

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

Reported from the Committee on Health, Mental Health, Seniors and Families, May 11, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0920S.08C

AN ACT

To repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 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, 630.167, 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, and 633.309, RSMo, and to enact in lieu thereof eighty-four new sections relating to health care policies, 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, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 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, 630.167, 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,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180,
10 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, are repealed and
11 eighty-four new sections enacted in lieu thereof, to be known as sections 8.241,
12 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955,
13 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143,
14 332.021, 334.120, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020,
15 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120,
16 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510,
17 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110,
18 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030,
19 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140,
20 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300,
21 633.303, and 633.309, to read as follows:

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

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

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

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

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

24 bounded East by Compton Avenue together with all improvements thereon,
25 known as and numbered 3205 Longfellow Boulevard.

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

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

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

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

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

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

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

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

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

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

16 (5) "Person", any individual, firm, partnership, association, corporation,

17 company, group of individuals acting together for a common purpose or
18 organization of any kind, including any governmental agency other than the
19 United States or the state of Missouri;

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

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

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

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

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

189.065. The department is authorized and directed to work with public
2 and private institutions and agencies or persons to insure that special services
3 will be available in all regions of the state, both rural and
4 metropolitan. Whenever services or special services required for the purposes of
5 sections 189.010 to 189.085 are not available, the department is authorized to use
6 up to ten percent of the funds appropriated for the purposes of sections 189.010
7 to 189.085 to assist in establishing the facilities and professional staff

8 required. For the purposes of implementing this section, the department and the
9 advisory committees shall give special consideration to those areas of the state
10 or population groups which demonstrate the highest incidence of [mental
11 retardation] **developmental disability** or where accessibility to services or
12 special services may be limited because of distance.

192.005. There is hereby created and established as a department of state
2 government the "Department of Health and Senior Services". The department of
3 health and senior services shall supervise and manage all public health functions
4 and programs. The department shall be governed by the provisions of the
5 Omnibus State Reorganization Act of 1974, Appendix B, RSMo, unless otherwise
6 provided in sections 192.005 to 192.014. The division of health of the department
7 of social services, chapter 191, this chapter, and others, including, but not limited
8 to, such agencies and functions as the state health planning and development
9 agency, the crippled children's service, chapter 201, the bureau and the program
10 for the prevention of [mental retardation] **developmental disability**, the
11 hospital subsidy program, chapter 189, the state board of health, section 191.400,
12 the student loan program, sections 191.500 to 191.550, the family practice
13 residency program, [sections 191.575 to 191.590,] the licensure and certification
14 of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070,
15 are hereby transferred to the department of health and senior services by a type
16 I transfer, and the state cancer center and cancer commission, chapter 200, is
17 hereby transferred to the department of health and senior services by a type III
18 transfer as such transfers are defined in section 1 of the Omnibus State
19 Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of
20 section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo
21 Supp. 1984, relating to the manner and procedures for transfers of state agencies
22 shall apply to the transfers provided in this section. The division of health of the
23 department of social services is abolished.

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

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

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

9 198.200, 208.030, and 208.159, except hospitals licensed under the provisions of
10 chapter 197;

11 (3) Any hospital licensed under the provisions of chapter 197, provided
12 that the assisted living facility, intermediate care facility or skilled nursing
13 facility are physically attached to the acute care hospital; and provided further
14 that the department of health and senior services in promulgating rules,
15 regulations and standards pursuant to section 197.080, with respect to such
16 facilities, shall establish requirements and standards for such hospitals
17 consistent with the intent of this chapter, and sections 198.067, 198.070, 198.090,
18 198.093 and 198.139 to 198.180 shall apply to every assisted living facility,
19 intermediate care facility or skilled nursing facility regardless of physical
20 proximity to any other health care facility;

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

25 (5) Any provider of care under a life care contract, except to any portion
26 of the provider's premises on which the provider offers services provided by an
27 intermediate care facility or skilled nursing facility as defined in section
28 198.006. For the purposes of this section, "provider of care under a life care
29 contract" means any person contracting with any individual to furnish specified
30 care and treatment to the individual for the life of the individual, with significant
31 prepayment for such care and treatment.

32 2. Nothing in this section shall prohibit any of these entities from
33 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
2 the voters, the governing body of any county or city not within a county of this
3 state shall establish a board of directors. The board of directors shall be a legal
4 entity empowered to establish and/or operate a sheltered workshop as defined in
5 section 178.900, residence facilities, or related services, for the care or
6 employment, or both, of [handicapped] persons **with a disability**. The facility
7 may operate at one or more locations in the county or city not within a
8 county. Once established, the board may, in its own name engage in and contract
9 for any and all types of services, actions or endeavors, not contrary to the law,
10 necessary to the successful and efficient prosecution and continuation of the
11 business and purposes for which it is created, and may purchase, receive, lease

12 or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer,
13 and otherwise dispose of real and personal property, or any interest therein, or
14 other assets wherever situated and may incur liability and may borrow money at
15 rates of interest up to the market rate published by the Missouri division of
16 finance. The board shall be taken and considered as a "political subdivision" as
17 the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

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

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

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

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

42 a. Which originated before age eighteen; and

43 b. Which can be expected to continue indefinitely;

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

45 (2) "[Handicapped] Person **with a disability**" shall mean a person who
46 is lower range educable or upper range trainable mentally retarded or a person
47 who has a developmental disability.

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

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

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

17 (3) All participants receiving blind pension benefits;

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

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

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

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

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

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

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

45 (11) Pregnant women who meet the requirements for aid to families with
46 dependent children, except for the existence of a dependent child who is deprived
47 of parental support as provided for in subdivision (2) of subsection 1 of section
48 208.040;

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

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

60 (14) Children who have attained six years of age but have not attained
61 nineteen years of age. For children who have attained six years of age but have
62 not attained nineteen years of age, the family support division shall use an
63 income assessment methodology which provides for eligibility when family income
64 is equal to or less than equal to one hundred percent of the federal poverty level
65 established by the Department of Health and Human Services, or its successor
66 agency. As necessary to provide MO HealthNet coverage under this subdivision,
67 the department of social services may revise the state MO HealthNet plan to
68 extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have
69 attained six years of age but have not attained nineteen years of age as permitted
70 by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income
71 assessment methodology as authorized by paragraph (2) of subsection (r) of 42
72 U.S.C. 1396a;

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

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

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

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

108 (19) Subject to appropriations necessary to recruit and train such staff,

109 the family support division shall provide one or more full-time, permanent
110 eligibility specialists to process applications for MO HealthNet benefits at the site
111 of a health care provider, if the health care provider requests the placement of
112 such eligibility specialists and reimburses the division for the expenses including
113 but not limited to salaries, benefits, travel, training, telephone, supplies, and
114 equipment, of such eligibility specialists. The division may provide a health care
115 provider with a part-time or temporary eligibility specialist at the site of a health
116 care provider if the health care provider requests the placement of such an
117 eligibility specialist and reimburses the division for the expenses, including but
118 not limited to the salary, benefits, travel, training, telephone, supplies, and
119 equipment, of such an eligibility specialist. The division may seek to employ such
120 eligibility specialists who are otherwise qualified for such positions and who are
121 current or former welfare participants. The division may consider training such
122 current or former welfare participants as eligibility specialists for this program;

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

128 (21) Case management services for pregnant women and young children
129 at risk shall be a covered service. To the greatest extent possible, and in
130 compliance with federal law and regulations, the department of health and senior
131 services shall provide case management services to pregnant women by contract
132 or agreement with the department of social services through local health
133 departments organized under the provisions of chapter 192 or chapter 205 or a
134 city health department operated under a city charter or a combined city-county
135 health department or other department of health and senior services designees.
136 To the greatest extent possible the department of social services and the
137 department of health and senior services shall mutually coordinate all services
138 for pregnant women and children with the crippled children's program, the
139 prevention of **[mental retardation] intellectual disability and developmental**
140 **disability** program and the prenatal care program administered by the
141 department of health and senior services. The department of social services shall
142 by regulation establish the methodology for reimbursement for case management
143 services provided by the department of health and senior services. For purposes
144 of this section, the term "case management" shall mean those activities of local

145 public health personnel to identify prospective MO HealthNet-eligible high-risk
146 mothers and enroll them in the state's MO HealthNet program, refer them to
147 local physicians or local health departments who provide prenatal care under
148 physician protocol and who participate in the MO HealthNet program for prenatal
149 care and to ensure that said high-risk mothers receive support from all private
150 and public programs for which they are eligible and shall not include involvement
151 in any MO HealthNet prepaid, case-managed programs;

152 (22) By January 1, 1988, the department of social services and the
153 department of health and senior services shall study all significant aspects of
154 presumptive eligibility for pregnant women and submit a joint report on the
155 subject, including projected costs and the time needed for implementation, to the
156 general assembly. The department of social services, at the direction of the
157 general assembly, may implement presumptive eligibility by regulation
158 promulgated pursuant to chapter 207;

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

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

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

175 (c) All persons who would be determined to be eligible for permanent and
176 total disability benefits under the eligibility standards in effect December 31,
177 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as
178 contained in the MO HealthNet state plan as of January 1, 2005; except that, on
179 or after July 1, 2005, less restrictive income methodologies, as authorized in 42
180 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized

181 by annual appropriations. Eligibility standards for permanent and total
182 disability benefits shall not be limited by age;

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

187 (26) Persons who are independent foster care adolescents, as defined in
188 42 U.S.C. Section 1396d, or who are within reasonable categories of such
189 adolescents who are under twenty-one years of age as specified by the state, are
190 eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without
191 regard to income or assets.

192 2. Rules and regulations to implement this section shall be promulgated
193 in accordance with section 431.064 and chapter 536. Any rule or portion of a
194 rule, as that term is defined in section 536.010, that is created under the
195 authority delegated in this section shall become effective only if it complies with
196 and is subject to all of the provisions of chapter 536 and, if applicable, section
197 536.028. This section and chapter 536 are nonseverable and if any of the powers
198 vested with the general assembly pursuant to chapter 536 to review, to delay the
199 effective date or to disapprove and annul a rule are subsequently held
200 unconstitutional, then the grant of rulemaking authority and any rule proposed
201 or adopted after August 28, 2002, shall be invalid and void.

202 3. After December 31, 1973, and before April 1, 1990, any family eligible
203 for assistance pursuant to 42 U.S.C. 601, et seq., as amended, in at least three
204 of the last six months immediately preceding the month in which such family
205 became ineligible for such assistance because of increased income from
206 employment shall, while a member of such family is employed, remain eligible for
207 MO HealthNet benefits for four calendar months following the month in which
208 such family would otherwise be determined to be ineligible for such assistance
209 because of income and resource limitation. After April 1, 1990, any family
210 receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of
211 the six months immediately preceding the month in which such family becomes
212 ineligible for such aid, because of hours of employment or income from
213 employment of the caretaker relative, shall remain eligible for MO HealthNet
214 benefits for six calendar months following the month of such ineligibility as long
215 as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family
216 which has received such medical assistance during the entire six-month period

217 described in this section and which meets reporting requirements and income
218 tests established by the division and continues to include a child as provided in
219 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee for an
220 additional six months. The MO HealthNet division may provide by rule and as
221 authorized by annual appropriation the scope of MO HealthNet coverage to be
222 granted to such families.

