FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 555

96TH GENERAL ASSEMBLY

0920L.03P D. ADAM CRUMBLISS, Chief Clerk

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, 211.031, 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 ninety new sections relating to the Missouri most vulnerable persons (MVP) act, with existing penalty provisions.

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, 208.151, 208.152, 208.275, 208.955, 209.150, 209.152, 209.200, 210.496, 210.900, 211.031 211.202, 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,

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.

are repealed and ninety new sections enacted in lieu thereof, to be known as sections 8.241, 143.1017, 162.946, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.152, 208.184, 208.275, 208.955, 209.150, 209.152, 209.200, 210.496, 210.900, 211.031, 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, 632.312, 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, to read as follows:

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

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

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

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

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

143.1017. 1. For all taxable years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a

combined return, of the refund due be credited to the developmental disabilities waiting list equity trust fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.

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

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

4. Under section 23.253 of the Missouri sunset act:

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

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

(3) This section shall terminate on September first of the calendar year immediately 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 provide disability history and awareness instruction in all K-12 public schools during the month of October of each year. The month of October shall be designated "Disability History and Awareness Month".

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

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

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

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

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

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

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

The department of elementary and secondary education shall identify and adopt preliminary guidelines for each district school board to use to develop its curriculum that

incorporates these goals for the disability history and awareness instruction. In respect of local control, school districts are encouraged to exercise innovation that accomplishes the above-stated goals.

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

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

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

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

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

(4) "Staff", employees of a sheltered workshop engaged in management, work 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 otherwise, the following terms mean:

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

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

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

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

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

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

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

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

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

3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted for paying certain operating costs, or groups of costs, but are intended to supplement the appropriations from the local governmental agency for poor patients. Patients eligible for 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 institutions and agencies or persons to insure that special services will be available in all regions of the state, both rural and metropolitan. Whenever services or special services required for the purposes of sections 189.010 to 189.085 are not available, the department is authorized to use up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to assist in establishing the facilities and professional staff required. For the purposes of implementing this section, the department and the advisory committees shall give special consideration to those areas of the state or population groups which demonstrate the highest incidence of **[**mental retardation**] developmental disability** or where accessibility to services or special services may be limited because of distance.

192.005. There is hereby created and established as a department of state government the "Department of Health and Senior Services". The department of health and senior services shall supervise and manage all public health functions and programs. The department shall be governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B,

RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited to, such agencies and functions as the state health planning and development agency, the crippled children's service, chapter 201, the bureau and the program for the prevention of **[**mental retardation**] developmental disability**, the hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family practice residency program, **[**sections 191.575 to 191.590,**]** the licensure and certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby transferred to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission, chapter 200, is hereby transferred to the department of health and senior services by a type III transfer as such transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and procedures for transfers of state agencies shall apply to the transfers 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 following entities:

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

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

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

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

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

2. Nothing in this section shall prohibit any of these entities from applying for a license 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 governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence facilities, or related services, for the care or employment, or both, of **[**handicapped**] disabled** persons. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

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

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

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

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

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

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

(2) "**[**Handicapped**] Disabled** person" shall mean a person who is lower range educable 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 HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

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

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

(3) All participants receiving blind pension benefits;

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

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active

treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

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

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

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

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

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

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

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

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

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

nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

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

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

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

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

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the

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

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

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

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant

women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

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

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

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

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

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

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

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

applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

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

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

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

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

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

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

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

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

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

(3) Laboratory and X-ray services;

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

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

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

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

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

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

(10) Home health care services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Dental services;

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

(3) Optometric services as defined in section 336.010;

