

SENATE SUBSTITUTE

FOR

HOUSE BILL NO. 648

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, 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-one new sections relating to individuals with disabilities, with existing penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 8.241, 178.900, 189.010, 189.065,
2 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496,
3 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447,
4 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020,
5 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095,
6 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210,
7 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635,
8 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115,
9 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029,
10 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125,
11 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160,

1 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and
2 633.309, RSMo, are repealed and eighty-one new sections enacted
3 in lieu thereof, to be known as sections 8.241, 178.900, 189.010,
4 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955,
5 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207,
6 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015,
7 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053,
8 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192,
9 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610,
10 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110,
11 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020,
12 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120,
13 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155,
14 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303,
15 and 633.309, to read as follows:

16 8.241. 1. In addition to other provisions of law relating
17 to title to and conveyance of real property by the state, and
18 notwithstanding any provisions of chapter 8 to the contrary, if
19 the state should ever purchase or otherwise acquire ownership of
20 real property located in a city not within a county as described
21 in subsection 2 of this section, the state shall:

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

25 (2) Operate, maintain and use the property exclusively by
26 the department of mental health for the purpose of housing no
27 more than six employed and employable [mentally retarded or
28 developmentally disabled] adults with an intellectual disability

1 or developmental disability, and for no other purpose and by no
2 other state agency, in whole or in part;

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

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

19 178.900. For the purposes of sections 178.900 to **[178.970]**
20 178.960 the following words mean:

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

23 (2) "**[Handicapped]** Disabled persons", a lower range
24 educable or upper range trainable **[mentally retarded]**
25 developmentally disabled or other **[handicapped]** disabled person
26 sixteen years of age or over who has had school training and has
27 a productive work capacity in a sheltered environment adapted to
28 the abilities of **[the mentally retarded]** persons with a

1 developmental disability but whose limited capabilities make him
2 or her nonemployable in competitive business and industry and
3 unsuited for vocational rehabilitation training;

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

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

12 189.010. 1. As used in sections 189.010 to 189.085, unless
13 the context clearly indicates otherwise, the following terms
14 mean:

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

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

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

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

1 [mental retardation] developmental disability;

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

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

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

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

23 2. Expenditures for the operation of a hospital include,
24 but are not limited to, amounts paid in connection with inpatient
25 care in the hospital; ambulatory or emergency care provided by
26 the hospital; ambulance services used in the transportation of
27 patients to the hospital or among hospitals; administration of
28 the hospital; maintenance and repairs of the hospital;

1 depreciation of hospital capital assets; food, drugs, equipment
2 and other supplies used by the hospital; and recruitment,
3 selection and training of physician, nursing, allied health and
4 other hospital personnel.

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

11 189.065. The department is authorized and directed to work
12 with public and private institutions and agencies or persons to
13 insure that special services will be available in all regions of
14 the state, both rural and metropolitan. Whenever services or
15 special services required for the purposes of sections 189.010 to
16 189.085 are not available, the department is authorized to use up
17 to ten percent of the funds appropriated for the purposes of
18 sections 189.010 to 189.085 to assist in establishing the
19 facilities and professional staff required. For the purposes of
20 implementing this section, the department and the advisory
21 committees shall give special consideration to those areas of the
22 state or population groups which demonstrate the highest
23 incidence of [mental retardation] developmental disability or
24 where accessibility to services or special services may be
25 limited because of distance.

26 192.005. There is hereby created and established as a
27 department of state government the "Department of Health and
28 Senior Services". The department of health and senior services

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

27 198.012. 1. The provisions of sections 198.003 to 198.136
28 shall not apply to any of the following entities:

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

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

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

22 (4) Any facility licensed pursuant to sections 630.705 to
23 630.760 which provides care, treatment, habilitation and
24 rehabilitation exclusively to persons who have a primary
25 diagnosis of mental disorder, mental illness, [mental
26 retardation] or developmental disabilities, as defined in section
27 630.005;

28 (5) Any provider of care under a life care contract, except

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

9 2. Nothing in this section shall prohibit any of these
10 entities from applying for a license under sections 198.003 to
11 198.136.

