

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 555**  
**96TH GENERAL ASSEMBLY**

0920L.03C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.152, 208.275, 208.955, 209.150, 209.152, 209.200, 210.496, 210.900, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, 633.309, and 660.405, RSMo, and to enact in lieu thereof eighty-seven new sections relating to the Missouri most vulnerable persons (MVP) act, with existing penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968,  
2 208.151, 208.152, 208.275, 208.955, 209.150, 209.152, 209.200, 210.496, 210.900, 211.202,  
3 211.203, 211.206, 211.207, 211.447, 301.143, 402.210, 453.070, 475.121, 475.355, 476.537,  
4 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097,  
5 630.120, 630.165, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605,  
6 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120,  
7 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110,  
8 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160,  
9 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, 633.309, and 660.405, RSMo, are  
10 repealed and eighty-seven new sections enacted in lieu thereof, to be known as sections 8.241,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 143.1017, 162.946, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.152,  
12 208.275, 208.955, 209.150, 209.152, 209.200, 210.496, 210.900, 211.202, 211.203, 211.206,  
13 211.207, 211.447, 301.143, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020,  
14 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165,  
15 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635,  
16 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380,  
17 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120,  
18 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185,  
19 633.190, 633.210, 633.300, 633.303, 633.309, and 660.405, to read as follows:

8.241. 1. In addition to other provisions of law relating to title to and conveyance of real  
2 property by the state, and notwithstanding any provisions of chapter 8 to the contrary, if the state  
3 should ever purchase or otherwise acquire ownership of real property located in a city not within  
4 a county as described in subsection 2 of this section, the state shall:

5 (1) Use, operate and maintain such property in full compliance with all applicable deed  
6 restrictions encumbering the property;

7 (2) Operate, maintain and use the property exclusively by the department of mental  
8 health for the purpose of housing no more than six employed and employable [mentally retarded  
9 or] developmentally disabled adults, and for no other purpose and by no other state agency, in  
10 whole or in part;

11 (3) Not sell or otherwise transfer ownership of the property, unless such property is sold  
12 or transferred solely for private, single-family residential use, which shall not be deemed to  
13 include, without limitation, any sale, transfer or conveyance of ownership of the property to any  
14 other state agency or department or program.

15 2. The property subject to the provisions of this section is more particularly described  
16 as follows: A parcel of real estate situated in Lot 20 in Block A of Compton Heights and in  
17 Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8 inches on the North line of  
18 Longfellow Boulevard by a depth Northwardly on the east line of a 160 square foot and 159 feet  
19 5 inches on the West line to the North line of said lot on which there is a frontage of 100 feet  
20 bounded East by Compton Avenue together with all improvements thereon, known as and  
21 numbered 3205 Longfellow Boulevard.

**143.1017. 1. For all taxable years beginning on or after January 1, 2011, each  
2 individual or corporation entitled to a tax refund in an amount sufficient to make a  
3 designation under this section may designate that one dollar or any amount in excess of one  
4 dollar on a single return, and two dollars or any amount in excess of two dollars on a  
5 combined return, of the refund due be credited to the developmental disabilities waiting  
6 list equity trust fund. If any individual or corporation that is not entitled to a tax refund**

7 in an amount sufficient to make a designation under this section wishes to make a  
8 contribution to the fund, such individual or corporation may, by separate check, draft, or  
9 other negotiable instrument, send in with the payment of taxes, or may send in separately,  
10 that amount the individual or corporation wishes to contribute. Such amounts shall be  
11 clearly designated for the fund.

12 2. There is hereby created in the state treasury the "Developmental Disabilities  
13 Waiting List Equity Trust Fund", which shall consist of money collected under this section.  
14 The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and  
15 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund  
16 and, upon appropriation, money in the fund shall be used solely for the administration of  
17 this section and for providing community services and support to people with  
18 developmental disabilities and such person's families who are on the developmental  
19 disabilities waiting list and are eligible for but not receiving services. Notwithstanding the  
20 provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end  
21 of the biennium shall not revert to the credit of the general revenue fund. The state  
22 treasurer shall invest moneys in the fund in the same manner as other funds are invested.  
23 Any interest and moneys earned on such investments shall be credited to the fund. All  
24 moneys credited to the trust fund shall be considered nonstate funds under section 15,  
25 article IV, Constitution of Missouri. The treasurer shall distribute all moneys deposited  
26 in the fund at times the treasurer deems appropriate to the department of mental health.

27 3. The director of revenue shall deposit at least monthly all contributions  
28 designated by individuals under this section to the state treasurer for deposit to the fund.  
29 The director of revenue shall deposit at least monthly all contributions designated by the  
30 corporations under this section, less an amount sufficient to cover the costs of collection  
31 and handling by the department of revenue, to the state treasury for deposit to the fund.  
32 A contribution designated under this section shall only be deposited in the fund after all  
33 other claims against the refund from which such contribution is to be made have been  
34 satisfied.

35 4. Under section 23.253 of the Missouri sunset act:

36 (1) The provisions of the new program authorized under this section shall  
37 automatically sunset on December thirty-first six years after the effective date of this  
38 section unless reauthorized by an act of the general assembly; and

39 (2) If such program is reauthorized, the program authorized under this section  
40 shall automatically sunset on December thirty-first twelve years after the effective date of  
41 the reauthorization of this section; and

42           **(3) This section shall terminate on September first of the calendar year immediately**  
43 **following the calendar year in which the program authorized under this section is sunset.**

**162.946. 1. Each district school board shall require schools within the district to**  
2 **provide disability history and awareness instruction in all K-12 public schools during the**  
3 **month of October of each year. The month of October shall be designated "Disability**  
4 **History and Awareness Month".**

5           **2. During disability history and awareness month, students shall be provided**  
6 **instruction to expand their knowledge, understanding, and awareness of individuals with**  
7 **disabilities, the history of disability, and the disability rights movement.**

8           **3. Disability history shall include the events and timelines of the development and**  
9 **evolution of services to, and the civil rights of, individuals with disabilities. Disability**  
10 **history shall also include the contributions of specific individuals with disabilities,**  
11 **including the contributions of acknowledged national leaders. The instruction shall be**  
12 **integrated into the existing school curriculum in ways including, but not limited to,**  
13 **supplementing lesson plans, inviting classroom and assembly speakers with experience or**  
14 **expertise on disabilities, or providing other school-related activities. The instruction may**  
15 **be delivered by qualified school personnel or by knowledgeable guest speakers.**

16           **4. The goals of the disability history and awareness instruction include:**

17           **(1) Instilling in students sensitivity for fellow students with disabilities and**  
18 **encouraging educational cultures that nurture safe and inclusive environments for students**  
19 **with disabilities in which bullying is discouraged and respect and appreciation for students**  
20 **with disabilities is encouraged;**

21           **(2) An understanding that disability is a natural part of the human experience; we**  
22 **are all more alike than different; and regardless of disability, every citizen is afforded the**  
23 **same rights and responsibilities as that of any other;**

24           **(3) The creation of a more inclusive school community, where students with**  
25 **disabilities are included in every aspect of society, and every student is acknowledged for**  
26 **their unique gifts, talents, and contributions; and**

27           **(4) Reaffirmation of the local, state, and federal commitment to the full inclusion**  
28 **in society of, and the equal opportunity for, all individuals with disabilities.**

29

30 **The department of elementary and secondary education shall identify and adopt**  
31 **preliminary guidelines for each district school board to use to develop its curriculum that**  
32 **incorporates these goals for the disability history and awareness instruction. In respect of**  
33 **local control, school districts are encouraged to exercise innovation that accomplishes the**  
34 **above-stated goals.**

35           **4. Institutions of higher education within the state are encouraged to conduct and**  
36 **promote activities on individual campuses that provide education, understanding, and**  
37 **awareness of individuals with disabilities.**

178.900. For the purposes of sections 178.900 to [178.970] **178.960** the following words

2 mean:

3           (1) "Department", the department of elementary and secondary education;

4           (2) "[Handicapped] **Disabled** persons", a lower range educable or upper range trainable  
5 [mentally retarded] **developmentally disabled** or other [handicapped] **disabled** person sixteen  
6 years of age or over who has had school training and has a productive work capacity in a  
7 sheltered environment adapted to the abilities of the [mentally retarded] **developmentally**  
8 **disabled** but whose limited capabilities make him nonemployable in competitive business and  
9 industry and unsuited for vocational rehabilitation training;

10           (3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit  
11 corporation, which, except for its staff, employs only [handicapped] **disabled** persons and has  
12 a minimum enrollment of at least fifteen employable [handicapped] **disabled** persons;

13           (4) "Staff", employees of a sheltered workshop engaged in management, work  
14 procurement, purchasing, supervision, sales, bookkeeping, and secretarial and clerical functions.

189.010. 1. As used in sections 189.010 to 189.085, unless the context clearly indicates  
2 otherwise, the following terms mean:

3           (1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or  
4 facilities meeting standards to be established under the provisions of sections 189.010 to  
5 189.085;

6           (2) "Department", the department of social services of the state of Missouri;

7           (3) "Director", the director of the department of social services of the state of Missouri  
8 or his duly authorized representative;

9           (4) "High risk patient", a woman of childbearing age who has any condition, or is at risk  
10 of developing some condition, medically or otherwise known to predispose to premature birth  
11 or to produce [mental retardation] **developmental disability**; or any infant or child who has any  
12 condition, or is at risk of developing some condition, medically known to predispose to [mental  
13 retardation] **developmental disability**;

14           (5) "Person", any individual, firm, partnership, association, corporation, company, group  
15 of individuals acting together for a common purpose or organization of any kind, including any  
16 governmental agency other than the United States or the state of Missouri;

17           (6) "Region", contiguous geographic areas of the state larger than single counties where  
18 health programs including special services for high risk patients can be developed efficiently and  
19 economically;

20 (7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization,  
21 and related activity to correct high risk conditions including all things reasonably incident and  
22 necessary to make the service available to the high risk patient;

23 (8) "Special services", diagnostic and treatment services which may not be efficiently  
24 or economically developed as a regular component of a hospital or clinic either because of high  
25 cost or infrequent demand but which may be required for high risk patients; such services would  
26 include, but not be limited to, intensive care units for the care of premature infants and  
27 intra-uterine fetal monitoring.

28 2. Expenditures for the operation of a hospital include, but are not limited to, amounts  
29 paid in connection with inpatient care in the hospital; ambulatory or emergency care provided  
30 by the hospital; ambulance services used in the transportation of patients to the hospital or among  
31 hospitals; administration of the hospital; maintenance and repairs of the hospital; depreciation  
32 of hospital capital assets; food, drugs, equipment and other supplies used by the hospital; and  
33 recruitment, selection and training of physician, nursing, allied health and other hospital  
34 personnel.

35 3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted  
36 for paying certain operating costs, or groups of costs, but are intended to supplement the  
37 appropriations from the local governmental agency for poor patients. Patients eligible for  
38 Medicare, Medicaid and other third party insurance are not eligible under this chapter.

189.065. The department is authorized and directed to work with public and private  
2 institutions and agencies or persons to insure that special services will be available in all regions  
3 of the state, both rural and metropolitan. Whenever services or special services required for the  
4 purposes of sections 189.010 to 189.085 are not available, the department is authorized to use  
5 up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to  
6 assist in establishing the facilities and professional staff required. For the purposes of  
7 implementing this section, the department and the advisory committees shall give special  
8 consideration to those areas of the state or population groups which demonstrate the highest  
9 incidence of [mental retardation] **developmental disability** or where accessibility to services or  
10 special services may be limited because of distance.

192.005. There is hereby created and established as a department of state government  
2 the "Department of Health and Senior Services". The department of health and senior services  
3 shall supervise and manage all public health functions and programs. The department shall be  
4 governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B,  
5 RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the  
6 department of social services, chapter 191, this chapter, and others, including, but not limited to,  
7 such agencies and functions as the state health planning and development agency, the crippled

8 children's service, chapter 201, the bureau and the program for the prevention of [mental  
9 retardation] **developmental disability**, the hospital subsidy program, chapter 189, the state board  
10 of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family  
11 practice residency program, [sections 191.575 to 191.590,] the licensure and certification of  
12 hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby  
13 transferred to the department of health and senior services by a type I transfer, and the state  
14 cancer center and cancer commission, chapter 200, is hereby transferred to the department of  
15 health and senior services by a type III transfer as such transfers are defined in section 1 of the  
16 Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions  
17 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984,  
18 relating to the manner and procedures for transfers of state agencies shall apply to the transfers  
19 provided in this section. The division of health of the department of social services is abolished.

198.012. 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the  
2 following entities:

3 (1) Any hospital, facility or other entity operated by the state or the United States;

4 (2) Any facility or other entity otherwise licensed by the state and operating exclusively  
5 under such license and within the limits of such license, unless the activities and services are or  
6 are held out as being activities or services normally provided by a licensed facility under sections  
7 198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the  
8 provisions of chapter 197;

9 (3) Any hospital licensed under the provisions of chapter 197, provided that the assisted  
10 living facility, intermediate care facility or skilled nursing facility are physically attached to the  
11 acute care hospital; and provided further that the department of health and senior services in  
12 promulgating rules, regulations and standards pursuant to section 197.080, with respect to such  
13 facilities, shall establish requirements and standards for such hospitals consistent with the intent  
14 of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall  
15 apply to every assisted living facility, intermediate care facility or skilled nursing facility  
16 regardless of physical proximity to any other health care facility;

17 (4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care,  
18 treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis  
19 of mental disorder, mental illness, [mental retardation or] developmental disabilities, as defined  
20 in section 630.005;

21 (5) Any provider of care under a life care contract, except to any portion of the provider's  
22 premises on which the provider offers services provided by an intermediate care facility or  
23 skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider  
24 of care under a life care contract" means any person contracting with any individual to furnish

25 specified care and treatment to the individual for the life of the individual, with significant  
26 prepayment for such care and treatment.

27           2. Nothing in this section shall prohibit any of these entities from applying for a license  
28 under sections 198.003 to 198.136.

          205.968. 1. As set forth in section 205.971, when a levy is approved by the voters, the  
2 governing body of any county or city not within a county of this state shall establish a board of  
3 directors. The board of directors shall be a legal entity empowered to establish and/or operate  
4 a sheltered workshop as defined in section 178.900, residence facilities, or related services, for  
5 the care or employment, or both, of [handicapped] **disabled** persons. The facility may operate  
6 at one or more locations in the county or city not within a county. Once established, the board  
7 may, in its own name engage in and contract for any and all types of services, actions or  
8 endeavors, not contrary to the law, necessary to the successful and efficient prosecution and  
9 continuation of the business and purposes for which it is created, and may purchase, receive,  
10 lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and  
11 otherwise dispose of real and personal property, or any interest therein, or other assets wherever  
12 situated and may incur liability and may borrow money at rates of interest up to the market rate  
13 published by the Missouri division of finance. The board shall be taken and considered as a  
14 "political subdivision" as the term is defined in section 70.600 for the purposes of sections  
15 70.600 to 70.755.

16           2. Services may only be provided for those persons defined as [handicapped] **disabled**  
17 persons in section 178.900 and those persons defined as [handicapped persons] **disabled** in this  
18 section whether or not employed at the facility or in the community, and for persons who are  
19 [handicapped] **disabled** due to developmental disability. Persons having substantial functional  
20 limitations due to a mental illness as defined in section 630.005 shall not be eligible for services  
21 under the provisions of sections 205.968 to 205.972 except that those persons may participate  
22 in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible  
23 for facilities or services under this section shall be eligible regardless of their age; except that,  
24 individuals employed in sheltered workshops must be at least sixteen years of age. The board  
25 may, in its discretion, impose limitations with respect to individuals to be served and services  
26 to be provided. Such limitations shall be reasonable in the light of available funds, needs of the  
27 persons and community to be served as assessed by the board, and the appropriateness and  
28 efficiency of combining services to persons with various types of [handicaps or] disabilities.

29           3. For the purposes of sections 205.968 to 205.972, the term

30           (1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this  
31 subsection:

32 (a) A disability which is attributable to mental retardation, cerebral palsy, autism,  
33 epilepsy, a learning disability related to a brain dysfunction or a similar condition found by  
34 comprehensive evaluation to be closely related to such conditions, or to require habilitation  
35 similar to that required for mentally retarded persons; and

36 a. Which originated before age eighteen; and

37 b. Which can be expected to continue indefinitely;

38 (b) A developmental disability as defined in section 630.005;

39 (2) "[Handicapped] **Disabled** person" shall mean a person who is lower range educable  
40 or upper range trainable mentally retarded or a person who has a developmental disability.

208.151. 1. Medical assistance on behalf of needy persons shall be known as "MO  
2 HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX,  
3 Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301,  
4 et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet  
5 benefits to the extent and in the manner hereinafter provided:

6 (1) All participants receiving state supplemental payments for the aged, blind and  
7 disabled;

8 (2) All participants receiving aid to families with dependent children benefits, including  
9 all persons under nineteen years of age who would be classified as dependent children except for  
10 the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible  
11 under this subdivision who are participating in drug court, as defined in section 478.001, shall  
12 have their eligibility automatically extended sixty days from the time their dependent child is  
13 removed from the custody of the participant, subject to approval of the Centers for Medicare and  
14 Medicaid Services;

15 (3) All participants receiving blind pension benefits;

16 (4) All persons who would be determined to be eligible for old age assistance benefits,  
17 permanent and total disability benefits, or aid to the blind benefits under the eligibility standards  
18 in effect December 31, 1973, or less restrictive standards as established by rule of the family  
19 support division, who are sixty-five years of age or over and are patients in state institutions for  
20 mental diseases or tuberculosis;

21 (5) All persons under the age of twenty-one years who would be eligible for aid to  
22 families with dependent children except for the requirements of subdivision (2) of subsection 1  
23 of section 208.040, and who are residing in an intermediate care facility, or receiving active  
24 treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as  
25 amended;

26 (6) All persons under the age of twenty-one years who would be eligible for aid to  
27 families with dependent children benefits except for the requirement of deprivation of parental  
28 support as provided for in subdivision (2) of subsection 1 of section 208.040;

29 (7) All persons eligible to receive nursing care benefits;

30 (8) All participants receiving family foster home or nonprofit private child-care  
31 institution care, subsidized adoption benefits and parental school care wherein state funds are  
32 used as partial or full payment for such care;

33 (9) All persons who were participants receiving old age assistance benefits, aid to the  
34 permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who  
35 continue to meet the eligibility requirements, except income, for these assistance categories, but  
36 who are no longer receiving such benefits because of the implementation of Title XVI of the  
37 federal Social Security Act, as amended;

38 (10) Pregnant women who meet the requirements for aid to families with dependent  
39 children, except for the existence of a dependent child in the home;

40 (11) Pregnant women who meet the requirements for aid to families with dependent  
41 children, except for the existence of a dependent child who is deprived of parental support as  
42 provided for in subdivision (2) of subsection 1 of section 208.040;

43 (12) Pregnant women or infants under one year of age, or both, whose family income  
44 does not exceed an income eligibility standard equal to one hundred eighty-five percent of the  
45 federal poverty level as established and amended by the federal Department of Health and  
46 Human Services, or its successor agency;

47 (13) Children who have attained one year of age but have not attained six years of age  
48 who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget  
49 Reconciliation Act of 1989). The family support division shall use an income eligibility standard  
50 equal to one hundred thirty-three percent of the federal poverty level established by the  
51 Department of Health and Human Services, or its successor agency;

52 (14) Children who have attained six years of age but have not attained nineteen years of  
53 age. For children who have attained six years of age but have not attained nineteen years of age,  
54 the family support division shall use an income assessment methodology which provides for  
55 eligibility when family income is equal to or less than equal to one hundred percent of the federal  
56 poverty level established by the Department of Health and Human Services, or its successor  
57 agency. As necessary to provide MO HealthNet coverage under this subdivision, the department  
58 of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C.  
59 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained  
60 nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using

61 a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r)  
62 of 42 U.S.C. 1396a;

63 (15) The family support division shall not establish a resource eligibility standard in  
64 assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO  
65 HealthNet division shall define the amount and scope of benefits which are available to  
66 individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in  
67 accordance with the requirements of federal law and regulations promulgated thereunder;

68 (16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal  
69 care shall be made available to pregnant women during a period of presumptive eligibility  
70 pursuant to 42 U.S.C. Section 1396r-1, as amended;

71 (17) A child born to a woman eligible for and receiving MO HealthNet benefits under  
72 this section on the date of the child's birth shall be deemed to have applied for MO HealthNet  
73 benefits and to have been found eligible for such assistance under such plan on the date of such  
74 birth and to remain eligible for such assistance for a period of time determined in accordance  
75 with applicable federal and state law and regulations so long as the child is a member of the  
76 woman's household and either the woman remains eligible for such assistance or for children  
77 born on or after January 1, 1991, the woman would remain eligible for such assistance if she  
78 were still pregnant. Upon notification of such child's birth, the family support division shall  
79 assign a MO HealthNet eligibility identification number to the child so that claims may be  
80 submitted and paid under such child's identification number;

81 (18) Pregnant women and children eligible for MO HealthNet benefits pursuant to  
82 subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO  
83 HealthNet benefits be required to apply for aid to families with dependent children. The family  
84 support division shall utilize an application for eligibility for such persons which eliminates  
85 information requirements other than those necessary to apply for MO HealthNet benefits. The  
86 division shall provide such application forms to applicants whose preliminary income  
87 information indicates that they are ineligible for aid to families with dependent children.  
88 Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection**  
89 shall be informed of the aid to families with dependent children program and that they are  
90 entitled to apply for such benefits. Any forms utilized by the family support division for  
91 assessing eligibility under this chapter shall be as simple as practicable;

92 (19) Subject to appropriations necessary to recruit and train such staff, the family support  
93 division shall provide one or more full-time, permanent eligibility specialists to process  
94 applications for MO HealthNet benefits at the site of a health care provider, if the health care  
95 provider requests the placement of such eligibility specialists and reimburses the division for the  
96 expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and

97 equipment, of such eligibility specialists. The division may provide a health care provider with  
98 a part-time or temporary eligibility specialist at the site of a health care provider if the health care  
99 provider requests the placement of such an eligibility specialist and reimburses the division for  
100 the expenses, including but not limited to the salary, benefits, travel, training, telephone,  
101 supplies, and equipment, of such an eligibility specialist. The division may seek to employ such  
102 eligibility specialists who are otherwise qualified for such positions and who are current or  
103 former welfare participants. The division may consider training such current or former welfare  
104 participants as eligibility specialists for this program;

105 (20) Pregnant women who are eligible for, have applied for and have received MO  
106 HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to  
107 be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided  
108 under section 208.152 until the end of the sixty-day period beginning on the last day of their  
109 pregnancy;

110 (21) Case management services for pregnant women and young children at risk shall be  
111 a covered service. To the greatest extent possible, and in compliance with federal law and  
112 regulations, the department of health and senior services shall provide case management services  
113 to pregnant women by contract or agreement with the department of social services through local  
114 health departments organized under the provisions of chapter 192 or chapter 205 or a city health  
115 department operated under a city charter or a combined city-county health department or other  
116 department of health and senior services designees. To the greatest extent possible the  
117 department of social services and the department of health and senior services shall mutually  
118 coordinate all services for pregnant women and children with the crippled children's program,  
119 the prevention of [mental retardation] **developmental disability** program and the prenatal care  
120 program administered by the department of health and senior services. The department of social  
121 services shall by regulation establish the methodology for reimbursement for case management  
122 services provided by the department of health and senior services. For purposes of this section,  
123 the term "case management" shall mean those activities of local public health personnel to  
124 identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO  
125 HealthNet program, refer them to local physicians or local health departments who provide  
126 prenatal care under physician protocol and who participate in the MO HealthNet program for  
127 prenatal care and to ensure that said high-risk mothers receive support from all private and public  
128 programs for which they are eligible and shall not include involvement in any MO HealthNet  
129 prepaid, case-managed programs;

130 (22) By January 1, 1988, the department of social services and the department of health  
131 and senior services shall study all significant aspects of presumptive eligibility for pregnant  
132 women and submit a joint report on the subject, including projected costs and the time needed

133 for implementation, to the general assembly. The department of social services, at the direction  
134 of the general assembly, may implement presumptive eligibility by regulation promulgated  
135 pursuant to chapter 207;

136 (23) All participants who would be eligible for aid to families with dependent children  
137 benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

138 (24) (a) All persons who would be determined to be eligible for old age assistance  
139 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.  
140 Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan  
141 as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income  
142 methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the  
143 income limit if authorized by annual appropriation;

144 (b) All persons who would be determined to be eligible for aid to the blind benefits  
145 under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section  
146 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of  
147 January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C.  
148 Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal  
149 poverty level;

150 (c) All persons who would be determined to be eligible for permanent and total disability  
151 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.  
152 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of  
153 January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as  
154 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if  
155 authorized by annual appropriations. Eligibility standards for permanent and total disability  
156 benefits shall not be limited by age;

157 (25) Persons who have been diagnosed with breast or cervical cancer and who are  
158 eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be  
159 eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

160 (26) Persons who are independent foster care adolescents, as defined in 42 U.S.C.  
161 Section 1396d, or who are within reasonable categories of such adolescents who are under  
162 twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C.  
163 Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

164 2. Rules and regulations to implement this section shall be promulgated in accordance  
165 with section 431.064 and chapter 536. Any rule or portion of a rule, as that term is defined in  
166 section 536.010, that is created under the authority delegated in this section shall become  
167 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
168 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the

169 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
170 date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
171 rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid  
172 and void.

173         3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance  
174 pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months  
175 immediately preceding the month in which such family became ineligible for such assistance  
176 because of increased income from employment shall, while a member of such family is  
177 employed, remain eligible for MO HealthNet benefits for four calendar months following the  
178 month in which such family would otherwise be determined to be ineligible for such assistance  
179 because of income and resource limitation. After April 1, 1990, any family receiving aid  
180 pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately  
181 preceding the month in which such family becomes ineligible for such aid, because of hours of  
182 employment or income from employment of the caretaker relative, shall remain eligible for MO  
183 HealthNet benefits for six calendar months following the month of such ineligibility as long as  
184 such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received  
185 such medical assistance during the entire six-month period described in this section and which  
186 meets reporting requirements and income tests established by the division and continues to  
187 include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without  
188 fee for an additional six months. The MO HealthNet division may provide by rule and as  
189 authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such  
190 families.