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

230 5. The department of social services may apply to the federal Department
231 of Health and Human Services for a MO HealthNet waiver amendment to the
232 Section 1115 demonstration waiver or for any additional MO HealthNet waivers
233 necessary not to exceed one million dollars in additional costs to the state, unless
234 subject to appropriation or directed by statute, but in no event shall such waiver
235 applications or amendments seek to waive the services of a rural health clinic or
236 a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or
237 the payment requirements for such clinics and centers as provided in 42 U.S.C.
238 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the
239 oversight committee created in section 208.955. A request for such a waiver so
240 submitted shall only become effective by executive order not sooner than ninety
241 days after the final adjournment of the session of the general assembly to which
242 it is submitted, unless it is disapproved within sixty days of its submission to a
243 regular session by a senate or house resolution adopted by a majority vote of the
244 respective elected members thereof, unless the request for such a waiver is made
245 subject to appropriation or directed by statute.

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

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

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

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

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

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

39 performance of their duties.

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

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

46 6. The coordinating council on special transportation shall:

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) One consumer representative **who has no financial interest in the**
10 **health care industry and who has not been an employee of the state**
11 **within the last five years;**

12 (4) Two primary care physicians, licensed under chapter 334,
13 [recommended by any Missouri organization or association that represents a
14 significant number of physicians licensed in this state,] who care for participants,
15 not from the same geographic area, **chosen in the same manner as described**
16 **in section 334.120;**

17 (5) Two physicians, licensed under chapter 334, who care for participants
18 but who are not primary care physicians and are not from the same geographic
19 area, [recommended by any Missouri organization or association that represents
20 a significant number of physicians licensed in this state] **chosen in the same**
21 **manner as described in section 334.120;**

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

23 (7) [One] **Two** nonphysician health care [professional] **professionals,**
24 **the first nonphysician health care professional licensed under chapter**
25 **335 and the second nonphysician health care professional licensed**
26 **under chapter 337,** who [cares] care for participants[, recommended by the
27 director of the department of insurance, financial institutions and professional
28 registration];

29 (8) One dentist, who cares for participants[. The dentist shall be
30 recommended by any Missouri organization or association that represents a
31 significant number of dentists licensed in this state], **chosen in the same**
32 **manner as described in section 332.021;**

33 (9) Two patient advocates **who have no financial interest in the**
34 **health care industry and who have not been employees of the state**
35 **within the last five years;**

36 (10) One public member **who has no financial interest in the health**
37 **care industry and who has not been an employee of the state within the**
38 **last five years;** and

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

42 2. The members of the oversight committee, other than the members from
43 the general assembly and ex-officio members, shall be appointed by the governor
44 with the advice and consent of the senate. A chair of the oversight committee
45 shall be selected by the members of the oversight committee. Of the members
46 first appointed to the oversight committee by the governor, eight members shall
47 serve a term of two years, seven members shall serve a term of one year, and

48 thereafter, members shall serve a term of two years. Members shall continue to
49 serve until their successor is duly appointed and qualified. Any vacancy on the
50 oversight committee shall be filled in the same manner as the original
51 appointment. Members shall serve on the oversight committee without
52 compensation but may be reimbursed for their actual and necessary expenses
53 from moneys appropriated to the department of social services for that
54 purpose. The department of social services shall provide technical, actuarial, and
55 administrative support services as required by the oversight committee. The
56 oversight committee shall:

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

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

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

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

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

70 (6) Review the results of the public process input collected under section
71 208.950;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

126 5. The subcommittee shall include the following members:

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

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

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

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

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

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

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

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

144 (9) One consumer representative with expertise in services for seniors or
145 **[the disabled] persons with a disability**, designated by the governor;

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

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

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

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

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

- 156 (15) One member gerontologist, designated by the governor;
- 157 (16) Two members representing the aged, blind, and disabled population,
158 not of the same geographic area or demographic group designated by the
159 governor;
- 160 (17) The directors of the departments of social services, mental health,
161 and health and senior services, or their designees; and
- 162 (18) One member of the house of representatives and one member of the
163 senate serving on the oversight committee, designated by the oversight committee
164 chair.
- 165 Members shall serve on the subcommittee without compensation but may be
166 reimbursed for their actual and necessary expenses from moneys appropriated to
167 the department of health and senior services for that purpose. The department
168 of health and senior services shall provide technical and administrative support
169 services as required by the committee.
- 170 6. By October 1, 2008, the comprehensive entry point system
171 subcommittee shall submit its report to the governor and general assembly
172 containing recommendations for the implementation of the comprehensive entry
173 point system, offering suggested legislative or administrative proposals deemed
174 necessary by the subcommittee to minimize conflict of interests for successful
175 implementation of the system. Such report shall contain, but not be limited to,
176 recommendations for implementation of the following consistent with the
177 provisions of section 208.950:
- 178 (1) A complete statewide universal information and assistance system that
179 is integrated into the web-based electronic patient health record that can be
180 accessible by phone, in-person, via MO HealthNet providers and via the Internet
181 that connects consumers to services or providers and is used to establish
182 consumers' needs for services. Through the system, consumers shall be able to
183 independently choose from a full range of home, community-based, and
184 facility-based health and social services as well as access appropriate services to
185 meet individual needs and preferences from the provider of the consumer's choice;
- 186 (2) A mechanism for developing a plan of service or care via the web-based
187 electronic patient health record to authorize appropriate services;
- 188 (3) A preadmission screening mechanism for MO HealthNet participants
189 for nursing home care;
- 190 (4) A case management or care coordination system to be available as
191 needed; and

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

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

199 8. The provisions of section 23.253 shall not apply to sections 208.950 to
200 208.955.

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

4 (1) Fails consistently to comply with the applicable provisions of sections
5 208.400 to 208.535 and the applicable rules promulgated thereunder;

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

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

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

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

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

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

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

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

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

28 **a child or an inability to perform the duties of a foster parent.**

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

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

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

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

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

15 (4) "Elder-care provider", any operator licensed pursuant to chapter 198
16 or any person, corporation, or association who provides in-home services under
17 contract with the division of aging, or any employer of nurses or nursing
18 assistants of home health agencies licensed pursuant to sections 197.400 to
19 197.477, or any nursing assistants employed by a hospice pursuant to sections
20 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of
21 subsection 1 of section 198.012 applies;

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

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

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

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

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

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

35 (11) "Personal-care provider", any person, corporation, or association who

36 provides personal-care services or supports under contract with the department
37 of mental health, the division of aging, the department of health and senior
38 services or the department of elementary and secondary education;

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

42 (13) "Related elder care", care provided only to an elder by an adult child,
43 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
2 court or the family court in circuits that have a family court as provided in
3 sections 487.010 to 487.190 shall have exclusive original jurisdiction in
4 proceedings:

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

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

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

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

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

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

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

28 (b) The child disobeys the reasonable and lawful directions of his or her

29 parents or other custodian and is beyond their control; or

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

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

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

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

55 (4) For the adoption of a person;

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

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

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

65 residence or the residence of the person seventeen years of age for future action;

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

72 (3) Upon motion of any party or on its own motion, the court in which
73 jurisdiction has been taken pursuant to subsection 1 of this section may at any
74 time thereafter transfer jurisdiction of a child or person seventeen years of age
75 to the court located in the county of the child's residence or the residence of the
76 person seventeen years of age for further action with the prior consent of the
77 receiving court;

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

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

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

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

95 4. When an investigation by a juvenile officer pursuant to this section
96 reveals that the only basis for action involves an alleged violation of section
97 167.031 involving a child who alleges to be home schooled, the juvenile officer
98 shall contact a parent or parents of such child to verify that the child is being
99 home schooled and not in violation of section 167.031 before making a report of
100 such a violation. Any report of a violation of section 167.031 made by a juvenile

101 officer regarding a child who is being home schooled shall be made to the
102 prosecuting attorney of the county where the child legally resides.

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

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

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

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

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

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

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

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

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

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

51 6. The committing juvenile court shall conduct an annual review of the
52 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
2 to be mentally retarded or developmentally disabled, as these terms are defined
3 in chapter 630, the court, on its own motion or on the motion or petition of any
4 interested party, may order the department of mental health to evaluate the
5 child.

6 2. A regional center designated by the department of mental health shall
7 perform within twenty days a comprehensive evaluation, as defined in chapter
8 633, on an outpatient basis if practicable, for the purpose of determining the
9 appropriateness of a referral to a [mental retardation] **developmental**
10 **disability** facility operated or funded by the department of mental health. If it
11 is determined by the regional center, as a result of the evaluation, to be
12 appropriate to refer such child to a department [mental retardation]
13 **developmental disability** facility under section 633.120 or a private [mental

14 retardation] **developmental disability** facility under section 630.610, the
15 regional center shall refer the evaluation to the appropriate [mental retardation]
16 **developmental disability** facility.

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

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

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

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

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

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

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

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

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

22 (4) The mental health facility or [mental retardation] **developmental**

23 **disability** facility does not offer a program which best meets the child's needs;
24 (5) The mental health facility or [mental retardation] **developmental**
25 **disability** facility does not provide the least restrictive environment, as defined
26 in section 630.005, which is consistent with the child's welfare and safety.

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

211.207. 1. If a child is committed to the division of youth services and
2 subsequently appears to be mentally disordered, as defined in chapter 630, the
3 division shall refer the child to the department of mental health for
4 evaluation. The evaluation shall be performed within twenty days by a mental
5 health facility or regional center operated by the department of mental health
6 and, if practicable, on an outpatient basis, for the purpose of determining whether
7 inpatient care at a mental health facility or residential habilitation in a [mental
8 retardation] **developmental disability** facility is appropriate because the child
9 meets the criteria specified in subsection 2 of section 211.202 or in section
10 633.120, respectively.

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

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

25 child to the department of mental health for admission to a department of mental
26 health facility and the department of mental health shall accept the transfer
27 subject to the availability of suitable accommodations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (3) The family of the child has not been provided such services as provided

53 for in section 211.183.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

123 (6) The parent is unfit to be a party to the parent and child relationship
124 because of a consistent pattern of committing a specific abuse, including but not

125 limited to, abuses as defined in section 455.010, child abuse or drug abuse before
126 the child or of specific conditions directly relating to the parent and child
127 relationship either of which are determined by the court to be of a duration or
128 nature that renders the parent unable, for the reasonably foreseeable future, to
129 care appropriately for the ongoing physical, mental or emotional needs of the
130 child. It is presumed that a parent is unfit to be a party to the parent-child
131 relationship upon a showing that within a three-year period immediately prior
132 to the termination adjudication, the parent's parental rights to one or more other
133 children were involuntarily terminated pursuant to subsection 2 or 4 of this
134 section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar
135 laws of other states.