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

(5) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a

236 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO
237 HealthNet division to the hospice provider for room and board furnished by a nursing home to
238 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement
239 which would have been paid for facility services in that nursing home facility for that patient,
240 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget
241 Reconciliation Act of 1989);
242 (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a
243 coordinated system of care for individuals with disabling impairments. Rehabilitation services
244 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment
245 plan developed, implemented, and monitored through an interdisciplinary assessment designed
246 to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO
247 HealthNet division shall establish by administrative rule the definition and criteria for
248 designation of a comprehensive day rehabilitation service facility, benefit limitations and
249 payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010,
250 that is created under the authority delegated in this subdivision shall become effective only if it
251 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
252 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
253 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
254 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
255 and any rule proposed or adopted after August 28, 2005, shall be invalid and void.
256 3. The MO HealthNet division may require any participant receiving MO HealthNet
257 benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July
258 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered
259 services except for those services covered under subdivisions (14) and (15) of subsection 1 of
260 this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title
261 XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder.
262 When substitution of a generic drug is permitted by the prescriber according to section 338.056
263 and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not
264 lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of
265 the federal Social Security Act. A provider of goods or services described under this section
266 must collect from all participants the additional payment that may be required by the MO
267 HealthNet division under authority granted herein, if the division exercises that authority, to
268 remain eligible as a provider. Any payments made by participants under this section shall be in
269 addition to and not in lieu of payments made by the state for goods or services described herein
270 except the participant portion of the pharmacy professional dispensing fee shall be in addition
271 to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time

a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

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

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

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

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

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

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in

the MO HealthNet program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

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

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

208.184. 1. Subject to appropriation, for the renewal of a child's eligibility for MO HealthNet benefits under this chapter or the state children's health insurance program benefits under sections 208.631 to 208.659, the department of social services shall provide a prepopulated form completed by the department based on all information available to the department and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the department is provided other information from such parent or caretaker relative. Nothing in this subsection shall be construed as preventing the state from verifying, through electronic and other means, the information so provided.

2. If there are no changes in information, such as income or family composition, relating to eligibility of the child for the benefits listed in subsection 1 of this section, the parent or caretaker relative of the child shall not be required to send back the prepopulated form referenced in subsection 1 of this section. The department shall renew the child's eligibility for MO HealthNet benefits or the state children's health insurance program benefits based on information available to the department through electronic or other means, unless sufficient information is not in the state's possession and cannot be acquired from other sources, including other state agencies, without the participation of the applicant or the applicant's parent or caretaker relative.

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

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

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

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from

different political parties; the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for **[**mental retardation/**]** developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the **[**handicapped**] disabled**; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent the **[**handicapped**] disabled**. Two of such three members representing **[**handicapped**] disabled** persons shall represent those with physical **[**handicaps**] disabilities**. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

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

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

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

6. The coordinating council on special transportation shall:

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

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

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

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

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

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

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

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

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

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

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

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

(3) One consumer representative;

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

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

(6) One representative of the state hospital association;

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

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

(9) **One mental health professional who cares for participants. The mental health professional shall be either a psychiatrist, psychologist, or professional counselor licensed under chapter 334 or 337 and shall be recommended by any Missouri organization or association that represents a significant number of either psychiatrists, psychologists, or**

professional counselors in this state, as appropriate to the appointment. The appointment of the type of mental health professional shall rotate with each new term;

(10) Two patient advocates;

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

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

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

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

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

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

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

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

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

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

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

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

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

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

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

5. The subcommittee shall include the following members:

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

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

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

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

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

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

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

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or the disabled, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

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

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

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

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

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

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

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

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

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 in section 213.010,** shall have the same rights afforded to a person with no such disability to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

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

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

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

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

(1) "Disability", as defined in section 213.010;

(2) "Service dog", a dog that is being or has been specially trained to do work or perform tasks which benefit a particular person with a disability.

Service dog includes:

(a) "Guide dog", a dog that is being or has been specially trained to assist a particular blind or visually impaired person;

(b) "Hearing dog", a dog that is being or has been specially trained to assist a particular deaf or hearing- impaired person;

(c) "Medical alert or respond dog", a dog that is being or has been trained to alert a person with a disability that a particular medical event is about to occur or to respond to a medical event that has occurred;

(d) "Mobility dog", a dog that is being or has been specially trained to assist a person with a disability caused by physical impairments**;**

(e) "Search and rescue dog", a dog that is being or has been trained to search for or prevent a person with a mental disability, including but not limited to verbal and nonverbal autism, from becoming lost;

(3) "Service team dog", a team consisting of a trained service dog, a disabled person or child, and a person who is an adult and who has been trained to handle the service dog.

