

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);

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 does not require care in a licensed health facility and the department has certified  
16 that the program meets the standards to provide mental health treatment services for a child having a serious  
17 emotional disturbance pursuant to 52-2-310.

18          (4) A licensed program must:

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

20          (b) unless otherwise prohibited by law or court order, facilitate weekly confidential communication  
21 between a youth and the youth's family, including parents, guardians, foster parents, and siblings, as  
22 applicable."

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

25           **"52-2-810. Periodic visits to facilities by department -- investigations -- consultation with**  
26 **licensees and registrants.** (1) The department or its authorized representative shall make periodic visits to all  
27 licensed programs to ensure that minimum standards are maintained.

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

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

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

3 ~~(a)(i)~~ each program applying for a license; and

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

5 (b) At least two of the quarterly inspections of a licensed program in each calendar year must be  
6 unannounced.

7 (c) All records of a licensed program must be open to inspection by the department at all  
8 reasonable times.

9 (4) ~~Upon~~On request of the department, the state fire prevention and investigation section of the  
10 department of justice shall inspect any program for which a license is applied for or issued and shall report its  
11 findings to the department."

12 - END -