12 205.968. 1. As set forth in section 205.971, when a levy
13 is approved by the voters, the governing body of any county or
14 city not within a county of this state shall establish a board of
15 directors. The board of directors shall be a legal entity
16 empowered to establish and/or operate a sheltered workshop as
17 defined in section 178.900, residence facilities, or related
18 services, for the care or employment, or both, of [handicapped]
19 persons with a disability. The facility may operate at one or
20 more locations in the county or city not within a county. Once
21 established, the board may, in its own name engage in and
22 contract for any and all types of services, actions or endeavors,
23 not contrary to the law, necessary to the successful and
24 efficient prosecution and continuation of the business and
25 purposes for which it is created, and may purchase, receive,
26 lease or otherwise acquire, own, hold, improve, use, sell,
27 convey, exchange, transfer, and otherwise dispose of real and
28 personal property, or any interest therein, or other assets

1 wherever situated and may incur liability and may borrow money at
2 rates of interest up to the market rate published by the Missouri
3 division of finance. The board shall be taken and considered as
4 a "political subdivision" as the term is defined in section
5 70.600 for the purposes of sections 70.600 to 70.755.

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

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

28 (1) "Developmental disability" shall mean either or both

1 paragraph (a) or (b) of this subsection:

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

8 a. Which originated before age eighteen; and

9 b. Which can be expected to continue indefinitely;

10 (b) A developmental disability as defined in section
11 630.005;

12 (2) "[Handicapped] Person with a disability" shall mean a
13 person who is lower range educable or upper range trainable
14 mentally retarded or a person who has a developmental disability.

15 208.151. 1. Medical assistance on behalf of needy persons
16 shall be known as "MO HealthNet". For the purpose of paying MO
17 HealthNet benefits and to comply with Title XIX, Public Law
18 89-97, 1965 amendments to the federal Social Security Act (42
19 U.S.C. Section 301, et seq.) as amended, the following needy
20 persons shall be eligible to receive MO HealthNet benefits to the
21 extent and in the manner hereinafter provided:

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

24 (2) All participants receiving aid to families with
25 dependent children benefits, including all persons under nineteen
26 years of age who would be classified as dependent children except
27 for the requirements of subdivision (1) of subsection 1 of
28 section 208.040. Participants eligible under this subdivision

1 who are participating in drug court, as defined in section
2 478.001, shall have their eligibility automatically extended
3 sixty days from the time their dependent child is removed from
4 the custody of the participant, subject to approval of the
5 Centers for Medicare and Medicaid Services;

6 (3) All participants receiving blind pension benefits;

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

14 (5) All persons under the age of twenty-one years who would
15 be eligible for aid to families with dependent children except
16 for the requirements of subdivision (2) of subsection 1 of
17 section 208.040, and who are residing in an intermediate care
18 facility, or receiving active treatment as inpatients in
19 psychiatric facilities or programs, as defined in 42 U.S.C.
20 1396d, as amended;

21 (6) All persons under the age of twenty-one years who would
22 be eligible for aid to families with dependent children benefits
23 except for the requirement of deprivation of parental support as
24 provided for in subdivision (2) of subsection 1 of section
25 208.040;

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

27 (8) All participants receiving family foster home or
28 nonprofit private child-care institution care, subsidized

1 adoption benefits and parental school care wherein state funds
2 are used as partial or full payment for such care;

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

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

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

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

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

1 agency;

2 (14) Children who have attained six years of age but have
3 not attained nineteen years of age. For children who have
4 attained six years of age but have not attained nineteen years of
5 age, the family support division shall use an income assessment
6 methodology which provides for eligibility when family income is
7 equal to or less than equal to one hundred percent of the federal
8 poverty level established by the Department of Health and Human
9 Services, or its successor agency. As necessary to provide MO
10 HealthNet coverage under this subdivision, the department of
11 social services may revise the state MO HealthNet plan to extend
12 coverage under 42 U.S.C. 1396a (a) (10) (A) (i) (III) to children who
13 have attained six years of age but have not attained nineteen
14 years of age as permitted by paragraph (2) of subsection (n) of
15 42 U.S.C. 1396d using a more liberal income assessment
16 methodology as authorized by paragraph (2) of subsection (r) of
17 42 U.S.C. 1396a;