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

(1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;

(2) Violates any of the provisions of its license;

(3) Violates state laws or rules relating to the protection of children;

(4) Furnishes or makes any misleading or false statements or reports to the division;

(5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;

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

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

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

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

Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform

the duties of a foster parent. In cases involving an applicant with a disability or disease, determinations made under this section shall consider the availability and use of accommodations for the disability or disease, including 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 "Family Care Safety Act".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction

of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.

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

211.202. 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other than **[**mentally retarded or**]** developmentally disabled, the court, on its own

motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

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

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

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

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

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

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

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

5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and treatment for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department of mental health shall place any child who qualifies for placement under section 630.610. If no

appropriate placement is available, the department of mental health shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

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

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

2. A regional center designated by the department of mental health shall perform within twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of determining the appropriateness of a referral to a **[**mental retardation**] developmental disability** facility operated or funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to be appropriate to refer such child to a department **[**mental retardation**] developmental disability** facility under section 633.120 or a private **[**mental retardation**] developmental disability** facility under section 630.610, the regional center shall refer the evaluation to the appropriate **[**mental retardation**] developmental disability** facility.

3. If, as a result of reviewing the evaluation, the head of the **[**mental retardation**] developmental disability** facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the **[**mental retardation**] developmental disability** facility, or his **or her** designee, shall recommend the child for admission, subject to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile court notice of the recommendation for admission by the **[**mental retardation**] developmental disability** facility and a copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to the department of mental health for other than residential care and habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of such placement or transfer during which the head of the initiating facility shall have the

burden to show that the placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

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

5. If at any time the **[**mental retardation**] developmental disability** facility determines that it is no longer appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

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

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

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

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

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

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

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

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

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

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

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

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

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

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

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

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

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

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

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

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

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

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

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

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

(1) The emotional ties to the birth parent;

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

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

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

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

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

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

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

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

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

11. In cases involving a parent with a disability or disease, determinations made under this section shall consider the availability and use of accommodations for the 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 given it in section 301.010, and the term "physically disabled" shall have the same meaning given it in section 301.142.

2. Political subdivisions of the state may by ordinance or resolution designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Owners of private property used for public parking shall also designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever a political subdivision or owner of private property so designates a parking space, the space shall be indicated by a sign upon which shall be inscribed the international symbol of accessibility and

[shall**] may** also include any appropriate wording **such as "Accessible Parking"** to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. The sign described in this subsection shall also state, or an additional sign shall be posted below or adjacent to the sign stating, the following: "$50 to $300 fine."

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

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

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

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

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

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

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

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

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

(2) Three members of the immediate family of persons who are recipients of services provided by the department in the habilitation of the **[**mentally retarded or**]** developmentally disabled. The Missouri advisory council on **[**mental retardation and**]** developmental disabilities, created pursuant to section 633.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council on **[**mental retardation and**]** developmental disabilities shall submit to the governor a panel of not

less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

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

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

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

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

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

6. The board of trustees shall establish policies, procedures and other rules and 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 adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

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

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological

status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

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

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

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

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

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

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

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

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

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

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

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

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

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

3. The procedure for obtaining an order of temporary emergency detention shall be as 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 receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable to care for or support themselves because of any **[**mental retardation**] developmental disability**, disease or disability, or any physical **[**handicap or**]** disability, the benefits that would be received by a surviving spouse on the judge's death if there were a surviving spouse or the benefits received by such surviving spouse, as the case may be, shall be paid to such surviving dependent

for the remainder of such dependent's life. If the judge or such surviving spouse leaves more than one dependent who would be eligible for benefits under this section, then each eligible dependent shall receive a pro rata share of the amount that would be paid to a surviving spouse under section 476.535.