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

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

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

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

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

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

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

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

159 (7) Deliberate acts of the parent or acts of another of which the parent
160 knew or should have known that subjects the child to a substantial risk of

161 physical or mental harm.

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

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

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

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

4 2. Political subdivisions of the state may by ordinance or resolution
5 designate parking spaces for the exclusive use of vehicles which display a
6 distinguishing license plate or card issued pursuant to section 301.071 or
7 301.142. Owners of private property used for public parking shall also designate
8 parking spaces for the exclusive use of vehicles which display a distinguishing
9 license plate or card issued pursuant to section 301.071 or 301.142. Whenever a
10 political subdivision or owner of private property so designates a parking space,
11 the space shall be indicated by a sign upon which shall be inscribed the
12 international symbol of accessibility and shall also include any appropriate
13 wording to indicate that the space is reserved for the exclusive use of vehicles
14 which display a distinguishing license plate or card. The sign described in this
15 subsection shall also state, or an additional sign shall be posted below or adjacent
16 to the sign stating, the following: "\$50 to \$300 fine.". **Beginning August 28,**
17 **2011, when any political subdivision or owner of private property**
18 **restripes a parking lot or constructs a new parking lot, one in every**
19 **four accessible spaces, but not less than one, shall be served by an**
20 **access aisle a minimum of ninety-six inches wide and shall be**
21 **designated "lift van accessible only" with signs that meet the**
22 **requirements of the federal Americans with Disabilities Act, as**

23 **amended, and any rules or regulations established pursuant thereto.**

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

34 4. The local police or sheriff's department may cause the removal of any
35 vehicle not displaying a distinguishing license plate or card on which is inscribed
36 the international symbol of accessibility and the word "disabled" issued pursuant
37 to section 301.142 or a "disabled veteran" license plate issued pursuant to section
38 301.071 or a distinguishing license plate or card issued by any other state from
39 a space designated for physically disabled persons if there is posted immediately
40 adjacent to, and readily visible from, such space a sign on which is inscribed the
41 international symbol of accessibility and may include any appropriate wording to
42 indicate that the space is reserved for the exclusive use of vehicles which display
43 a distinguishing license plate or card. Any person who parks in a space reserved
44 for physically disabled persons and is not displaying distinguishing license plates
45 or a card is guilty of an infraction and upon conviction thereof shall be punished
46 by a fine of not less than fifty dollars nor more than three hundred dollars. Any
47 vehicle which has been removed and which is not properly claimed within thirty
48 days thereafter shall be considered to be an abandoned vehicle.

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

59 to the space shall be clearly and visibly painted blue.

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

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

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

 332.021. 1. "The Missouri Dental Board" shall consist of seven members
2 including five registered and currently licensed dentists, one registered and
3 currently licensed dental hygienist with voting authority as limited in subsection
4 4 of this section, and one voting public member. Any currently valid certificate
5 of registration or currently valid specialist's certificate issued by the Missouri
6 dental board as constituted pursuant to prior law shall be a valid certificate of
7 registration or a valid specialist's certificate, as the case may be, upon October
8 13, 1969, and such certificates shall be valid so long as the holders thereof comply
9 with the provisions of this chapter.

10 2. Any person other than the public member appointed to the board as
11 hereinafter provided shall be a dentist or a dental hygienist who is registered and
12 currently licensed in Missouri, is a United States citizen, has been a resident of
13 this state for one year immediately preceding his or her appointment, has
14 practiced dentistry or dental hygiene for at least five consecutive years
15 immediately preceding his or her appointment, shall have graduated from an
16 accredited dental school or dental hygiene school, and at the time of his or her
17 appointment or during his or her tenure on the board has or shall have no
18 connection with or interest in, directly or indirectly, any dental college, dental
19 hygiene school, university, school, department, or other institution of learning
20 wherein dentistry or dental hygiene is taught, or with any dental laboratory or

21 other business enterprise directly related to the practice of dentistry or dental
22 hygiene.

23 3. The governor shall appoint members to the board by and with the
24 advice and consent of the senate when a vacancy thereon occurs either by the
25 expiration of a term or otherwise; provided, however, that any board member
26 shall serve until his or her successor is appointed and has qualified. Each
27 appointee, except where appointed to fill an unexpired term, shall be appointed
28 for a term of five years. The president of the Missouri Dental Association in
29 office at the time shall, at least ninety days prior to the expiration of the term of
30 a board member other than the dental hygienist or public member, or as soon as
31 feasible after a vacancy on the board otherwise occurs, submit to the director of
32 the division of professional registration a list of five dentists qualified and willing
33 to fill the vacancy in question, with the request and recommendation that the
34 governor appoint one of the five persons so listed, and with the list so submitted,
35 the president of the Missouri Dental Association shall include in his or her letter
36 of transmittal a description of the method by which the names were chosen by
37 that association.

38 4. The public member shall be at the time of his or her appointment a
39 citizen of the United States; a resident of this state for a period of one year and
40 a registered voter; a person who is not and never was a member of any profession
41 licensed or regulated pursuant to this chapter or the spouse of such person; and
42 a person who does not have and never has had a material, financial interest in
43 either the providing of the professional services regulated by this chapter, or an
44 activity or organization directly related to any profession licensed or regulated
45 pursuant to this chapter. All members, including public members, shall be
46 chosen from lists submitted by the director of the division of professional
47 registration. **The list of dentists submitted to the governor shall include**
48 **the names submitted to the director of the division of professional**
49 **registration by the president of the Missouri Dental Association. This**
50 **list shall be a public record available for inspection and copying under**
51 **chapter 610.** Lists of dental hygienists submitted to the governor may include
52 names submitted to the director of the division of professional registration by the
53 president of the Missouri Dental Hygienists' Association. The duties of the dental
54 hygienist member shall not include participation in the determination for or the
55 issuance of a certificate of registration or a license to practice as a dentist. The
56 duties of the public member shall not include the determination of the technical

57 requirements to be met for licensure or whether any person meets such technical
58 requirements or of the technical competence or technical judgment of a licensee
59 or a candidate for licensure.

60 5. The board shall have a seal which shall be in circular form and which
61 shall impress the word "SEAL" in the center and around said word the words
62 "Missouri Dental Board". The seal shall be affixed to such instruments as
63 hereinafter provided and to any other instruments as the board shall direct.

64 6. The board may sue and be sued as the Missouri dental board, and its
65 members need not be named as parties. Members of the board shall not be
66 personally liable, either jointly or severally, for any act or acts committed in the
67 performance of their official duties as board members; nor shall any board
68 member be personally liable for any court costs which accrue in any action by or
69 against the board.

 334.120. 1. There is hereby created and established a board to be known
2 as "The State Board of Registration for the Healing Arts" for the purpose of
3 registering, licensing and supervising all physicians and surgeons, and midwives
4 in this state. The board shall consist of nine members, including one voting
5 public member, to be appointed by the governor by and with the advice and
6 consent of the senate, at least five of whom shall be graduates of professional
7 schools accredited by the Liaison Committee on Medical Education or recognized
8 by the Educational Commission for Foreign Medical Graduates, and at least two
9 of whom shall be graduates of professional schools approved and accredited as
10 reputable by the American Osteopathic Association, and all of whom, except the
11 public member, shall be duly licensed and registered as physicians and surgeons
12 pursuant to the laws of this state. Each member must be a citizen of the United
13 States and must have been a resident of this state for a period of at least one
14 year next preceding his or her appointment and shall have been actively engaged
15 in the lawful and ethical practice of the profession of physician and surgeon for
16 at least five years next preceding his or her appointment. Not more than four
17 members shall be affiliated with the same political party. All members shall be
18 appointed for a term of four years. Each member of the board shall receive as
19 compensation an amount set by the board not to exceed fifty dollars for each day
20 devoted to the affairs of the board, and shall be entitled to reimbursement of his
21 or her expenses necessarily incurred in the discharge of his or her official
22 duties. The president of the Missouri State Medical Association, for all medical
23 physician appointments, or the president of the Missouri Association of

24 Osteopathic Physicians and Surgeons, for all osteopathic physician appointments,
25 in office at the time shall, at least ninety days prior to the expiration of the term
26 of the respective board member, other than the public member, or as soon as
27 feasible after the appropriate vacancy on the board otherwise occurs, submit to
28 the director of the division of professional registration a list of five physicians and
29 surgeons qualified and willing to fill the vacancy in question, with the request
30 and recommendation that the governor appoint one of the five persons so listed,
31 and with the list so submitted, the president of the Missouri State Medical
32 Association or the Missouri Association of Osteopathic Physicians and Surgeons,
33 as appropriate, shall include in his or her letter of transmittal a description of the
34 method by which the names were chosen by that association.

35 2. The public member shall be at the time of his or her appointment a
36 citizen of the United States; a resident of this state for a period of one year and
37 a registered voter; a person who is not and never was a member of any profession
38 licensed or regulated pursuant to this chapter or the spouse of such person; and
39 a person who does not have and never has had a material, financial interest in
40 either the providing of the professional services regulated by this chapter, or an
41 activity or organization directly related to any profession licensed or regulated
42 pursuant to this chapter. All members, including public members, shall be
43 chosen from lists submitted by the director of the division of professional
44 registration. **The list of medical physicians or osteopathic physicians**
45 **submitted to the governor shall include the names submitted to the**
46 **director of the division of professional registration by the president of**
47 **the Missouri State Medical Association or the Missouri Association of**
48 **Osteopathic Physicians and Surgeons, respectively. This list shall be**
49 **a public record available for inspection and copying under chapter**
50 **610.** The duties of the public member shall not include the determination of the
51 technical requirements to be met for licensure or whether any person meets such
52 technical requirements or of the technical competence or technical judgment of
53 a licensee or a candidate for licensure.

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

7 to 105.482 and who are not otherwise employed by the department of mental
8 health. The board of trustees shall be composed of the following:

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

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

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

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

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

41 4. The board of trustees shall be subject to the provisions of sections
42 610.010 to 610.120.

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

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

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

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

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

30 of chapter 536.

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

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

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

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

51 **8. (1) Nothing in this section shall be construed to permit**
52 **discrimination on the basis of disability or disease of a prospective**
53 **adoptive parent.**

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

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

8 probable duration of the admission.

9 2. If the court finds that the application establishes the need for inpatient
10 care, habilitation or treatment of the ward in a mental health or [mental
11 retardation] **developmental disability** facility without the adduction of further
12 evidence, it shall issue an order authorizing the guardian to admit the ward to
13 such facility in accordance with the provisions of section 632.120 or section
14 633.120.

