program publicly post information that describes how to submit a complaint  
15 about the licensed program to the department.  
16 (3) A licensed program may not:  
17 (a) use as a punishment, deterrent, or incentive:  
18 (i) physical discipline of any means, including but not limited to hitting, dragging, shaking, biting,  
19 pinching, and other forms of corporal punishment; or  
20 (ii) deprivation of basic necessity, including education;  
21 (b) engage in abusive, humiliating, degrading, or traumatizing actions against a youth; or  
22 (c) admit a youth who:  
23 (i) is under 12 years of age; or  
24 (ii) has been assessed by a licensed mental health professional as seriously emotionally  
25 disturbed, unless the youth assessment does not require indicate a need for residential or inpatient behavioral  
26 health treatment care in a licensed health facility and the department has certified that the program meets the  
27 standards to provide mental health treatment services for a child-youth having a serious emotional disturbance  
28 pursuant to 52-2-310.

- 1           (4) A licensed program must:
- 2           (a) allow a parent or guardian to remove a youth from the licensed program at any time; and
- 3           (b) unless otherwise prohibited by law or court order, facilitate weekly confidential video
- 4 communication between a youth and the youth's family, including parents, guardians, foster parents, and
- 5 siblings, as applicable."

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

8           **"52-2-810. Periodic visits to facilities by department -- investigations -- consultation with**

9 **licensees and registrants.** (1) The department or its authorized representative shall make periodic visits to all

10 licensed programs to ensure that minimum standards are maintained.

11           (2) The department may investigate and inspect the conditions and qualifications of any program

12 seeking or holding a license under the provisions of this part.

13           (3) (a) The department shall conduct an onsite inspection of:

14           (a)(i) each program applying for a license; and

15           (b)(ii) each licensed program at least once every 3 years each calendar quarter.

16           (b) At least two of the quarterly inspections of a licensed program in each calendar year must be

17 unannounced.

18           (c) All records of a licensed program must be open to inspection by the department at all

19 reasonable times.

20           (4) ~~Upon~~On request of the department, the state fire prevention and investigation section of the

21 department of justice shall inspect any program for which a license is applied for or issued and shall report its

22 findings to the department."

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