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

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

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

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

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

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

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

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

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

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

(9) To determine if the defendant, if found not guilty by reason of mental disease or defect, should be immediately conditionally released by the court under the provisions of section 552.040 to the community or committed to a mental health or **[**mental retardation**]** **developmental disability** facility. This question shall not be asked regarding defendants charged with any of the dangerous felonies as defined in section 556.061, or with those crimes 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 understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on behalf of the accused, by order of record, appoint one or more private psychiatrists or

psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**] developmentally disabled** or mentally ill individuals, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**] developmentally disabled** or mentally ill individuals. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an examination pursuant to this chapter unless the individual meets the qualifications so established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

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

(1) Detailed findings;

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

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

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

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

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a mental health or **[**mental retardation**] developmental disability** facility. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

(1) Location and degree of necessary supervision of housing;

(2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;

(3) Medication follow-up, including necessary testing to monitor medication compliance;

(4) At least monthly contact with the department's forensic case monitor;

(5) Any other conditions or supervision as may be warranted by the circumstances of the case.

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

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one

year training or experience in providing treatment or services to **[**mentally retarded**]** **developmentally disabled** or mentally ill individuals, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

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

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

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

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

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether

there is a substantial probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**]** **developmentally disabled** or mentally ill individuals, of their own choosing and at their own expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

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

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

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

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to

determine if the accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared incapacitated under chapter 475, and approved for admission by the guardian under section 632.120 or 633.120, to a mental health or retardation facility. When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he has been found restored to competency.

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

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

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

2. Evidence of mental disease or defect excluding responsibility shall not be admissible at trial of the accused unless the accused, at the time of entering such accused's plea to the charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless within ten days after a plea of not guilty, or at such later date as the court may for good cause permit, the accused files a written notice of such accused's purpose to rely on such defense. Such a plea or notice shall not deprive the accused of other defenses. The state may accept a defense of mental disease or defect excluding responsibility, whether raised by plea or written notice, if

the accused has no other defense and files a written notice to that effect. The state shall not accept a defense of mental disease or defect excluding responsibility in the absence of any pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance of the defense of mental disease or defect excluding responsibility, the court shall proceed to order the commitment of the accused as provided in section 552.040 in cases of persons acquitted on the ground of mental disease or defect excluding responsibility, and further proceedings shall be had regarding the confinement and release of the accused as provided in section 552.040.

3. Whenever the accused has pleaded mental disease or defect excluding responsibility or has given the written notice provided in subsection 2 of this section, and such defense has not been accepted as provided in subsection 2 of this section, the court shall, after notice and upon motion of either the state or the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**]** **developmentally disabled** or mentally ill individuals, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or the director's designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**]** **developmentally disabled** or mentally ill individuals designated by the director, or the director's designee, as qualified to perform examinations pursuant to this chapter. The order shall direct that written report or reports of such examination be filed with the clerk of the court. No private psychiatrist, psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist or physician has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the accused examined, the director, or the director's designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluation. If an examination provided in section 552.020 was made and the report of such examination included an opinion as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality or wrongfulness of such accused's conduct or as a result of mental disease or defect was incapable of conforming such accused's conduct to the requirements of law, such report may be received in evidence, and no new examination shall be required by the court unless, in the discretion of the court, another

examination is necessary. If an examination is ordered pursuant to this section, the report shall contain the information required in subsections 3 and 4 of section 552.020. Within ten days after receiving a copy of such report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by an examiner of such accused's or its own choosing and at such accused's or its expense. The clerk of the court shall deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or his counsel. No reports required by this subsection shall be public records or be open to the public. Any examination performed pursuant to this subsection shall be completed and the results shall be filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise.