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

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

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

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

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

 476.537. In the event that any judge leaving no surviving spouse or any
2 surviving spouse receiving benefits under section 476.535 as a beneficiary dies
3 leaving dependents who are unable to care for or support themselves because of
4 any [mental retardation] **intellectual disability or developmental**
5 **disability**, disease or disability, or any physical [handicap or] disability, the
6 benefits that would be received by a surviving spouse on the judge's death if there
7 were a surviving spouse or the benefits received by such surviving spouse, as the

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

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

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

6 (1) To determine whether the defendant lacks capacity to understand the
7 proceedings against him or to assist in his own defense as provided in section
8 552.020;

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

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

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

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

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

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

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

24 (9) To determine if the defendant, if found not guilty by reason of mental
25 disease or defect, should be immediately conditionally released by the court under
26 the provisions of section 552.040 to the community or committed to a mental
27 health or [mental retardation] **developmental disability** facility. This question
28 shall not be asked regarding defendants charged with any of the dangerous
29 felonies as defined in section 556.061, or with those crimes set forth in subsection
30 11 of section 552.040, or the attempts thereof.

552.020. 1. No person who as a result of mental disease or defect lacks

2 capacity to understand the proceedings against him or to assist in his own
3 defense shall be tried, convicted or sentenced for the commission of an offense so
4 long as the incapacity endures.

5 2. Whenever any judge has reasonable cause to believe that the accused
6 lacks mental fitness to proceed, he shall, upon his own motion or upon motion
7 filed by the state or by or on behalf of the accused, by order of record, appoint one
8 or more private psychiatrists or psychologists, as defined in section 632.005, or
9 physicians with a minimum of one year training or experience in providing
10 treatment or services to [mentally retarded or mentally ill individuals] **persons**
11 **with an intellectual disability or developmental disability or mental**
12 **illness**, who are neither employees nor contractors of the department of mental
13 health for purposes of performing the examination in question, to examine the
14 accused; or shall direct the director to have the accused so examined by one or
15 more psychiatrists or psychologists, as defined in section 632.005, or physicians
16 with a minimum of one year training or experience in providing treatment or
17 services to [mentally retarded or mentally ill individuals] **persons with an**
18 **intellectual disability, developmental disability, or mental illness**. The
19 order shall direct that a written report or reports of such examination be filed
20 with the clerk of the court. No private physician, psychiatrist, or psychologist
21 shall be appointed by the court unless he has consented to act. The examinations
22 ordered shall be made at such time and place and under such conditions as the
23 court deems proper; except that, if the order directs the director of the
24 department to have the accused examined, the director, or his designee, shall
25 determine the time, place and conditions under which the examination shall be
26 conducted. The order may include provisions for the interview of witnesses and
27 may require the provision of police reports to the department for use in
28 evaluations. The department shall establish standards and provide training for
29 those individuals performing examinations pursuant to this section and section
30 552.030. No individual who is employed by or contracts with the department
31 shall be designated to perform an examination pursuant to this chapter unless
32 the individual meets the qualifications so established by the department. Any
33 examination performed pursuant to this subsection shall be completed and filed
34 with the court within sixty days of the order unless the court for good cause
35 orders otherwise. Nothing in this section or section 552.030 shall be construed
36 to permit psychologists to engage in any activity not authorized by chapter
37 337. One pretrial evaluation shall be provided at no charge to the defendant by

38 the department. All costs of subsequent evaluations shall be assessed to the
39 party requesting the evaluation.

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

41 (1) Detailed findings;

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

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

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

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

53 4. If the accused has pleaded lack of responsibility due to mental disease
54 or defect or has given the written notice provided in subsection 2 of section
55 552.030, the court shall order the report of the examination conducted pursuant
56 to this section to include, in addition to the information required in subsection 3
57 of this section, an opinion as to whether at the time of the alleged criminal
58 conduct the accused, as a result of mental disease or defect, did not know or
59 appreciate the nature, quality, or wrongfulness of his conduct or as a result of
60 mental disease or defect was incapable of conforming his conduct to the
61 requirements of law. A plea of not guilty by reason of mental disease or defect
62 shall not be accepted by the court in the absence of any such pretrial evaluation
63 which supports such a defense. In addition, if the accused has pleaded not guilty
64 by reason of mental disease or defect, and the alleged crime is not a dangerous
65 felony as defined in section 556.061, or those crimes set forth in subsection 11 of
66 section 552.040, or the attempts thereof, the court shall order the report of the
67 examination to include an opinion as to whether or not the accused should be
68 immediately conditionally released by the court pursuant to the provisions of
69 section 552.040 or should be committed to a mental health or [mental
70 retardation] **developmental disability** facility. If such an evaluation is
71 conducted at the direction of the director of the department of mental health, the
72 court shall also order the report of the examination to include an opinion as to
73 the conditions of release which are consistent with the needs of the accused and

74 the interest of public safety, including, but not limited to, the following factors:

- 75 (1) Location and degree of necessary supervision of housing;
- 76 (2) Location of and responsibilities for appropriate psychiatric,
77 rehabilitation and aftercare services, including the frequency of such services;
- 78 (3) Medication follow-up, including necessary testing to monitor
79 medication compliance;
- 80 (4) At least monthly contact with the department's forensic case monitor;
- 81 (5) Any other conditions or supervision as may be warranted by the
82 circumstances of the case.

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

89 6. The clerk of the court shall deliver copies of the report to the
90 prosecuting or circuit attorney and to the accused or his counsel. The report shall
91 not be a public record or open to the public. Within ten days after the filing of
92 the report, both the defendant and the state shall, upon written request, be
93 entitled to an order granting them an examination of the accused by a
94 psychiatrist or psychologist, as defined in section 632.005, or a physician with a
95 minimum of one year training or experience in providing treatment or services
96 to [mentally retarded or mentally ill individuals] **persons with an intellectual**
97 **disability or developmental disability or mental illness**, of their own
98 choosing and at their own expense. An examination performed pursuant to this
99 subsection shall be completed and a report filed with the court within sixty days
100 of the date it is received by the department or private psychiatrist, psychologist
101 or physician unless the court, for good cause, orders otherwise. A copy shall be
102 furnished the opposing party.

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

110 determination. The report or reports may be received in evidence at any hearing
111 on the issue but the party contesting any opinion therein shall have the right to
112 summon and to cross-examine the examiner who rendered such opinion and to
113 offer evidence upon the issue.

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

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

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

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

135 (1) Six months after such commitment, the court which ordered the
136 accused committed shall order an examination by the head of the facility in which
137 the accused is committed, or a qualified designee, to ascertain whether the
138 accused is mentally fit to proceed and if not, whether there is a substantial
139 probability that the accused will attain the mental fitness to proceed to trial in
140 the foreseeable future. The order shall direct that written report or reports of the
141 examination be filed with the clerk of the court within thirty days and the clerk
142 shall deliver copies to the prosecuting attorney or circuit attorney and to the
143 accused or his counsel. The report required by this subsection shall conform to
144 the requirements under subsection 3 of this section with the additional
145 requirement that it include an opinion, if the accused lacks mental fitness to

146 proceed, as to whether there is a substantial probability that the accused will
147 attain the mental fitness to proceed in the foreseeable future;

148 (2) Within ten days after the filing of the report, both the accused and the
149 state shall, upon written request, be entitled to an order granting them an
150 examination of the accused by a psychiatrist or psychologist, as defined in section
151 632.005, or a physician with a minimum of one year training or experience in
152 providing treatment or services to [mentally retarded or mentally ill individuals]
153 **persons with an intellectual disability or developmental disability or**
154 **mental illness**, of their own choosing and at their own expense. An examination
155 performed pursuant to this subdivision shall be completed and filed with the
156 court within thirty days unless the court, for good cause, orders otherwise. A
157 copy shall be furnished to the opposing party;

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

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

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

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

182 determine if the accused shall be declared incapacitated under chapter 475, and
183 approved for admission by the guardian under section 632.120 or 633.120, to a
184 mental health or [retardation] **developmental disability** facility. When such
185 proceedings are filed, the criminal charges shall be dismissed without prejudice
186 if the court finds that the accused is mentally ill and should be committed or that
187 he is incapacitated and should have a guardian appointed. The period of
188 limitation on prosecuting any criminal offense shall be tolled during the period
189 that the accused lacks mental fitness to proceed.

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

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

200 14. No statement made by the accused in the course of any examination
201 or treatment pursuant to this section and no information received by any
202 examiner or other person in the course thereof, whether such examination or
203 treatment was made with or without the consent of the accused or upon his
204 motion or upon that of others, shall be admitted in evidence against the accused
205 on the issue of guilt in any criminal proceeding then or thereafter pending in any
206 court, state or federal. A finding by the court that the accused is mentally fit to
207 proceed shall in no way prejudice the accused in a defense to the crime charged
208 on the ground that at the time thereof he was afflicted with a mental disease or
209 defect excluding responsibility, nor shall such finding by the court be introduced
210 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
2 of such conduct, as a result of mental disease or defect such person was incapable
3 of knowing and appreciating the nature, quality, or wrongfulness of such person's
4 conduct.

5 2. Evidence of mental disease or defect excluding responsibility shall not
6 be admissible at trial of the accused unless the accused, at the time of entering
7 such accused's plea to the charge, pleads not guilty by reason of mental disease

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

22 3. Whenever the accused has pleaded mental disease or defect excluding
23 responsibility or has given the written notice provided in subsection 2 of this
24 section, and such defense has not been accepted as provided in subsection 2 of
25 this section, the court shall, after notice and upon motion of either the state or
26 the accused, by order of record, appoint one or more private psychiatrists or
27 psychologists, as defined in section 632.005, or physicians with a minimum of one
28 year training or experience in providing treatment or services to [mentally
29 retarded or mentally ill individuals] **persons with an intellectual disability**
30 **or developmental disability or mental illness**, who are neither employees
31 nor contractors of the department of mental health for purposes of performing the
32 examination in question, to examine the accused, or shall direct the director of
33 the department of mental health, or the director's designee, to have the accused
34 so examined by one or more psychiatrists or psychologists, as defined in section
35 632.005, or physicians with a minimum of one year training or experience in
36 providing treatment or services to [mentally retarded or mentally ill individuals]
37 **persons with an intellectual disability or developmental disability or**
38 **mental illness** designated by the director, or the director's designee, as qualified
39 to perform examinations pursuant to this chapter. The order shall direct that
40 written report or reports of such examination be filed with the clerk of the court.
41 No private psychiatrist, psychologist, or physician shall be appointed by the court
42 unless such psychiatrist, psychologist or physician has consented to act. The
43 examinations ordered shall be made at such time and place and under such

44 conditions as the court deems proper; except that, if the order directs the director
45 of the department of mental health to have the accused examined, the director,
46 or the director's designee, shall determine the time, place and conditions under
47 which the examination shall be conducted. The order may include provisions for
48 the interview of witnesses and may require the provision of police reports to the
49 department for use in evaluation. If an examination provided in section 552.020
50 was made and the report of such examination included an opinion as to whether,
51 at the time of the alleged criminal conduct, the accused, as a result of mental
52 disease or defect, did not know or appreciate the nature, quality or wrongfulness
53 of such accused's conduct or as a result of mental disease or defect was incapable
54 of conforming such accused's conduct to the requirements of law, such report may
55 be received in evidence, and no new examination shall be required by the court
56 unless, in the discretion of the court, another examination is necessary. If an
57 examination is ordered pursuant to this section, the report shall contain the
58 information required in subsections 3 and 4 of section 552.020. Within ten days
59 after receiving a copy of such report, both the accused and the state shall, upon
60 written request, be entitled to an order granting them an examination of the
61 accused by an examiner of such accused's or its own choosing and at such
62 accused's or its expense. The clerk of the court shall deliver copies of the report
63 or reports to the prosecuting or circuit attorney and to the accused or his counsel.
64 No reports required by this subsection shall be public records or be open to the
65 public. Any examination performed pursuant to this subsection shall be completed
66 and the results shall be filed with the court within sixty days of the date it is
67 received by the department or private psychiatrist, psychologist or physician
68 unless the court, for good cause, orders otherwise.