191         4. When any individual has been determined to be eligible for MO HealthNet benefits,  
192 such medical assistance will be made available to him or her for care and services furnished in  
193 or after the third month before the month in which he made application for such assistance if  
194 such individual was, or upon application would have been, eligible for such assistance at the time  
195 such care and services were furnished; provided, further, that such medical expenses remain  
196 unpaid.

197         5. The department of social services may apply to the federal Department of Health and  
198 Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration  
199 waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars  
200 in additional costs to the state, unless subject to appropriation or directed by statute, but in no  
201 event shall such waiver applications or amendments seek to waive the services of a rural health  
202 clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(1)(1) and (2) or the  
203 payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and

204 1396a(bb) unless such waiver application is approved by the oversight committee created in  
205 section 208.955.

206

207 A request for such a waiver so submitted shall only become effective by executive order not  
208 sooner than ninety days after the final adjournment of the session of the general assembly to  
209 which it is submitted, unless it is disapproved within sixty days of its submission to a regular  
210 session by a senate or house resolution adopted by a majority vote of the respective elected  
211 members thereof, unless the request for such a waiver is made subject to appropriation or  
212 directed by statute.

213 6. Notwithstanding any other provision of law to the contrary, in any given fiscal year,  
214 any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of  
215 subsection 1 of this section shall only be eligible if annual appropriations are made for such  
216 eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section  
217 1396a(a)(10)(A)(i).

208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy  
2 persons as defined in section 208.151 who are unable to provide for it in whole or in part, with  
3 any payments to be made on the basis of the reasonable cost of the care or reasonable charge for  
4 the services as defined and determined by the MO HealthNet division, unless otherwise  
5 hereinafter provided, for the following:

6 (1) Inpatient hospital services, except to persons in an institution for mental diseases who  
7 are under the age of sixty-five years and over the age of twenty-one years; provided that the MO  
8 HealthNet division shall provide through rule and regulation an exception process for coverage  
9 of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile  
10 professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay  
11 schedule; and provided further that the MO HealthNet division shall take into account through  
12 its payment system for hospital services the situation of hospitals which serve a disproportionate  
13 number of low-income patients;

14 (2) All outpatient hospital services, payments therefor to be in amounts which represent  
15 no more than eighty percent of the lesser of reasonable costs or customary charges for such  
16 services, determined in accordance with the principles set forth in Title XVIII A and B, Public  
17 Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the  
18 MO HealthNet division may evaluate outpatient hospital services rendered under this section and  
19 deny payment for services which are determined by the MO HealthNet division not to be  
20 medically necessary, in accordance with federal law and regulations;

21 (3) Laboratory and X-ray services;

22 (4) Nursing home services for participants, except to persons with more than five  
23 hundred thousand dollars equity in their home or except for persons in an institution for mental  
24 diseases who are under the age of sixty-five years, when residing in a hospital licensed by the  
25 department of health and senior services or a nursing home licensed by the department of health  
26 and senior services or appropriate licensing authority of other states or government-owned and  
27 -operated institutions which are determined to conform to standards equivalent to licensing  
28 requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as  
29 amended, for nursing facilities. The MO HealthNet division may recognize through its payment  
30 methodology for nursing facilities those nursing facilities which serve a high volume of MO  
31 HealthNet patients. The MO HealthNet division when determining the amount of the benefit  
32 payments to be made on behalf of persons under the age of twenty-one in a nursing facility may  
33 consider nursing facilities furnishing care to persons under the age of twenty-one as a  
34 classification separate from other nursing facilities;

35 (5) Nursing home costs for participants receiving benefit payments under subdivision  
36 (4) of this subsection for those days, which shall not exceed twelve per any period of six  
37 consecutive months, during which the participant is on a temporary leave of absence from the  
38 hospital or nursing home, provided that no such participant shall be allowed a temporary leave  
39 of absence unless it is specifically provided for in his plan of care. As used in this subdivision,  
40 the term "temporary leave of absence" shall include all periods of time during which a participant  
41 is away from the hospital or nursing home overnight because he is visiting a friend or relative;

42 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home,  
43 or elsewhere;

44 (7) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;  
45 except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a  
46 licensed physician, dentist, or podiatrist may be made on behalf of any person who qualifies for  
47 prescription drug coverage under the provisions of P.L. 108-173;

48 (8) Emergency ambulance services and, effective January 1, 1990, medically necessary  
49 transportation to scheduled, physician-prescribed nonelective treatments;

50 (9) Early and periodic screening and diagnosis of individuals who are under the age of  
51 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other  
52 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such  
53 services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and  
54 federal regulations promulgated thereunder;

55 (10) Home health care services;

56 (11) Family planning as defined by federal rules and regulations; provided, however, that  
57 such family planning services shall not include abortions unless such abortions are certified in

58 writing by a physician to the MO HealthNet agency that, in his professional judgment, the life  
59 of the mother would be endangered if the fetus were carried to term;

60 (12) Inpatient psychiatric hospital services for individuals under age twenty-one as  
61 defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

62 (13) Outpatient surgical procedures, including presurgical diagnostic services performed  
63 in ambulatory surgical facilities which are licensed by the department of health and senior  
64 services of the state of Missouri; except, that such outpatient surgical services shall not include  
65 persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965  
66 amendments to the federal Social Security Act, as amended, if exclusion of such persons is  
67 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security  
68 Act, as amended;

69 (14) Personal care services which are medically oriented tasks having to do with a  
70 person's physical requirements, as opposed to housekeeping requirements, which enable a person  
71 to be treated by his physician on an outpatient rather than on an inpatient or residential basis in  
72 a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be  
73 rendered by an individual not a member of the participant's family who is qualified to provide  
74 such services where the services are prescribed by a physician in accordance with a plan of  
75 treatment and are supervised by a licensed nurse. Persons eligible to receive personal care  
76 services shall be those persons who would otherwise require placement in a hospital,  
77 intermediate care facility, or skilled nursing facility. Benefits payable for personal care services  
78 shall not exceed for any one participant one hundred percent of the average statewide charge for  
79 care and treatment in an intermediate care facility for a comparable period of time. Such  
80 services, when delivered in a residential care facility or assisted living facility licensed under  
81 chapter 198, shall be authorized on a tier level based on the services the resident requires and the  
82 frequency of the services. A resident of such facility who qualifies for assistance under section  
83 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the  
84 fewest services. The rate paid to providers for each tier of service shall be set subject to  
85 appropriations. Subject to appropriations, each resident of such facility who qualifies for  
86 assistance under section 208.030 and meets the level of care required in this section shall, at a  
87 minimum, if prescribed by a physician, be authorized up to one hour of personal care services  
88 per day. Authorized units of personal care services shall not be reduced or tier level lowered  
89 unless an order approving such reduction or lowering is obtained from the resident's personal  
90 physician. Such authorized units of personal care services or tier level shall be transferred with  
91 such resident if [her] he or she transfers to another such facility. Such provision shall terminate  
92 upon receipt of relevant waivers from the federal Department of Health and Human Services.  
93 If the Centers for Medicare and Medicaid Services determines that such provision does not

94 comply with the state plan, this provision shall be null and void. The MO HealthNet division  
95 shall notify the revisor of statutes as to whether the relevant waivers are approved or a  
96 determination of noncompliance is made;

97 (15) Mental health services. The state plan for providing medical assistance under Title  
98 XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental  
99 health services when such services are provided by community mental health facilities operated  
100 by the department of mental health or designated by the department of mental health as a  
101 community mental health facility or as an alcohol and drug abuse facility or as a child-serving  
102 agency within the comprehensive children's mental health service system established in section  
103 630.097. The department of mental health shall establish by administrative rule the definition  
104 and criteria for designation as a community mental health facility and for designation as an  
105 alcohol and drug abuse facility. Such mental health services shall include:

106 (a) Outpatient mental health services including preventive, diagnostic, therapeutic,  
107 rehabilitative, and palliative interventions rendered to individuals in an individual or group  
108 setting by a mental health professional in accordance with a plan of treatment appropriately  
109 established, implemented, monitored, and revised under the auspices of a therapeutic team as a  
110 part of client services management;

111 (b) Clinic mental health services including preventive, diagnostic, therapeutic,  
112 rehabilitative, and palliative interventions rendered to individuals in an individual or group  
113 setting by a mental health professional in accordance with a plan of treatment appropriately  
114 established, implemented, monitored, and revised under the auspices of a therapeutic team as a  
115 part of client services management;

116 (c) Rehabilitative mental health and alcohol and drug abuse services including home and  
117 community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions  
118 rendered to individuals in an individual or group setting by a mental health or alcohol and drug  
119 abuse professional in accordance with a plan of treatment appropriately established,  
120 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client  
121 services management. As used in this section, mental health professional and alcohol and drug  
122 abuse professional shall be defined by the department of mental health pursuant to duly  
123 promulgated rules.

124 With respect to services established by this subdivision, the department of social services, MO  
125 HealthNet division, shall enter into an agreement with the department of mental health.  
126 Matching funds for outpatient mental health services, clinic mental health services, and  
127 rehabilitation services for mental health and alcohol and drug abuse shall be certified by the  
128 department of mental health to the MO HealthNet division. The agreement shall establish a

129 mechanism for the joint implementation of the provisions of this subdivision. In addition, the  
130 agreement shall establish a mechanism by which rates for services may be jointly developed;

131 (16) Such additional services as defined by the MO HealthNet division to be furnished  
132 under waivers of federal statutory requirements as provided for and authorized by the federal  
133 Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

134 (17) Beginning July 1, 1990, the services of a certified pediatric or family nursing  
135 practitioner with a collaborative practice agreement to the extent that such services are provided  
136 in accordance with chapters 334 and 335, and regulations promulgated thereunder;

137 (18) Nursing home costs for participants receiving benefit payments under subdivision  
138 (4) of this subsection to reserve a bed for the participant in the nursing home during the time that  
139 the participant is absent due to admission to a hospital for services which cannot be performed  
140 on an outpatient basis, subject to the provisions of this subdivision:

141 (a) The provisions of this subdivision shall apply only if:

142 a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO  
143 HealthNet certified licensed beds, according to the most recent quarterly census provided to the  
144 department of health and senior services which was taken prior to when the participant is  
145 admitted to the hospital; and

146 b. The patient is admitted to a hospital for a medical condition with an anticipated stay  
147 of three days or less;

148 (b) The payment to be made under this subdivision shall be provided for a maximum of  
149 three days per hospital stay;

150 (c) For each day that nursing home costs are paid on behalf of a participant under this  
151 subdivision during any period of six consecutive months such participant shall, during the same  
152 period of six consecutive months, be ineligible for payment of nursing home costs of two  
153 otherwise available temporary leave of absence days provided under subdivision (5) of this  
154 subsection; and

155 (d) The provisions of this subdivision shall not apply unless the nursing home receives  
156 notice from the participant or the participant's responsible party that the participant intends to  
157 return to the nursing home following the hospital stay. If the nursing home receives such  
158 notification and all other provisions of this subsection have been satisfied, the nursing home shall  
159 provide notice to the participant or the participant's responsible party prior to release of the  
160 reserved bed;

161 (19) Prescribed medically necessary durable medical equipment. An electronic  
162 web-based prior authorization system using best medical evidence and care and treatment  
163 guidelines consistent with national standards shall be used to verify medical need;

164           (20) **Comprehensive day rehabilitation services beginning early posttrauma as part**  
165 **of a coordinated system of care for individuals with disabling impairments. Rehabilitation**  
166 **services must be based on an individualized, goal-oriented, comprehensive, and**  
167 **coordinated treatment plan developed, implemented, and monitored through an**  
168 **interdisciplinary assessment designed to restore an individual to optimal level of physical,**  
169 **cognitive, and behavioral function. Such services shall be subject to appropriations. The**  
170 **MO HealthNet division shall establish by administrative rule the definition and criteria for**  
171 **designation of a comprehensive day rehabilitation service facility, benefit limitations, and**  
172 **payment mechanism utilizing the expertise of brain injury rehabilitation service providers**  
173 **and the Missouri head injury advisory council created under section 192.745. Such**  
174 **services shall be provided in a community-based facility and be authorized on tier levels**  
175 **based on the services the patient requires and the frequency of the services as guided by**  
176 **a qualified rehabilitation professional associated with a health care home. Any rule or**  
177 **portion of a rule, as that term is defined in section 536.010, that is created under the**  
178 **authority delegated in this subdivision shall become effective only if it complies with and**  
179 **is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**  
180 **section and chapter 536 are nonseverable and if any of the powers vested with the general**  
181 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**  
182 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
183 **authority and any rule proposed or adopted after August 28, 2011, shall be invalid and**  
184 **void;**

185           (21) Hospice care. As used in this subsection, the term "hospice care" means a  
186 coordinated program of active professional medical attention within a home, outpatient and  
187 inpatient care which treats the terminally ill patient and family as a unit, employing a medically  
188 directed interdisciplinary team. The program provides relief of severe pain or other physical  
189 symptoms and supportive care to meet the special needs arising out of physical, psychological,  
190 spiritual, social, and economic stresses which are experienced during the final stages of illness,  
191 and during dying and bereavement and meets the Medicare requirements for participation as a  
192 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO  
193 HealthNet division to the hospice provider for room and board furnished by a nursing home to  
194 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement  
195 which would have been paid for facility services in that nursing home facility for that patient,  
196 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget  
197 Reconciliation Act of 1989);

198           [(21)] (22) Prescribed medically necessary dental services. Such services shall be subject  
199 to appropriations. An electronic web-based prior authorization system using best medical

200 evidence and care and treatment guidelines consistent with national standards shall be used to  
201 verify medical need;

202       [(22)] **(23)** Prescribed medically necessary optometric services. Such services shall be  
203 subject to appropriations. An electronic web-based prior authorization system using best medical  
204 evidence and care and treatment guidelines consistent with national standards shall be used to  
205 verify medical need;

206       [(23)] **(24)** The MO HealthNet division shall, by January 1, 2008, and annually  
207 thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one  
208 hundred percent of the Medicare reimbursement rates and compared to the average dental  
209 reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division  
210 shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with  
211 Medicare reimbursement rates and for third-party payor average dental reimbursement rates.  
212 Such plan shall be subject to appropriation and the division shall include in its annual budget  
213 request to the governor the necessary funding needed to complete the four-year plan developed  
214 under this subdivision.

215       2. Additional benefit payments for medical assistance shall be made on behalf of those  
216 eligible needy children, pregnant women and blind persons with any payments to be made on the  
217 basis of the reasonable cost of the care or reasonable charge for the services as defined and  
218 determined by the division of medical services, unless otherwise hereinafter provided, for the  
219 following:

220       (1) Dental services;

221       (2) Services of podiatrists as defined in section 330.010;

222       (3) Optometric services as defined in section 336.010;

223       (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids,  
224 and wheelchairs;

225       (5) Hospice care. As used in this subsection, the term "hospice care" means a  
226 coordinated program of active professional medical attention within a home, outpatient and  
227 inpatient care which treats the terminally ill patient and family as a unit, employing a medically  
228 directed interdisciplinary team. The program provides relief of severe pain or other physical  
229 symptoms and supportive care to meet the special needs arising out of physical, psychological,  
230 spiritual, social, and economic stresses which are experienced during the final stages of illness,  
231 and during dying and bereavement and meets the Medicare requirements for participation as a  
232 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO  
233 HealthNet division to the hospice provider for room and board furnished by a nursing home to  
234 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement  
235 which would have been paid for facility services in that nursing home facility for that patient,

236 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget  
237 Reconciliation Act of 1989);

238 (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a  
239 coordinated system of care for individuals with disabling impairments. Rehabilitation services  
240 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment  
241 plan developed, implemented, and monitored through an interdisciplinary assessment designed  
242 to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO  
243 HealthNet division shall establish by administrative rule the definition and criteria for  
244 designation of a comprehensive day rehabilitation service facility, benefit limitations and  
245 payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010,  
246 that is created under the authority delegated in this subdivision shall become effective only if it  
247 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
248 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
249 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
250 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
251 and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

252 3. The MO HealthNet division may require any participant receiving MO HealthNet  
253 benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July  
254 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered  
255 services except for those services covered under subdivisions (14) and (15) of subsection 1 of  
256 this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title  
257 XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder.  
258 When substitution of a generic drug is permitted by the prescriber according to section 338.056  
259 and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not  
260 lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of  
261 the federal Social Security Act. A provider of goods or services described under this section  
262 must collect from all participants the additional payment that may be required by the MO  
263 HealthNet division under authority granted herein, if the division exercises that authority, to  
264 remain eligible as a provider. Any payments made by participants under this section shall be in  
265 addition to and not in lieu of payments made by the state for goods or services described herein  
266 except the participant portion of the pharmacy professional dispensing fee shall be in addition  
267 to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time  
268 a service is provided or at a later date. A provider shall not refuse to provide a service if a  
269 participant is unable to pay a required payment. If it is the routine business practice of a provider  
270 to terminate future services to an individual with an unclaimed debt, the provider may include  
271 uncollected co-payments under this practice. Providers who elect not to undertake the provision

272 of services based on a history of bad debt shall give participants advance notice and a reasonable  
273 opportunity for payment. A provider, representative, employee, independent contractor, or agent  
274 of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection  
275 shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for  
276 Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan  
277 amendment submitted by the department of social services that would allow a provider to deny  
278 future services to an individual with uncollected co-payments, the denial of services shall not be  
279 allowed. The department of social services shall inform providers regarding the acceptability  
280 of denying services as the result of unpaid co-payments.

281 4. The MO HealthNet division shall have the right to collect medication samples from  
282 participants in order to maintain program integrity.

283 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of  
284 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers  
285 so that care and services are available under the state plan for MO HealthNet benefits at least to  
286 the extent that such care and services are available to the general population in the geographic  
287 area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations  
288 promulgated thereunder.

289 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded  
290 health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404  
291 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations  
292 promulgated thereunder.

293 7. Beginning July 1, 1990, the department of social services shall provide notification  
294 and referral of children below age five, and pregnant, breast-feeding, or postpartum women who  
295 are determined to be eligible for MO HealthNet benefits under section 208.151 to the special  
296 supplemental food programs for women, infants and children administered by the department  
297 of health and senior services. Such notification and referral shall conform to the requirements  
298 of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

299 8. Providers of long-term care services shall be reimbursed for their costs in accordance  
300 with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as  
301 amended, and regulations promulgated thereunder.

302 9. Reimbursement rates to long-term care providers with respect to a total change in  
303 ownership, at arm's length, for any facility previously licensed and certified for participation in  
304 the MO HealthNet program shall not increase payments in excess of the increase that would  
305 result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C.  
306 1396a (a)(13)(C).

307 10. The MO HealthNet division, may enroll qualified residential care facilities and  
308 assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

309 11. Any income earned by individuals eligible for certified extended employment at a  
310 sheltered workshop under chapter 178 shall not be considered as income for purposes of  
311 determining eligibility under this section.

208.275. 1. As used in this section, unless the context otherwise indicates, the following  
2 terms mean:

3 (1) "Elderly", any person who is sixty years of age or older;

4 (2) "[Handicapped] **Disabled**", any person having a physical or mental condition, either  
5 permanent or temporary, which would substantially impair ability to operate or utilize available  
6 transportation.

7 2. There is hereby created the "Coordinating Council on Special Transportation" within  
8 the Missouri department of transportation. The members of the council shall be: two members  
9 of the senate appointed by the president pro tem, who shall be from different political parties;  
10 two members of the house of representatives appointed by the speaker, who shall be from  
11 different political parties; the assistant for transportation of the Missouri department of  
12 transportation, or his designee; the assistant commissioner of the department of elementary and  
13 secondary education, responsible for special transportation, or his designee; the director of the  
14 division of aging of the department of social services, or his designee; the deputy director for  
15 [mental retardation/] developmental disabilities and the deputy director for administration of the  
16 department of mental health, or their designees; the executive secretary of the governor's  
17 committee on the employment of the [handicapped] **disabled**; and seven consumer  
18 representatives appointed by the governor by and with the advice and consent of the senate, four  
19 of the consumer representatives shall represent the elderly and three shall represent the  
20 [handicapped] **disabled**. Two of such three members representing [handicapped] **disabled**  
21 persons shall represent those with physical [handicaps] **disabilities**. Consumer representatives  
22 appointed by the governor shall serve for terms of three years or until a successor is appointed  
23 and qualified. Of the members first selected, two shall be selected for a term of three years, two  
24 shall be selected for a term of two years, and three shall be selected for a term of one year. In  
25 the event of the death or resignation of any member, his successor shall be appointed to serve for  
26 the unexpired period of the term for which such member had been appointed.

27 3. State agency personnel shall serve on the council without additional appropriations  
28 or compensation. The consumer representatives shall serve without compensation except for  
29 receiving reimbursement for the reasonable and necessary expenses incurred in the performance  
30 of their duties on the council from funds appropriated to the department of transportation.  
31 Legislative members shall be reimbursed by their respective appointing bodies out of the

32 contingency fund for such body for necessary expenses incurred in the performance of their  
33 duties.

34 4. Staff for the council shall be provided by the Missouri department of transportation.  
35 The department shall designate a special transportation coordinator who shall have had  
36 experience in the area of special transportation, as well as such other staff as needed to enable  
37 the council to perform its duties.

38 5. The council shall meet at least quarterly each year and shall elect from its members  
39 a chairman and a vice chairman.

40 6. The coordinating council on special transportation shall:

41 (1) Recommend and periodically review policies for the coordinated planning and  
42 delivery of special transportation when appropriate;

43 (2) Identify special transportation needs and recommend agency funding allocations and  
44 resources to meet these needs when appropriate;

45 (3) Identify legal and administrative barriers to effective service delivery;

46 (4) Review agency methods for distributing funds within the state and make  
47 recommendations when appropriate;

48 (5) Review agency funding criteria and make recommendations when appropriate;

49 (6) Review area transportation plans and make recommendations for plan format and  
50 content;

51 (7) Establish measurable objectives for the delivery of transportation services;

52 (8) Review annual performance data and make recommendations for improved service  
53 delivery, operating procedures or funding when appropriate;

54 (9) Review local disputes and conflicts on special transportation and recommend  
55 solutions.

208.955. 1. There is hereby established in the department of social services the "MO  
2 HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist  
3 of [eighteen] **nineteen** members as follows:

4 (1) Two members of the house of representatives, one from each party, appointed by the  
5 speaker of the house of representatives and the minority floor leader of the house of  
6 representatives;

7 (2) Two members of the Senate, one from each party, appointed by the president pro tem  
8 of the senate and the minority floor leader of the senate;

9 (3) One consumer representative;

10 (4) Two primary care physicians, licensed under chapter 334, recommended by any  
11 Missouri organization or association that represents a significant number of physicians licensed  
12 in this state, who care for participants, not from the same geographic area;

13 (5) Two physicians, licensed under chapter 334, who care for participants but who are  
14 not primary care physicians and are not from the same geographic area, recommended by any  
15 Missouri organization or association that represents a significant number of physicians licensed  
16 in this state;

17 (6) One representative of the state hospital association;

18 (7) One nonphysician health care professional who cares for participants, recommended  
19 by the director of the department of insurance, financial institutions and professional registration;

20 (8) One dentist, who cares for participants. The dentist shall be recommended by any  
21 Missouri organization or association that represents a significant number of dentists licensed in  
22 this state;

23 (9) **One mental health professional who cares for participants. The mental health**  
24 **professional shall be either a psychiatrist, psychologist, or professional counselor licensed**  
25 **under chapter 334 or 337 and shall be recommended by any Missouri organization or**  
26 **association that represents a significant number of either psychiatrists, psychologists, or**  
27 **professional counselors in this state, as appropriate to the appointment. The appointment**  
28 **of the type of mental health professional shall rotate with each new term;**

29 (10) Two patient advocates;

30 [(10)] (11) One public member; and

31 [(11)] (12) The directors of the department of social services, the department of mental  
32 health, the department of health and senior services, or the respective directors' designees, who  
33 shall serve as ex-officio members of the committee.

34 2. The members of the oversight committee, other than the members from the general  
35 assembly and ex-officio members, shall be appointed by the governor with the advice and  
36 consent of the senate. A chair of the oversight committee shall be selected by the members of  
37 the oversight committee. Of the members first appointed to the oversight committee by the  
38 governor, eight members shall serve a term of two years, seven members shall serve a term of  
39 one year, and thereafter, members shall serve a term of two years. Members shall continue to  
40 serve until their successor is duly appointed and qualified. Any vacancy on the oversight  
41 committee shall be filled in the same manner as the original appointment. Members shall serve  
42 on the oversight committee without compensation but may be reimbursed for their actual and  
43 necessary expenses from moneys appropriated to the department of social services for that  
44 purpose. The department of social services shall provide technical, actuarial, and administrative  
45 support services as required by the oversight committee. The oversight committee shall:

46 (1) Meet on at least four occasions annually, including at least four before the end of  
47 December of the first year the committee is established. Meetings can be held by telephone or  
48 video conference at the discretion of the committee;

- 49           (2) Review the participant and provider satisfaction reports and the reports of health  
50 outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices  
51 as required of the health improvement plans and the department of social services under section  
52 208.950;
- 53           (3) Review the results from other states of the relative success or failure of various  
54 models of health delivery attempted;
- 55           (4) Review the results of studies comparing health plans conducted under section  
56 208.950;
- 57           (5) Review the data from health risk assessments collected and reported under section  
58 208.950;
- 59           (6) Review the results of the public process input collected under section 208.950;
- 60           (7) Advise and approve proposed design and implementation proposals for new health  
61 improvement plans submitted by the department, as well as make recommendations and suggest  
62 modifications when necessary;
- 63           (8) Determine how best to analyze and present the data reviewed under section 208.950  
64 so that the health outcomes, participant and provider satisfaction, results from other states, health  
65 plan comparisons, financial impact of the various health improvement plans and models of care,  
66 study of provider access, and results of public input can be used by consumers, health care  
67 providers, and public officials;
- 68           (9) Present significant findings of the analysis required in subdivision (8) of this  
69 subsection in a report to the general assembly and governor, at least annually, beginning January  
70 1, 2009;
- 71           (10) Review the budget forecast issued by the legislative budget office, and the report  
72 required under subsection (22) of subsection 1 of section 208.151, and after study:
- 73           (a) Consider ways to maximize the federal drawdown of funds;
- 74           (b) Study the demographics of the state and of the MO HealthNet population, and how  
75 those demographics are changing;
- 76           (c) Consider what steps are needed to prepare for the increasing numbers of participants  
77 as a result of the baby boom following World War II;
- 78           (11) Conduct a study to determine whether an office of inspector general shall be  
79 established. Such office would be responsible for oversight, auditing, investigation, and  
80 performance review to provide increased accountability, integrity, and oversight of state medical  
81 assistance programs, to assist in improving agency and program operations, and to deter and  
82 identify fraud, abuse, and illegal acts. The committee shall review the experience of all states  
83 that have created a similar office to determine the impact of creating a similar office in this state;  
84 and

85 (12) Perform other tasks as necessary, including but not limited to making  
86 recommendations to the division concerning the promulgation of rules and emergency rules so  
87 that quality of care, provider availability, and participant satisfaction can be assured.

