

SENATE BILL NO. 16

INTRODUCED BY J. GROSS

BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING MINORS TO CONSENT TO NO-COST EMERGENCY SHELTER AND RELATED SERVICES; CLARIFYING THE DEFINITION OF MINOR; AMENDING SECTIONS 41-1-101 AND 41-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Consent by minor for no-cost emergency shelter and services. (1) A

minor may consent to receive no-cost emergency shelter and related services if the minor understands the benefits, responsibilities, risks, and limits of the shelter and services and agrees to adhere to the provider's rules and to cooperate and participate in those services recommended by the provider.

(2) Subject to the provisions of subsection (3), a provider may provide no-cost emergency shelter and related services to a consenting minor if the provider:

(a) conducts an assessment and determines the minor does not pose a danger to the minor's self or other persons at the same location. If the provider determines that admitting the minor poses a danger, the provider shall report the matter to an appropriate agency.

(b) reasonably believes that:

(i) the minor understands the significant benefits, responsibilities, risks, and limits of the shelter and services and can communicate an informed consent;

(ii) the minor understands the requirements and rules of the shelter and services; and

(iii) the shelter and services are necessary to ensure the minor's safety and well-being; and

(c) obtains written consent from the minor stating the minor's age, guardianship status, if known, and living situation. A provider may not provide shelter if the provider has knowledge that the minor knowingly provided false information in the written consent.

(3) A provider shall make reasonable efforts to contact the minor's parent, legal guardian, or legal

1 custodian and shall document those efforts in writing. If the parent, legal guardian, or legal custodian cannot be
2 reached or refuses to give consent, or if the minor refuses to provide contact information for the parent, legal
3 guardian, or legal custodian, the provider may still provide shelter and services if, based on the information
4 available to the provider, the provider reasonably believes the minor would incur harm or be subject to
5 threatened harm if the minor returned immediately to the home of the parent, legal guardian, or legal custodian.

6 (4) If a provider receives information indicating a consenting minor is missing from foster care, the
7 provider shall contact the department. If a provider receives information indicating a consenting minor was
8 reported missing by a legal guardian other than the department, the provider shall contact law enforcement.

9 (5) Before providing no-cost emergency shelter and related services to a consenting minor, a provider
10 shall develop and implement a procedure to screen each staff member who works with minors, including
11 through a state and national criminal history records check or a private agency background check.

12 (6) Any consent given by a minor under this section must, for the duration of the period of shelter and
13 with respect to all services, be valid and binding as if the minor had reached the age of majority.

14 (7) Except for gross negligence or willful or wanton acts or omissions, a provider who renders
15 emergency shelter and related services to a minor pursuant to this section is immune from civil or criminal
16 liability based on the provider's determination to provide the shelter and related services.

17 (8) The provider shall report any suspected child abuse or neglect to the department or to law
18 enforcement.

19 (9) For the purposes of this section, the following definitions apply:

20 (a) "Department" means the department of public health and human services provided for in 2-15-
21 2201.

22 (b) "Minor" has the same meaning as provided in 41-1-101.

23 (c) "No-cost emergency shelter and related services" means accommodation at no cost, including
24 beds, meals, individual showering facilities, transportation to and from the place of shelter, and any of the
25 following services as deemed appropriate by the provider:

- 26 (i) assistance with reunification with the family, legal guardian, or legal custodian of the minor;
27 (ii) referral to safe housing;
28 (iii) individual, family, and group counseling;

- 1 (iv) assistance in obtaining clothing;
- 2 (v) access to medical and dental care and mental health counseling;
- 3 (vi) education and employment services;
- 4 (vii) recreational activities;
- 5 (viii) case management, advocacy, and referral services;
- 6 (ix) independent living skills training; and
- 7 (x) aftercare services, as those services are defined in 45 CFR 1351.1.

8 (d) "Provider" means a nonprofit entity or host home program that provides no-cost emergency shelter
 9 and related services to minors in need of shelter. The term does not include an entity or program operated by a
 10 government, except for a tribal government.

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12 **Section 2.** Section 41-1-101, MCA, is amended to read:

13 **"41-1-101. Minors and adults defined.** (1) Minors are:

- 14 ~~(a) males under 18 years of age;~~
- 15 ~~(b) females~~ persons under 18 years of age.
- 16 (2) All other persons are adults."

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18 **Section 3.** Section 41-1-102, MCA, is amended to read:

19 **"41-1-102. ~~Periods~~Period of minority -- how calculated.** The ~~periods~~period specified in 41-1-101
 20 must be calculated from the first minute of the day on which ~~persons are~~a person is born to the same minute of
 21 the corresponding day completing the period of minority."

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23 NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a
 24 copy of [this act] to each federally recognized tribal government in Montana.

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26 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
 27 integral part of Title 41, chapter 1, and the provisions of Title 41, chapter 1, apply to [section 1].

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