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

73 5. No statement made by the accused in the course of any such
74 examination and no information received by any physician or other person in the
75 course thereof, whether such examination was made with or without the consent
76 of the accused or upon the accused's motion or upon that of others, shall be
77 admitted in evidence against the accused on the issue of whether the accused
78 committed the act charged against the accused in any criminal proceeding then
79 or thereafter pending in any court, state or federal. The statement or information

80 shall be admissible in evidence for or against the accused only on the issue of the
81 accused's mental condition, whether or not it would otherwise be deemed to be a
82 privileged communication. If the statement or information is admitted for or
83 against the accused on the issue of the accused's mental condition, the court
84 shall, both orally at the time of its admission and later by instruction, inform the
85 jury that it must not consider such statement or information as any evidence of
86 whether the accused committed the act charged against the accused.

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

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

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

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

4 (2) "Secure facility", a state mental health facility, state [mental
5 retardation] **developmental disability** facility, private facility under contract

6 with the department of mental health, or a section within any of these facilities,
7 in which persons committed to the department of mental health pursuant to this
8 chapter, shall not be permitted to move about the facility or section of the facility,
9 nor to leave the facility or section of the facility, without approval by the head of
10 the facility or such head's designee and adequate supervision consistent with the
11 safety of the public and the person's treatment, habilitation or rehabilitation
12 plan;

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

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

42 committed to a mental health or [mental retardation] **developmental**
43 **disability** facility, the director of the department of mental health, or the
44 director's designee, shall determine the time, place and conditions of confinement.

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

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

62 5. The committed person or the head of the facility where the person is
63 committed may file an application in the court that committed the person seeking
64 an order releasing the committed person unconditionally; except that any person
65 who has been denied an application for a conditional release pursuant to
66 subsection 13 of this section shall not be eligible to file for an unconditional
67 release until the expiration of one year from such denial. In the case of a person
68 who was immediately conditionally released after being committed to the
69 department of mental health, the released person or the director of the
70 department of mental health, or the director's designee, may file an application
71 in the same court that released the committed person seeking an order releasing
72 the committed person unconditionally. Copies of the application shall be served
73 personally or by certified mail upon the head of the facility unless the head of the
74 facility files the application, the committed person unless the committed person
75 files the application, or unless the committed person was immediately
76 conditionally released, the director of the department of mental health, and the
77 prosecutor of the jurisdiction where the committed person was tried and

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

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

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

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

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

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

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

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

111 (6) Whether the determination that the committed person is not
112 dangerous to himself or others is dependent on the person's taking drugs,
113 medicine or narcotics. The burden of persuasion for any person committed to a

114 mental health facility under the provisions of this section upon acquittal on the
115 grounds of mental disease or defect excluding responsibility shall be on the party
116 seeking unconditional release to prove by clear and convincing evidence that the
117 person for whom unconditional release is sought does not have, and in the
118 reasonable future is not likely to have, a mental disease or defect rendering the
119 person dangerous to the safety of himself or others.

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

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

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

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

150 upon the prosecutor of the jurisdiction where the person was tried and acquitted
151 and the prosecutor of the jurisdiction into which the committed person is to be
152 released;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

231 17. The director of the department of mental health, or the director's
232 designee, may revoke the conditional release or the trial release and request the
233 return of the committed person if such director or coordinator has reasonable
234 cause to believe that the person has violated the conditions of such release. If
235 requested to do so by the director or coordinator, a peace officer of a jurisdiction
236 in which a patient on conditional release is found shall apprehend and return
237 such patient to the facility. No peace officer responsible for apprehending and
238 returning the committed person to the facility upon the request of the director or
239 coordinator shall be civilly liable for apprehending or transporting such patient
240 to the facility so long as such duties were performed in good faith and without
241 negligence. If a person on conditional release is returned to a facility under the
242 provisions of this subsection, a hearing shall be held within ninety-six hours,
243 excluding Saturdays, Sundays and state holidays, to determine whether the
244 person violated the conditions of the release or whether resumption of full-time
245 hospitalization is the least restrictive alternative consistent with the person's
246 needs and public safety. The director of the department of mental health, or the
247 director's designee, shall conduct the hearing. The person shall be given notice
248 at least twenty-four hours in advance of the hearing and shall have the right to
249 have an advocate present.

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

257 19. The head of a mental health facility, upon any notice that a committed

258 person has escaped confinement, or left the facility or its grounds without
259 authorization, shall immediately notify the prosecutor and sheriff of the county
260 wherein the committed person is detained of the escape or unauthorized leaving
261 of grounds and the prosecutor and sheriff of the county where the person was
262 tried and acquitted.

263 20. Any person committed to a mental health facility under the provisions
264 of this section upon acquittal on the grounds of mental disease or defect excluding
265 responsibility for a dangerous felony as defined in section 556.061, murder in the
266 first degree pursuant to section 565.020, or sexual assault pursuant to section
267 566.040 shall not be eligible for conditional or unconditional release under the
268 provisions of this section unless, in addition to the requirements of this section,
269 the court finds that the following criteria are met:

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

273 (2) Such person is aware of the nature of the violent crime committed
274 against another person and presently possesses the capacity to appreciate the
275 criminality of the violent crime against another person and the capacity to
276 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
2 headed by a mental health commission who shall appoint a director, by and with
3 the advice and consent of the senate. The director shall be the administrative
4 head of the department and shall serve at the pleasure of the commission and be
5 compensated as provided by law for the director, division of mental health. All
6 employees of the department shall be selected in accordance with chapter 36.

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

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

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

32 3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150,
33 191.160, 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to
34 the division of mental health not previously reassigned by executive
35 reorganization plan number 2 of 1973 as submitted by the governor under chapter
36 26 are transferred by specific type transfer from the department of public health
37 and welfare to the department of mental health. The division of mental health,
38 department of health and welfare, chapter 202 and others are abolished and all
39 powers, duties and functions now assigned by law to the division, the director of
40 the divisions of mental health or any of the institutions or officials of the division
41 are transferred by type I transfer to the department of mental health.

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

54 be jointly developed by the University of Missouri and the department of mental
55 health. All appropriations for the Missouri institute of mental health shall be
56 made to the curators of the University of Missouri but shall be submitted
57 separately from the appropriations of the curators of the University of Missouri.

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

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

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

84 8. The advisory council on alcoholism and drug abuse, chapter 202, is
85 transferred by type II transfer to the department of mental health and the
86 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
2 the context clearly requires otherwise, the following terms shall mean:

3 (1) "Administrative entity", a provider of specialized services other than

4 transportation to clients of the department on behalf of a division of the
5 department;

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

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

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

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

17 (6) "Consumer", a person:

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

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

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

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

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

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

34 (a) Which is attributable to:

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

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

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

- 40 (c) Is likely to continue indefinitely; and
- 41 (d) Results in substantial functional limitations in two or more of the
- 42 following areas of major life activities:
- 43 a. Self-care;
- 44 b. Receptive and expressive language development and use;
- 45 c. Learning;
- 46 d. Self-direction;
- 47 e. Capacity for independent living or economic self- sufficiency;
- 48 f. Mobility; and
- 49 (e) Reflects the person's need for a combination and sequence of special,
- 50 interdisciplinary, or generic care, habilitation or other services which may be of
- 51 lifelong or extended duration and are individually planned and coordinated;
- 52 (10) "Director", the director of the department of mental health, or his
- 53 designee;
- 54 (11) "Domiciled in Missouri", a permanent connection between an
- 55 individual and the state of Missouri, which is more than mere residence in the
- 56 state; it may be established by the individual being physically present in Missouri
- 57 with the intention to abandon his previous domicile and to remain in Missouri
- 58 permanently or indefinitely;
- 59 (12) "Drug abuse", the use of any drug without compelling medical reason,
- 60 which use results in a temporary mental, emotional or physical impairment and
- 61 causes socially dysfunctional behavior, or in psychological or physiological
- 62 dependency resulting from continued use, which dependency induces a mental,
- 63 emotional or physical impairment and causes socially dysfunctional behavior;
- 64 (13) "Habilitation", a process of treatment, training, care or specialized
- 65 attention which seeks to enhance and maximize [the mentally retarded or
- 66 developmentally disabled person's abilities] **a person with an intellectual**
- 67 **disability or a developmental disability** to cope with the environment and
- 68 to live as normally as possible;
- 69 (14) "Habilitation center", a residential facility operated by the
- 70 department and serving only persons who are [mentally retarded, including]
- 71 developmentally disabled;
- 72 (15) "Head of the facility", the chief administrative officer, or his designee,
- 73 of any residential facility;
- 74 (16) "Head of the program", the chief administrative officer, or his
- 75 designee, of any day program;

76 (17) "Individualized habilitation plan", a document which sets forth
77 habilitation goals and objectives for [mentally retarded or developmentally
78 disabled] residents and clients **with an intellectual disability or a**
79 **developmental disability**, and which details the habilitation program as
80 required by law, rules and funding sources;

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

85 (19) "Individualized treatment plan", a document which sets forth the
86 care, treatment and rehabilitation goals and objectives for [mentally disordered
87 or mentally ill] patients and clients **with mental disorders or mental illness**,
88 and which details the treatment program as required by law, rules and funding
89 sources;