88 3. By July 1, 2011, the oversight committee shall issue findings to the general assembly  
89 on the success and failure of health improvement plans and shall recommend whether or not any  
90 health improvement plans should be discontinued.

91 4. The oversight committee shall designate a subcommittee devoted to advising the  
92 department on the development of a comprehensive entry point system for long-term care that  
93 shall:

94 (1) Offer Missourians an array of choices including community-based, in-home,  
95 residential and institutional services;

96 (2) Provide information and assistance about the array of long-term care services to  
97 Missourians;

98 (3) Create a delivery system that is easy to understand and access through multiple  
99 points, which shall include but shall not be limited to providers of services;

100 (4) Create a delivery system that is efficient, reduces duplication, and streamlines access  
101 to multiple funding sources and programs;

102 (5) Strengthen the long-term care quality assurance and quality improvement system;

103 (6) Establish a long-term care system that seeks to achieve timely access to and payment  
104 for care, foster quality and excellence in service delivery, and promote innovative and  
105 cost-effective strategies; and

106 (7) Study one-stop shopping for seniors as established in section 208.612.

107 5. The subcommittee shall include the following members:

108 (1) The lieutenant governor or his or her designee, who shall serve as the subcommittee  
109 chair;

110 (2) One member from a Missouri area agency on aging, designated by the governor;

111 (3) One member representing the in-home care profession, designated by the governor;

112 (4) One member representing residential care facilities, predominantly serving MO  
113 HealthNet participants, designated by the governor;

114 (5) One member representing assisted living facilities or continuing care retirement  
115 communities, predominantly serving MO HealthNet participants, designated by the governor;

116 (6) One member representing skilled nursing facilities, predominantly serving MO  
117 HealthNet participants, designated by the governor;

118 (7) One member from the office of the state ombudsman for long-term care facility  
119 residents, designated by the governor;

- 120 (8) One member representing Missouri centers for independent living, designated by the  
121 governor;
- 122 (9) One consumer representative with expertise in services for seniors or the disabled,  
123 designated by the governor;
- 124 (10) One member with expertise in Alzheimer's disease or related dementia;
- 125 (11) One member from a county developmental disability board, designated by the  
126 governor;
- 127 (12) One member representing the hospice care profession, designated by the governor;
- 128 (13) One member representing the home health care profession, designated by the  
129 governor;
- 130 (14) One member representing the adult day care profession, designated by the governor;
- 131 (15) One member gerontologist, designated by the governor;
- 132 (16) Two members representing the aged, blind, and disabled population, not of the same  
133 geographic area or demographic group designated by the governor;
- 134 (17) The directors of the departments of social services, mental health, and health and  
135 senior services, or their designees; and
- 136 (18) One member of the house of representatives and one member of the senate serving  
137 on the oversight committee, designated by the oversight committee chair.

138

139 Members shall serve on the subcommittee without compensation but may be reimbursed for their  
140 actual and necessary expenses from moneys appropriated to the department of health and senior  
141 services for that purpose. The department of health and senior services shall provide technical  
142 and administrative support services as required by the committee.

143 6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit  
144 its report to the governor and general assembly containing recommendations for the  
145 implementation of the comprehensive entry point system, offering suggested legislative or  
146 administrative proposals deemed necessary by the subcommittee to minimize conflict of interests  
147 for successful implementation of the system. Such report shall contain, but not be limited to,  
148 recommendations for implementation of the following consistent with the provisions of section  
149 208.950:

- 150 (1) A complete statewide universal information and assistance system that is integrated  
151 into the web-based electronic patient health record that can be accessible by phone, in-person,  
152 via MO HealthNet providers and via the Internet that connects consumers to services or  
153 providers and is used to establish consumers' needs for services. Through the system, consumers  
154 shall be able to independently choose from a full range of home, community-based, and

155 facility-based health and social services as well as access appropriate services to meet individual  
156 needs and preferences from the provider of the consumer's choice;

157 (2) A mechanism for developing a plan of service or care via the web-based electronic  
158 patient health record to authorize appropriate services;

159 (3) A preadmission screening mechanism for MO HealthNet participants for nursing  
160 home care;

161 (4) A case management or care coordination system to be available as needed; and

162 (5) An electronic system or database to coordinate and monitor the services provided  
163 which are integrated into the web-based electronic patient health record.

164 7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide  
165 to the governor, lieutenant governor and the general assembly a yearly report that provides an  
166 update on progress made by the subcommittee toward implementing the comprehensive entry  
167 point system.

168 8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

209.150. 1. Every person with a visual, aural or [physical] **other** disability, **as defined**  
2 **in section 213.010**, shall have the same rights afforded to a person with no such disability to the  
3 full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities,  
4 and other public places.

5 2. Every person with a visual, aural or [physical] **other** disability, **as defined in section**  
6 **213.010**, is entitled to full and equal accommodations, advantages, facilities, and privileges of  
7 all common carriers, airplanes, motor vehicles, railroad trains, motor buses, taxis, streetcars,  
8 boats or any other public conveyances or modes of transportation, hotels, lodging places, places  
9 of public accommodation, amusement or resort, and other places to which the general public is  
10 invited, subject only to the conditions and limitations established by law and applicable alike to  
11 all persons.

12 3. Every person with a visual, aural or [physical] **other** disability, **as defined in section**  
13 **213.010**, shall have the right to be accompanied by a guide dog, hearing dog, or service dog,  
14 which is especially trained for the purpose, in any of the places listed in subsection 2 of this  
15 section without being required to pay an extra charge for the guide dog, hearing dog or service  
16 dog; provided that such person shall be liable for any damage done to the premises or facilities  
17 by such dog.

18 4. As used in sections 209.150 to 209.190, the term "service dog" means any dog  
19 specifically trained to assist a person with a physical **or mental** disability by performing  
20 necessary [physical] tasks which the person cannot perform. Such tasks shall include, but not  
21 be limited to, pulling a wheelchair, retrieving items, [and] carrying supplies, **and search and**  
22 **rescue of an individual with a disability**.

209.152. Any trainer, from a recognized training center, of a guide dog, hearing  
2 assistance dog or service dog, **or any member of a service dog team, as defined in section**  
3 **209.200**, shall have the right to be accompanied by such dog in or upon any of the premises listed  
4 in section 209.150 while engaged in the training of the dog without being required to pay an  
5 extra charge for such dog. Such trainer **or service dog team member** shall be liable for any  
6 damage done to the premise of facilities by such dog.

209.200. As used in sections 209.200 to 209.204, the following terms shall mean:

- 2 (1) "Disability", as defined in section 213.010;
- 3 (2) "Service dog", a dog that is being or has been specially trained to do work or perform  
4 tasks which benefit a particular person with a disability.  
5 Service dog includes:
  - 6 (a) "Guide dog", a dog that is being or has been specially trained to assist a particular  
7 blind or visually impaired person;
  - 8 (b) "Hearing dog", a dog that is being or has been specially trained to assist a particular  
9 deaf or hearing- impaired person;
  - 10 (c) "Medical alert or respond dog", a dog that is being or has been trained to alert a  
11 person with a disability that a particular medical event is about to occur or to respond to a  
12 medical event that has occurred;
  - 13 (d) "Mobility dog", a dog that is being or has been specially trained to assist a person  
14 with a disability caused by physical impairments;
  - 15 (e) **"Search and rescue dog", a dog that is being or has been trained to search for**  
16 **or prevent a person with a mental disability, including but not limited to verbal and**  
17 **nonverbal autism, from becoming lost;**
  - 18 (3) **"Service team dog", a team consisting of a trained service dog, a disabled**  
19 **person or child, and a person who is an adult and who has been trained to handle the**  
20 **service dog.**

210.496. The division may refuse to issue either a license or a provisional license to an  
2 applicant, or may suspend or revoke the license or provisional license of a licensee, who:

- 3 (1) Fails consistently to comply with the applicable provisions of sections 208.400 to  
4 208.535 and the applicable rules promulgated thereunder;
- 5 (2) Violates any of the provisions of its license;
- 6 (3) Violates state laws or rules relating to the protection of children;
- 7 (4) Furnishes or makes any misleading or false statements or reports to the division;
- 8 (5) Refuses to submit to the division any reports or refuses to make available to the  
9 division any records required by the division in making an investigation;

10 (6) Fails or refuses to admit authorized representatives of the division at any reasonable  
11 time for the purpose of investigation;

12 (7) Fails or refuses to submit to an investigation by the division;

13 (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the  
14 premises established or used for the care of children being served, as required by law, rule, or  
15 ordinance applicable to the location of the foster home or residential care facility; or

16 (9) Fails to provide financial resources adequate for the satisfactory care of and services  
17 to children being served and the upkeep of the premises.

18

19 **Nothing in this section shall be construed to permit discrimination on the basis of disability**  
20 **or disease of an applicant. The disability or disease of an applicant shall not constitute a**  
21 **basis for a determination that the applicant is unfit or not suitable to be a foster parent**  
22 **without a specific showing that there is a causal relationship between the disability or**  
23 **disease and a substantial and significant risk of harm to a child. In cases involving an**  
24 **applicant with a disability or disease, determinations made under this section shall**  
25 **consider the availability and use of accommodations for the disability or disease, including**  
26 **but not limited to assistive technology and support services.**

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the  
2 "Family Care Safety Act".

3 2. As used in sections 210.900 to 210.936, the following terms shall mean:

4 (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed  
5 or license-exempt child-care center, child-placing agency, residential care facility for children,  
6 group home, foster family group home, foster family home, employment agency that refers a  
7 child-care worker to parents or guardians as defined in section 289.005. The term "child-care  
8 provider" does not include summer camps or voluntary associations designed primarily for  
9 recreational or educational purposes;

10 (2) "Child-care worker", any person who is employed by a child-care provider, or  
11 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as  
12 remuneration for child-care services;

13 (3) "Department", the department of health and senior services;

14 (4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person,  
15 corporation, or association who provides in-home services under contract with the division of  
16 aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant  
17 to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to  
18 sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection  
19 1 of section 198.012 applies;

20 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who  
21 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as  
22 remuneration for elder-care services;

23 (6) "Employer", any child-care provider, elder-care provider, or personal-care provider  
24 as defined in this section;

25 (7) "Mental health provider", any [mentally retarded] **developmental disability** facility  
26 or group home as defined in section 633.005;

27 (8) "Mental health worker", any person employed by a mental health provider to provide  
28 personal care services and supports;

29 (9) "Patrol", the Missouri state highway patrol;

30 (10) "Personal-care attendant" or "personal-care worker", a person who performs routine  
31 services or supports necessary for a person with a physical or mental disability to enter and  
32 maintain employment or to live independently;

33 (11) "Personal-care provider", any person, corporation, or association who provides  
34 personal-care services or supports under contract with the department of mental health, the  
35 division of aging, the department of health and senior services or the department of elementary  
36 and secondary education;

37 (12) "Related child care", child care provided only to a child or children by such child's  
38 or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence  
39 separate from the child or children;

40 (13) "Related elder care", care provided only to an elder by an adult child, a spouse, a  
41 grandchild, a great-grandchild or a sibling of such elder.

211.202. 1. If a child under the jurisdiction of the juvenile court appears to be mentally  
2 disordered, other than [mentally retarded or] developmentally disabled, the court, on its own  
3 motion or on the motion or petition of any interested party, may order the department of mental  
4 health to evaluate the child.

5 2. A mental health facility designated by the department of mental health shall perform  
6 within twenty days an evaluation of the child, on an outpatient basis if practicable, for the  
7 purpose of determining whether inpatient admission is appropriate because the following criteria  
8 are met:

9 (1) The child has a mental disorder other than mental retardation or developmental  
10 disability, as all these terms are defined in chapter 630;

11 (2) The child requires inpatient care and treatment for the protection of himself or others;

12 (3) A mental health facility offers a program suitable for the child's needs;

13 (4) A mental health facility is the least restrictive environment as the term "least  
14 restrictive environment" is defined in chapter 630.

15           3. If the facility determines, as a result of the evaluation, that it is appropriate to admit  
16 the child as an inpatient, the head of the mental health facility, or his designee, shall recommend  
17 the child for admission, subject to the availability of suitable accommodations, and send the  
18 juvenile court notice of the recommendation and a copy of the evaluation. Should the  
19 department evaluation recommend inpatient care, the child, his parent, guardian or counsel shall  
20 have the right to request an independent evaluation of the child. Within twenty days of the  
21 receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the  
22 notice and evaluation from the independent examiner, the court may order, pursuant to a hearing,  
23 the child committed to the custody of the department of mental health for inpatient care and  
24 treatment, or may otherwise dispose of the matter; except, that no child shall be committed to  
25 a mental health facility under this section for other than care and treatment.

26           4. If the facility determines, as a result of the evaluation, that inpatient admission is not  
27 appropriate, the head of the mental health facility, or his designee, shall not recommend the child  
28 for admission as an inpatient. The head of the facility, or his designee, shall send to the court  
29 a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within  
30 twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the  
31 juvenile court shall transfer the child from the department of mental health within twenty days  
32 of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving  
33 notice of the hearing to the director of the facility as well as all others required by law.

34           5. If at any time the facility determines that it is no longer appropriate to provide  
35 inpatient care and treatment for the child committed by the juvenile court, but that such child  
36 appears to qualify for placement under section 630.610, the head of the facility shall refer such  
37 child for placement. Subject to the availability of an appropriate placement, the department of  
38 mental health shall place any child who qualifies for placement under section 630.610. If no  
39 appropriate placement is available, the department of mental health shall discharge the child or  
40 make such other arrangements as it may deem appropriate and consistent with the child's welfare  
41 and safety. Notice of the placement or discharge shall be sent to the juvenile court which first  
42 ordered the child's detention.

43           6. The committing juvenile court shall conduct an annual review of the child's need for  
44 continued placement in the mental health facility.

211.203. 1. If a child under the jurisdiction of the juvenile court appears to be mentally  
2 retarded or developmentally disabled, as these terms are defined in chapter 630, the court, on its  
3 own motion or on the motion or petition of any interested party, may order the department of  
4 mental health to evaluate the child.

5           2. A regional center designated by the department of mental health shall perform within  
6 twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if

7 practicable, for the purpose of determining the appropriateness of a referral to a [mental  
8 retardation] **developmental disability** facility operated or funded by the department of mental  
9 health. If it is determined by the regional center, as a result of the evaluation, to be appropriate  
10 to refer such child to a department [mental retardation] **developmental disability** facility under  
11 section 633.120 or a private [mental retardation] **developmental disability** facility under section  
12 630.610, the regional center shall refer the evaluation to the appropriate [mental retardation]  
13 **developmental disability** facility.

14 3. If, as a result of reviewing the evaluation, the head of the [mental retardation]  
15 **developmental disability** facility, or his designee, determines that it is appropriate to admit such  
16 child as a resident, the head of the [mental retardation] **developmental disability** facility, or his  
17 **or her** designee, shall recommend the child for admission, subject to availability of suitable  
18 accommodations. The head of the regional center, or his designee, shall send the juvenile court  
19 notice of the recommendation for admission by the [mental retardation] **developmental**  
20 **disability** facility and a copy of the evaluation. Should the department evaluation recommend  
21 residential care and habilitation, the child, his parent, guardian or counsel shall have the right to  
22 request an independent evaluation of the child. Within twenty days of receipt of the notice and  
23 evaluation from the facility, or within twenty days of the receipt of the notice and evaluation  
24 from the independent examiner, the court may order, pursuant to a hearing, the child committed  
25 to the custody of the department of mental health for residential care and habilitation, or may  
26 otherwise dispose of the matter; except, that no child shall be committed to the department of  
27 mental health for other than residential care and habilitation. If the department proposes  
28 placement at, or transferring the child to, a department facility other than that designated in the  
29 order of the juvenile court, the department shall conduct a due process hearing within six days  
30 of such placement or transfer during which the head of the initiating facility shall have the  
31 burden to show that the placement or transfer is appropriate for the medical needs of the child.  
32 The head of the facility shall notify the court ordering detention or commitment and the child's  
33 last known attorney of record of such placement or transfer.

34 4. If, as a result of the evaluation, the regional center determines that it is not appropriate  
35 to admit such child as a resident in a [mental retardation] **developmental disability** facility, the  
36 regional center shall send a notice to the court that it is inappropriate to admit such child, along  
37 with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court  
38 shall transfer the child from the department within five days of receiving the notice and  
39 evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the  
40 director of the facility as well as all others required by law.

41 5. If at any time the [mental retardation] **developmental disability** facility determines  
42 that it is no longer appropriate to provide residential habilitation for the child committed by the

43 juvenile court, but that such child appears to qualify for placement under section 630.610, the  
44 head of the facility shall refer such child for placement. Subject to the availability of an  
45 appropriate placement, the department shall place any child who qualifies for placement under  
46 section 630.610. If no appropriate placement is available, the department shall discharge the  
47 child or make such other arrangements as it may deem appropriate and consistent with the child's  
48 welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which  
49 first ordered the child's detention.

50 6. The committing court shall conduct an annual review of the child's need for continued  
51 placement at the [mental retardation] **developmental disability** facility.

211.206. 1. For each child committed to the department of mental health by the juvenile  
2 court, the director of the department of mental health, or his designee, shall prepare an  
3 individualized treatment or habilitation plan, as defined in chapter 630, within thirty days of the  
4 admission for treatment or habilitation. The status of each child shall be reviewed at least once  
5 every thirty days. Copies of all individualized treatment plans, habilitation plans, and periodic  
6 reviews shall be sent to the committing juvenile court.

7 2. The department of mental health shall discharge a child committed to it by the juvenile  
8 court pursuant to sections 211.202 and 211.203 if the head of a mental health facility or [mental  
9 retardation] **developmental disability** facility, or his designee, determines, in an evaluation or  
10 a periodic review, that any of the following conditions are true:

11 (1) A child committed to a mental health facility no longer has a mental disorder other  
12 than [mental retardation or] developmental disability;

13 (2) A child committed to a [mental retardation] **developmental disability** facility is not  
14 [mentally retarded or] developmentally disabled;

15 (3) The condition of the child is no longer such that, for the protection of the child or  
16 others, the child requires inpatient hospitalization or residential habilitation;

17 (4) The mental health facility or [mental retardation] **developmental disability** facility  
18 does not offer a program which best meets the child's needs;

19 (5) The mental health facility or [mental retardation] **developmental disability** facility  
20 does not provide the least restrictive environment, as defined in section 630.005, which is  
21 consistent with the child's welfare and safety.

22 3. If the committing court specifically retained jurisdiction of the child by the terms of  
23 its order committing the child to the department of mental health, notice of the discharge,  
24 accompanied by a diagnosis and recommendations for placement of the child, shall be forwarded  
25 to the court at least twenty days before such discharge date. Unless within twenty days of receipt  
26 of notice of discharge the juvenile court orders the child to be brought before it for appropriate

27 proceedings, jurisdiction of that court over the child shall terminate at the end of such twenty  
28 days.

211.207. 1. If a child is committed to the division of youth services and subsequently  
2 appears to be mentally disordered, as defined in chapter 630, the division shall refer the child to  
3 the department of mental health for evaluation. The evaluation shall be performed within twenty  
4 days by a mental health facility or regional center operated by the department of mental health  
5 and, if practicable, on an outpatient basis, for the purpose of determining whether inpatient care  
6 at a mental health facility or residential habilitation in a [mental retardation] **developmental**  
7 **disability** facility is appropriate because the child meets the criteria specified in subsection 2 of  
8 section 211.202 or in section 633.120, respectively.

9 2. If, as a result of the evaluation, the director of the department of mental health, or his  
10 designee, determines that the child is not mentally disordered so as to require inpatient care and  
11 treatment in a mental health facility or residential habilitation in a [mental retardation]  
12 **developmental disability** facility, the director, or his designee, shall so notify the director of the  
13 division of youth services. If the child was evaluated on an inpatient or residential basis, the  
14 child shall be returned to the division of youth services.

15 3. If the director of the department of mental health, or his designee, determines that the  
16 child requires inpatient care and treatment at a mental health facility operated by the department  
17 of mental health or residential habilitation in a [mental retardation] **developmental disability**  
18 facility operated by the department of mental health, the director, or his designee, shall notify the  
19 director of the division of youth services that admission is appropriate. The director of the  
20 division may transfer the physical custody of the child to the department of mental health for  
21 admission to a department of mental health facility and the department of mental health shall  
22 accept the transfer subject to the availability of suitable accommodations.

23 4. The director of the department of mental health, or his designee, shall cause an  
24 individualized treatment or habilitation plan to be prepared by the mental health facility or  
25 [mental retardation] **developmental disability** facility for each child. The mental health facility  
26 or [mental retardation] **developmental disability** facility shall review the status of the child at  
27 least once every thirty days. If, as a result of any such review, it is determined that inpatient care  
28 and treatment at a mental health facility or residential habilitation in a [mental retardation]  
29 **developmental disability** facility is no longer appropriate for the child because the child does  
30 not meet the criteria specified in subsection 2 of section 211.202 or in section 633.120,  
31 respectively, the director of the department of mental health, or his designee, shall so notify the  
32 director of the division of youth services and shall return the child to the custody of the division.

33           5. If a child for any reason ceases to come under the jurisdiction of the division of youth  
34 services, he may be retained in a mental health facility or [mental retardation] **developmental**  
35 **disability** facility only as otherwise provided by law.

          211.447. 1. Any information that could justify the filing of a petition to terminate  
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall  
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should  
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.  
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the  
6 informant may bring the matter directly to the attention of the judge of the juvenile court by  
7 presenting the information in writing, and if it appears to the judge that the information could  
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,  
9 including making a further preliminary inquiry or filing a petition.

10           2. Except as provided for in subsection 4 of this section, a petition to terminate the  
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,  
12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek  
13 to be joined as a party to the petition, when:

14           (1) Information available to the juvenile officer or the division establishes that the child  
15 has been in foster care for at least fifteen of the most recent twenty-two months; or

16           (2) A court of competent jurisdiction has determined the child to be an abandoned infant.  
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time  
18 of filing of the petition. The court may find that an infant has been abandoned if:

19           (a) The parent has left the child under circumstances that the identity of the child was  
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come  
21 forward to claim the child; or

22           (b) The parent has, without good cause, left the child without any provision for parental  
23 support and without making arrangements to visit or communicate with the child, although able  
24 to do so; or

25           (3) A court of competent jurisdiction has determined that the parent has:

26           (a) Committed murder of another child of the parent; or

27           (b) Committed voluntary manslaughter of another child of the parent; or

28           (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or  
29 voluntary manslaughter; or

30           (d) Committed a felony assault that resulted in serious bodily injury to the child or to  
31 another child of the parent.

32           3. A termination of parental rights petition shall be filed by the juvenile officer or the  
33 division, or if such a petition has been filed by another party, the juvenile officer or the division

34 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations  
35 required in subsection 2 of this section, except as provided in subsection 4 of this section.  
36 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate  
37 a petition for termination of parental rights which is filed outside of sixty days.

38 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this  
39 section, the juvenile officer or the division may, but is not required to, file a petition to terminate  
40 the parental rights of the child's parent or parents if:

41 (1) The child is being cared for by a relative; or

42 (2) There exists a compelling reason for determining that filing such a petition would  
43 not be in the best interest of the child, as documented in the permanency plan which shall be  
44 made available for court review; or

45 (3) The family of the child has not been provided such services as provided for in section  
46 211.183.