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

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

6. All persons are presumed to be free of mental disease or defect excluding responsibility for their conduct, whether or not previously adjudicated in this or any other state to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court may admit evidence presented at such adjudication based on its probative value. The issue of whether any person had a mental disease or defect excluding responsibility for such person's conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive. Upon the introduction of substantial evidence of lack of such responsibility, the presumption shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury

shall be instructed as to the existence and nature of such presumption when requested by the state and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that the burden rests upon the accused to show by a preponderance or greater weight of the credible evidence that the defendant was suffering from a mental disease or defect excluding responsibility at the time of the conduct charged against the defendant. At the request of the defense the jury shall be instructed by the court as to the contents of subsection 2 of section 552.040.

7. When the accused is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state as well as state the offense for which the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order of commitment to the department of mental health pursuant to this section to the criminal records central repository pursuant to section 43.503.

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

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

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

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

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or retardation facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the

director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or **[**mental retardation**] developmental disability** facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

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

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

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be

served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

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

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

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

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

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

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

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

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

to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the

jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

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

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

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

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

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

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

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

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the

department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

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

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

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

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

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

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

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

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

(3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an expert in the field of **[**mental retardation or of other**]** developmental disabilities. At least two of the members of the commission shall be representative of persons or groups who are consumers having substantial interest in the services provided by the division, one of whom shall represent the **[**mentally retarded or**]** developmentally disabled and one of whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at least one must be recognized for his expertise in general business management procedures, and two shall be recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health services.

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

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

University of Missouri but shall be submitted separately from the appropriations of the curators of the University of Missouri.

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

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

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

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

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

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

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

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

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

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

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

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

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

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

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

(9) "Developmental disability", a disability:

(a) Which is attributable to:

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

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

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

(c) Is likely to continue indefinitely; and

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

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

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

f. Mobility; and

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

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

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

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

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

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

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

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

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

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

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

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

(21) "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and

quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some mentally disordered or **[**mentally retarded**] developmentally disabled** persons, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632;

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

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

(a) Mental retardation, developmental disability or narcolepsy;

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

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

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

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

(a) Originates before age eighteen; and

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

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

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

(27) "Psychosurgery",

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Family-run organizations and family members;

(2) Child advocate organizations;

(3) The department of health and senior services;

(4) The department of social services' children's division, division of youth services, and the division of medical services;

(5) The department of elementary and secondary education;

(6) The department of mental health's division of alcohol and drug abuse, division of **[**mental retardation and**]** developmental disabilities, and the division of comprehensive psychiatric services;

(7) The department of public safety;

(8) The office of state courts administrator;

(9) The juvenile justice system; and

(10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by local school districts, **the departments of** social services, health and senior services, **and** public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

(8) Assure a smooth transition from child to adult mental health services when needed;

(9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and

(10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

630.120. No patient or resident, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, 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, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential facility, day program, group home or **[**mental retardation**]** **developmental disability** facility as defined in section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school

moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

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

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

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

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

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

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

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

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

(3) Pursuant to the provisions of chapter 431;

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

630.192. No biomedical or pharmacological research shall be conducted in any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632 or in any public or private residential facilities or day programs operated, funded or licensed by the department for persons affected by **[**mental retardation,**]** developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research is intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct therapeutic benefit to the participants. Without a specific court order, no involuntary patient shall consent to participate in any biomedical or pharmacological research. The application for the order shall be filed in the court having probate jurisdiction in the county in which the mental health facility is located, provided, however, that if the patient requests that the hearing be held by the court which has committed the patient, or if the court having probate jurisdiction deems 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 be charged in each of the residential facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, **[**mental retardation,**]** developmental disability or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse to cooperate in providing information necessary to properly apply the test or if retroactive

benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536.

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

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as provided by chapter 31. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the children's division. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived. The department of mental health shall promulgate rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed 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 health or **[**mental retardation**]** **developmental disability** facilities or regional centers may establish and operate a canteen or commissary for the use and benefit of patients, residents and employees.