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

94 (21) "Least restrictive environment", a reasonably available setting or
95 mental health program where care, treatment, habilitation or rehabilitation is
96 particularly suited to the level and quality of services necessary to implement a
97 person's individualized treatment, habilitation or rehabilitation plan and to
98 enable the person to maximize his **or her** functioning potential to participate as
99 freely as feasible in normal living activities, giving due consideration to
100 potentially harmful effects on the person and the safety of other facility or
101 program clients and public safety. For some [mentally disordered or mentally
102 retarded] persons **with mental disorders, intellectual disabilities, or**
103 **developmental disabilities**, the least restrictive environment may be a facility
104 operated by the department, a private facility, a supported community living
105 situation, or an alternative community program designed for persons who are
106 civilly detained for outpatient treatment or who are conditionally released
107 pursuant to chapter 632;

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

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

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

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

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

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

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

127 (a) Originates before age eighteen; and

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

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

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

133 (27) "Psychosurgery",

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

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

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

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

147 (30) "Resident", a person receiving residential services from a facility,

148 other than mental health facility, operated, funded or licensed by the department;

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

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

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

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

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

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

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

14 (2) A physician recognized as an expert in the evaluation or habilitation
15 of [the mentally retarded and developmentally disabled] **persons with an**
16 **intellectual disability or developmental disability**;

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

20 (4) A representative of groups who are consumers or families of consumers

21 interested in the services provided by the department in the habilitation of [the
22 mentally retarded] **persons with an intellectual disability or**
23 **developmental disability;**

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

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

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

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

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

38 5. The department shall pay the commission members one hundred
39 dollars per day for each day, or portion thereof, they actually spend in transacting
40 the business of the commission and shall reimburse the commission members for
41 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
2 known as the "Mental Health Earnings Fund". The state treasurer shall credit
3 to the fund any interest earned from investing the moneys in the
4 fund. Notwithstanding the provisions of section 33.080, money in the mental
5 health earnings fund shall not be transferred and placed to the credit of general
6 revenue at the end of the biennium.

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

15 3. The mental health earnings fund may be used for the deposit of

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

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

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

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

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

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

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

37 2. The department of mental health shall, in partnership with the
38 departments serving on the children's services commission and the stakeholder
39 advisory committee, develop a state comprehensive children's mental health
40 service system plan. This plan shall be developed and submitted to the governor,
41 the general assembly, and children's services commission by December,
42 2004. There shall be subsequent annual reports that include progress toward

43 outcomes, monitoring, changes in populations and services, and emerging
44 issues. The plan shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

630.120. No patient or resident, either voluntary or involuntary, shall be

2 presumed to be incompetent, to forfeit any legal right, responsibility or obligation
3 or to suffer any legal disability as a citizen, unless otherwise prescribed by law,
4 as a consequence of receiving evaluation, care, treatment, habilitation or
5 rehabilitation for a mental disorder, mental illness, [mental retardation]
6 **intellectual disability**, developmental disability, alcohol problem or drug
7 problem.

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

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

31 3. Every person who has been previously convicted of or pled guilty to
32 failing to make a report as required in subsection 1 of this section and who is
33 subsequently convicted of failing to make a report under subsection 2 of this
34 section is guilty of a class D felony and shall be subject to a fine up to five
35 thousand dollars. Penalties collected for violation of this subsection shall be
36 transferred to the state school moneys fund as established in section 166.051 and
37 distributed to the public schools of this state in the manner provided in section
38 163.031. Such penalties shall not considered charitable for tax purposes.

39 4. Any person who knowingly files a false report of vulnerable person
40 abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine
41 up to one thousand dollars. Penalties collected for violations of this subsection
42 shall be transferred to the state school moneys fund as established in section
43 166.051 and distributed to the public schools of this state in the manner provided
44 in section 163.031. Such penalties shall not considered charitable for tax
45 purposes.

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

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

57 7. Any residential facility, day program, or specialized service operated,
58 funded, or licensed by the department that prevents or discourages a patient,
59 resident, [or] client, employee, or other person from reporting that a patient,
60 resident, or client of a facility, program, or service has been abused or neglected
61 shall be subject to loss of their license issued pursuant to sections 630.705 to
62 630.760 and civil fines of up to five thousand dollars for each attempt to prevent
63 or discourage reporting.

630.167. 1. Upon receipt of a report, the department or the department
2 of health and senior services, if such facility or program is licensed pursuant to
3 chapter 197, shall initiate an investigation within twenty-four hours.

4 2. If the investigation indicates possible abuse or neglect of a patient,
5 resident or client, the investigator shall refer the complaint together with the
6 investigator's report to the department director for appropriate action. If, during
7 the investigation or at its completion, the department has reasonable cause to
8 believe that immediate removal from a facility not operated or funded by the
9 department is necessary to protect the residents from abuse or neglect, the
10 department or the local prosecuting attorney may, or the attorney general upon
11 request of the department shall, file a petition for temporary care and protection
12 of the residents in a circuit court of competent jurisdiction. The circuit court in
13 which the petition is filed shall have equitable jurisdiction to issue an ex parte
14 order granting the department authority for the temporary care and protection
15 of the resident for a period not to exceed thirty days.

16 3. (1) Except as otherwise provided in this section, reports referred to in
17 section 630.165 and the investigative reports referred to in this section shall be
18 confidential, shall not be deemed a public record, and shall not be subject to the
19 provisions of section 109.180 or chapter 610. Investigative reports pertaining to
20 abuse and neglect shall remain confidential until a final report is complete,
21 subject to the conditions contained in this section. Final reports of substantiated
22 abuse or neglect issued on or after August 28, 2007, are open and shall be
23 available for release in accordance with chapter 610. The names and all other
24 identifying information in such final substantiated reports, including diagnosis
25 and treatment information about the patient, resident, or client who is the subject
26 of such report, shall be confidential and may only be released to the patient,
27 resident, or client who has not been adjudged incapacitated under chapter 475,
28 the custodial parent or guardian parent, or other guardian of the patient, resident
29 or client. The names and other descriptive information of the complainant,
30 witnesses, or other persons for whom findings are not made against in the final
31 substantiated report shall be confidential and not deemed a public record. Final
32 reports of unsubstantiated allegations of abuse and neglect shall remain closed
33 records and shall only be released to the parents or other guardian of the patient,
34 resident, or client who is the subject of such report, patient, resident, or client
35 and the department vendor, provider, agent, or facility where the patient,
36 resident, or client was receiving department services at the time of the
37 unsubstantiated allegations of abuse and neglect, but the names and any other
38 descriptive information of the complainant or any other person mentioned in the
39 reports shall not be disclosed unless such complainant or person specifically

40 consents to such disclosure. Requests for final reports of substantiated or
41 unsubstantiated abuse or neglect from a patient, resident or client who has not
42 been adjudged incapacitated under chapter 475 may be denied or withheld if the
43 director of the department or his or her designee determines that such release
44 would jeopardize the person's therapeutic care, treatment, habilitation, or
45 rehabilitation, or the safety of others and provided that the reasons for such
46 denial or withholding are submitted in writing to the patient, resident or client
47 who has not been adjudged incapacitated under chapter 475. All reports referred
48 to in this section shall be admissible in any judicial proceedings or hearing in
49 accordance with section [36.390] **621.075** or any administrative hearing before
50 the director of the department of mental health, or the director's designee. All
51 such reports may be disclosed by the department of mental health to law
52 enforcement officers and public health officers, but only to the extent necessary
53 to carry out the responsibilities of their offices, and to the department of social
54 services, and the department of health and senior services, and to boards
55 appointed pursuant to sections 205.968 to 205.990 that are providing services to
56 the patient, resident or client as necessary to report or have investigated abuse,
57 neglect, or rights violations of patients, residents or clients provided that all such
58 law enforcement officers, public health officers, department of social services'
59 officers, department of health and senior services' officers, and boards shall be
60 obligated to keep such information confidential.

61 (2) Except as otherwise provided in this section, the proceedings, findings,
62 deliberations, reports and minutes of committees of health care professionals as
63 defined in section 537.035 or mental health professionals as defined in section
64 632.005 who have the responsibility to evaluate, maintain, or monitor the quality
65 and utilization of mental health services are privileged and shall not be subject
66 to the discovery, subpoena or other means of legal compulsion for their release to
67 any person or entity or be admissible into evidence into any judicial or
68 administrative action for failure to provide adequate or appropriate care. Such
69 committees may exist, either within department facilities or its agents,
70 contractors, or vendors, as applicable. Except as otherwise provided in this
71 section, no person who was in attendance at any investigation or committee
72 proceeding shall be permitted or required to disclose any information acquired in
73 connection with or in the course of such proceeding or to disclose any opinion,
74 recommendation or evaluation of the committee or board or any member thereof;
75 provided, however, that information otherwise discoverable or admissible from

76 original sources is not to be construed as immune from discovery or use in any
77 proceeding merely because it was presented during proceedings before any
78 committee or in the course of any investigation, nor is any member, employee or
79 agent of such committee or other person appearing before it to be prevented from
80 testifying as to matters within their personal knowledge and in accordance with
81 the other provisions of this section, but such witness cannot be questioned about
82 the testimony or other proceedings before any investigation or before any
83 committee.

84 (3) Nothing in this section shall limit authority otherwise provided by law
85 of a health care licensing board of the state of Missouri to obtain information by
86 subpoena or other authorized process from investigation committees or to require
87 disclosure of otherwise confidential information relating to matters and
88 investigations within the jurisdiction of such health care licensing boards;
89 provided, however, that such information, once obtained by such board and
90 associated persons, shall be governed in accordance with the provisions of this
91 subsection.

92 (4) Nothing in this section shall limit authority otherwise provided by law
93 in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to
94 records by the entity or agency authorized to implement a system to protect and
95 advocate the rights of persons with developmental disabilities under the
96 provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency
97 authorized to implement a system to protect and advocate the rights of persons
98 with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing
99 in this section shall serve to negate assurances that have been given by the
100 governor of Missouri to the U.S. Administration on Developmental Disabilities,
101 Office of Human Development Services, Department of Health and Human
102 Services concerning access to records by the agency designated as the protection
103 and advocacy system for the state of Missouri. However, such information, once
104 obtained by such entity or agency, shall be governed in accordance with the
105 provisions of this subsection.

106 4. Anyone who makes a report pursuant to this section or who testifies in
107 any administrative or judicial proceeding arising from the report shall be immune
108 from any civil liability for making such a report or for testifying unless such
109 person acted in bad faith or with malicious purpose.

110 5. Within five working days after a report required to be made pursuant
111 to this section is received, the person making the report shall be notified in

112 writing of its receipt and of the initiation of the investigation.

113 6. No person who directs or exercises any authority in a residential
114 facility, day program or specialized service shall evict, harass, dismiss or retaliate
115 against a patient, resident or client or employee because he or she or any member
116 of his or her family has made a report of any violation or suspected violation of
117 laws, ordinances or regulations applying to the facility which he or she has
118 reasonable cause to believe has been committed or has occurred.