47 5. The juvenile officer or the division may file a petition to terminate the parental rights  
48 of the child's parent when it appears that one or more of the following grounds for termination  
49 exist:

50 (1) The child has been abandoned. For purposes of this subdivision a "child" means any  
51 child over one year of age at the time of filing of the petition. The court shall find that the child  
52 has been abandoned if, for a period of six months or longer:

53 (a) The parent has left the child under such circumstances that the identity of the child  
54 was unknown and could not be ascertained, despite diligent searching, and the parent has not  
55 come forward to claim the child; or

56 (b) The parent has, without good cause, left the child without any provision for parental  
57 support and without making arrangements to visit or communicate with the child, although able  
58 to do so;

59 (2) The child has been abused or neglected. In determining whether to terminate parental  
60 rights pursuant to this subdivision, the court shall consider and make findings on the following  
61 conditions or acts of the parent:

62 (a) A mental condition which is shown by competent evidence either to be permanent  
63 or such that there is no reasonable likelihood that the condition can be reversed and which  
64 renders the parent unable to knowingly provide the child the necessary care, custody and control;

65 (b) Chemical dependency which prevents the parent from consistently providing the  
66 necessary care, custody and control of the child and which cannot be treated so as to enable the  
67 parent to consistently provide such care, custody and control;

68 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child  
69 or any child in the family by the parent, including an act of incest, or by another under

70 circumstances that indicate that the parent knew or should have known that such acts were being  
71 committed toward the child or any child in the family; or

72 (d) Repeated or continuous failure by the parent, although physically or financially able,  
73 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other  
74 care and control necessary for the child's physical, mental, or emotional health and development.  
75

76 **Nothing in this subdivision shall be construed to permit discrimination on the basis of**  
77 **disability or disease;**

78 (3) The child has been under the jurisdiction of the juvenile court for a period of one  
79 year, and the court finds that the conditions which led to the assumption of jurisdiction still  
80 persist, or conditions of a potentially harmful nature continue to exist, that there is little  
81 likelihood that those conditions will be remedied at an early date so that the child can be returned  
82 to the parent in the near future, or the continuation of the parent-child relationship greatly  
83 diminishes the child's prospects for early integration into a stable and permanent home. In  
84 determining whether to terminate parental rights under this subdivision, the court shall consider  
85 and make findings on the following:

86 (a) The terms of a social service plan entered into by the parent and the division and the  
87 extent to which the parties have made progress in complying with those terms;

88 (b) The success or failure of the efforts of the juvenile officer, the division or other  
89 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to  
90 provide a proper home for the child;

91 (c) A mental condition which is shown by competent evidence either to be permanent  
92 or such that there is no reasonable likelihood that the condition can be reversed and which  
93 renders the parent unable to knowingly provide the child the necessary care, custody and control;

94 (d) Chemical dependency which prevents the parent from consistently providing the  
95 necessary care, custody and control over the child and which cannot be treated so as to enable  
96 the parent to consistently provide such care, custody and control; or

97 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566  
98 when the child or any child in the family was a victim, or a violation of section 568.020 when  
99 the child or any child in the family was a victim. As used in this subdivision, a "child" means  
100 any person who was under eighteen years of age at the time of the crime and who resided with  
101 such parent or was related within the third degree of consanguinity or affinity to such parent; or

102 (5) The child was conceived and born as a result of an act of forcible rape. When the  
103 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such  
104 a plea or conviction shall be conclusive evidence supporting the termination of the biological  
105 father's parental rights; or

106 (6) The parent is unfit to be a party to the parent and child relationship because of a  
107 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined  
108 in section 455.010, child abuse or drug abuse before the child or of specific conditions directly  
109 relating to the parent and child relationship either of which are determined by the court to be of  
110 a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care  
111 appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed  
112 that a parent is unfit to be a party to the parent-child relationship upon a showing that within a  
113 three-year period immediately prior to the termination adjudication, the parent's parental rights  
114 to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this  
115 section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other  
116 states.

117 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed  
118 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court  
119 finds that the termination is in the best interest of the child and when it appears by clear, cogent  
120 and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of  
121 this section.

122 7. When considering whether to terminate the parent-child relationship pursuant to  
123 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section,  
124 the court shall evaluate and make findings on the following factors, when appropriate and  
125 applicable to the case:

126 (1) The emotional ties to the birth parent;

127 (2) The extent to which the parent has maintained regular visitation or other contact with  
128 the child;

129 (3) The extent of payment by the parent for the cost of care and maintenance of the child  
130 when financially able to do so including the time that the child is in the custody of the division  
131 or other child-placing agency;

132 (4) Whether additional services would be likely to bring about lasting parental  
133 adjustment enabling a return of the child to the parent within an ascertainable period of time;

134 (5) The parent's disinterest in or lack of commitment to the child;

135 (6) The conviction of the parent of a felony offense that the court finds is of such a  
136 nature that the child will be deprived of a stable home for a period of years; provided, however,  
137 that incarceration in and of itself shall not be grounds for termination of parental rights;

138 (7) Deliberate acts of the parent or acts of another of which the parent knew or should  
139 have known that subjects the child to a substantial risk of physical or mental harm.

140 8. The court may attach little or no weight to infrequent visitations, communications, or  
141 contributions. It is irrelevant in a termination proceeding that the maintenance of the  
142 parent-child relationship may serve as an inducement for the parent's rehabilitation.

143 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the  
144 issues raised in a petition for adoption containing a prayer for termination of parental rights filed  
145 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

146 **10. The disability or disease of a parent shall not constitute a basis for a**  
147 **determination that a child is a child in need of care, for the removal of custody of a child**  
148 **from the parent, or for the termination of parent rights without a specific showing that**  
149 **there is a causal relation between the disability or disease and harm to the child.**

150 **11. In cases involving a parent with a disability or disease, determinations made**  
151 **under this section shall consider the availability and use of accommodations for the**  
152 **disability or disease, including assistive technology and support services.**

301.143. 1. As used in this section, the term "vehicle" shall have the same meaning  
2 given it in section 301.010, and the term "physically disabled" shall have the same meaning  
3 given it in section 301.142.

4 2. Political subdivisions of the state may by ordinance or resolution designate parking  
5 spaces for the exclusive use of vehicles which display a distinguishing license plate or card  
6 issued pursuant to section 301.071 or 301.142. Owners of private property used for public  
7 parking shall also designate parking spaces for the exclusive use of vehicles which display a  
8 distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever  
9 a political subdivision or owner of private property so designates a parking space, the space shall  
10 be indicated by a sign upon which shall be inscribed the international symbol of accessibility and  
11 [shall] **may** also include any appropriate wording **such as "Accessible Parking"** to indicate that  
12 the space is reserved for the exclusive use of vehicles which display a distinguishing license plate  
13 or card. The sign described in this subsection shall also state, or an additional sign shall be  
14 posted below or adjacent to the sign stating, the following: "\$50 to \$300 fine."

15 3. Any political subdivision, by ordinance or resolution, and any person or corporation  
16 in lawful possession of a public off-street parking facility or any other owner of private property  
17 may designate reserved parking spaces for the exclusive use of vehicles which display a  
18 distinguishing license plate or card issued pursuant to section 301.071 or 301.142 as close as  
19 possible to the nearest accessible entrance. Such designation shall be made by posting  
20 immediately adjacent to, and visible from, each space, a sign upon which is inscribed the  
21 international symbol of accessibility, and may also include any appropriate wording to indicate  
22 that the space is reserved for the exclusive use of vehicles which display a distinguishing license  
23 plate or card.

24           4. The local police or sheriff's department may cause the removal of any vehicle not  
25 displaying a distinguishing license plate or card on which is inscribed the international symbol  
26 of accessibility and the word "disabled" issued pursuant to section 301.142 or a "disabled  
27 veteran" license plate issued pursuant to section 301.071 or a distinguishing license plate or card  
28 issued by any other state from a space designated for physically disabled persons if there is  
29 posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed  
30 the international symbol of accessibility and may include any appropriate wording to indicate that  
31 the space is reserved for the exclusive use of vehicles which display a distinguishing license plate  
32 or card. Any person who parks in a space reserved for physically disabled persons and is not  
33 displaying distinguishing license plates or a card is guilty of an infraction and upon conviction  
34 thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred  
35 dollars. Any vehicle which has been removed and which is not properly claimed within thirty  
36 days thereafter shall be considered to be an abandoned vehicle.

37           5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license  
38 plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal  
39 Americans with Disabilities Act, as amended, and any rules or regulations established pursuant  
40 thereto. Notwithstanding the other provisions of this section, on-street parking spaces designated  
41 by political subdivisions in residential areas for the exclusive use of vehicles displaying a  
42 distinguishing license plate or card issued pursuant to section 301.071 or 301.142 shall meet the  
43 requirements of the federal Americans with Disabilities Act pursuant to this subsection and any  
44 such space shall have clearly and visibly painted upon it the international symbol of accessibility  
45 and any curb adjacent to the space shall be clearly and visibly painted blue.

46           6. Any person who, without authorization, uses a distinguishing license plate or card  
47 issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under authority  
48 of this section shall be guilty of a class B misdemeanor.

49           7. Law enforcement officials may enter upon private property open to public use to  
50 enforce the provisions of this section and section 301.142, including private property designated  
51 by the owner of such property for the exclusive use of vehicles which display a distinguishing  
52 license plate or card issued pursuant to section 301.071 or 301.142.

53           8. Nonconforming signs or spaces otherwise required pursuant to this section which are  
54 in use prior to August 28, [1997] **2011**, shall not be in violation of this section during the useful  
55 life of such signs or spaces. Under no circumstances shall the useful life of the nonconforming  
56 signs or spaces be extended by means other than those means used to maintain any sign or space  
57 on the owner's property which is not used for vehicles displaying a disabled license plate.

58           **9. Beginning August 28, 2011, all new signs erected under this section shall not**  
59 **contain the words "Handicap Parking" or "Handicapped Parking".**

402.210. 1. There is hereby created the "Missouri Family Trust Board of Trustees",  
2 which shall be a body corporate and an instrumentality of the state. The board of trustees shall  
3 consist of nine persons appointed by the governor with the advice and consent of the senate. The  
4 members' terms of office shall be three years and until their successors are appointed and  
5 qualified. The trustees shall be persons who are not prohibited from serving by sections 105.450  
6 to 105.482 and who are not otherwise employed by the department of mental health. The board  
7 of trustees shall be composed of the following:

8 (1) Three members of the immediate family of persons who have a disability or are the  
9 recipients of services provided by the department in the treatment of mental illness. The  
10 advisory council for comprehensive psychiatric services, created pursuant to section 632.020,  
11 shall submit a panel of nine names to the governor, from which he shall appoint three. One shall  
12 be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the  
13 term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric  
14 services shall submit to the governor a panel of not less than three nor more than five proposed  
15 trustees, and the governor shall appoint one trustee from such panel for a term of three years;

16 (2) Three members of the immediate family of persons who are recipients of services  
17 provided by the department in the habilitation of the [mentally retarded or] developmentally  
18 disabled. The Missouri advisory council on [mental retardation and] developmental disabilities,  
19 created pursuant to section 633.020, shall submit a panel of nine names to the governor, from  
20 which he shall appoint three. One shall be appointed for one year, one for two years and one for  
21 three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council  
22 on [mental retardation and] developmental disabilities shall submit to the governor a panel of not  
23 less than three nor more than five proposed trustees, and the governor shall appoint one trustee  
24 from such panel for a term of three years;

25 (3) Three persons who are recognized for their expertise in general business matters and  
26 procedures. Of the three business people to be appointed by the governor, one shall be appointed  
27 for one year, one for two years and one for three years. Thereafter, as the term of a trustee  
28 expires each year, the governor shall appoint one business person as trustee for a term of three  
29 years.

30 2. The trustees shall receive no compensation for their services. The trust shall  
31 reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

32 3. As used in this section, the term "immediate family" includes spouse, parents, parents  
33 of spouse, children, spouses of children and siblings.

34 4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120.  
35

36           5. The board of trustees shall annually prepare or cause to be prepared an accounting of  
37 the trust funds and shall transmit a copy of the accounting to the governor, the president pro  
38 tempore of the senate and the speaker of the house of representatives.

39           6. The board of trustees shall establish policies, procedures and other rules and  
40 regulations necessary to implement the provisions of sections 402.199 to 402.220.

453.070. 1. Except as provided in subsection 5 of this section, no decree for the  
2 adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners  
3 in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation,  
4 which includes an assessment of the adoptive parents, an appropriate postplacement assessment  
5 and a summary of written reports as provided for in section 453.026, and any other pertinent  
6 information relevant to whether the child is suitable for adoption by the petitioner and whether  
7 the petitioner is suitable as a parent for the child, has been made. The report shall also include  
8 a statement to the effect that the child has been considered as a potential subsidy recipient.

9           2. Such investigation shall be made, as directed by the court having jurisdiction, either  
10 by the division of family services of the state department of social services, a juvenile court  
11 officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or  
12 other suitable person appointed by the court. The results of such investigation shall be embodied  
13 in a written report that shall be submitted to the court within ninety days of the request for the  
14 investigation.

15           3. The department of social services, division of family services, shall develop rules and  
16 regulations regarding the content of the assessment of the petitioner or petitioners. The content  
17 of the assessment shall include but not be limited to, a report on the condition of the petitioner's  
18 home and information on the petitioner's education, financial, marital, medical and psychological  
19 status and criminal background check. If an assessment is conducted after August 28, 1997, but  
20 prior to the promulgation of rules and regulations by the department concerning the contents of  
21 such assessment, any discrepancy between the contents of the actual assessment and the contents  
22 of the assessment required by department rule shall not be used as the sole basis for invalidating  
23 an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section  
24 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

25           4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to  
26 the court prior to the scheduled hearing of the adoptive petition.

27           5. In cases where the adoption or custody involves a child under eighteen years of age  
28 that is the natural child of one of the petitioners and where all of the parents required by this  
29 chapter to give consent to the adoption or transfer of custody have given such consent, the  
30 juvenile court may waive the investigation and report, except the criminal background check, and

31 enter the decree for the adoption or order the transfer of custody without such investigation and  
32 report.

33           6. In the case of an investigation and report made by the division of family services by  
34 order of the court, the court may order the payment of a reasonable fee by the petitioner to cover  
35 the costs of the investigation and report.

36           7. Any adult person or persons over the age of eighteen, who, as foster parent or parents,  
37 have cared for a foster child continuously for a period of nine months or more and bonding has  
38 occurred as evidenced by the positive emotional and physical interaction between the foster  
39 parent and child, may apply to such authorized agency for the placement of such child with them  
40 for the purpose of adoption if the child is eligible for adoption. The agency and court shall give  
41 preference and first consideration for adoptive placements to foster parents. However, the final  
42 determination of the propriety of the adoption of such foster child shall be within the sole  
43 discretion of the court.

44           **8. (1) Nothing in this section shall be construed to permit discrimination on the**  
45 **basis of disability or disease of a prospective adoptive parent.**

46           **(2) The disability or disease of a prospective adoptive parent shall not constitute**  
47 **a basis for a determination that the petitioner is unfit or not suitable to be an adoptive**  
48 **parent without a specific showing that there is a causal relationship between the disability**  
49 **or disease and a substantial and significant risk of harm to a child.**

50           **(3) In cases involving a prospective adoptive parent with a disability or disease,**  
51 **determinations made under this section shall consider the availability and use of**  
52 **accommodations for the disability or disease, including but not limited to assistive**  
53 **technology and support services.**

          475.121. 1. Pursuant to an application alleging that the admission of the ward to a  
2 particular mental health or [mental retardation] **developmental disability** facility is appropriate  
3 and in the best interest of the ward, the court may authorize the guardian or limited guardian to  
4 admit the ward to such facility. Such application shall be accompanied by a physician's  
5 statement setting forth the factual basis for the need for continued admission including a  
6 statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable  
7 duration of the admission.

8           2. If the court finds that the application establishes the need for inpatient care,  
9 habilitation or treatment of the ward in a mental health or [mental retardation] **developmental**  
10 **disability** facility without the adduction of further evidence, it shall issue an order authorizing  
11 the guardian to admit the ward to such facility in accordance with the provisions of section  
12 632.120 or section 633.120.

13           3. The court may, in its discretion, appoint an attorney to represent the ward. The  
14 attorney shall meet with the ward and may request a hearing on the application. If a hearing is  
15 requested, the court shall set the application for hearing. If there is no request for hearing, the  
16 court may rule on the application without a hearing. The attorney for the ward shall be allowed  
17 a reasonable fee for his services rendered to be assessed as costs under section 475.085.

18           4. Proceedings under this section may be combined with adjudication proceedings under  
19 section 475.075.

          475.355. 1. If, upon the filing of a petition for the adjudication of incapacity or disability  
2 it appears that the respondent, by reason of a mental disorder or [mental retardation]  
3 **developmental disability**, presents a likelihood of serious physical harm to himself or others,  
4 he may be detained in accordance with the provisions of chapter 632 if suffering from a mental  
5 disorder, or chapter 633 if [mentally retarded] **developmentally disabled**, pending a hearing on  
6 the petition for adjudication.

7           2. As used in this section, the terms "mental disorder" and "mental retardation" shall be  
8 as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others"  
9 shall be as defined in chapter 632.

10           3. The procedure for obtaining an order of temporary emergency detention shall be as  
11 prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

          476.537. In the event that any judge leaving no surviving spouse or any surviving spouse  
2 receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable  
3 to care for or support themselves because of any [mental retardation] **developmental disability**,  
4 disease or disability, or any physical [handicap or] disability, the benefits that would be received  
5 by a surviving spouse on the judge's death if there were a surviving spouse or the benefits  
6 received by such surviving spouse, as the case may be, shall be paid to such surviving dependent  
7 for the remainder of such dependent's life. If the judge or such surviving spouse leaves more  
8 than one dependent who would be eligible for benefits under this section, then each eligible  
9 dependent shall receive a pro rata share of the amount that would be paid to a surviving spouse  
10 under section 476.535.

          552.015. 1. Evidence that the defendant did or did not suffer mental disease or defect  
2 shall not be admissible in a criminal prosecution except as provided in this section.

3           2. Evidence that the defendant did or did not suffer from a mental disease or defect shall  
4 be admissible in a criminal proceeding:

5           (1) To determine whether the defendant lacks capacity to understand the proceedings  
6 against him or to assist in his own defense as provided in section 552.020;

7           (2) To determine whether the defendant is criminally responsible as provided in section  
8 552.030;

9 (3) To determine whether a person committed to the director of the department of mental  
10 health pursuant to this chapter shall be released as provided in section 552.040;

11 (4) To determine if a person in the custody of any correctional institution needs care in  
12 a mental hospital as provided in section 552.050;

13 (5) To determine whether a person condemned to death shall be executed as provided  
14 in sections 552.060 and 552.070;

15 (6) To determine whether or not the defendant, if found guilty, should be sentenced to  
16 death as provided in chapter 558;

17 (7) To determine the appropriate disposition of a defendant, if guilty, as provided in  
18 sections 557.011 and 557.031;

19 (8) To prove that the defendant did or did not have a state of mind which is an element  
20 of the offense;

21 (9) To determine if the defendant, if found not guilty by reason of mental disease or  
22 defect, should be immediately conditionally released by the court under the provisions of section  
23 552.040 to the community or committed to a mental health or [mental retardation]  
24 **developmental disability** facility. This question shall not be asked regarding defendants  
25 charged with any of the dangerous felonies as defined in section 556.061, or with those crimes  
26 set forth in subsection 11 of section 552.040, or the attempts thereof.

552.020. 1. No person who as a result of mental disease or defect lacks capacity to  
2 understand the proceedings against him or to assist in his own defense shall be tried, convicted  
3 or sentenced for the commission of an offense so long as the incapacity endures.

4 2. Whenever any judge has reasonable cause to believe that the accused lacks mental  
5 fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on  
6 behalf of the accused, by order of record, appoint one or more private psychiatrists or  
7 psychologists, as defined in section 632.005, or physicians with a minimum of one year training  
8 or experience in providing treatment or services to [mentally retarded] **developmentally**  
9 **disabled** or mentally ill individuals, who are neither employees nor contractors of the department  
10 of mental health for purposes of performing the examination in question, to examine the accused;  
11 or shall direct the director to have the accused so examined by one or more psychiatrists or  
12 psychologists, as defined in section 632.005, or physicians with a minimum of one year training  
13 or experience in providing treatment or services to [mentally retarded] **developmentally**  
14 **disabled** or mentally ill individuals. The order shall direct that a written report or reports of such  
15 examination be filed with the clerk of the court. No private physician, psychiatrist, or  
16 psychologist shall be appointed by the court unless he has consented to act. The examinations  
17 ordered shall be made at such time and place and under such conditions as the court deems  
18 proper; except that, if the order directs the director of the department to have the accused

19 examined, the director, or his designee, shall determine the time, place and conditions under  
20 which the examination shall be conducted. The order may include provisions for the interview  
21 of witnesses and may require the provision of police reports to the department for use in  
22 evaluations. The department shall establish standards and provide training for those individuals  
23 performing examinations pursuant to this section and section 552.030. No individual who is  
24 employed by or contracts with the department shall be designated to perform an examination  
25 pursuant to this chapter unless the individual meets the qualifications so established by the  
26 department. Any examination performed pursuant to this subsection shall be completed and filed  
27 with the court within sixty days of the order unless the court for good cause orders otherwise.  
28 Nothing in this section or section 552.030 shall be construed to permit psychologists to engage  
29 in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no  
30 charge to the defendant by the department. All costs of subsequent evaluations shall be assessed  
31 to the party requesting the evaluation.

32 3. A report of the examination made under this section shall include:

33 (1) Detailed findings;

34 (2) An opinion as to whether the accused has a mental disease or defect;

35 (3) An opinion based upon a reasonable degree of medical or psychological certainty as  
36 to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the  
37 proceedings against him or to assist in his own defense;

38 (4) A recommendation as to whether the accused should be held in custody in a suitable  
39 hospital facility for treatment pending determination, by the court, of mental fitness to proceed;  
40 and

41 (5) A recommendation as to whether the accused, if found by the court to be mentally  
42 fit to proceed, should be detained in such hospital facility pending further proceedings.

43 4. If the accused has pleaded lack of responsibility due to mental disease or defect or has  
44 given the written notice provided in subsection 2 of section 552.030, the court shall order the  
45 report of the examination conducted pursuant to this section to include, in addition to the  
46 information required in subsection 3 of this section, an opinion as to whether at the time of the  
47 alleged criminal conduct the accused, as a result of mental disease or defect, did not know or  
48 appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or  
49 defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty  
50 by reason of mental disease or defect shall not be accepted by the court in the absence of any  
51 such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded  
52 not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony  
53 as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or  
54 the attempts thereof, the court shall order the report of the examination to include an opinion as

55 to whether or not the accused should be immediately conditionally released by the court pursuant  
56 to the provisions of section 552.040 or should be committed to a mental health or [mental  
57 retardation] **developmental disability** facility. If such an evaluation is conducted at the direction  
58 of the director of the department of mental health, the court shall also order the report of the  
59 examination to include an opinion as to the conditions of release which are consistent with the  
60 needs of the accused and the interest of public safety, including, but not limited to, the following  
61 factors:

- 62 (1) Location and degree of necessary supervision of housing;
- 63 (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and  
64 aftercare services, including the frequency of such services;
- 65 (3) Medication follow-up, including necessary testing to monitor medication compliance;
- 66 (4) At least monthly contact with the department's forensic case monitor;
- 67 (5) Any other conditions or supervision as may be warranted by the circumstances of the  
68 case.

69 5. If the report contains the recommendation that the accused should be committed to  
70 or held in a suitable hospital facility pending determination of the issue of mental fitness to  
71 proceed, and if the accused is not admitted to bail or released on other conditions, the court may  
72 order that the accused be committed to or held in a suitable hospital facility pending  
73 determination of the issue of mental fitness to proceed.

74 6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit  
75 attorney and to the accused or his counsel. The report shall not be a public record or open to the  
76 public. Within ten days after the filing of the report, both the defendant and the state shall, upon  
77 written request, be entitled to an order granting them an examination of the accused by a  
78 psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one  
79 year training or experience in providing treatment or services to [mentally retarded]  
80 **developmentally disabled** or mentally ill individuals, of their own choosing and at their own  
81 expense. An examination performed pursuant to this subsection shall be completed and a report  
82 filed with the court within sixty days of the date it is received by the department or private  
83 psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy  
84 shall be furnished the opposing party.

85 7. If neither the state nor the accused nor his counsel requests a second examination  
86 relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and  
87 3 of this section, the court may make a determination and finding on the basis of the report filed  
88 or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold  
89 a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may  
90 impanel a jury of six persons to assist in making the determination. The report or reports may

91 be received in evidence at any hearing on the issue but the party contesting any opinion therein  
92 shall have the right to summon and to cross-examine the examiner who rendered such opinion  
93 and to offer evidence upon the issue.

94 8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is  
95 presumed to have the mental fitness to proceed. The burden of proving that the accused does not  
96 have the mental fitness to proceed is by a preponderance of the evidence and the burden of going  
97 forward with the evidence is on the party raising the issue. The burden of going forward shall  
98 be on the state if the court raises the issue.

99 9. If the court determines that the accused lacks mental fitness to proceed, the criminal  
100 proceedings shall be suspended and the court shall commit him to the director of the department  
101 of mental health.

102 10. Any person committed pursuant to subsection 9 of this section shall be entitled to  
103 the writ of habeas corpus upon proper petition to the court that committed him. The issue of the  
104 mental fitness to proceed after commitment under subsection 9 of this section may also be raised  
105 by a motion filed by the director of the department of mental health or by the state, alleging the  
106 mental fitness of the accused to proceed. A report relating to the issue of the accused's mental  
107 fitness to proceed may be attached thereto. If the motion is not contested by the accused or his  
108 counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or  
109 if he is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal  
110 proceedings shall be resumed.