2. Each facility or center shall keep revenues received from the canteen or commissary established and operated by the head of the facility in a separate account. The acquisition cost

of goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be kept in this account. The remaining funds from sales of each commissary or canteen shall be deposited monthly in the state treasury to the credit of the mental health trust fund. The money in the fund shall be expended, upon appropriation, for the benefit of the patients in the improvement of the recreation, habilitation or treatment services or equipment of the facility or center from which derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the mental health trust fund shall be retained for the purposes specified in this section and shall not revert or be transferred to general revenue. The department of mental health shall keep accurate records of the source of money deposited in the mental health trust fund and shall allocate 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 private and public vendors in this state with funds appropriated for this purpose.

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

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

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

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

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall 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 appropriated for this purpose to private and public entities seeking to establish a residential

facility, day program or specialized service for persons affected by mental disorders, mental illness, **[**mental retardation,**]** developmental disabilities or alcohol or drug abuse in unserved, underserved or inappropriately served areas of the state.

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

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

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

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

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

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

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

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

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

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

2. If a patient in a mental health facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the mental health facility may petition the director of the division of comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

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

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

5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director

not only under the provisions of chapter 536, but also as to whether or not the head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Any facility or program caring for less than four persons whose care is not funded 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**]** developmentally disabled persons without a valid license issued by the department. Licenses in effect on August 13, 1982, shall continue in effect until they regularly expire unless sooner revoked; except that in no case shall a license continue in effect beyond one year after August 13, 1982.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized 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 department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any person eighteen years of age or over who applies for his admission. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

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

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

632.110. 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any minor for whom an application for voluntary admission is made by his parent or other legal custodian. The department may require that a

community-based service where the minor resides perform the evaluation pursuant to an affiliation agreement or contract with the department.

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

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

4. The parent or legal custodian may request a peace officer to take a minor into custody and transport him to the mental health facility for evaluation if the parent or legal custodian 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 mental health facility shall, except in the case of medical emergency and subject to the availability of suitable programs and accommodations, admit any minor who has symptoms of mental disorder other than **[**mental retardation or**]** developmental disability, who is under the jurisdiction of a juvenile court and who is committed to a facility not operated by the state of Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201 to 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 department facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation and treatment, on an outpatient basis if practicable, any person who has been declared incapacitated by a court of competent jurisdiction and for whom an application for voluntary admission is made by his guardian. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

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

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

632.312. Notwithstanding the provisions of section 105.452 to the contrary, a sheriff may receive reimbursement for the actual costs of transporting a person to and from a mental health facility pursuant to chapter 632 from a public or private hospital, not-for-profit charitable organization, the state, or a political subdivision.

632.370. 1. The department may transfer, or authorize the transfer of, an involuntary patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head of the mental health program shall notify the court ordering detention or commitment, the patient's last known attorney of record and the mental health coordinator for the region, and if the person was committed pursuant to chapter 552, to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer is appropriate to the medical needs of the patient.

2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in any facility for the care or treatment of the mentally ill, **[**mentally retarded or**]** developmentally disabled and that such individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer,

the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known, his nearest known relative or friend shall be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if he is confined pursuant to a conviction for any felony or misdemeanor or if he has been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person enters an order for the transfer after appropriate motion and hearing. Any person transferred to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

632.380. Persons who are **[**mentally retarded,**]** developmentally disabled, senile or impaired by alcoholism or drug abuse shall not be detained judicially under this chapter, unless they are also mentally ill and as a result present likelihood of serious harm to themselves or to others. Such persons may, however, be committed upon court order under this chapter and the provisions of chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating to 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 following terms shall mean:

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

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

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

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

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

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

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

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

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

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

(1) Provision of funds for the planning and implementation of accessible programs to serve persons affected by **[**mental retardation or**]** developmental disabilities;

(2) Review of **[**mental retardation and**]** developmental disabilities plans submitted to receive state and federal funds allocated by the department;

(3) Provision of technical assistance and training to community-based programs to assist in the planning and implementation of quality services;

(4) Assurance of program quality in compliance with such appropriate standards as may be established by the department;

