1   HOUSE BILL NO. 208

2   INTRODUCED BY J. WELBORN, D. ANKNEY, DEBBY BARRETT, B. MCCHESNEY, J. O'HARA

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4   A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LOCAL EDUCATIONAL AGENCIES TO PROVIDE

5   CERTAIN STUDENT RECORD INFORMATION TO THE MONTANA YOUTH CHALLENGE PROGRAM ON A

6   SEMIANNUAL BASIS; PROVIDING WRITTEN NOTICE TO A PARENT OR GUARDIAN OF THE INTENDED

7   DISCLOSURE OF THE STUDENT RECORD INFORMATION; PROVIDING FOR AN OPPORTUNITY TO

8   OBJECT TO THE DISCLOSURE; AMENDING SECTION 20-1-213, MCA; AND PROVIDING AN IMMEDIATE

9   EFFECTIVE DATE."

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

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13   **Section 1.** Section 20-1-213, MCA, is amended to read:

14   **"20-1-213. Transfer of school records.** (1) Subject to the provisions of the Family Educational Rights

15   and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and

16   to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its

17   implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a

18   policy that a certified copy of the permanent file, as defined by the board of public education, and the file

19   containing special education records of a student will be forwarded by mail or electronically to a local educational

20   agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt

21   of a written or electronic request.

22   (2) If records cannot be forwarded within 5 days, the local educational agency or accredited school shall

23   notify the requestor in writing or electronically providing the reasons why the local educational agency or

24   accredited school is unable to comply within the 5-day timeframe and the local educational agency or accredited

25   school shall provide the date by which the requested records will be transferred.

26   (3) A local educational agency or accredited school may not refuse to transfer files because a student

27   owes fines or fees.

28   (4) The files that are forwarded must include education records in the permanent file, special education

29   records, and any disciplinary actions taken against the student that are educationally related.

30   (5) A local educational agency or accredited school may release student information to the juvenile

1   justice system to assist the system's ability to effectively serve, prior to adjudication, the student whose records

2   are released under provisions of 20 U.S.C. 1232g(B)(1)(E) of the Family Educational Rights and Privacy Act of

3   1974, as amended. The official to whom the records are disclosed shall certify in writing to the sending official

4   that the information will not, except as provided by law, be disclosed to any other party without prior written

5   consent of the parent of the student.

6   (6) The superintendent of public instruction is encouraged to contact other states or provinces and may

7   enter into reciprocal records transfer agreements with the superintendent of public instruction or a department

8   of education of any state or province. The superintendent of public instruction shall supply a copy of any

9   reciprocal records transfer agreement that is executed to the county superintendent of each county that may be

10   affected by the agreement.

11   (7)   Upon request, the local educational agency or accredited school shall transfer by mail or

12   electronically a copy of the permanent file to a nonpublic school or facility.

13   (8) (a) By ~~October 1 and February 1~~ NOVEMBER 1 AND MARCH 1 of each school fiscal year, a local

14   educational agency shall ~~provide to the director of the Montana youth challenge program~~ PREPARE a report TO

15   BE PROVIDED TO THE DIRECTOR OF THE MONTANA YOUTH CHALLENGE PROGRAM SUBJECT TO SUBSECTIONS (8)(B) AND

16   (8)(C) containing the name, last-known address, and dates of attendance of a student who:

17   (i) is at least 16 years of age but less than 19 years of age;

18   (ii) was enrolled but is no longer enrolled in a school in the district;

19   (iii) has not provided school transfer or graduation information to a school in the district; and

20   (iv) has not received a high school diploma or general educational development certificate.

21   (b) ~~At the beginning of each school year~~ AFTER PREPARING THE REPORT IN ACCORDANCE WITH SUBSECTION

22   (8)(A), a local educational agency shall provide written notice to the parent or guardian of the student or to the

23   student if the student is at least 18 years of age or is under 18 years of age and emancipated ~~of the planned~~

24   ~~disclosure of the information under subsection (8)(a) and shall provide an opportunity for objection to the~~

25   ~~disclosure~~ THAT THE AGENCY INTENDS TO PROVIDE THE REPORT TO THE DIRECTOR OF THE MONTANA YOUTH CHALLENGE

26   PROGRAM. THE PARENT OR GUARDIAN OR THE STUDENT MUST BE GIVEN THE OPPORTUNITY TO OBJECT TO THE PLANNED

27   DISCLOSURE OF THE INFORMATION. IF THE PARENT OR GUARDIAN OR THE STUDENT FAILS TO RESPOND TO THE NOTICE

28   WITHIN 30 DAYS, THE LOCAL EDUCATIONAL AGENCY SHALL FORWARD THE REPORT TO THE DIRECTOR OF THE MONTANA

29   YOUTH CHALLENGE PROGRAM.

30   (C) THE REPORT PROVIDED BY THE LOCAL EDUCATIONAL AGENCY MAY NOT INCLUDE A STUDENT WHO:

1   (I) IS RECEIVING MEDICAL CARE OR TREATMENT THAT PROHIBITS SCHOOL ATTENDANCE;

2   (II) IS ENROLLED IN A FOREIGN EXCHANGE PROGRAM;

3   (III) IS ENROLLED IN AN EARLY ADMISSIONS COLLEGE PROGRAM;

4   (IV) IS PARTICIPATING IN A JOB CORPS PROGRAM, AN ADULT BASIC EDUCATION PROGRAM, OR AN ACCREDITED

5   APPRENTICESHIP PROGRAM; OR

6   (V) IS EXCUSED FROM SCHOOL FOR A REASON DETERMINED ACCEPTABLE BY THE LOCAL EDUCATIONAL AGENCY.

7   ~~(c)~~(D) The official to whom the information in subsection (8)(a) is provided shall certify in writing to the

8   local educational agency that is providing the information that the information will not be disclosed to any other

9   party except as necessary to recruit and retain students.

10   ~~(8)~~(9) As used in this section, "local educational agency" means a public school district or a state-funded

11   school."

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13   NEW SECTION. **Section 2. Effective date.** [This act] is effective ~~July 1, 2011~~ ON PASSAGE AND

14   APPROVAL.

15   - END -