111 11. The following provisions shall apply after a commitment as provided in this section:

112 (1) Six months after such commitment, the court which ordered the accused committed  
113 shall order an examination by the head of the facility in which the accused is committed, or a  
114 qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether  
115 there is a substantial probability that the accused will attain the mental fitness to proceed to trial  
116 in the foreseeable future. The order shall direct that written report or reports of the examination  
117 be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the  
118 prosecuting attorney or circuit attorney and to the accused or his counsel. The report required  
119 by this subsection shall conform to the requirements under subsection 3 of this section with the  
120 additional requirement that it include an opinion, if the accused lacks mental fitness to proceed,  
121 as to whether there is a substantial probability that the accused will attain the mental fitness to  
122 proceed in the foreseeable future;

123 (2) Within ten days after the filing of the report, both the accused and the state shall,  
124 upon written request, be entitled to an order granting them an examination of the accused by a  
125 psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one  
126 year training or experience in providing treatment or services to [mentally retarded]

127 **developmentally disabled** or mentally ill individuals, of their own choosing and at their own  
128 expense. An examination performed pursuant to this subdivision shall be completed and filed  
129 with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall  
130 be furnished to the opposing party;

131 (3) If neither the state nor the accused nor his counsel requests a second examination  
132 relative to fitness to proceed or contests the findings of the report referred to in subdivision (1)  
133 of this subsection, the court may make a determination and finding on the basis of the report  
134 filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall  
135 hold a hearing on the issue. The report or reports may be received in evidence at any hearing on  
136 the issue but the party contesting any opinion therein relative to fitness to proceed shall have the  
137 right to summon and to cross-examine the examiner who rendered such opinion and to offer  
138 evidence upon the issue;

139 (4) If the accused is found mentally fit to proceed, the criminal proceedings shall be  
140 resumed;

141 (5) If it is found that the accused lacks mental fitness to proceed but there is a substantial  
142 probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the  
143 court shall continue such commitment for a period not longer than six months, after which the  
144 court shall reinstitute the proceedings required under subdivision (1) of this subsection;

145 (6) If it is found that the accused lacks mental fitness to proceed and there is no  
146 substantial probability that the accused will be mentally fit to proceed in the reasonably  
147 foreseeable future, the court shall dismiss the charges without prejudice and the accused shall  
148 be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475,  
149 in which case those sections and no others will be applicable. The probate division of the circuit  
150 court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to  
151 determine if the accused shall be involuntarily detained under chapter 632, or to determine if the  
152 accused shall be declared incapacitated under chapter 475, and approved for admission by the  
153 guardian under section 632.120 or 633.120, to a mental health or retardation facility. When such  
154 proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds  
155 that the accused is mentally ill and should be committed or that he is incapacitated and should  
156 have a guardian appointed. The period of limitation on prosecuting any criminal offense shall  
157 be tolled during the period that the accused lacks mental fitness to proceed.

158 12. If the question of the accused's mental fitness to proceed was raised after a jury was  
159 impaneled to try the issues raised by a plea of not guilty and the court determines that the accused  
160 lacks the mental fitness to proceed or orders the accused committed for an examination pursuant  
161 to this section, the court may declare a mistrial. Declaration of a mistrial under these  
162 circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not

163 constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the  
164 same offense after he has been found restored to competency.

165           13. The result of any examinations made pursuant to this section shall not be a public  
166 record or open to the public.

167           14. No statement made by the accused in the course of any examination or treatment  
168 pursuant to this section and no information received by any examiner or other person in the  
169 course thereof, whether such examination or treatment was made with or without the consent of  
170 the accused or upon his motion or upon that of others, shall be admitted in evidence against the  
171 accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court,  
172 state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way  
173 prejudice the accused in a defense to the crime charged on the ground that at the time thereof he  
174 was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by  
175 the court be introduced in evidence on that issue nor otherwise be brought to the notice of the  
176 jury.

          552.030. 1. A person is not responsible for criminal conduct if, at the time of such  
2 conduct, as a result of mental disease or defect such person was incapable of knowing and  
3 appreciating the nature, quality, or wrongfulness of such person's conduct.

4           2. Evidence of mental disease or defect excluding responsibility shall not be admissible  
5 at trial of the accused unless the accused, at the time of entering such accused's plea to the  
6 charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless  
7 within ten days after a plea of not guilty, or at such later date as the court may for good cause  
8 permit, the accused files a written notice of such accused's purpose to rely on such defense. Such  
9 a plea or notice shall not deprive the accused of other defenses. The state may accept a defense  
10 of mental disease or defect excluding responsibility, whether raised by plea or written notice, if  
11 the accused has no other defense and files a written notice to that effect. The state shall not  
12 accept a defense of mental disease or defect excluding responsibility in the absence of any  
13 pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance  
14 of the defense of mental disease or defect excluding responsibility, the court shall proceed to  
15 order the commitment of the accused as provided in section 552.040 in cases of persons  
16 acquitted on the ground of mental disease or defect excluding responsibility, and further  
17 proceedings shall be had regarding the confinement and release of the accused as provided in  
18 section 552.040.

19           3. Whenever the accused has pleaded mental disease or defect excluding responsibility  
20 or has given the written notice provided in subsection 2 of this section, and such defense has not  
21 been accepted as provided in subsection 2 of this section, the court shall, after notice and upon  
22 motion of either the state or the accused, by order of record, appoint one or more private

23 psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of  
24 one year training or experience in providing treatment or services to [mentally retarded]  
25 **developmentally disabled** or mentally ill individuals, who are neither employees nor contractors  
26 of the department of mental health for purposes of performing the examination in question, to  
27 examine the accused, or shall direct the director of the department of mental health, or the  
28 director's designee, to have the accused so examined by one or more psychiatrists or  
29 psychologists, as defined in section 632.005, or physicians with a minimum of one year training  
30 or experience in providing treatment or services to [mentally retarded] **developmentally**  
31 **disabled** or mentally ill individuals designated by the director, or the director's designee, as  
32 qualified to perform examinations pursuant to this chapter. The order shall direct that written  
33 report or reports of such examination be filed with the clerk of the court. No private psychiatrist,  
34 psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist  
35 or physician has consented to act. The examinations ordered shall be made at such time and  
36 place and under such conditions as the court deems proper; except that, if the order directs the  
37 director of the department of mental health to have the accused examined, the director, or the  
38 director's designee, shall determine the time, place and conditions under which the examination  
39 shall be conducted. The order may include provisions for the interview of witnesses and may  
40 require the provision of police reports to the department for use in evaluation. If an examination  
41 provided in section 552.020 was made and the report of such examination included an opinion  
42 as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental  
43 disease or defect, did not know or appreciate the nature, quality or wrongfulness of such  
44 accused's conduct or as a result of mental disease or defect was incapable of conforming such  
45 accused's conduct to the requirements of law, such report may be received in evidence, and no  
46 new examination shall be required by the court unless, in the discretion of the court, another  
47 examination is necessary. If an examination is ordered pursuant to this section, the report shall  
48 contain the information required in subsections 3 and 4 of section 552.020. Within ten days after  
49 receiving a copy of such report, both the accused and the state shall, upon written request, be  
50 entitled to an order granting them an examination of the accused by an examiner of such  
51 accused's or its own choosing and at such accused's or its expense. The clerk of the court shall  
52 deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or  
53 his counsel. No reports required by this subsection shall be public records or be open to the  
54 public. Any examination performed pursuant to this subsection shall be completed and the  
55 results shall be filed with the court within sixty days of the date it is received by the department  
56 or private psychiatrist, psychologist or physician unless the court, for good cause, orders  
57 otherwise.

58           4. If the report contains the recommendation that the accused should be held in custody  
59 in a suitable hospital facility pending trial, and if the accused is not admitted to bail, or released  
60 on other conditions, the court may order that the accused be committed to or held in a suitable  
61 hospital facility pending trial.

62           5. No statement made by the accused in the course of any such examination and no  
63 information received by any physician or other person in the course thereof, whether such  
64 examination was made with or without the consent of the accused or upon the accused's motion  
65 or upon that of others, shall be admitted in evidence against the accused on the issue of whether  
66 the accused committed the act charged against the accused in any criminal proceeding then or  
67 thereafter pending in any court, state or federal. The statement or information shall be  
68 admissible in evidence for or against the accused only on the issue of the accused's mental  
69 condition, whether or not it would otherwise be deemed to be a privileged communication. If  
70 the statement or information is admitted for or against the accused on the issue of the accused's  
71 mental condition, the court shall, both orally at the time of its admission and later by instruction,  
72 inform the jury that it must not consider such statement or information as any evidence of  
73 whether the accused committed the act charged against the accused.

74           6. All persons are presumed to be free of mental disease or defect excluding  
75 responsibility for their conduct, whether or not previously adjudicated in this or any other state  
76 to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court  
77 may admit evidence presented at such adjudication based on its probative value. The issue of  
78 whether any person had a mental disease or defect excluding responsibility for such person's  
79 conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack  
80 of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive.  
81 Upon the introduction of substantial evidence of lack of such responsibility, the presumption  
82 shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury  
83 shall be instructed as to the existence and nature of such presumption when requested by the state  
84 and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that  
85 the burden rests upon the accused to show by a preponderance or greater weight of the credible  
86 evidence that the defendant was suffering from a mental disease or defect excluding  
87 responsibility at the time of the conduct charged against the defendant. At the request of the  
88 defense the jury shall be instructed by the court as to the contents of subsection 2 of section  
89 552.040.

90           7. When the accused is acquitted on the ground of mental disease or defect excluding  
91 responsibility, the verdict and the judgment shall so state as well as state the offense for which  
92 the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order

93 of commitment to the department of mental health pursuant to this section to the criminal records  
94 central repository pursuant to section 43.503.

552.040. 1. For the purposes of this section, the following words mean:

2 (1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit  
3 attorney of a city not within a county;

4 (2) "Secure facility", a state mental health facility, state [mental retardation]  
5 **developmental disability** facility, private facility under contract with the department of mental  
6 health, or a section within any of these facilities, in which persons committed to the department  
7 of mental health pursuant to this chapter, shall not be permitted to move about the facility or  
8 section of the facility, nor to leave the facility or section of the facility, without approval by the  
9 head of the facility or such head's designee and adequate supervision consistent with the safety  
10 of the public and the person's treatment, habilitation or rehabilitation plan;

11 (3) "Tried and acquitted" includes both pleas of mental disease or defect excluding  
12 responsibility that are accepted by the court and acquittals on the ground of mental disease or  
13 defect excluding responsibility following the proceedings set forth in section 552.030.

14 2. When an accused is tried and acquitted on the ground of mental disease or defect  
15 excluding responsibility, the court shall order such person committed to the director of the  
16 department of mental health for custody. The court shall also order custody and care in a state  
17 mental health or retardation facility unless an immediate conditional release is granted pursuant  
18 to this section. If the accused has not been charged with a dangerous felony as defined in section  
19 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault  
20 pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion  
21 that the accused should be immediately conditionally released to the community by the court, the  
22 court shall hold a hearing to determine if an immediate conditional release is appropriate  
23 pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section.  
24 Prior to the hearing, the court shall direct the director of the department of mental health, or the  
25 director's designee, to have the accused examined to determine conditions of confinement in  
26 accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section  
27 shall be applicable to defendants granted an immediate conditional release and the director shall  
28 honor the immediate conditional release as granted by the court. If the court determines that an  
29 immediate conditional release is warranted, the court shall order the person committed to the  
30 director of the department of mental health before ordering such a release. The court granting  
31 the immediate conditional release shall retain jurisdiction over the case for the duration of the  
32 conditional release. This shall not limit the authority of the director of the department of mental  
33 health or the director's designee to revoke the conditional release or the trial release of any  
34 committed person pursuant to subsection 17 of this section. If the accused is committed to a

35 mental health or [mental retardation] **developmental disability** facility, the director of the  
36 department of mental health, or the director's designee, shall determine the time, place and  
37 conditions of confinement.

38         3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140,  
39 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370,  
40 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section.  
41 If the department does not have a treatment or rehabilitation program for a mental disease or  
42 defect of an individual, that fact may not be the basis for a release from commitment.  
43 Notwithstanding any other provision of law to the contrary, no person committed to the  
44 department of mental health who has been tried and acquitted by reason of mental disease or  
45 defect as provided in section 552.030 shall be conditionally or unconditionally released unless  
46 the procedures set out in this section are followed. Upon request by an indigent committed  
47 person, the appropriate court may appoint the office of the public defender to represent such  
48 person in any conditional or unconditional release proceeding under this section.

49         4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of  
50 this section shall be kept in a secure facility until such time as a court of competent jurisdiction  
51 enters an order granting a conditional or unconditional release to a nonsecure facility.

52         5. The committed person or the head of the facility where the person is committed may  
53 file an application in the court that committed the person seeking an order releasing the  
54 committed person unconditionally; except that any person who has been denied an application  
55 for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for  
56 an unconditional release until the expiration of one year from such denial. In the case of a person  
57 who was immediately conditionally released after being committed to the department of mental  
58 health, the released person or the director of the department of mental health, or the director's  
59 designee, may file an application in the same court that released the committed person seeking  
60 an order releasing the committed person unconditionally. Copies of the application shall be  
61 served personally or by certified mail upon the head of the facility unless the head of the facility  
62 files the application, the committed person unless the committed person files the application, or  
63 unless the committed person was immediately conditionally released, the director of the  
64 department of mental health, and the prosecutor of the jurisdiction where the committed person  
65 was tried and acquitted. Any party objecting to the proposed release must do so in writing within  
66 thirty days after service. Within a reasonable period of time after any written objection is filed,  
67 which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court  
68 shall hold a hearing upon notice to the committed person, the head of the facility, if necessary,  
69 the director of the department of mental health, and the prosecutor of the jurisdiction where the  
70 person was tried. Prior to the hearing any of the parties, upon written application, shall be

71 entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined  
72 in section 632.005, or a physician with a minimum of one year training or experience in  
73 providing treatment or services to mentally retarded or mentally ill individuals of its own  
74 choosing and at its expense. The report of the mental condition of the committed person shall  
75 accompany the application. By agreement of all parties to the proceeding any report of the  
76 mental condition of the committed person which may accompany the application for release or  
77 which is filed in objection thereto may be received by evidence, but the party contesting any  
78 opinion therein shall have the right to summon and to cross-examine the examiner who rendered  
79 such opinion and to offer evidence upon the issue.

80         6. By agreement of all the parties and leave of court, the hearing may be waived, in  
81 which case an order granting an unconditional release shall be entered in accordance with  
82 subsection 8 of this section.

83         7. At a hearing to determine if the committed person should be unconditionally released,  
84 the court shall consider the following factors in addition to any other relevant evidence:

85             (1) Whether or not the committed person presently has a mental disease or defect;

86             (2) The nature of the offense for which the committed person was committed;

87             (3) The committed person's behavior while confined in a mental health facility;

88             (4) The elapsed time between the hearing and the last reported unlawful or dangerous  
89 act;

90             (5) Whether the person has had conditional releases without incident; and

91             (6) Whether the determination that the committed person is not dangerous to himself or  
92 others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion  
93 for any person committed to a mental health facility under the provisions of this section upon  
94 acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party  
95 seeking unconditional release to prove by clear and convincing evidence that the person for  
96 whom unconditional release is sought does not have, and in the reasonable future is not likely  
97 to have, a mental disease or defect rendering the person dangerous to the safety of himself or  
98 others.

99         8. The court shall enter an order either denying the application for unconditional release  
100 or granting an unconditional release. An order denying the application shall be without prejudice  
101 to the filing of another application after the expiration of one year from the denial of the last  
102 application.

103         9. No committed person shall be unconditionally released unless it is determined through  
104 the procedures in this section that the person does not have, and in the reasonable future is not  
105 likely to have, a mental disease or defect rendering the person dangerous to the safety of himself  
106 or others.

107           10. The committed person or the head of the facility where the person is committed may  
108 file an application in the court having probate jurisdiction over the facility where the person is  
109 detained for a hearing to determine whether the committed person shall be released conditionally.  
110 In the case of a person committed to a mental health facility upon acquittal on the grounds of  
111 mental disease or defect excluding responsibility for a dangerous felony as defined in section  
112 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to  
113 section 566.040, any such application shall be filed in the court that committed the person. In  
114 such cases, jurisdiction over the application for conditional release shall be in the committing  
115 court. In the case of a person who was immediately conditionally released after being committed  
116 to the department of mental health, the released person or the director of the department of  
117 mental health, or the director's designee, may file an application in the same court that released  
118 the person seeking to amend or modify the existing release. The procedures for application for  
119 unconditional releases set out in subsection 5 of this section shall apply, with the following  
120 additional requirements:

121           (1) A copy of the application shall also be served upon the prosecutor of the jurisdiction  
122 where the person is being detained, unless the released person was immediately conditionally  
123 released after being committed to the department of mental health, or unless the application was  
124 required to be filed in the court that committed the person in which case a copy of the application  
125 shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted  
126 and the prosecutor of the jurisdiction into which the committed person is to be released;

127           (2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use  
128 their best efforts to notify the victims of dangerous felonies. Notification by the appropriate  
129 person or agency by certified mail to the most current address provided by the victim shall  
130 constitute compliance with the victim notification requirement of this section;

131           (3) The application shall specify the conditions and duration of the proposed release;

132           (4) The prosecutor of the jurisdiction where the person is being detained shall represent  
133 the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person  
134 was tried and acquitted decides to appear to represent the public safety interest. If the application  
135 for release was required to be filed in the committing court, the prosecutor of the jurisdiction  
136 where the person was tried and acquitted shall represent the public safety interest. In the case  
137 of a person who was immediately conditionally released after being committed to the department  
138 of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall  
139 appear and represent the public safety interest.

140           11. By agreement of all the parties, the hearing may be waived, in which case an order  
141 granting a conditional release, stating the conditions and duration agreed upon by all the parties  
142 and the court, shall be entered in accordance with subsection 13 of this section.

143           12. At a hearing to determine if the committed person should be conditionally released,  
144 the court shall consider the following factors in addition to any other relevant evidence:

145           (1) The nature of the offense for which the committed person was committed;

146           (2) The person's behavior while confined in a mental health facility;

147           (3) The elapsed time between the hearing and the last reported unlawful or dangerous  
148 act;

149           (4) The nature of the person's proposed release plan;

150           (5) The presence or absence in the community of family or others willing to take  
151 responsibility to help the defendant adhere to the conditions of the release; and

152           (6) Whether the person has had previous conditional releases without incident. The  
153 burden of persuasion for any person committed to a mental health facility under the provisions  
154 of this section upon acquittal on the grounds of mental disease or defect excluding responsibility  
155 shall be on the party seeking release to prove by clear and convincing evidence that the person  
156 for whom release is sought is not likely to be dangerous to others while on conditional release.

157           13. The court shall enter an order either denying the application for a conditional release  
158 or granting conditional release. An order denying the application shall be without prejudice to  
159 the filing of another application after the expiration of one year from the denial of the last  
160 application.

161           14. No committed person shall be conditionally released until it is determined that the  
162 committed person is not likely to be dangerous to others while on conditional release.

163           15. If, in the opinion of the head of a facility where a committed person is being  
164 detained, that person can be released without danger to others, that person may be released from  
165 the facility for a trial release of up to ninety-six hours under the following procedure:

166           (1) The head of the facility where the person is committed shall notify the prosecutor of  
167 the jurisdiction where the committed person was tried and acquitted and the prosecutor of the  
168 jurisdiction into which the committed person is to be released at least thirty days before the date  
169 of the proposed trial release;

170           (2) The notice shall specify the conditions and duration of the release;

171           (3) If no prosecutor to whom notice is required objects to the trial release, the committed  
172 person shall be released according to conditions and duration specified in the notice;

173           (4) If any prosecutor objects to the trial release, the head of the facility may file an  
174 application with the court having probate jurisdiction over the facility where the person is  
175 detained for a hearing under the procedures set out in subsections 5 and 10 of this section with  
176 the following additional requirements:

177           (a) A copy of the application shall also be served upon the prosecutor of the jurisdiction  
178 into which the committed person is to be released; and

179 (b) The prosecutor or prosecutors who objected to the trial release shall represent the  
180 public safety interest at the hearing; and

181 (5) The release criteria of subsections 12 to 14 of this section shall apply at such a  
182 hearing.

183 16. The department shall provide or shall arrange for follow-up care and monitoring for  
184 all persons conditionally released under this section and shall make or arrange for reviews and  
185 visits with the client at least monthly, or more frequently as set out in the release plan, and  
186 whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his  
187 needs, condition and public safety. The department shall identify the facilities, programs or  
188 specialized services operated or funded by the department which shall provide necessary levels  
189 of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas  
190 where they are released.

191 17. The director of the department of mental health, or the director's designee, may  
192 revoke the conditional release or the trial release and request the return of the committed person  
193 if such director or coordinator has reasonable cause to believe that the person has violated the  
194 conditions of such release. If requested to do so by the director or coordinator, a peace officer  
195 of a jurisdiction in which a patient on conditional release is found shall apprehend and return  
196 such patient to the facility. No peace officer responsible for apprehending and returning the  
197 committed person to the facility upon the request of the director or coordinator shall be civilly  
198 liable for apprehending or transporting such patient to the facility so long as such duties were  
199 performed in good faith and without negligence. If a person on conditional release is returned  
200 to a facility under the provisions of this subsection, a hearing shall be held within ninety-six  
201 hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated  
202 the conditions of the release or whether resumption of full-time hospitalization is the least  
203 restrictive alternative consistent with the person's needs and public safety. The director of the  
204 department of mental health, or the director's designee, shall conduct the hearing. The person  
205 shall be given notice at least twenty-four hours in advance of the hearing and shall have the right  
206 to have an advocate present.

207 18. At any time during the period of a conditional release or trial release, the court which  
208 ordered the release may issue a notice to the released person to appear to answer a charge of a  
209 violation of the terms of the release and the court may issue a warrant of arrest for the violation.  
210 Such notice shall be personally served upon the released person. The warrant shall authorize the  
211 return of the released person to the custody of the court or to the custody of the director of mental  
212 health or the director's designee.

213 19. The head of a mental health facility, upon any notice that a committed person has  
214 escaped confinement, or left the facility or its grounds without authorization, shall immediately

215 notify the prosecutor and sheriff of the county wherein the committed person is detained of the  
216 escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the  
217 person was tried and acquitted.

218         20. Any person committed to a mental health facility under the provisions of this section  
219 upon acquittal on the grounds of mental disease or defect excluding responsibility for a  
220 dangerous felony as defined in section 556.061, murder in the first degree pursuant to section  
221 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or  
222 unconditional release under the provisions of this section unless, in addition to the requirements  
223 of this section, the court finds that the following criteria are met:

224             (1) Such person is not now and is not likely in the reasonable future to commit another  
225 violent crime against another person because of such person's mental illness; and

226             (2) Such person is aware of the nature of the violent crime committed against another  
227 person and presently possesses the capacity to appreciate the criminality of the violent crime  
228 against another person and the capacity to conform such person's conduct to the requirements of  
229 law in the future.

630.003. 1. There is hereby created a department of mental health to be headed by a  
2 mental health commission who shall appoint a director, by and with the advice and consent of  
3 the senate. The director shall be the administrative head of the department and shall serve at the  
4 pleasure of the commission and be compensated as provided by law for the director, division of  
5 mental health. All employees of the department shall be selected in accordance with chapter 36.

6             2. (1) The "State Mental Health Commission", composed of seven members, is the  
7 successor to the former state mental health commission and it has all the powers, duties and  
8 responsibilities of the former commission. All members of the commission shall be appointed  
9 by the governor, by and with the advice and consent of the senate. None of the members shall  
10 otherwise be employed by the state of Missouri.

11             (2) Three of the commission members first appointed shall be appointed for terms of  
12 four years, and two shall be appointed for terms of three years, and two shall be appointed for  
13 a term of two years. The governor shall designate, at the time the appointments are made, the  
14 length of the term of each member so appointed. Thereafter all terms shall be for four years.

15             (3) At least two of the members of the commission shall be physicians, one of whom  
16 shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and  
17 one of whom shall be recognized as an expert in the field of [mental retardation or of other]  
18 developmental disabilities. At least two of the members of the commission shall be  
19 representative of persons or groups who are consumers having substantial interest in the services  
20 provided by the division, one of whom shall represent the [mentally retarded or] developmentally  
21 disabled and one of whom shall represent those persons being treated for nervous and mental

22 diseases. Of the other three members at least one must be recognized for his expertise in general  
23 business management procedures, and two shall be recognized for their interest and expertise in  
24 dealing with alcohol/drug abuse problems, or community mental health services.

25 3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160,  
26 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental  
27 health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted  
28 by the governor under chapter 26 are transferred by specific type transfer from the department  
29 of public health and welfare to the department of mental health. The division of mental health,  
30 department of health and welfare, chapter 202 and others are abolished and all powers, duties and  
31 functions now assigned by law to the division, the director of the divisions of mental health or  
32 any of the institutions or officials of the division are transferred by type I transfer to the  
33 department of mental health.

34 4. The Missouri institute of psychiatry, which is under the board of curators of the  
35 University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health".  
36 The purpose of the institute will be that of conducting research into improving services for  
37 persons served by the department of mental health for fostering the training of psychiatric  
38 residents in public psychiatry and for fostering excellence in mental health services through  
39 employee training and the study of mental health policy and ethics. To assist in this training,  
40 hospitals operated by and providers contracting with the department of mental health may be  
41 used for the same purposes and under the same arrangements as the board of curators of the  
42 University of Missouri utilizes with other hospitals in the state in supervising residency training  
43 for medical doctors. Appropriations requests for the Missouri institute of mental health shall be  
44 jointly developed by the University of Missouri and the department of mental health. All  
45 appropriations for the Missouri institute of mental health shall be made to the curators of the  
46 University of Missouri but shall be submitted separately from the appropriations of the curators  
47 of the University of Missouri.

48 5. There is hereby established within the department of mental health a division of  
49 [mental retardation and] developmental disabilities. The director of the division shall be  
50 appointed by the director of the department. The division shall administer all state facilities  
51 under the direction and authority of the department director. The Marshall Habilitation Center,  
52 the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada  
53 Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the  
54 regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar  
55 Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be  
56 established, are transferred by type I transfer to the division of [mental retardation and]  
57 developmental disabilities.

58           6. All the duties, powers and functions of the advisory council on mental retardation and  
59 community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer  
60 to the division of mental retardation and developmental disabilities of the department of mental  
61 health. The advisory council on mental retardation and community health centers shall be  
62 appointed by the division director.

63           7. The advisory council on mental retardation and developmental disabilities heretofore  
64 established by executive order and all of the duties, powers and functions of the advisory council  
65 including the responsibilities of the provision of the council in regard to the Federal  
66 Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type  
67 I transfer to the division of mental retardation and developmental disabilities. The advisory  
68 council on mental retardation and developmental disabilities shall be appointed by the director  
69 of the division of mental retardation and developmental disabilities.

70           8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type  
71 II transfer to the department of mental health and the members of the advisory council shall be  
72 appointed by the mental health director.

