- 2023

68th Legislature 2023 Drafter: Milly Allen, 406-444-9280 HB0218.001.004

1	HOUSE BILL NO. 218			
2	INTRODUCED BY L. SMITH, C. KNUDSEN, M. CAFERRO, D. LOGE, B. KEENAN, B. USHER			
3				
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PRIVATE			
5	ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS; PROVIDING ADDITIONAL			
6	REQUIREMENTS FOR LICENSURE; INCREASING THE FREQUENCY OF ONSITE INSPECTIONS BY THE			
7	DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; PROVIDING RULEMAKING AUTHORITY;			
8	AND AMENDING SECTIONS 52-2-805 AND 52-2-810, MCA."			
9				
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:			
11				
12	Section 1. Section 52-2-805, MCA, is amended to read:			
13	"52-2-805. Requirements for licensure restrictions rulemaking. (1) The department shall			
14	require applicants and licensees:			
15	(a) to submit a set of fingerprints for each person associated with the program who has direct			
16	access to program participants for the purpose of conducting a criminal and child protection background check			
17	by the Montana department of justice and the federal bureau of investigation. This background investigation			
18	must include information pertaining to criminal convictions, reports of domestic violence, and substantiated child			
19	abuse or neglect of children.			
20	(b) to maintain and to provide verification of policies of insurance in a form and in an adequate			
21	amount as determined by rule.			
22	(2) In developing minimum standards for licensed programs, the department may shall adopt rules			
23	that pertain to ensuring the health and safety of program participants, including:			
24	(a) a procedure for a licensed program to report the use of a medical, chemical, or physical			
25	restraint or seclusion to the department within 1 business day after the day on which the use of the medical,			
26	chemical, or physical restraint or seclusion occurs;			
27	(b) guidelines for written policies and procedures of the licensed program, including policies and			
28	procedures on suicide prevention and for implementation of the requirements and restrictions in subsections (3)			



Amendment - 1st Reading-white - Requested by: Jennifer Carlson - (H) Human Services - 2023

68th Legislature 2023

Drafter: Milly Allen, 406-444-9280 HB0218.001.004

1	<u>and (4);</u>		
2	(c) a procedure for the department to review and approve the licensed program's policies and		
3	procedures; and		
4	(d) a procedure for submitting a complaint about a licensed program to the department and a		
5	requirement that each licensed program publicly post information that describes how to submit a complaint		
6	about the licensed program to the department.		
7	(3) A licensed program may not:		
8	(a) use as a punishment, deterrent, or incentive:		
9	(i) physical discipline of any means, including but not limited to hitting, dragging, shaking, biting,		
10	pinching, and other forms of corporal punishment; or		
11	(ii) deprivation of basic necessity, including education;		
12	(b) engage in abusive, humiliating, degrading, or traumatizing actions against a youth; or		
13	(c) admit a youth who:		
14	(i) is under 12 years of age; or		
15	(ii) has been assessed by a licensed mental health professional as seriously emotionally		
16	disturbed, unless the youth does not require care in a licensed health facility and the department has certified		
17	that the program meets the standards to provide mental health treatment services for a child having a serious		
18	emotional disturbance pursuant to 52-2-310.		
19	(4) A licensed program must:		
20	(a) allow a parent or guardian to remove a youth from the licensed program; and		
21	(b) unless otherwise prohibited by law or court order, facilitate weekly confidential communication		
22	between a youth and the youth's family, including parents, guardians, foster parents, and siblings, as		
23	applicable."		
24			
25	Section 2. Section 52-2-810, MCA, is amended to read:		
26	"52-2-810. Periodic visits to facilities by department investigations consultation with		
27	licensees and registrants. (1) The department or its authorized representative shall make periodic visits to al		
28	licensed programs to ensure that minimum standards are maintained.		



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1	(2)	The department may investigate and inspect the conditions and qualifications of any program	
2	seeking or hold	ing a license under the provisions of this part.	
3	(3)	(a) The department shall conduct an onsite inspection of:	
4	(a) (i)	each program applying for a license; and	
5	(b)(ii)	each licensed program at least once every 3 years each calendar quarter.	
6	<u>(b)</u>	At least two of the quarterly inspections of a licensed program in each calendar year must be	
7	unannounced.		
8	<u>(c)</u>	All records of a licensed program must be open to inspection by the department at all	
9	reasonable time	<u>es.</u>	
10	(4)	Upon On request of the department, the state fire prevention and investigation section of the	
11	department of justice shall inspect any program for which a license is applied for or issued and shall report it		
12	findings to the department."		
13		- END -	