(5) Sponsorship and encouragement of research into the causes, effects, prevention, habilitation and rehabilitation of **[**mental retardation and**]** developmental disabilities;

(6) Provision of public information relating to **[**mental retardation and**]** developmental disabilities and their habilitation;

(7) Cooperation with nonstate governmental agencies and the private sector in establishing, conducting, integrating and coordinating **[**mental retardation and**]** developmental disabilities programs and projects;

(8) Cooperation with other state agencies to encourage appropriate health facilities to serve, without discrimination, persons who are **[**mentally retarded or**]** developmentally disabled who require medical care and to provide them with adequate and appropriate services;

(9) Participation in developing and implementing a statewide plan to alleviate problems relating to **[**mental retardation and**]** developmental disabilities and to overcome the barriers to their solutions;

(10) Encouragement of coordination of division services with other divisions of the department and other state agencies;

(11) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by **[**mental retardation and**]** developmental disabilities to be accepted and integrated into normal community activities;

(12) Evaluation, or the requirement of the evaluation, including the collection of appropriate necessary information, of **[**mental retardation or**]** developmental disabilities programs to determine their cost-and-benefit effectiveness;

(13) Participation in developing standards for residential facilities, day programs and specialized services operated, funded or licensed by the department for persons affected by **[**mental retardation or**]** developmental disabilities.

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

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

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

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

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

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

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

8. The council shall be advisory and shall:

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

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

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

(4) Participate in developing and disseminating criteria and standards to qualify **[**mental retardation or**]** developmental disability residential facilities, day programs and other specialized 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 retardation and**]** developmental disabilities prior to January 1, 1991, shall be eligible for services on the basis of their earlier determination of eligibility without regard to their eligibility status 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 retardation and**]** developmental disabilities habilitation services accessible to persons in need of them in defined geographic areas, which plan shall be reviewed and revised annually.

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

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

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

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

(4) Evaluations of the effects of habilitation programs;

(5) Descriptions of the following:

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

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

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

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

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

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

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

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

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

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

2. Any staff of such regional advisory councils shall be provided only from funds 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 division, the regional advisory councils shall review and advise on programs and policies of the regional centers. The councils shall review, advise on, and recommend regional program budgets and shall report to the division director their findings as to their conformity with the

regional plans before they are transmitted to the department to be considered for inclusion in the department budget request.

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

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

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

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

(3) Approval of the regional family support plan;

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

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

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

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

(1) Diagnosis and evaluation;

(2) Counseling;

(3) Respite care;

(4) Recreation;

(5) Habilitation;

(6) Training;

(7) Vocational habilitation;

(8) Residential care;

(9) Homemaker services;

(10) Developmental day care;

(11) Sheltered workshops;

(12) Referral to appropriate services;

(13) Placement;

(14) Transportation.

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

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

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

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

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

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

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

(6) A **[**mental retardation**] developmental disability** facility operated by the department 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**] developmental disability** facility only if determined by a comprehensive evaluation that:

(1) The person has a developmental disability;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall 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 retardation**] developmental disability** facility shall cause the condition and status of each resident to be reviewed and evaluated for the purpose of determining whether the resident needs further residential habilitation, placement in the least restrictive environment or discharge.

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

3. A copy of the evaluation and individualized habilitation plan shall be sent to any court 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 consent to the proposed placement or to discharge from the facility, the head of the **[**mental retardation**] developmental disability** facility may petition the director of the division to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130.

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

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

4. If the resident, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility sustained his burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

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

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

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the

proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections 633.120, 633.125 and 633.130.

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

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

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

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

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

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

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

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

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

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

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

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

633.150. The head of a **[**mental retardation**]** **developmental disability** facility may transfer a resident to a mental health facility only under the provisions of chapter 632. The director shall order that such resident be returned to the **[**mental retardation**]** **developmental 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**]** **developmentally disabled** or developmentally disabled person for respite care of up to twenty-one days which may be extended up to an additional twenty-one days for good cause shown. Any additional respite care beyond forty-two days within a one-year period shall be expressly approved by the director of the division.