          630.005. As used in this chapter and chapters 631, 632, and 633, unless the context  
2 clearly requires otherwise, the following terms shall mean:

3           (1) "Administrative entity", a provider of specialized services other than transportation  
4 to clients of the department on behalf of a division of the department;

5           (2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication  
6 or in a psychological or physiological dependency from continued use, which dependency  
7 induces a mental, emotional or physical impairment and which causes socially dysfunctional  
8 behavior;

9           (3) "Chemical restraint", medication administered with the primary intent of restraining  
10 a patient who presents a likelihood of serious physical injury to himself or others, and not  
11 prescribed to treat a person's medical condition;

12           (4) "Client", any person who is placed by the department in a facility or program licensed  
13 and funded by the department or who is a recipient of services from a regional center, as defined  
14 in section 633.005;

15           (5) "Commission", the state mental health commission;

16           (6) "Consumer", a person:

17           (a) Who qualifies to receive department services; or

18           (b) Who is a parent, child or sibling of a person who receives department services; or

19           (c) Who has a personal interest in services provided by the department. A person who  
20 provides services to persons affected by [mental retardation,] developmental disabilities, mental  
21 disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

22 (7) "Day program", a place conducted or maintained by any person who advertises or  
23 holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation  
24 for persons affected by mental disorders, mental illness, [mental retardation,] developmental  
25 disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily  
26 period;

27 (8) "Department", the department of mental health of the state of Missouri;

28 (9) "Developmental disability", a disability:

29 (a) Which is attributable to:

30 a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning  
31 disability related to a brain dysfunction; or

32 b. Any other mental or physical impairment or combination of mental or physical  
33 impairments; and

34 (b) Is manifested before the person attains age twenty- two; and

35 (c) Is likely to continue indefinitely; and

36 (d) Results in substantial functional limitations in two or more of the following areas of  
37 major life activities:

38 a. Self-care;

39 b. Receptive and expressive language development and use;

40 c. Learning;

41 d. Self-direction;

42 e. Capacity for independent living or economic self- sufficiency;

43 f. Mobility; and

44 (e) Reflects the person's need for a combination and sequence of special,  
45 interdisciplinary, or generic care, habilitation or other services which may be of lifelong or  
46 extended duration and are individually planned and coordinated;

47 (10) "Director", the director of the department of mental health, or his designee;

48 (11) "Domiciled in Missouri", a permanent connection between an individual and the  
49 state of Missouri, which is more than mere residence in the state; it may be established by the  
50 individual being physically present in Missouri with the intention to abandon his previous  
51 domicile and to remain in Missouri permanently or indefinitely;

52 (12) "Drug abuse", the use of any drug without compelling medical reason, which use  
53 results in a temporary mental, emotional or physical impairment and causes socially  
54 dysfunctional behavior, or in psychological or physiological dependency resulting from  
55 continued use, which dependency induces a mental, emotional or physical impairment and causes  
56 socially dysfunctional behavior;

57 (13) "Habilitation", a process of treatment, training, care or specialized attention which  
58 seeks to enhance and maximize the [mentally retarded or] developmentally disabled person's  
59 abilities to cope with the environment and to live as normally as possible;

60 (14) "Habilitation center", a residential facility operated by the department and serving  
61 only persons who are [mentally retarded, including] developmentally disabled;

62 (15) "Head of the facility", the chief administrative officer, or his designee, of any  
63 residential facility;

64 (16) "Head of the program", the chief administrative officer, or his designee, of any day  
65 program;

66 (17) "Individualized habilitation plan", a document which sets forth habilitation goals  
67 and objectives for [mentally retarded or] developmentally disabled residents and clients, and  
68 which details the habilitation program as required by law, rules and funding sources;

69 (18) "Individualized rehabilitation plan", a document which sets forth the care, treatment  
70 and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse,  
71 and which details the rehabilitation program as required by law, rules and funding sources;

72 (19) "Individualized treatment plan", a document which sets forth the care, treatment and  
73 rehabilitation goals and objectives for mentally disordered or mentally ill patients and clients,  
74 and which details the treatment program as required by law, rules and funding sources;

75 (20) "Investigator", an employee or contract agent of the department of mental health  
76 who is performing an investigation regarding an allegation of abuse or neglect or an investigation  
77 at the request of the director of the department of mental health or his designee;

78 (21) "Least restrictive environment", a reasonably available setting or mental health  
79 program where care, treatment, habilitation or rehabilitation is particularly suited to the level and  
80 quality of services necessary to implement a person's individualized treatment, habilitation or  
81 rehabilitation plan and to enable the person to maximize his functioning potential to participate  
82 as freely as feasible in normal living activities, giving due consideration to potentially harmful  
83 effects on the person and the safety of other facility or program clients and public safety. For  
84 some mentally disordered or [mentally retarded] **developmentally disabled** persons, the least  
85 restrictive environment may be a facility operated by the department, a private facility, a  
86 supported community living situation, or an alternative community program designed for persons  
87 who are civilly detained for outpatient treatment or who are conditionally released pursuant to  
88 chapter 632;

89 (22) "Mental disorder", any organic, mental or emotional impairment which has  
90 substantial adverse effects on a person's cognitive, volitional or emotional function and which  
91 constitutes a substantial impairment in a person's ability to participate in activities of normal  
92 living;

93 (23) "Mental illness", a state of impaired mental processes, which impairment results in  
94 a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty  
95 perceptions or alterations of mood, and interferes with an individual's ability to reason,  
96 understand or exercise conscious control over his actions. The term "mental illness" does not  
97 include the following conditions unless they are accompanied by a mental illness as otherwise  
98 defined in this subdivision:

99 (a) Mental retardation, developmental disability or narcolepsy;

100 (b) Simple intoxication caused by substances such as alcohol or drugs;

101 (c) Dependence upon or addiction to any substances such as alcohol or drugs;

102 (d) Any other disorders such as senility, which are not of an actively psychotic nature;

103 (24) "Mental retardation", significantly subaverage general intellectual functioning  
104 which:

105 (a) Originates before age eighteen; and

106 (b) Is associated with a significant impairment in adaptive behavior;

107 (25) "Minor", any person under the age of eighteen years;

108 (26) "Patient", an individual under observation, care, treatment or rehabilitation by any  
109 hospital or other mental health facility or mental health program pursuant to the provisions of  
110 chapter 632;

111 (27) "Psychosurgery",

112 (a) Surgery on the normal brain tissue of an individual not suffering from physical  
113 disease for the purpose of changing or controlling behavior; or

114 (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is  
115 to control, change or affect behavioral disturbances, except seizure disorders;

116 (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain  
117 normal or optimum health or constructive activity through care, treatment, training, counseling  
118 or specialized attention;

119 (29) "Residence", the place where the patient has last generally lodged prior to admission  
120 or, in case of a minor, where his family has so lodged; except, that admission or detention in any  
121 facility of the department shall not be deemed an absence from the place of residence and shall  
122 not constitute a change in residence;

123 (30) "Resident", a person receiving residential services from a facility, other than mental  
124 health facility, operated, funded or licensed by the department;

125 (31) "Residential facility", any premises where residential prevention, evaluation, care,  
126 treatment, habilitation or rehabilitation is provided for persons affected by mental disorders,  
127 mental illness, [mental retardation,] developmental disabilities or alcohol or drug abuse; except  
128 the person's dwelling;

129 (32) "Specialized service", an entity which provides prevention, evaluation,  
130 transportation, care, treatment, habilitation or rehabilitation services to persons affected by  
131 mental disorders, mental illness, [mental retardation,] developmental disabilities or alcohol or  
132 drug abuse;

133 (33) "Vendor", a person or entity under contract with the department, other than as a  
134 department employee, who provides services to patients, residents or clients;

135 (34) "Vulnerable person", any person in the custody, care, or control of the department  
136 that is receiving services from an operated, funded, licensed, or certified program.

630.010. 1. The state mental health commission, established by the omnibus  
2 reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members  
3 appointed by the governor, by and with the advice and consent of the senate. The terms of  
4 members appointed under the reorganization act before August 13, 1980, shall continue until the  
5 terms under which the members were regularly appointed expire. The terms shall be for four  
6 years. Each commissioner shall hold office until his successor has been appointed and qualified.

7 2. The commission shall be comprised of members who are not prohibited from serving  
8 by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state.  
9 The commission shall be composed of the following:

10 (1) A physician recognized as an expert in the treatment of mental illness;

11 (2) A physician recognized as an expert in the evaluation or habilitation of the [mentally  
12 retarded and] developmentally disabled;

13 (3) A representative of groups who are consumers or families of consumers interested  
14 in the services provided by the department in the treatment of mental illness;

15 (4) A representative of groups who are consumers or families of consumers interested  
16 in the services provided by the department in the habilitation of the [mentally retarded]  
17 **developmentally disabled**;

18 (5) A person recognized for his expertise in general business matters and procedures;

19 (6) A person recognized for his interest and expertise in dealing with alcohol or drug  
20 abuse; and

21 (7) A person recognized for his interest or expertise in community mental health  
22 services.

23 3. Vacancies occurring on the commission shall be filled by appointment by the  
24 governor, by and with the advice and consent of the senate, for the unexpired terms. In case of  
25 a vacancy when the senate is not in session, the governor shall make a temporary appointment  
26 until the next session of the general assembly, when he shall nominate someone to fill the office.

27 4. The commission shall elect from its members a chairman and a secretary. Meetings  
28 shall be held at least once a month, and special meetings may be held at the call of the chairman.

29           5. The department shall pay the commission members one hundred dollars per day for  
30 each day, or portion thereof, they actually spend in transacting the business of the commission  
31 and shall reimburse the commission members for necessary expenses actually incurred in the  
32 performance of their official duties.

          630.053. 1. There is hereby created in the state treasury a fund to be known as the  
2 "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned  
3 from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money  
4 in the mental health earnings fund shall not be transferred and placed to the credit of general  
5 revenue at the end of the biennium.

6           2. Fees received pursuant to the substance abuse traffic offenders program shall be  
7 deposited in the mental health earnings fund. Such fees shall not be used for personal services,  
8 expenses and equipment or for any demonstration or other program. No other federal or state  
9 funds shall be deposited in the fund, except for the purposes provided in subsections 3 [and 4]  
10 **to 5** of this section. The moneys received from such fees shall be appropriated solely for  
11 assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay  
12 for the services they receive.

13           3. The mental health earnings fund may be used for the deposit of revenue received for  
14 the provision of services under a managed care agreement entered into by the department of  
15 mental health. Subject to the approval through the appropriation process, such revenues may be  
16 expended for the purposes of providing such services pursuant to the managed care agreement  
17 and for no other purpose and shall be accounted for separately from all other revenues deposited  
18 in the fund.

19           4. The mental health earnings fund may, if approved through the appropriation process,  
20 be used for the deposit of revenue received pursuant to an agreement entered into by the  
21 department of mental health and an alcohol and drug abuse counselor certification board for the  
22 purpose of providing oversight of counselor certification. Such revenue shall be accounted for  
23 separately from all other revenues deposited in the fund.

24           **5. The mental health earnings fund may be used for the deposit of revenue received**  
25 **from proceeds of any sales and services from Mental Health First Aid USA. Subject to the**  
26 **approval through the appropriation process, such proceeds shall be used for the purpose**  
27 **of funding Mental Health First Aid USA activities and shall be accounted for separately**  
28 **from all other revenues deposited in the fund.**

29           6. The department of mental health shall promulgate rules and regulations to implement  
30 and administer the provisions of this section. No rule or portion of a rule promulgated pursuant  
31 to the authority of this chapter shall become effective unless it has been promulgated pursuant  
32 to the provisions of section 536.024.

630.095. The department may copyright or obtain a trademark for any instructional,  
2 training and informational audio-visual materials, manuals and documents which are prepared  
3 by department personnel or by persons who receive department funding to prepare such material.  
4 If the material is sold directly or for distribution, the department shall pay the proceeds of the  
5 sales to the director of revenue for deposit to the general revenue fund, **except for proceeds**  
6 **received under subsection 5 of section 630.053.**

630.097. 1. The department of mental health shall develop, in partnership with all  
2 departments represented on the children's services commission, a unified accountable  
3 comprehensive children's mental health service system. The department of mental health shall  
4 establish a state interagency comprehensive children's mental health service system team  
5 comprised of representation from:

- 6 (1) Family-run organizations and family members;
- 7 (2) Child advocate organizations;
- 8 (3) The department of health and senior services;
- 9 (4) The department of social services' children's division, division of youth services, and  
10 the division of medical services;
- 11 (5) The department of elementary and secondary education;
- 12 (6) The department of mental health's division of alcohol and drug abuse, division of  
13 [mental retardation and] developmental disabilities, and the division of comprehensive  
14 psychiatric services;
- 15 (7) The department of public safety;
- 16 (8) The office of state courts administrator;
- 17 (9) The juvenile justice system; and
- 18 (10) Local representatives of the member organizations of the state team to serve  
19 children with emotional and behavioral disturbance problems, developmental disabilities, and  
20 substance abuse problems. The team shall be called "The Comprehensive System Management  
21 Team". There shall be a stakeholder advisory committee to provide input to the comprehensive  
22 system management team to assist the departments in developing strategies and to ensure  
23 positive outcomes for children are being achieved. The department of mental health shall obtain  
24 input from appropriate consumer and family advocates when selecting family members for the  
25 comprehensive system management team, in consultation with the departments that serve on the  
26 children's services commission. The implementation of a comprehensive system shall include  
27 all state agencies and system partner organizations involved in the lives of the children served.  
28 These system partners may include private and not-for-profit organizations and representatives  
29 from local system of care teams and these partners may serve on the stakeholder advisory  
30 committee. The department of mental health shall promulgate rules for the implementation of

31 this section in consultation with all of the departments represented on the children's services  
32 commission.

33 2. The department of mental health shall, in partnership with the departments serving on  
34 the children's services commission and the stakeholder advisory committee, develop a state  
35 comprehensive children's mental health service system plan. This plan shall be developed and  
36 submitted to the governor, the general assembly, and children's services commission by  
37 December, 2004. There shall be subsequent annual reports that include progress toward  
38 outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

39 (1) Describe the mental health service and support needs of Missouri's children and their  
40 families, including the specialized needs of specific segments of the population;

41 (2) Define the comprehensive array of services including services such as intensive  
42 home-based services, early intervention services, family support services, respite services, and  
43 behavioral assistance services;

44 (3) Establish short- and long-term goals, objectives, and outcomes;

45 (4) Describe and define the parameters for local implementation of comprehensive  
46 children's mental health system teams;

47 (5) Describe and emphasize the importance of family involvement in all levels of the  
48 system;

49 (6) Describe the mechanisms for financing, and the cost of implementing the  
50 comprehensive array of services;

51 (7) Describe the coordination of services across child- serving agencies and at critical  
52 transition points, with emphasis on the involvement of local schools;

53 (8) Describe methods for service, program, and system evaluation;

54 (9) Describe the need for, and approaches to, training and technical assistance; and

55 (10) Describe the roles and responsibilities of the state and local child-serving agencies  
56 in implementing the comprehensive children's mental health care system.

57 3. The comprehensive system management team shall collaborate to develop uniform  
58 language to be used in intake and throughout the provision of services.

59 4. The comprehensive children's mental health services system shall:

60 (1) Be child centered, family focused, strength based, and family driven, with the needs  
61 of the child and family dictating the types and mix of services provided, and shall include the  
62 families as full participants in all aspects of the planning and delivery of services;

63 (2) Provide community-based mental health services to children and their families in the  
64 context in which the children live and attend school;

65 (3) Respond in a culturally competent and responsive manner;

66 (4) Emphasize prevention, early identification, and intervention;

- 67 (5) Assure access to a continuum of services that:
- 68 (a) Educate the community about the mental health needs of children;
- 69 (b) Address the unique physical, behavioral, emotional, social, developmental, and  
70 educational needs of children;
- 71 (c) Are coordinated with the range of social and human services provided to children and  
72 their families by local school districts, **the departments of** social services, health and senior  
73 services, **and** public safety, juvenile offices, and the juvenile and family courts;
- 74 (d) Provide a comprehensive array of services through an integrated service plan;
- 75 (e) Provide services in the least restrictive most appropriate environment that meets the  
76 needs of the child; and
- 77 (f) Are appropriate to the developmental needs of children;
- 78 (6) Include early screening and prompt intervention to:
- 79 (a) Identify and treat the mental health needs of children in the least restrictive  
80 environment appropriate to their needs; and
- 81 (b) Prevent further deterioration;
- 82 (7) Address the unique problems of paying for mental health services for children,  
83 including:
- 84 (a) Access to private insurance coverage;
- 85 (b) Public funding, including:
- 86 a. Assuring that funding follows children across departments; and
- 87 b. Maximizing federal financial participation;
- 88 (c) Private funding and services;
- 89 (8) Assure a smooth transition from child to adult mental health services when needed;
- 90 (9) Coordinate a service delivery system inclusive of services, providers, and schools that  
91 serve children and youth with emotional and behavioral disturbance problems, and their families  
92 through state agencies that serve on the state comprehensive children's management team; and
- 93 (10) Be outcome based.
- 94 5. By August 28, 2007, and periodically thereafter, the children's services commission  
95 shall conduct and distribute to the general assembly an evaluation of the implementation and  
96 effectiveness of the comprehensive children's mental health care system, including an assessment  
97 of family satisfaction and the progress of achieving outcomes.

2 630.120. No patient or resident, either voluntary or involuntary, shall be presumed to be  
3 incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability  
4 as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care,  
5 treatment, habilitation or rehabilitation for a mental disorder, mental illness, [mental retardation,]  
developmental disability, alcohol problem or drug problem.

630.165. 1. When any physician, physician assistant, dentist, chiropractor, optometrist, 2 podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed 3 professional counselor, certified substance abuse counselor, psychologist, other health 4 practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical 5 therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential 6 facility, day program, group home or [mental retardation] **developmental disability** facility as 7 defined in section 633.005, or specialized service operated, licensed, certified, or funded by the 8 department or in a mental health facility or mental health program in which people may be 9 admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the 10 departments of social services, mental health, or health and senior services; or home health 11 agency or home health agency employee; hospital and clinic personnel engaged in examination, 12 care, or treatment of persons; in-home services owner, provider, operator, or employee; law 13 enforcement officer, long-term care facility administrator or employee; mental health 14 professional, probation or parole officer, or other nonfamilial person with responsibility for the 15 care of a patient, resident, or client of a facility, program, or service has reasonable cause to 16 suspect that a patient, resident or client of a facility, program or service has been subjected to 17 abuse or neglect or observes such person being subjected to conditions or circumstances that 18 would reasonably result in abuse or neglect, he or she shall immediately report or cause a report 19 to be made to the department in accordance with section 630.163.

20 2. Any person who knowingly fails to make a report as required in subsection 1 of this 21 section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand 22 dollars. Penalties collected for violations of this section shall be transferred to the state school 23 moneys fund as established in section 166.051 and distributed to the public schools of this state 24 in the manner provided in section 163.031. Such penalties shall not considered charitable for 25 tax purposes.

26 3. Every person who has been previously convicted of or pled guilty to failing to make 27 a report as required in subsection 1 of this section and who is subsequently convicted of failing 28 to make a report under subsection 2 of this section is guilty of a class D felony and shall be 29 subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection 30 shall be transferred to the state school moneys fund as established in section 166.051 and 31 distributed to the public schools of this state in the manner provided in section 163.031. Such 32 penalties shall not considered charitable for tax purposes.

33 4. Any person who knowingly files a false report of vulnerable person abuse or neglect 34 is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. 35 Penalties collected for violations of this subsection shall be transferred to the state school 36 moneys fund as established in section 166.051 and distributed to the public schools of this state

37 in the manner provided in section 163.031. Such penalties shall not considered charitable for  
38 tax purposes.

39 5. Every person who has been previously convicted of or pled guilty to making a false  
40 report to the department and who is subsequently convicted of making a false report under  
41 subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five  
42 thousand dollars. Penalties collected for violations of this subsection shall be transferred to the  
43 state school moneys fund as established in section 166.051 and distributed to the public schools  
44 of this state in the manner provided in section 163.031. Such penalties shall not considered  
45 charitable for tax purposes.

46 6. Evidence of prior convictions of false reporting shall be heard by the court, out of the  
47 hearing of the jury, prior to the submission of the case to the jury, and the court shall determine  
48 the existence of the prior convictions.

49 7. Any residential facility, day program, or specialized service operated, funded, or  
50 licensed by the department that prevents or discourages a patient, resident, [or] client, employee,  
51 or other person from reporting that a patient, resident, or client of a facility, program, or service  
52 has been abused or neglected shall be subject to loss of their license issued pursuant to sections  
53 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or  
54 discourage reporting.

630.183. Subject to other provisions of this chapter, the head of a mental health or  
2 [mental retardation] **developmental disability** facility may authorize the medical and surgical  
3 treatment of a patient or resident under the following circumstances:

4 (1) Upon consent of a patient or resident who is competent;

5 (2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or  
6 legally incapacitated;

7 (3) Pursuant to the provisions of chapter 431;

8 (4) Pursuant to an order of a court of competent jurisdiction.

630.192. No biomedical or pharmacological research shall be conducted in any mental  
2 health facility or mental health program in which people may be civilly detained pursuant to  
3 chapter 632 or in any public or private residential facilities or day programs operated, funded or  
4 licensed by the department for persons affected by [mental retardation,] developmental  
5 disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research is  
6 intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct  
7 therapeutic benefit to the participants. Without a specific court order, no involuntary patient  
8 shall consent to participate in any biomedical or pharmacological research. The application for  
9 the order shall be filed in the court having probate jurisdiction in the county in which the mental  
10 health facility is located, provided, however, that if the patient requests that the hearing be held

11 by the court which has committed the patient, or if the court having probate jurisdiction deems  
12 it appropriate, the hearing on the application shall be transferred to the committing court.

630.210. 1. The director shall determine the maximum amount for services which shall  
2 be charged in each of the residential facilities, day programs or specialized services operated or  
3 funded by the department for full-time or part-time inpatient, resident or outpatient evaluation,  
4 care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental  
5 disorder, mental illness, [mental retardation,] developmental disability or drug or alcohol abuse.  
6 The maximum charge shall be related to the per capita inpatient cost or actual outpatient  
7 evaluation or other service costs of each facility, program or service, which may vary from one  
8 locality to another. The director shall promulgate rules setting forth a reasonable standard means  
9 test which shall be applied by all facilities, programs and services operated or funded by the  
10 department in determining the amount to be charged to persons receiving services. The  
11 department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for  
12 the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or  
13 arranged by the department for any patient, resident or client who is domiciled in Missouri and  
14 who is unable to pay fully for services.

15 2. The director shall apply the standard means test annually and may make application  
16 of the test upon his own initiative or upon request of an interested party whenever evidence is  
17 offered tending to show that the current support status of any patient, resident or client is no  
18 longer proper. Any change of support status shall be retroactive to the date of application or  
19 request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse  
20 to cooperate in providing information necessary to properly apply the test or if retroactive  
21 benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a  
22 date prior to the date of application or request for review. The decision of the director in  
23 determining the amount to be charged for services to a patient, resident or client shall be final.  
24 Appeals from the determination may be taken to the circuit court of Cole County or the county  
25 where the person responsible for payment resides in the manner provided by chapter 536.

26 3. The department shall not pay for services provided to a patient, resident or client who  
27 is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the  
28 department may pay for services provided to a transient person for up to thirty days pending  
29 verification of his domiciliary state, and for services provided for up to thirty days in an  
30 emergency situation. The director shall promulgate rules for determination of the domiciliary  
31 state of any patient, resident or client receiving services from a facility, program or service  
32 operated or funded by the department.

33 4. Whenever a patient, resident or client is receiving services from a residential facility,  
34 day program or specialized service operated or funded by the department, and the state, county,

35 municipality, parent, guardian or other person responsible for support of the patient, resident or  
36 client fails to pay any installment required to be paid for support, the department or the  
37 residential facility, day program or specialized service may discharge the patient, resident or  
38 client as provided by chapter 31. The patient, resident or client shall not be discharged under this  
39 subsection until the final disposition of any appeal filed under subsection 2 of this section.

40         5. The standard means test may be waived for a child in need of mental health services  
41 to avoid inappropriate custody transfers to the children's division. The department of mental  
42 health shall notify the child's parent or custodian that the standard means test may be waived.  
43 The department of mental health shall promulgate rules for waiving the standard means test.  
44 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
45 authority delegated in this section shall become effective only if it complies with and is subject  
46 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
47 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant  
48 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
49 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
50 or adopted after August 28, 2004, shall be invalid and void.

630.335. 1. With the approval of the director, the head of any of the department's mental  
2 health or [mental retardation] **developmental disability** facilities or regional centers may  
3 establish and operate a canteen or commissary for the use and benefit of patients, residents and  
4 employees.

5         2. Each facility or center shall keep revenues received from the canteen or commissary  
6 established and operated by the head of the facility in a separate account. The acquisition cost  
7 of goods sold and other expenses shall be paid from this account. A minimum amount of money  
8 necessary to meet cash flow needs and current operating expenses may be kept in this account.  
9 The remaining funds from sales of each commissary or canteen shall be deposited monthly in  
10 the state treasury to the credit of the mental health trust fund. The money in the fund shall be  
11 expended, upon appropriation, for the benefit of the patients in the improvement of the  
12 recreation, habilitation or treatment services or equipment of the facility or center from which  
13 derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the  
14 mental health trust fund shall be retained for the purposes specified in this section and shall not  
15 revert or be transferred to general revenue. The department of mental health shall keep accurate  
16 records of the source of money deposited in the mental health trust fund and shall allocate  
17 appropriations from the fund to the appropriate institution, facility or center.

630.405. 1. The department may purchase services for patients, residents or clients from  
2 private and public vendors in this state with funds appropriated for this purpose.

3           2. Services that may be purchased may include prevention, diagnosis, evaluation,  
4 treatment, habilitation, rehabilitation, transportation and other special services for persons  
5 affected by mental disorders, mental illness, [mental retardation,] developmental disabilities or  
6 alcohol or drug abuse.