119 7. Any person who is discharged as a result of an administrative
120 substantiation of allegations contained in a report of abuse or neglect may, after
121 exhausting administrative remedies as provided in chapter 36, appeal such
122 decision to the circuit court of the county in which such person resides within
123 ninety days of such final administrative decision. The court may accept an
124 appeal up to twenty-four months after the party filing the appeal received notice
125 of the department's determination, upon a showing that:

126 (1) Good cause exists for the untimely commencement of the request for
127 the review;

128 (2) If the opportunity to appeal is not granted it will adversely affect the
129 party's opportunity for employment; and

130 (3) There is no other adequate remedy at law.

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

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

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

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

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

 630.192. No biomedical or pharmacological research shall be conducted in
2 any mental health facility or mental health program in which people may be
3 civilly detained pursuant to chapter 632 or in any public or private residential
4 facilities or day programs operated, funded or licensed by the department for
5 persons affected by [mental retardation] **intellectual disabilities**,
6 developmental disabilities, mental illness, mental disorders or alcohol or drug
7 abuse unless such research is intended to alleviate or prevent the disabling
8 conditions or is reasonably expected to be of direct therapeutic benefit to the

9 participants. Without a specific court order, no involuntary patient shall consent
10 to participate in any biomedical or pharmacological research. The application for
11 the order shall be filed in the court having probate jurisdiction in the county in
12 which the mental health facility is located, provided, however, that if the patient
13 requests that the hearing be held by the court which has committed the patient,
14 or if the court having probate jurisdiction deems it appropriate, the hearing on
15 the application shall be transferred to the committing court.

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

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

30 where the person responsible for payment resides in the manner provided by
31 chapter 536.

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

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

49 5. The standard means test may be waived for a child in need of mental
50 health services to avoid inappropriate custody transfers to the children's
51 division. The department of mental health shall notify the child's parent or
52 custodian that the standard means test may be waived. The department of
53 mental health shall promulgate rules for waiving the standard means test. Any
54 rule or portion of a rule, as that term is defined in section 536.010, that is created
55 under the authority delegated in this section shall become effective only if it
56 complies with and is subject to all of the provisions of chapter 536 and, if
57 applicable, section 536.028. This section and chapter 536 are nonseverable and
58 if any of the powers vested with the general assembly pursuant to chapter 536 to
59 review, to delay the effective date, or to disapprove and annul a rule are
60 subsequently held unconstitutional, then the grant of rulemaking authority and
61 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
2 department's mental health or [mental retardation] **developmental disability**
3 facilities or regional centers may establish and operate a canteen or commissary
4 for the use and benefit of patients, residents and employees.

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

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

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

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

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

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

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

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

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

9 3. The grants shall be of limited duration of one year and renewable for
10 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
2 complete statewide inventory of its existing facilities and a survey of needs for
3 persons affected by mental disorders, mental illness, [mental retardation,]
4 **intellectual disabilities**, developmental disabilities and alcohol or drug abuse,
5 and shall make a public report of its inventory and survey and recommend a state
6 plan for the construction of additional facilities.

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

 630.610. 1. If the head of a facility operated by the department
2 determines that placement out of the facility would be appropriate for any patient

3 or resident, the head of the facility shall refer the patient or resident for
4 placement according to the department's rules. If a patient or resident is
5 accepted and placed under this chapter, then the patient or resident shall be
6 considered as discharged as a patient or resident of the facility and reclassified
7 as a client of the department.

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

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

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

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

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

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

13 3. The director of the division of comprehensive psychiatric services shall

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

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

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

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

47 7. In all proceedings either before the panel or before the circuit court, the
48 burden of proof shall be upon the head of the facility to demonstrate by a
49 preponderance of evidence that the proposed placement is appropriate under the

50 criteria set forth in sections 630.610, 630.615 and 630.120.

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

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

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

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

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

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

15 (2) Any educational, special educational or vocational program operated,
16 certified or approved by the state board of education pursuant to chapters 161,
17 162 and 178, and regulations promulgated by the board;

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

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

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

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

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

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

7 (1) General medical and health care;

8 (2) Adequate physical plant facilities including fire safety, housekeeping
9 and maintenance standards;

10 (3) Food service facilities;

11 (4) Safety precautions;

12 (5) Drugs and medications;

13 (6) Uniform system of record keeping;

14 (7) Resident and client rights and grievance procedures.

15 However, the department shall require annually that any facilities and programs
16 already licensed by the department of social services under chapter 198 which
17 desire to provide services to persons diagnosed [as mentally disordered, mentally
18 ill, mentally retarded or developmentally disabled] **with a mental disorder,**
19 **mental illness, or developmental disability** in accordance with sections
20 630.705 to 630.760 meet the department's requirements in excess of those
21 required for licensure or certification under chapter 198, which are appropriate
22 to admission criteria and care, treatment, habilitation and rehabilitation needs
23 of such persons.

24 2. Applications for licenses shall be made to the department upon forms
25 provided by it and shall contain such information and documents as the
26 department requires, including, but not limited to, affirmative evidence of ability
27 to comply with the rules adopted by the department. Each application for a
28 license, except applications from a governmental unit or a facility caring for less
29 than four persons, which shall not pay any fee, shall be accompanied by a license

30 fee of ten dollars for establishments which accept more than three but less than
31 ten persons and fifty dollars from establishments which accept ten or more. The
32 license fee shall be paid to the director of revenue for deposit to the general
33 revenue fund of the state treasury.

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

630.735. 1. No person or governmental unit, acting separately or jointly
2 with any other person or governmental unit, shall establish, conduct or maintain
3 any residential facility in this state for the care, treatment, habilitation or
4 rehabilitation of [mentally retarded or developmentally disabled] persons **with**
5 **an intellectual disability or a developmental disability** without a valid
6 license issued by the department. Licenses in effect on August 13, 1982, shall
7 continue in effect until they regularly expire unless sooner revoked; except that
8 in no case shall a license continue in effect beyond one year after August 13,
9 1982.

10 2. After October 1, 1983, no person or governmental unit, acting
11 separately or jointly with any other person or governmental unit, shall establish,
12 conduct or maintain any residential facility or day program in this state for care,
13 treatment, habilitation or rehabilitation of persons diagnosed [as mentally
14 disordered or mentally ill] **with a mental disorder or mental illness** or day
15 program for [mentally retarded or developmentally disabled] persons **with an**
16 **intellectual disability or a developmental disability** unless the facilities
17 or programs are licensed by the department.

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

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

10 abuse;

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

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

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

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

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

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

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

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

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

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

39 (b) A substantial risk that serious physical harm to a person will result
40 or is occurring because of an impairment in his capacity to make decisions with
41 respect to his hospitalization and need for treatment as evidenced by his current
42 mental disorder or mental illness which results in an inability to provide for his
43 own basic necessities of food, clothing, shelter, safety or medical care or his
44 inability to provide for his own mental health care which may result in a
45 substantial risk of serious physical harm. Evidence of that substantial risk may

46 also include information about patterns of behavior that historically have resulted
47 in serious harm to the person previously taking place because of a mental
48 disorder or mental illness which resulted in his inability to provide for his basic
49 necessities of food, clothing, shelter, safety or medical or mental health care; or

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

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

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

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

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

81 (15) "Ninety-six hours" shall be construed and computed to exclude

82 Saturdays, Sundays and legal holidays which are observed either by the court or
83 by the mental health facility where the respondent is detained;

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

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

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

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

99 (20) "Psychologist", a person licensed to practice psychology under chapter
100 337 with a minimum of one year training or experience in providing treatment
101 or services to mentally disordered or mentally ill individuals;

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

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

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

632.105. 1. The head of a private mental health facility may, and the
2 head of a department mental health facility shall, except in the case of a medical
3 emergency and subject to the availability of suitable programs and
4 accommodations, accept for evaluation, on an outpatient basis if practicable, any
5 person eighteen years of age or over who applies for his admission. The
6 department may require that a community-based service where the person resides
7 perform the evaluation pursuant to an affiliation agreement and contract with the

8 department.

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

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

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

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

20 3. The parent or legal custodian who applied for the admission of the
21 minor shall have the right to authorize his evaluation, care, treatment and

22 rehabilitation and the right to refuse permission to medicate the minor; except
23 that medication may be given in emergency situations.

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

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

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

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

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

632.370. 1. The department may transfer, or authorize the transfer of, an
2 involuntary patient detained under this chapter, chapter 211, chapter 475, or
3 chapter 552 from one mental health program to another if the department
4 determines that it would be consistent with the medical needs of the patient to
5 do so. If a minor is transferred from a ward for minors to an adult ward, the
6 department shall conduct a due process hearing within six days of such transfer
7 during which hearing the head of the program shall have the burden to show that
8 the transfer is appropriate for the medical needs of the minor. Whenever a
9 patient is transferred, written notice thereof shall be given after obtaining the
10 consent of the patient, his parent if he is a minor or his legal guardian to his
11 legal guardian, parents and spouse, or, if none be known, his nearest known
12 relative or friend. In all such transfers, due consideration shall be given to the
13 relationship of the patient to his family, legal guardian or friends, so as to
14 maintain relationships and encourage visits beneficial to the patient. The head
15 of the mental health program shall notify the court ordering detention or
16 commitment, the patient's last known attorney of record and the mental health
17 coordinator for the region, and if the person was committed pursuant to chapter
18 552, to the prosecuting attorney of the jurisdiction where the person was tried
19 and acquitted, of any transfer from one mental health facility to another. The
20 prosecutor of the jurisdiction where the person was tried and acquitted shall use
21 their best efforts to notify the victims of dangerous felonies. Notification by the
22 appropriate person or agency by certified mail to the most current address
23 provided by the victim shall constitute compliance with the victim notification
24 requirement of this section. In the case of a patient committed under chapter
25 211, the court, on its own motion, may hold a hearing on the transfer to
26 determine whether such transfer is appropriate to the medical needs of the
27 patient.

28 2. Upon receipt of a certificate of an agency of the United States that
29 facilities are available for the care or treatment of any individual heretofore
30 ordered involuntarily detained, treated and evaluated pursuant to this chapter
31 in any facility for the care or treatment of [the mentally ill, mentally retarded or
32 developmentally disabled] **persons with a mental illness or an intellectual**
33 **disability or a developmental disability** and that such individual is eligible
34 for care or treatment in a hospital or institution of such agency, the department
35 may cause his transfer to such agency of the United States for
36 hospitalization. Upon effecting any such transfer, the court ordering

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

632.380. Persons [who are mentally retarded, developmentally disabled,]
2 **with an intellectual disability or a developmental disability or who are**
3 senile or impaired by alcoholism or drug abuse shall not be detained judicially
4 under this chapter, unless they are also mentally ill and as a result present
5 likelihood of serious harm to themselves or to others. Such persons may,
6 however, be committed upon court order under this chapter and the provisions of
7 chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating
8 to juveniles, or may be admitted as voluntary patients under section 632.105 or
9 632.120.