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

633.160. If a person presents himself, or is presented, to a regional center or department **[**mental retardation**]** **developmental disability** facility and is determined to be **[**mentally retarded or**]** developmentally disabled and, as a result, presents an imminent likelihood of serious harm to himself or others as defined in chapter 632, the regional center or **[**mental retardation**]** **developmental disability** facility may accept the person for detention for evaluation and treatment for a period not to exceed ninety-six hours under the same procedures contained in chapter 632. The head of the regional center or **[**mental retardation**]** **developmental disability** facility may initiate guardianship proceedings to have the person detained beyond the ninety-six hours under chapter 475, or may refer the person to a mental health facility, if the person is 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 a child with a developmental disability residing in the family home shall be eligible to apply for a cash stipend from the division of **[**mental retardation and**]** developmental disabilities in an amount to be determined by the regional advisory council. Such cash stipend amount shall not exceed the maximum monthly federal Supplemental Security Income payment for an individual with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis and shall be considered a benefit and not income to the family. The stipend shall be used to purchase goods and services for the benefit of the family member with a developmental disability. Such goods and services may include, but are not limited to:

(1) Respite care;

(2) Personal and attendant care;

(3) Architectural and vehicular modifications;

(4) Health- and mental health-related costs not otherwise covered;
(5) Equipment and supplies;
(6) Specialized nutrition and clothing;
(7) Homemaker services;
(8) Transportation;
(9) Integrated community activities;
(10) Training and technical assistance; and
(11) Individual, family and group counseling.

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

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

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

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

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

4. There is hereby created in the state treasury for use by the department of mental health a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund shall be appropriated to the director of the department of mental health to be used for loans pursuant to this section. The fund shall consist of moneys appropriated by the general assembly for starting the fund and money otherwise deposited according to law. Any unexpended balance in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to

this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the ordinary revenue fund.

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

(1) Program guidelines and specifications;

(2) Additional duties of the regional advisory councils;

(3) Annual evaluation of services provided by each regional center, including an assessment of consumer satisfaction;

(4) Coordination of the family support program and the use of its funds throughout the state and within each region, with other publicly funded programs, including Medicaid;

(5) Methodology for allocating resources to families with the funds available;

(6) Resolution of grievances filed by families pertaining to actions of the family support program;

(7) Methodology for outreach and education.

2. No rule or portion of a rule promulgated under the authority of this chapter shall 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 division of **[**mental retardation and**]** developmental disabilities, an "Office of Autism Services". The office of autism services, under the supervision of the director of the division of **[**mental retardation and**]** developmental disabilities, shall provide leadership in program development for children and adults with autism spectrum disorders, to include establishment of program standards and coordination of program capacity.

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

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

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

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

4. The department shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority 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 retardation**]** **developmental disability** facility who has been placed on the disqualification registry pursuant to section 630.170 shall be terminated. Such requirements shall be specified 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 home or **[**mental retardation**]** **developmental disability** facility that has received a notice of noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and 630.750.

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

(1) Any adult day care program operated by a person in which care is offered for no more than two hours per day;

(2) Any adult day care program maintained or operated by the federal government except where care is provided through a management contract;

(3) Any person who cares solely for persons related to the provider or who has been designated as guardian of that person;

(4) Any adult day care program which cares for no more than four persons unrelated to the provider;

(5) Any adult day care program licensed by the department of mental health under chapter 630 which provides care, treatment and habilitation exclusively to adults who have a primary diagnosis of mental disorder, mental illness, **[**mental retardation or**]** developmental disability as defined;

(6) Any adult day care program administered or maintained by a religious not-for-profit organization serving a social or religious function if the adult day care program does not hold

itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.

2. Nothing in this section shall prohibit any person listed in subsection 1 of this section from applying for a license or receiving a license if the adult day care program owned or operated by such person conforms to the provisions of sections 199.025 and 660.403 to 660.420 and all applicable rules promulgated pursuant thereto.

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