7           3. The commissioner of administration, in consultation with the director, shall  
8 promulgate rules establishing procedures consistent with the usual state purchasing procedures  
9 pursuant to chapter 34 for the purchase of services pursuant to this section. The commissioner  
10 may authorize the department to purchase any technical service which, in his judgment, can best  
11 be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the  
12 department to purchase timely services appropriate to the needs of the patients, residents or  
13 clients of the department.

14           4. The commissioner of administration may promulgate rules authorizing the department  
15 to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with  
16 vendors as defined in subsection 1 of this section that fail to comply with the requirements of  
17 section 210.906.

18           5. The commissioner of administration may promulgate rules for a waiver of chapter 34  
19 bidding procedures for the purchase of services for patients, residents and clients with funds  
20 appropriated for that purpose if, in the commissioner's judgment, such services can best be  
21 purchased directly by the department.

22           6. No rule or portion of a rule promulgated pursuant to the authority of this section shall  
23 become effective unless it has been promulgated pursuant to the provisions of chapter 536.

630.425. 1. The department may make incentive grants from funds specifically  
2 appropriated for this purpose to private and public entities seeking to establish a residential  
3 facility, day program or specialized service for persons affected by mental disorders, mental  
4 illness, [mental retardation,] developmental disabilities or alcohol or drug abuse in unserved,  
5 underserved or inappropriately served areas of the state.

6           2. The department shall promulgate rules establishing procedures for monitoring and  
7 auditing such grants.

8           3. The grants shall be of limited duration of one year and renewable for only one  
9 additional year if the funds are appropriated for this purpose.

630.510. At least once every three years, the department shall conduct a complete  
2 statewide inventory of its existing facilities and a survey of needs for persons affected by mental  
3 disorders, mental illness, [mental retardation,] developmental disabilities and alcohol or drug  
4 abuse, and shall make a public report of its inventory and survey and recommend a state plan for  
5 the construction of additional facilities.

630.605. The department shall establish a placement program for persons affected by a  
2 mental disorder, mental illness, [mental retardation,] developmental disability or alcohol or drug  
3 abuse. The department may utilize residential facilities, day programs and specialized services  
4 which are designed to maintain a person who is accepted in the placement program in the least  
5 restrictive environment in accordance with the person's individualized treatment, habilitation or  
6 rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a  
7 continuum of facilities, programs and services short of admission to a department facility to  
8 accomplish this purpose.

630.610. 1. If the head of a facility operated by the department determines that  
2 placement out of the facility would be appropriate for any patient or resident, the head of the  
3 facility shall refer the patient or resident for placement according to the department's rules. If  
4 a patient or resident is accepted and placed under this chapter, then the patient or resident shall  
5 be considered as discharged as a patient or resident of the facility and reclassified as a client of  
6 the department.

7 2. Any person, his authorized representative, his parent, if the person is a minor, his  
8 guardian, a court of competent jurisdiction or a state or private facility or agency having custody  
9 of the person may apply for placement of the person under this chapter.

10 3. If the department finds the application to be appropriate after review, it shall provide  
11 for or arrange for a comprehensive evaluation, and the preparation of an individualized  
12 treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a  
13 department facility or directly, to determine if he meets the following criteria:

14 (1) The person is affected by a mental disorder, mental illness, [mental retardation,]  
15 developmental disability or alcohol or drug abuse; and

16 (2) The person is in need of special care, treatment, habilitation or rehabilitation services  
17 as described in this chapter, including room or board, or both; provided, however, that no person  
18 shall be accepted for placement if the sole reason for the application or referral is that residential  
19 placement is necessary for a school-aged child, as defined in chapter 162, to receive an  
20 appropriate special education.

630.635. 1. If a resident in a [mental retardation] **developmental disability** facility, or  
2 his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement,  
3 the head of the [mental retardation] **developmental disability** facility may petition, under the  
4 procedures in section 633.135, the director of the division of [mental retardation and]  
5 developmental disabilities to determine whether the proposed placement is appropriate under  
6 chapter 633.

7 2. If a patient in a mental health facility, or his parent if he is a minor, or his legal  
8 guardian refuses to consent to the proposed placement, the head of the mental health facility may

9 petition the director of the division of comprehensive psychiatric services to determine whether  
10 the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

11 3. The director of the division of comprehensive psychiatric services shall refer the  
12 petition to the chairman of the state advisory council for his division who shall appoint and  
13 convene a review panel composed of three members. At least one member of the panel shall be  
14 a family member or guardian of a patient who resides in a mental health facility operated by the  
15 department. The remaining members of the panel shall be persons who are from  
16 nongovernmental organizations or groups concerned with the prevention of mental disorders,  
17 evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the  
18 patient the department seeks to place and who are familiar with services and service needs of  
19 persons in mental health facilities operated by the department. No member of the panel shall be  
20 an officer or employee of the department.

21 4. After prompt notice and hearing, the panel shall determine whether the proposed  
22 placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be  
23 electronically recorded for purposes of obtaining a transcript. The council shall forward the tape  
24 recording, recommended findings of fact, conclusions of law, and decision to the director who  
25 shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's  
26 decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered  
27 mail, return receipt requested. The director shall expedite this review in all respects.

28 5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision  
29 of the director, he may appeal the decision, within thirty days after notice of the decision is sent,  
30 to the circuit court of the county where the patient or resident, or his parent if he is a minor, or  
31 his guardian resides. The court shall review the record, proceedings and decision of the director  
32 not only under the provisions of chapter 536, but also as to whether or not the head of the facility  
33 or the department sustained its burden of proof that the proposed placement is appropriate under  
34 sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects.  
35 Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and  
36 consider additional competent and material evidence.

37 6. The notice and procedure for the hearing by the panel shall be in accordance with  
38 chapter 536.

39 7. In all proceedings either before the panel or before the circuit court, the burden of  
40 proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that  
41 the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615  
42 and 630.120.

43 8. Pending the convening of the hearing panel and the final decision of the director or  
44 the court if the director's decision is appealed, the department shall not place or discharge the

45 patient from a facility except that the department may temporarily transfer such patient in the  
46 case of a medical emergency.

47 9. There shall be no retaliation against any state employee as the result of a good faith  
48 decision to place the patient which is appealed and who testifies during a hearing or otherwise  
49 provides information or evidence in regard to a proposed placement.

630.705. 1. The department shall promulgate rules setting forth reasonable standards  
2 for residential facilities and day programs for persons who are affected by a mental disorder,  
3 mental illness, [mental retardation] or developmental disability.

4 2. The rules shall provide for the facilities and programs to be reasonably classified as  
5 to resident or client population, size, type of services or other reasonable classification. The  
6 department shall design the rules to promote and regulate safe, humane and adequate facilities  
7 and programs for the care, treatment, habilitation and rehabilitation of persons described in  
8 subsection 1 of this section.

9 3. The following residential facilities and day programs shall not be licensed by the  
10 department:

11 (1) Any facility or program which relies solely upon the use of prayer or spiritual  
12 healing;

13 (2) Any educational, special educational or vocational program operated, certified or  
14 approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations  
15 promulgated by the board;

16 (3) Any hospital, facility, program or entity operated by this state or the United States;  
17 except that facilities operated by the department shall meet these standards;

18 (4) Any hospital, facility or other entity, excluding those with persons who are [mentally  
19 retarded and] developmentally disabled as defined in section 630.005 otherwise licensed by the  
20 state and operating under such license and within the limits of such license, unless the majority  
21 of the persons served receive activities and services normally provided by a licensed facility  
22 pursuant to this chapter;

23 (5) Any hospital licensed by the department of social services as a psychiatric hospital  
24 pursuant to chapter 197;

25 (6) Any facility or program accredited by the Joint Commission on Accreditation of  
26 Hospitals, the American Osteopathic Association, Accreditation Council for Services for  
27 Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of  
28 Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation  
29 Facilities;

30 (7) Any facility or program caring for less than four persons whose care is not funded  
31 by the department.

630.715. 1. The department shall establish a procedure for the licensing of residential facilities and day programs for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a temporary operating permit or a probationary license issued by the department of social services under sections 198.006 to 198.096 as regards the licensing requirements in the following areas:

- (1) General medical and health care;
- (2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;
- (3) Food service facilities;
- (4) Safety precautions;
- (5) Drugs and medications;
- (6) Uniform system of record keeping;
- (7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198 which desire to provide services to persons diagnosed as mentally disordered, mentally ill, [mentally retarded] or developmentally disabled in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit under oath that all documents required by the department to be filed pursuant to this section are true and correct to the best of his knowledge and belief, that the statements contained in the application are true and correct to the best of his knowledge and belief and that all required documents are either included with the application or are currently on file with the department.

630.735. 1. No person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility in this state for the care, treatment, habilitation or rehabilitation of [mentally retarded or]

4 developmentally disabled persons without a valid license issued by the department. Licenses in  
5 effect on August 13, 1982, shall continue in effect until they regularly expire unless sooner  
6 revoked; except that in no case shall a license continue in effect beyond one year after August  
7 13, 1982.

8         2. After October 1, 1983, no person or governmental unit, acting separately or jointly  
9 with any other person or governmental unit, shall establish, conduct or maintain any residential  
10 facility or day program in this state for care, treatment, habilitation or rehabilitation of persons  
11 diagnosed as mentally disordered or mentally ill or day program for [mentally retarded or]  
12 developmentally disabled persons unless the facilities or programs are licensed by the  
13 department.

        632.005. As used in chapter 631 and this chapter, unless the context clearly requires  
2 otherwise, the following terms shall mean:

3         (1) "Comprehensive psychiatric services", any one, or any combination of two or more,  
4 of the following services to persons affected by mental disorders other than [mental retardation  
5 or] developmental disabilities: inpatient, outpatient, day program or other partial hospitalization,  
6 emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation,  
7 prevention, screening, transitional living, medical prevention and treatment for alcohol abuse,  
8 and medical prevention and treatment for drug abuse;

9         (2) "Council", the Missouri advisory council for comprehensive psychiatric services;

10         (3) "Court", the court which has jurisdiction over the respondent or patient;

11         (4) "Division", the division of comprehensive psychiatric services of the department of  
12 mental health;

13         (5) "Division director", director of the division of comprehensive psychiatric services  
14 of the department of mental health, or his designee;

15         (6) "Head of mental health facility", superintendent or other chief administrative officer  
16 of a mental health facility, or his designee;

17         (7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the  
18 court is open for business, but excluding Saturdays, Sundays and legal holidays;

19         (8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334  
20 or a person authorized to practice medicine in this state pursuant to the provisions of section  
21 334.150;

22         (9) "Licensed professional counselor", a person licensed as a professional counselor  
23 under chapter 337 and with a minimum of one year training or experience in providing  
24 psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a  
25 mental disorder;

26 (10) "Likelihood of serious harm" means any one or more of the following but does not  
27 require actual physical injury to have occurred:

28 (a) A substantial risk that serious physical harm will be inflicted by a person upon his  
29 own person, as evidenced by recent threats, including verbal threats, or attempts to commit  
30 suicide or inflict physical harm on himself. Evidence of substantial risk may also include  
31 information about patterns of behavior that historically have resulted in serious harm previously  
32 being inflicted by a person upon himself;

33 (b) A substantial risk that serious physical harm to a person will result or is occurring  
34 because of an impairment in his capacity to make decisions with respect to his hospitalization  
35 and need for treatment as evidenced by his current mental disorder or mental illness which  
36 results in an inability to provide for his own basic necessities of food, clothing, shelter, safety  
37 or medical care or his inability to provide for his own mental health care which may result in a  
38 substantial risk of serious physical harm. Evidence of that substantial risk may also include  
39 information about patterns of behavior that historically have resulted in serious harm to the  
40 person previously taking place because of a mental disorder or mental illness which resulted in  
41 his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or  
42 mental health care; or

43 (c) A substantial risk that serious physical harm will be inflicted by a person upon  
44 another as evidenced by recent overt acts, behavior or threats, including verbal threats, which  
45 have caused such harm or which would place a reasonable person in reasonable fear of sustaining  
46 such harm. Evidence of that substantial risk may also include information about patterns of  
47 behavior that historically have resulted in physical harm previously being inflicted by a person  
48 upon another person;

49 (11) "Mental health coordinator", a mental health professional who has knowledge of  
50 the laws relating to hospital admissions and civil commitment and who is authorized by the  
51 director of the department, or his designee, to serve a designated geographic area or mental  
52 health facility and who has the powers, duties and responsibilities provided in this chapter;

53 (12) "Mental health facility", any residential facility, public or private, or any public or  
54 private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering  
55 from a mental disorder or mental illness and which is recognized as such by the department or  
56 any outpatient treatment program certified by the department of mental health. No correctional  
57 institution or facility, jail, regional center or [mental retardation] **developmental disability**  
58 facility shall be a mental health facility within the meaning of this chapter;

59 (13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist,  
60 psychiatric nurse, licensed professional counselor, or psychiatric social worker;

61 (14) "Mental health program", any public or private residential facility, public or private  
62 hospital, public or private specialized service or public or private day program that can provide  
63 care, treatment, rehabilitation or services, either through its own staff or through contracted  
64 providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness  
65 or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the  
66 department. No correctional institution or facility or jail may be a mental health program within  
67 the meaning of this chapter;

68 (15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays  
69 and legal holidays which are observed either by the court or by the mental health facility where  
70 the respondent is detained;

71 (16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or  
72 highway patrolman;

73 (17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter  
74 335 and who has had at least two years of experience as a registered professional nurse in  
75 providing psychiatric nursing treatment to individuals suffering from mental disorders;

76 (18) "Psychiatric social worker", a person with a master's or further advanced degree  
77 from an accredited school of social work, practicing pursuant to chapter 337, and with a  
78 minimum of one year training or experience in providing psychiatric care, treatment or services  
79 in a psychiatric setting to individuals suffering from a mental disorder;

80 (19) "Psychiatrist", a licensed physician who in addition has successfully completed a  
81 training program in psychiatry approved by the American Medical Association, the American  
82 Osteopathic Association or other training program certified as equivalent by the department;

83 (20) "Psychologist", a person licensed to practice psychology under chapter 337 with a  
84 minimum of one year training or experience in providing treatment or services to mentally  
85 disordered or mentally ill individuals;

86 (21) "Resident in psychiatry", a licensed physician who is in a training program in  
87 psychiatry approved by the American Medical Association, the American Osteopathic  
88 Association or other training program certified as equivalent by the department;

89 (22) "Respondent", an individual against whom involuntary civil detention proceedings  
90 are instituted pursuant to this chapter;

91 (23) "Treatment", any effort to accomplish a significant change in the mental or  
92 emotional conditions or the behavior of the patient consistent with generally recognized  
93 principles or standards in the mental health professions.

632.105. 1. The head of a private mental health facility may, and the head of a  
2 department mental health facility shall, except in the case of a medical emergency and subject  
3 to the availability of suitable programs and accommodations, accept for evaluation, on an

4 outpatient basis if practicable, any person eighteen years of age or over who applies for his  
5 admission. The department may require that a community-based service where the person  
6 resides perform the evaluation pursuant to an affiliation agreement and contract with the  
7 department.

8         2. If a person is diagnosed as having a mental disorder, other than [mental retardation  
9 or] developmental disability without another accompanying mental disorder, and is determined  
10 to be in need of inpatient treatment, the person may be admitted by a private mental health  
11 facility and shall be admitted by a department mental health facility, if suitable accommodations  
12 are available, for care and treatment as an inpatient for such periods and under such conditions  
13 as authorized by law. The department may require that a community-based service where the  
14 patient resides admit the person for inpatient care and treatment pursuant to an affiliation  
15 agreement and contract with the department.

16         3. A person who is admitted under this section is a voluntary patient and shall have the  
17 right to consent to evaluation, care, treatment and rehabilitation and shall not be medicated  
18 without his prior voluntary and informed consent; except that medication may be given in  
19 emergency situations.

632.110. 1. The head of a private mental health facility may, and the head of a  
2 department mental health facility shall, except in the case of a medical emergency and subject  
3 to the availability of suitable programs and accommodations, accept for evaluation, on an  
4 outpatient basis if practicable, any minor for whom an application for voluntary admission is  
5 made by his parent or other legal custodian. The department may require that a  
6 community-based service where the minor resides perform the evaluation pursuant to an  
7 affiliation agreement or contract with the department.

8         2. If the minor is diagnosed as having a mental disorder, other than [mental retardation  
9 or] developmental disability without another accompanying mental disorder, and found suitable  
10 for inpatient treatment as a result of the evaluation, the minor may be admitted by a private  
11 mental health facility or shall be admitted by a department mental health facility, if suitable  
12 accommodations are available, for care, treatment and rehabilitation as an inpatient for such  
13 periods and under such conditions as authorized by law. The department may require that a  
14 community-based service where the patient resides admit the person for inpatient care, treatment  
15 and rehabilitation pursuant to an affiliation agreement and contract with the department.

16         3. The parent or legal custodian who applied for the admission of the minor shall have  
17 the right to authorize his evaluation, care, treatment and rehabilitation and the right to refuse  
18 permission to medicate the minor; except that medication may be given in emergency situations.

19           4. The parent or legal custodian may request a peace officer to take a minor into custody  
20 and transport him to the mental health facility for evaluation if the parent or legal custodian  
21 applies for such evaluation under subsection 1 of this section.

632.115. The head of a private mental health facility may, and the head of a public  
2 mental health facility shall, except in the case of medical emergency and subject to the  
3 availability of suitable programs and accommodations, admit any minor who has symptoms of  
4 mental disorder other than [mental retardation or] developmental disability, who is under the  
5 jurisdiction of a juvenile court and who is committed to a facility not operated by the state of  
6 Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201 to  
7 211.207 for assignment by the director to an appropriate facility.

632.120. 1. The head of a private mental health facility may, and the head of a  
2 department facility shall, except in the case of a medical emergency and subject to the  
3 availability of suitable programs and accommodations, accept for evaluation and treatment, on  
4 an outpatient basis if practicable, any person who has been declared incapacitated by a court of  
5 competent jurisdiction and for whom an application for voluntary admission is made by his  
6 guardian. The department may require that a community-based service where the person resides  
7 perform the evaluation pursuant to an affiliation agreement and contract with the department.

8           2. If the person is diagnosed as having a mental disorder, other than [mental retardation  
9 or] developmental disability without another accompanying mental disorder, and the person is  
10 found suitable for inpatient treatment as a result of the evaluation, the person may be admitted  
11 by a private mental health facility or shall be admitted by a public mental health facility, if  
12 suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for  
13 up to thirty days after admission for evaluation and treatment.

14           3. If further inpatient services are recommended, the person may remain in the facility  
15 only if his guardian is authorized by the court to continue the inpatient hospitalization. The court  
16 may authorize the guardian to consent to evaluation, care, treatment, including medication, and  
17 rehabilitation on an inpatient basis.

632.370. 1. The department may transfer, or authorize the transfer of, an involuntary  
2 patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental  
3 health program to another if the department determines that it would be consistent with the  
4 medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult  
5 ward, the department shall conduct a due process hearing within six days of such transfer during  
6 which hearing the head of the program shall have the burden to show that the transfer is  
7 appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice  
8 thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his  
9 legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known

10 relative or friend. In all such transfers, due consideration shall be given to the relationship of the  
11 patient to his family, legal guardian or friends, so as to maintain relationships and encourage  
12 visits beneficial to the patient. The head of the mental health program shall notify the court  
13 ordering detention or commitment, the patient's last known attorney of record and the mental  
14 health coordinator for the region, and if the person was committed pursuant to chapter 552, to  
15 the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any  
16 transfer from one mental health facility to another. The prosecutor of the jurisdiction where the  
17 person was tried and acquitted shall use their best efforts to notify the victims of dangerous  
18 felonies. Notification by the appropriate person or agency by certified mail to the most current  
19 address provided by the victim shall constitute compliance with the victim notification  
20 requirement of this section. In the case of a patient committed under chapter 211, the court, on  
21 its own motion, may hold a hearing on the transfer to determine whether such transfer is  
22 appropriate to the medical needs of the patient.

23         2. Upon receipt of a certificate of an agency of the United States that facilities are  
24 available for the care or treatment of any individual heretofore ordered involuntarily detained,  
25 treated and evaluated pursuant to this chapter in any facility for the care or treatment of the  
26 mentally ill, [mentally retarded or] developmentally disabled and that such individual is eligible  
27 for care or treatment in a hospital or institution of such agency, the department may cause his  
28 transfer to such agency of the United States for hospitalization. Upon effecting any such transfer,  
29 the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known,  
30 his nearest known relative or friend shall be notified thereof immediately by the department. No  
31 person shall be transferred to an agency of the United States if he is confined pursuant to a  
32 conviction for any felony or misdemeanor or if he has been acquitted of any felony or  
33 misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally  
34 ordering confinement of such person enters an order for the transfer after appropriate motion and  
35 hearing. Any person transferred to an agency of the United States shall be deemed to be  
36 hospitalized by such agency pursuant to the original order of hospitalization.

632.380. Persons who are [mentally retarded,] developmentally disabled, senile or  
2 impaired by alcoholism or drug abuse shall not be detained judicially under this chapter, unless  
3 they are also mentally ill and as a result present likelihood of serious harm to themselves or to  
4 others. Such persons may, however, be committed upon court order under this chapter and the  
5 provisions of chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating to  
6 juveniles, or may be admitted as voluntary patients under section 632.105 or 632.120.

633.005. As used in this chapter, unless the context clearly requires otherwise, the  
2 following terms shall mean:

3 (1) "Comprehensive evaluation", a study, including a sequence of observations and  
4 examinations, of an individual leading to conclusions and recommendations formulated jointly  
5 by an interdisciplinary team of persons with special training and experience in the diagnosis and  
6 habilitation of the [mentally retarded and] developmentally disabled;

7 (2) "Division", the division of [mental retardation and] developmental disabilities of the  
8 department of mental health;

9 (3) "Division director", the director of the division of [mental retardation and]  
10 developmental disabilities of the department of mental health, or his designee;

11 (4) "Group home", a residential facility serving nine or fewer residents, similar in  
12 appearance to a single-family dwelling and providing basic health supervision, habilitation  
13 training in skills of daily and independent living and community integration, and social support.  
14 Group homes do not include a family living arrangement or individualized supported living;

15 (5) "[Mental retardation] **Developmental disability** facility", a private or department  
16 facility, other than a regional center, which admits persons who are [mentally retarded or]  
17 developmentally disabled for residential habilitation and other services and which is qualified  
18 or licensed as such by the department pursuant to chapter 630. Such terms shall include, but  
19 shall not be limited to, habilitation centers and private or public residential facilities for persons  
20 who are developmentally disabled;

21 (6) "Regional center", an entity so designated by the department to provide, directly or  
22 indirectly, for comprehensive [mental retardation and] developmental disability services under  
23 this chapter in a particular region;

24 (7) "Respite care", temporary and short-term residential care, sustenance and supervision  
25 of a [mentally retarded or] developmentally disabled person who otherwise resides in a family  
26 home;

27 (8) "State advisory council", the Missouri advisory council on [mental retardation and]  
28 developmental disabilities as created in section 633.020.

633.010. 1. The division of [mental retardation and] developmental disabilities, created  
2 by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of  
3 the department. The division shall have the responsibility of insuring that [mental retardation  
4 and] developmental disabilities prevention, evaluation, care, habilitation and rehabilitation  
5 services are accessible, wherever possible. The division shall have and exercise supervision of  
6 division residential facilities, day programs and other specialized services operated by the  
7 department, and oversight over facilities, programs and services funded or licensed by the  
8 department.

9 2. The powers, functions and duties of the division shall include the following:

- 10 (1) Provision of funds for the planning and implementation of accessible programs to  
11 serve persons affected by [mental retardation or] developmental disabilities;
- 12 (2) Review of [mental retardation and] developmental disabilities plans submitted to  
13 receive state and federal funds allocated by the department;
- 14 (3) Provision of technical assistance and training to community-based programs to assist  
15 in the planning and implementation of quality services;
- 16 (4) Assurance of program quality in compliance with such appropriate standards as may  
17 be established by the department;
- 18 (5) Sponsorship and encouragement of research into the causes, effects, prevention,  
19 habilitation and rehabilitation of [mental retardation and] developmental disabilities;
- 20 (6) Provision of public information relating to [mental retardation and] developmental  
21 disabilities and their habilitation;
- 22 (7) Cooperation with nonstate governmental agencies and the private sector in  
23 establishing, conducting, integrating and coordinating [mental retardation and] developmental  
24 disabilities programs and projects;
- 25 (8) Cooperation with other state agencies to encourage appropriate health facilities to  
26 serve, without discrimination, persons who are [mentally retarded or] developmentally disabled  
27 who require medical care and to provide them with adequate and appropriate services;
- 28 (9) Participation in developing and implementing a statewide plan to alleviate problems  
29 relating to [mental retardation and] developmental disabilities and to overcome the barriers to  
30 their solutions;
- 31 (10) Encouragement of coordination of division services with other divisions of the  
32 department and other state agencies;
- 33 (11) Encouragement of the utilization, support, assistance and dedication of volunteers  
34 to assist persons affected by [mental retardation and] developmental disabilities to be accepted  
35 and integrated into normal community activities;
- 36 (12) Evaluation, or the requirement of the evaluation, including the collection of  
37 appropriate necessary information, of [mental retardation or] developmental disabilities programs  
38 to determine their cost-and-benefit effectiveness;
- 39 (13) Participation in developing standards for residential facilities, day programs and  
40 specialized services operated, funded or licensed by the department for persons affected by  
41 [mental retardation or] developmental disabilities.

633.020. 1. The "Missouri Advisory Council on [Mental Retardation and]  
2 Developmental Disabilities", consisting of up to twenty-five members, the number to be  
3 determined under the council bylaws, is hereby created to advise the division and the division  
4 director.