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

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

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

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

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

18 living arrangement or individualized supported living;

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

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

31 (7) "Respite care", temporary and short-term residential care, sustenance
32 and supervision of a [mentally retarded or developmentally disabled] person **with**
33 **an intellectual disability or a developmental disability** who otherwise
34 resides in a family home;

35 (8) "State advisory council", the Missouri [advisory council on mental
36 retardation and] developmental disabilities **council** as created in section
37 633.020.

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

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

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

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

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

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

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

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

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

29 (8) Cooperation with other state agencies to encourage appropriate health
30 facilities to serve, without discrimination, persons [who are mentally retarded or
31 developmentally disabled] **with an intellectual disability or a**
32 **developmental disability** who require medical care and to provide them with
33 adequate and appropriate services;

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

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

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

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

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

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

4 advise the division and the division director.

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

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

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

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

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

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

36 8. The council shall be advisory and shall:

37 (1) Promote meetings and programs for the discussion of reducing the
38 debilitating effects of [mental retardation and] **intellectual disabilities and**
39 developmental disabilities and disseminate information in cooperation with any

40 other department, agency or entity on the prevention, evaluation, care, treatment
41 and habilitation for persons affected by [mental retardation or] **intellectual**
42 **disabilities and** developmental disabilities;

43 (2) Study and review current prevention, evaluation, care, treatment and
44 rehabilitation technologies and recommend appropriate preparation, training,
45 retraining and distribution of manpower and resources in the provision of services
46 to [mentally retarded or developmentally disabled] persons **with an intellectual**
47 **disability or a developmental disability** through private and public
48 residential facilities, day programs and other specialized services;

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

53 (4) Participate in developing and disseminating criteria and standards to
54 qualify mental retardation or developmental disability residential facilities, day
55 programs and other specialized services in this state for funding or licensing, or
56 both, by the department.

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

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

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

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

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

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

15 services;

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

17 (5) Descriptions of the following:

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

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

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

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

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

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

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

6 (1) An inventory of existing residential facilities, day programs and
7 specialized services for [the mentally retarded and developmentally disabled]
8 **persons with an intellectual disability or a developmental disability;**

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

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

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

633.050. 1. In addition to such other advisory functions as may be agreed
2 upon with the division, the regional advisory councils shall review and advise on

3 programs and policies of the regional centers. The councils shall review, advise
4 on, and recommend regional program budgets and shall report to the division
5 director their findings as to their conformity with the regional plans before they
6 are transmitted to the department to be considered for inclusion in the
7 department budget request.

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

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

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

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

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

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

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

633.110. 1. Any person suspected to [be mentally retarded or
2 developmentally disabled] **have an intellectual disability or developmental**
3 **disability** shall be eligible for initial diagnostic and counseling services through
4 the regional centers.

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

13 (1) Diagnosis and evaluation;

14 (2) Counseling;

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

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

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

5 (1) Agencies serving persons not diagnosed [as mentally retarded or
6 developmentally disabled] **with an intellectual disability or developmental**
7 **disability** in which the client would be eligible to receive available services or
8 in which the services could be made available to the client through the purchase
9 of assistive or supportive services;

10 (2) Agencies serving [mentally retarded or developmentally disabled]
11 persons **with an intellectual disability or developmental disability** in
12 which the client would be eligible to receive available services or in which
13 services could be made available to the client through the purchase of assistive
14 or supportive services;

- 15 (3) The regional center on a day-program basis;
- 16 (4) The regional center for short-term residential services, not to exceed
17 six months, unless expressly authorized for a longer period by the division
18 director;
- 19 (5) A residential facility licensed through the department placement
20 program, but not operated by the department;
- 21 (6) A [mental retardation] **developmental disability** facility operated
22 by the department for clients who are [developmentally disabled or mentally
23 retarded] **persons with an intellectual disability or developmental**
24 **disability**.

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

- 4 (1) The person has a developmental disability;
- 5 (2) Protective services are required to guarantee the health, safety or
6 mental well-being of the person;
- 7 (3) Placement in a [mental retardation] **developmental disability**
8 facility is in the best interests of the person; and
- 9 (4) All other less restrictive services, including but not limited to family
10 support and supported living, have been explored and found inadequate to
11 prevent placement in a [mental retardation] **developmental disability** facility.

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

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

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

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

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

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

12 2. A resident shall be discharged from a department [mental retardation]
13 **developmental disability** facility if it is determined in a comprehensive
14 evaluation or periodic review that the person is not [mentally retarded or]
15 **intellectually disabled or** developmentally disabled, and if the resident,
16 parent, if a minor, or guardian consents to the discharge. If consent is not
17 obtained, the head of the facility shall initiate appeal proceedings under section
18 633.135, before a resident can be discharged.

19 3. A resident shall either be discharged from a department [mental
20 retardation] **developmental disability** facility or shall be referred to a regional
21 center for placement in a least restrictive environment pursuant to section
22 630.610, if it is determined in a comprehensive evaluation or periodic review that
23 the following criteria exist:

24 (1) The resident's condition is not of such a nature that for the protection
25 or adequate care of the resident or others the resident needs department

26 residential habilitation or other services;

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

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

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

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

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

10 3. A copy of the evaluation and individualized habilitation plan shall be
11 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
2 guardian refuses to consent to the proposed placement or to discharge from the
3 facility, the head of the [mental retardation] **developmental disability** facility
4 may petition the director of the division to determine whether the proposed
5 placement is appropriate under sections 630.610, 630.615 and 630.620 or whether
6 the proposed discharge is appropriate under sections 633.120, 633.125 and
7 633.130.

8 2. The division director shall refer the petition to the chairman of the
9 state advisory council who shall appoint and convene a review panel composed of
10 three members. At least one member of the panel shall be a parent or guardian
11 of a resident who resides in a department [mental retardation] **developmental**
12 **disability** facility. The remaining members of the panel shall be persons who
13 are from nongovernmental organizations or groups concerned with the prevention
14 of [mental retardation] **intellectual disability or developmental disability**,
15 evaluation, care and habilitation of [mentally retarded] **intellectually disabled**

16 **or developmentally disabled** persons and who are familiar with services and
17 service needs of [mentally retarded] **intellectually disabled or**
18 **developmentally disabled** persons in facilities operated by the department. No
19 member of the panel shall be an officer or employee of the department.

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

30 4. If the resident, or his parent if he is a minor, or his guardian disagrees
31 with the decision of the director, he may appeal the decision, within thirty days
32 after notice of the decision is sent, to the circuit court of the county where the
33 resident, or his parent if he is a minor, or his guardian resides. The court shall
34 review the record, proceedings and decision of the director not only under the
35 provisions of chapter 536, but also as to whether or not the head of the facility
36 sustained his burden of proof that the proposed placement is appropriate under
37 sections 630.110, 630.115 and 630.120, or the proposed discharge is appropriate
38 under sections 633.120, 633.125 and 633.130. The court shall expedite this
39 review in all respects. Notwithstanding the provisions of section 536.140, a court
40 may, for good cause shown, hear and consider additional competent and material
41 evidence.

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

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

49 7. In all proceedings either before the panel or before the circuit court, the
50 burden of proof shall be upon the head of the facility to demonstrate by
51 preponderance of evidence that the proposed placement is appropriate under the

52 criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed
53 discharge is appropriate under the criteria set forth in sections 633.120, 633.125
54 and 633.130.

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

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

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

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

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

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

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

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

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

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

8 3. Determinations by the division director pursuant to this section shall
9 be written and noted in the resident's records. The division director shall notify

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

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

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

7 2. Notwithstanding the provisions of section 633.120 and section 475.120,
8 a regional center may admit [a mentally retarded] **an intellectually disabled**
9 or developmentally disabled person who has been declared legally incapacitated
10 for respite care without a court order authorizing the guardian of such person to
11 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
2 or department [mental retardation] **developmental disability** facility and is
3 determined to be [mentally retarded or] **intellectually disabled or**
4 developmentally disabled and, as a result, presents an imminent likelihood of
5 serious harm to himself or others as defined in chapter 632, the regional center
6 or [mental retardation] **developmental disability** facility may accept the
7 person for detention for evaluation and treatment for a period not to exceed
8 ninety-six hours under the same procedures contained in chapter 632. The head
9 of the regional center or [mental retardation] **developmental disability** facility
10 may initiate guardianship proceedings to have the person detained beyond the
11 ninety-six hours under chapter 475, or may refer the person to a mental health
12 facility, if the person is mentally ill, for further detention under the procedures
13 in chapter 632.

633.180. 1. A family with an annual income of sixty thousand dollars or
2 less which has a child with a developmental disability residing in the family
3 home shall be eligible to apply for a cash stipend from the division of [mental
4 retardation and] developmental disabilities in an amount to be determined by the

5 regional advisory council. Such cash stipend amount shall not exceed the
6 maximum monthly federal Supplemental Security Income payment for an
7 individual with a developmental disability who resides alone. Such stipend shall
8 be paid on a monthly basis and shall be considered a benefit and not income to
9 the family. The stipend shall be used to purchase goods and services for the
10 benefit of the family member with a developmental disability. Such goods and
11 services may include, but are not limited to:

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

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

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

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

8 2. Interest rates on loans made pursuant to the provisions of this section
9 shall be no more than one percent above the prime interest rate as determined

10 by the federal reserve system on the date the loan is approved. Loans may be for
11 a maximum period of sixty months and the outstanding loan amount to any
12 family may be no more than ten thousand dollars.

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

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

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

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

17 2. No rule or portion of a rule promulgated under the authority of this
18 chapter shall become effective unless it has been promulgated pursuant to the

19 provisions of section 536.024.

633.210. 1. There is hereby established in the department of mental
2 health within the division of [mental retardation and] developmental disabilities,
3 an "Office of Autism Services". The office of autism services, under the
4 supervision of the director of the division of [mental retardation and]
5 developmental disabilities, shall provide leadership in program development for
6 children and adults with autism spectrum disorders, to include establishment of
7 program standards and coordination of program capacity.

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

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

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

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

12 4. The department shall promulgate rules or amend existing rules to
13 implement the provisions of this section. Any rule or portion of a rule, as that
14 term is defined in section 536.010, that is created under the authority delegated
15 in this section shall become effective only if it complies with and is subject to all
16 of the provisions of chapter 536 and, if applicable, section 536.028. This section
17 and chapter 536 are nonseverable and if any of the powers vested with the
18 general assembly pursuant to chapter 536 to review, to delay the effective date,
19 or to disapprove and annul a rule are subsequently held unconstitutional, then
20 the grant of rulemaking authority and any rule proposed or adopted after August
21 28, 2008, shall be invalid and void.

633.303. Any employee, including supervisory personnel, of a group home
2 or [mental retardation] **developmental disability** facility who has been placed

3 on the disqualification registry pursuant to section 630.170 shall be
4 terminated. Such requirements shall be specified in contracts between the
5 department and providers pursuant to this section.

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

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