5           2. The members of the Missouri planning council for developmental disabilities, created  
6 by executive order of the governor on October 26, 1979, for the remainder of their appointed  
7 terms, and up to five persons to be appointed by the director, for staggered terms of three years  
8 each, shall act as such advisory body. At the expiration of the term of each member, the director  
9 shall appoint an individual who shall hold office for a term of three years. At least one-half of  
10 the members shall be consumers. Other members shall have professional, research or personal  
11 interest in [mental retardation and] developmental disabilities. At least one member shall be a  
12 manager of or a member of the board of directors of a sheltered workshop as defined in section  
13 178.900. No more than one-fourth of the members shall be vendors or members of boards of  
14 directors, employees or officers of vendors, or any of their spouses, if such vendors receive more  
15 than fifteen hundred dollars under contract with the department; except that members of boards  
16 of directors of not-for-profit corporations shall not be considered members of board of directors  
17 of vendors under this subsection.

18           3. Meetings shall be held at least every ninety days or at the call of the division director  
19 or the council chairman, who shall be elected by the council.

20           4. Each member shall be reimbursed for reasonable and necessary expenses, including  
21 travel expenses, pursuant to department travel regulations, actually incurred in the performance  
22 of his official duties.

23           5. The council may be divided into subcouncils in accordance with its bylaws.

24           6. The council shall collaborate with the department in developing and administering a  
25 state plan for [mental retardation and] developmental disabilities services.

26           7. No member of a state advisory council may participate in or seek to influence a  
27 decision or vote of the council if the member would be directly involved with the matter or if he  
28 would derive income from it. A violation of the prohibition contained herein shall be grounds  
29 for a person to be removed as a member of the council by the director.

30           8. The council shall be advisory and shall:

31           (1) Promote meetings and programs for the discussion of reducing the debilitating effects  
32 of [mental retardation and] developmental disabilities and disseminate information in  
33 cooperation with any other department, agency or entity on the prevention, evaluation, care,  
34 treatment and habilitation for persons affected by [mental retardation or] developmental  
35 disabilities;

36           (2) Study and review current prevention, evaluation, care, treatment and rehabilitation  
37 technologies and recommend appropriate preparation, training, retraining and distribution of  
38 manpower and resources in the provision of services to [mentally retarded or] developmentally  
39 disabled persons through private and public residential facilities, day programs and other  
40 specialized services;

41 (3) Recommend what specific methods, means and procedures should be adopted to  
42 improve and upgrade the department's [mental retardation and] developmental disabilities service  
43 delivery system for citizens of this state;

44 (4) Participate in developing and disseminating criteria and standards to qualify [mental  
45 retardation or] developmental disability residential facilities, day programs and other specialized  
46 services in this state for funding or licensing, or both, by the department.

633.029. All persons determined eligible for services provided by the division of [mental  
2 retardation and] developmental disabilities prior to January 1, 1991, shall be eligible for services  
3 on the basis of their earlier determination of eligibility without regard to their eligibility status  
4 under the definition of developmental disability contained in section 630.005.

633.030. 1. The department shall prepare a state plan to secure coordinated [mental  
2 retardation and] developmental disabilities habilitation services accessible to persons in need of  
3 them in defined geographic areas, which plan shall be reviewed and revised annually.

4 2. The state plan shall include, but not be limited to, the following:

5 (1) A needs-assessment of the state to determine underserved, unserved and  
6 inappropriately served populations and areas;

7 (2) Statements of short-term and long-term goals for meeting the needs of currently  
8 served, underserved, unserved or inappropriately served populations and areas of the state;

9 (3) An inventory of existing private and public residential facilities, day programs and  
10 other service providers offering [mental retardation or] developmental disability evaluation and  
11 habilitation services;

12 (4) Evaluations of the effects of habilitation programs;

13 (5) Descriptions of the following:

14 (a) Methods for assuring active consumer-oriented citizen participation throughout the  
15 system;

16 (b) Strategies and procedures for encouraging, coordinating and integrating  
17 community-based services, wherever practicable, to avoid duplication by private, not-for-profit  
18 and public state and community-based providers of services;

19 (c) Methods for monitoring the quality of evaluation and habilitation services funded by  
20 the state;

21 (d) Rules which set standards for construction, staffing, operations and programs, as  
22 appropriate, for any public or private entity to meet for receiving state licensing, certification or  
23 funding; and

24 (e) Plans for addressing the particular [mental retardation and] developmental disability  
25 service needs of each region, including special strategies for rural and urban unserved,  
26 underserved or inappropriately served populations in areas of the state.

27           3. In preparing the state plan, the department shall take into consideration its regional  
28 plans.

          633.045. 1. Any regional advisory councils established under section 633.040 shall  
2 participate in the preparation of regional plans and annually review, advise on and recommend  
3 them before they are transmitted to the state advisory council and the division director. The  
4 plans shall include at least the following:

5           (1) An inventory of existing residential facilities, day programs and specialized services  
6 for the [mentally retarded and] developmentally disabled;

7           (2) An assessment of needs, including any special target populations, of unserved,  
8 underserved or inappropriately served persons;

9           (3) A statement of specific goals for the region.

10          2. Any staff of such regional advisory councils shall be provided only from funds  
11 appropriated specifically for that purpose. This subsection shall become effective July 1, 1981.

          633.050. 1. In addition to such other advisory functions as may be agreed upon with the  
2 division, the regional advisory councils shall review and advise on programs and policies of the  
3 regional centers. The councils shall review, advise on, and recommend regional program  
4 budgets and shall report to the division director their findings as to their conformity with the  
5 regional plans before they are transmitted to the department to be considered for inclusion in the  
6 department budget request.

7           2. The regional councils may advise the department, the division and the regional centers  
8 on methods of operation and service delivery which will assure comprehensive services with the  
9 minimum amount of duplication, fragmentation and unnecessary expenditures. In making such  
10 proposals, the councils shall consider the most appropriate use of existing agencies and  
11 professional personnel providing residential facilities, day programs and other specialized  
12 services for the [mentally retarded and] developmentally disabled in their regions.

13          3. The duties of the regional advisory councils shall include:

14           (1) Determining the disbursement of the cash stipend as established in section 633.180  
15 and the family support loan as established in section 633.185;

16           (2) Providing direction and assistance to the regional center in the development of a  
17 family support plan based upon the needs in the region;

18           (3) Approval of the regional family support plan;

19           (4) Monitoring the implementation of the family support plan;

20           (5) Providing an annual written report to the department of mental health regarding the  
21 activities of the family support council.

          633.110. 1. Any person suspected to be [mentally retarded or] developmentally disabled  
2 shall be eligible for initial diagnostic and counseling services through the regional centers.

3           2. If it is determined by a regional center through a comprehensive evaluation that a  
4 person is [mentally retarded or] developmentally disabled so as to require the provision of  
5 services, and if such person, such person's parent, if the person is a minor, or legal guardian,  
6 requests that he be registered as a client of a regional center, the regional center shall, within the  
7 limits of available resources, secure a comprehensive program of any necessary services for such  
8 person. Such services may include, but need not be limited to, the following:

- 9           (1) Diagnosis and evaluation;
- 10          (2) Counseling;
- 11          (3) Respite care;
- 12          (4) Recreation;
- 13          (5) Habilitation;
- 14          (6) Training;
- 15          (7) Vocational habilitation;
- 16          (8) Residential care;
- 17          (9) Homemaker services;
- 18          (10) Developmental day care;
- 19          (11) Sheltered workshops;
- 20          (12) Referral to appropriate services;
- 21          (13) Placement;
- 22          (14) Transportation.

23           3. In securing the comprehensive program of services, the regional centers shall involve  
24 the client, his family or his legal guardian in decisions affecting his care, habilitation, placement  
25 or referral. Nothing in this chapter shall be construed as authorizing the care, treatment,  
26 habilitation, referral or placement of any [mentally retarded or] developmentally disabled person  
27 to any residential facility, day program or other specialized service without the written consent  
28 of the client, his parent, if he is a minor, or his legal guardian, unless such care, treatment,  
29 habilitation, referral, or placement is authorized pursuant to an order of the court under the  
30 provisions of chapter 475.

          633.115. The regional center shall secure services for its clients in the least restrictive  
2 environment consistent with individualized habilitation plans. As a result of its comprehensive  
3 evaluation, the regional center shall utilize the following entities to secure services:

- 4           (1) Agencies serving persons not diagnosed as [mentally retarded or] developmentally  
5 disabled in which the client would be eligible to receive available services or in which the  
6 services could be made available to the client through the purchase of assistive or supportive  
7 services;

8 (2) Agencies serving [mentally retarded or] developmentally disabled persons in which  
9 the client would be eligible to receive available services or in which services could be made  
10 available to the client through the purchase of assistive or supportive services;

11 (3) The regional center on a day-program basis;

12 (4) The regional center for short-term residential services, not to exceed six months,  
13 unless expressly authorized for a longer period by the division director;

14 (5) A residential facility licensed through the department placement program, but not  
15 operated by the department;

16 (6) A [mental retardation] **developmental disability** facility operated by the department  
17 for clients who are developmentally disabled [or mentally retarded].

633.120. 1. A regional center may refer a client for admission to a [mental retardation]  
2 **developmental disability** facility only if determined by a comprehensive evaluation that:

3 (1) The person has a developmental disability;

4 (2) Protective services are required to guarantee the health, safety or mental well-being  
5 of the person;

6 (3) Placement in a [mental retardation] **developmental disability** facility is in the best  
7 interests of the person; and

8 (4) All other less restrictive services, including but not limited to family support and  
9 supported living, have been explored and found inadequate to prevent placement in a [mental  
10 retardation] **developmental disability** facility.

11 2. The regional center shall forward its comprehensive evaluation containing the  
12 determination under subsection 1 of this section and such other records as are necessary to enable  
13 the [mental retardation] **developmental disability** facility to determine whether to accept or  
14 reject the referral.

15 3. The head of a private [mental retardation] **developmental disability** facility may, and  
16 the head of a department [mental retardation] **developmental disability** facility shall, admit the  
17 person if, as a result of reviewing the evaluation, the head of the [mental retardation]  
18 **developmental disability** facility determines that the client is appropriate for admission as a  
19 resident and suitable accommodations are available. If the head of a department [mental  
20 retardation] **developmental disability** facility rejects the referral, the regional center may appeal  
21 the rejection to the division director. After consulting with the head of the referring regional  
22 center and the head of the department [mental retardation] **developmental disability** facility, the  
23 division director shall determine the appropriate disposition of the client.

24 4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor,  
25 or his guardian, as authorized by a court, shall consent to the admission unless otherwise ordered  
26 by a court.

27           5. The head of a [mental retardation] **developmental disability** facility shall have an  
28 individualized habilitation plan for each resident within thirty days of the resident's admission.  
29 Such plan shall include a statement regarding the resident's anticipated length of stay in the  
30 facility and the feasibility of least restrictive alternatives.

31           6. If procedures are initiated under chapter 475 for the appointment of a guardian for a  
32 resident of a department [mental retardation] **developmental disability** facility, the referral  
33 procedure under this section shall not apply.

633.125. 1. A resident admitted to a [mental retardation] **developmental disability**  
2 facility pursuant to section 633.120 shall be discharged immediately when the person who  
3 applied for his admission requests the release orally, in writing or otherwise from the head of the  
4 [mental retardation] **developmental disability** facility; except, that if the head of the [mental  
5 retardation] **developmental disability** facility regards the resident as presenting a likelihood of  
6 serious harm to himself or others, the head of the facility may initiate involuntary detention  
7 procedures pursuant to chapter 632, if appropriate, or any individual, including the head of the  
8 facility or the mental health coordinator may initiate guardianship proceedings and, if  
9 appropriate, obtain an emergency commitment order pursuant to chapter 475.

10           2. A resident shall be discharged from a department [mental retardation] **developmental**  
11 **disability** facility if it is determined in a comprehensive evaluation or periodic review that the  
12 person is not [mentally retarded or] developmentally disabled, and if the resident, parent, if a  
13 minor, or guardian consents to the discharge. If consent is not obtained, the head of the facility  
14 shall initiate appeal proceedings under section 633.135, before a resident can be discharged.

15           3. A resident shall either be discharged from a department [mental retardation]  
16 **developmental disability** facility or shall be referred to a regional center for placement in a least  
17 restrictive environment pursuant to section 630.610, if it is determined in a comprehensive  
18 evaluation or periodic review that the following criteria exist:

19           (1) The resident's condition is not of such a nature that for the protection or adequate care  
20 of the resident or others the resident needs department residential habilitation or other services;

21           (2) The [mental retardation] **developmental disability** facility does not offer a program  
22 which best meets the resident's needs; or

23           (3) The [mental retardation] **developmental disability** facility does not provide the least  
24 restrictive environment feasible. A resident may not be discharged without his consent or the  
25 consent of his parent, if he is a minor, or guardian unless proceedings have been completed under  
26 section 633.135.

27           4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall  
28 be referred to an appropriate regional center for assistance in obtaining any necessary services.

633.130. 1. At least once every one hundred eighty days, the head of each [mental  
2 retardation] **developmental disability** facility shall cause the condition and status of each  
3 resident to be reviewed and evaluated for the purpose of determining whether the resident needs  
4 further residential habilitation, placement in the least restrictive environment or discharge.

5 2. The head of the facility shall initiate proceedings to discharge any resident whose  
6 continued residential habilitation is no longer appropriate; except, that the head of the facility  
7 may refer the resident to the appropriate regional center for placement pursuant to section  
8 630.610.

9 3. A copy of the evaluation and individualized habilitation plan shall be sent to any court  
10 having jurisdiction over the resident.

633.135. 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to  
2 consent to the proposed placement or to discharge from the facility, the head of the [mental  
3 retardation] **developmental disability** facility may petition the director of the division to  
4 determine whether the proposed placement is appropriate under sections 630.610, 630.615 and  
5 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and  
6 633.130.

7 2. The division director shall refer the petition to the chairman of the state advisory  
8 council who shall appoint and convene a review panel composed of three members. At least one  
9 member of the panel shall be a parent or guardian of a resident who resides in a department  
10 [mental retardation] **developmental disability** facility. The remaining members of the panel  
11 shall be persons who are from nongovernmental organizations or groups concerned with the  
12 prevention of [mental retardation] **developmental disability**, evaluation, care and habilitation  
13 of [mentally retarded] **developmentally disabled** persons and who are familiar with services and  
14 service needs of [mentally retarded] **developmentally disabled** persons in facilities operated by  
15 the department. No member of the panel shall be an officer or employee of the department.

16 3. After prompt notice and hearing, the panel shall determine whether the proposed  
17 placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed  
18 discharge is appropriate under sections 633.120, 633.125 and 633.130. The hearing shall be  
19 electronically recorded for purposes of obtaining a transcript. The council shall forward the tape  
20 recording, recommended findings of fact, conclusions of law and decision to the director who  
21 shall enter findings of fact, conclusions of law and the final decision. Notice of the director's  
22 decision shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered  
23 mail, return receipt requested. The director shall expedite this review in all respects.

24 4. If the resident, or his parent if he is a minor, or his guardian disagrees with the  
25 decision of the director, he may appeal the decision, within thirty days after notice of the decision  
26 is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his

27 guardian resides. The court shall review the record, proceedings and decision of the director not  
28 only under the provisions of chapter 536, but also as to whether or not the head of the facility  
29 sustained his burden of proof that the proposed placement is appropriate under sections 630.110,  
30 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125  
31 and 633.130. The court shall expedite this review in all respects. Notwithstanding the  
32 provisions of section 536.140, a court may, for good cause shown, hear and consider additional  
33 competent and material evidence.

34 5. Any resident of a [mental retardation] **developmental disability** facility who is age  
35 eighteen or older and who does not have a legal guardian shall not be discharged unless probate  
36 division of the circuit court approval is obtained to confirm that the resident is not in need of the  
37 care, treatment or programs now being received in the [mental retardation] **developmental**  
38 **disability** facility.

39 6. The notice and procedure for the hearing by the panel shall be in accordance with  
40 chapter 536.

41 7. In all proceedings either before the panel or before the circuit court, the burden of  
42 proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the  
43 proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and  
44 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections  
45 633.120, 633.125 and 633.130.

46 8. Pending a convening of the hearing panel and the final decision of the director or the  
47 court, if the director's decision is appealed, the department shall not place or discharge the  
48 resident from a facility except that the department may temporarily transfer such resident in the  
49 case of a medical emergency.

50 9. There shall be no disciplinary action against any state employee who in good faith  
51 testifies or otherwise provides information or evidence in regard to a proposed placement or  
52 discharge.

633.140. 1. If any resident leaves a [mental retardation] **developmental disability**  
2 facility without authorization, the sheriff of the county where the resident is found shall  
3 apprehend and return him to the center if requested to do so by the head of the facility.

4 2. The head of the facility may request the return of an absent resident pursuant to  
5 subsection 1 of this section only when one of the following circumstances exists:

6 (1) The resident is a minor whose admission was applied for by his parent or legal  
7 custodian, and such parent or guardian has not requested the resident's release;

8 (2) The resident is a minor under the jurisdiction of the juvenile court;

9 (3) The resident has been declared legally incapacitated and his guardian has not  
10 requested his release; or

11 (4) The resident's condition is of such a nature that, for the protection of the resident or  
12 others, the head of the facility determines that the resident's return to the facility is necessary.  
13 Such determination shall be noted in the resident's records.

633.145. 1. The department may transfer a resident from one department [mental  
2 retardation] **developmental disability** facility to another if the division director determines that  
3 such transfer is desirable to provide the resident improved habilitation or other services, to better  
4 insure his safety and welfare, or to locate him in closer proximity to his family and friends.

5 2. Transfers may only be made to a private [mental retardation] **developmental**  
6 **disability** facility pursuant to section 630.610.

7 3. Determinations by the division director pursuant to this section shall be written and  
8 noted in the resident's records. The division director shall notify the resident, his guardian or  
9 next of kin of such determination.

10

11 The department shall not transfer any resident unless it receives the consent of the resident, his  
12 guardian or his parent, if the resident is a minor.

633.150. The head of a [mental retardation] **developmental disability** facility may  
2 transfer a resident to a mental health facility only under the provisions of chapter 632. The  
3 director shall order that such resident be returned to the [mental retardation] **developmental**  
4 **disability** facility when the resident is no longer in need of psychiatric care and treatment.

633.155. 1. The division may provide or obtain respite care for a [mentally retarded]  
2 **developmentally disabled** or developmentally disabled person for respite care of up to  
3 twenty-one days which may be extended up to an additional twenty-one days for good cause  
4 shown. Any additional respite care beyond forty-two days within a one-year period shall be  
5 expressly approved by the director of the division.

6 2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional  
7 center may admit a [mentally retarded] **developmentally disabled** or developmentally disabled  
8 person who has been declared legally incapacitated for respite care without a court order  
9 authorizing the guardian of such person to obtain such care of up to twenty-one days for good  
10 cause shown.

633.160. If a person presents himself, or is presented, to a regional center or department  
2 [mental retardation] **developmental disability** facility and is determined to be [mentally retarded  
3 or] developmentally disabled and, as a result, presents an imminent likelihood of serious harm  
4 to himself or others as defined in chapter 632, the regional center or [mental retardation]  
5 **developmental disability** facility may accept the person for detention for evaluation and  
6 treatment for a period not to exceed ninety-six hours under the same procedures contained in  
7 chapter 632. The head of the regional center or [mental retardation] **developmental disability**

8 facility may initiate guardianship proceedings to have the person detained beyond the ninety-six  
9 hours under chapter 475, or may refer the person to a mental health facility, if the person is  
10 mentally ill, for further detention under the procedures in chapter 632.

633.180. 1. A family with an annual income of sixty thousand dollars or less which has  
2 a child with a developmental disability residing in the family home shall be eligible to apply for  
3 a cash stipend from the division of [mental retardation and] developmental disabilities in an  
4 amount to be determined by the regional advisory council. Such cash stipend amount shall not  
5 exceed the maximum monthly federal Supplemental Security Income payment for an individual  
6 with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis  
7 and shall be considered a benefit and not income to the family. The stipend shall be used to  
8 purchase goods and services for the benefit of the family member with a developmental  
9 disability. Such goods and services may include, but are not limited to:

- 10 (1) Respite care;
- 11 (2) Personal and attendant care;
- 12 (3) Architectural and vehicular modifications;
- 13 (4) Health- and mental health-related costs not otherwise covered;
- 14 (5) Equipment and supplies;
- 15 (6) Specialized nutrition and clothing;
- 16 (7) Homemaker services;
- 17 (8) Transportation;
- 18 (9) Integrated community activities;
- 19 (10) Training and technical assistance; and
- 20 (11) Individual, family and group counseling.

21 2. Application for such stipend shall be made to the appropriate regional center. The  
22 regional center shall determine the eligibility of the individual to receive services from the  
23 division and the division shall forward the application to the regional advisory council to  
24 determine the amount of the stipend which may be approved by the council.

25 3. The family support program shall be funded by moneys appropriated by the general  
26 assembly; however, the family support program shall not supplant other programs funded  
27 through the division of [mental retardation and] developmental disabilities.

633.185. 1. The division of [mental retardation and] developmental disabilities, subject  
2 to appropriation by the general assembly, is authorized to implement and administer, as part of  
3 the family support program, a family support loan program, which shall provide a family with  
4 an annual income of sixty thousand dollars or less which has an individual with a developmental  
5 disability residing in the home, with low-interest, short-term loans to purchase goods and  
6 services for the family member with a developmental disability.

7           2. Interest rates on loans made pursuant to the provisions of this section shall be no more  
8 than one percent above the prime interest rate as determined by the federal reserve system on the  
9 date the loan is approved. Loans may be for a maximum period of sixty months and the  
10 outstanding loan amount to any family may be no more than ten thousand dollars.

11           3. Applications for loans shall be made to the appropriate regional center. The regional  
12 center shall determine the eligibility of the individual to receive services from the division and  
13 the division shall forward the application to the regional advisory council to determine the  
14 amount of the loan which may be approved by the council.

15           4. There is hereby created in the state treasury for use by the department of mental health  
16 a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund  
17 shall be appropriated to the director of the department of mental health to be used for loans  
18 pursuant to this section. The fund shall consist of moneys appropriated by the general assembly  
19 for starting the fund and money otherwise deposited according to law. Any unexpended balance  
20 in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to  
21 this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to  
22 the transfer of unexpended balances to the ordinary revenue fund.

          633.190. 1. The division of [mental retardation and] developmental disabilities, in  
2 cooperation with the Missouri planning council for developmental disabilities, shall adopt  
3 policies and procedures and, when necessary, shall promulgate rules and regulations regarding:

- 4           (1) Program guidelines and specifications;
- 5           (2) Additional duties of the regional advisory councils;
- 6           (3) Annual evaluation of services provided by each regional center, including an  
7 assessment of consumer satisfaction;
- 8           (4) Coordination of the family support program and the use of its funds throughout the  
9 state and within each region, with other publicly funded programs, including Medicaid;
- 10          (5) Methodology for allocating resources to families with the funds available;
- 11          (6) Resolution of grievances filed by families pertaining to actions of the family support  
12 program;
- 13          (7) Methodology for outreach and education.

14           2. No rule or portion of a rule promulgated under the authority of this chapter shall  
15 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

          633.210. 1. There is hereby established in the department of mental health within the  
2 division of [mental retardation and] developmental disabilities, an "Office of Autism Services".  
3 The office of autism services, under the supervision of the director of the division of [mental  
4 retardation and] developmental disabilities, shall provide leadership in program development for

5 children and adults with autism spectrum disorders, to include establishment of program  
6 standards and coordination of program capacity.

7         2. For purposes of this section, the term "autism spectrum disorder" shall be defined as  
8 in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder;  
9 Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood  
10 disintegrative disorder; and Rett's syndrome.

633.300. 1. All group homes and [mental retardation] **developmental disability**  
2 facilities as defined in section 633.005 shall be subject to all applicable federal and state laws,  
3 regulations, and monitoring, including but not limited to sections 630.705 to 630.805.

4         2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be  
5 subject to the same training requirements established for state mental health workers with  
6 comparable positions in public group homes and mental health facilities. Such required training  
7 shall be paid for by the employer.

8         3. Group homes and [mental retardation] **developmental disability** facilities shall be  
9 subject to the same medical errors reporting requirements of other mental health facilities and  
10 group homes.

11         4. The department shall promulgate rules or amend existing rules to implement the  
12 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
13 536.010, that is created under the authority delegated in this section shall become effective only  
14 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
15 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
16 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
17 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
18 and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

633.303. Any employee, including supervisory personnel, of a group home or [mental  
2 retardation] **developmental disability** facility who has been placed on the disqualification  
3 registry pursuant to section 630.170 shall be terminated. Such requirements shall be specified  
4 in contracts between the department and providers pursuant to this section.

633.309. The department of mental health shall not transfer any person to any group  
2 home or [mental retardation] **developmental disability** facility that has received a notice of  
3 noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and  
4 630.750.

660.405. 1. The provisions of sections 199.025 and 660.403 to 660.420 shall not apply  
2 to the following:

3         (1) Any adult day care program operated by a person in which care is offered for no more  
4 than two hours per day;

5           (2) Any adult day care program maintained or operated by the federal government except  
6 where care is provided through a management contract;

7           (3) Any person who cares solely for persons related to the provider or who has been  
8 designated as guardian of that person;

9           (4) Any adult day care program which cares for no more than four persons unrelated to  
10 the provider;

11           (5) Any adult day care program licensed by the department of mental health under  
12 chapter 630 which provides care, treatment and habilitation exclusively to adults who have a  
13 primary diagnosis of mental disorder, mental illness, [mental retardation or] developmental  
14 disability as defined;

15           (6) Any adult day care program administered or maintained by a religious not-for-profit  
16 organization serving a social or religious function if the adult day care program does not hold  
17 itself out as providing the prescription or usage of physical or medical therapeutic activities or  
18 as providing or administering medicines or drugs.

19           2. Nothing in this section shall prohibit any person listed in subsection 1 of this section  
20 from applying for a license or receiving a license if the adult day care program owned or operated  
21 by such person conforms to the provisions of sections 199.025 and 660.403 to 660.420 and all  
22 applicable rules promulgated pursuant thereto.