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

26 (16) Notwithstanding any other provisions of law to the
27 contrary, ambulatory prenatal care shall be made available to
28 pregnant women during a period of presumptive eligibility

1 pursuant to 42 U.S.C. Section 1396r-1, as amended;

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

17 (18) Pregnant women and children eligible for MO HealthNet
18 benefits pursuant to subdivision (12), (13) or (14) of this
19 subsection shall not as a condition of eligibility for MO
20 HealthNet benefits be required to apply for aid to families with
21 dependent children. The family support division shall utilize an
22 application for eligibility for such persons which eliminates
23 information requirements other than those necessary to apply for
24 MO HealthNet benefits. The division shall provide such
25 application forms to applicants whose preliminary income
26 information indicates that they are ineligible for aid to
27 families with dependent children. Applicants for MO HealthNet
28 benefits under subdivision (12), (13) or (14) of this subsection

1 shall be informed of the aid to families with dependent children
2 program and that they are entitled to apply for such benefits.
3 Any forms utilized by the family support division for assessing
4 eligibility under this chapter shall be as simple as practicable;

5 (19) Subject to appropriations necessary to recruit and
6 train such staff, the family support division shall provide one
7 or more full-time, permanent eligibility specialists to process
8 applications for MO HealthNet benefits at the site of a health
9 care provider, if the health care provider requests the placement
10 of such eligibility specialists and reimburses the division for
11 the expenses including but not limited to salaries, benefits,
12 travel, training, telephone, supplies, and equipment, of such
13 eligibility specialists. The division may provide a health care
14 provider with a part-time or temporary eligibility specialist at
15 the site of a health care provider if the health care provider
16 requests the placement of such an eligibility specialist and
17 reimburses the division for the expenses, including but not
18 limited to the salary, benefits, travel, training, telephone,
19 supplies, and equipment, of such an eligibility specialist. The
20 division may seek to employ such eligibility specialists who are
21 otherwise qualified for such positions and who are current or
22 former welfare participants. The division may consider training
23 such current or former welfare participants as eligibility
24 specialists for this program;

25 (20) Pregnant women who are eligible for, have applied for
26 and have received MO HealthNet benefits under subdivision (2),
27 (10), (11) or (12) of this subsection shall continue to be
28 considered eligible for all pregnancy-related and postpartum MO

1 HealthNet benefits provided under section 208.152 until the end
2 of the sixty-day period beginning on the last day of their
3 pregnancy;

4 (21) Case management services for pregnant women and young
5 children at risk shall be a covered service. To the greatest
6 extent possible, and in compliance with federal law and
7 regulations, the department of health and senior services shall
8 provide case management services to pregnant women by contract or
9 agreement with the department of social services through local
10 health departments organized under the provisions of chapter 192
11 or chapter 205 or a city health department operated under a city
12 charter or a combined city-county health department or other
13 department of health and senior services designees. To the
14 greatest extent possible the department of social services and
15 the department of health and senior services shall mutually
16 coordinate all services for pregnant women and children with the
17 crippled children's program, the prevention of [mental
18 retardation] intellectual disability and developmental disability
19 program and the prenatal care program administered by the
20 department of health and senior services. The department of
21 social services shall by regulation establish the methodology for
22 reimbursement for case management services provided by the
23 department of health and senior services. For purposes of this
24 section, the term "case management" shall mean those activities
25 of local public health personnel to identify prospective MO
26 HealthNet-eligible high-risk mothers and enroll them in the
27 state's MO HealthNet program, refer them to local physicians or
28 local health departments who provide prenatal care under

1 physician protocol and who participate in the MO HealthNet
2 program for prenatal care and to ensure that said high-risk
3 mothers receive support from all private and public programs for
4 which they are eligible and shall not include involvement in any
5 MO HealthNet prepaid, case-managed programs;

6 (22) By January 1, 1988, the department of social services
7 and the department of health and senior services shall study all
8 significant aspects of presumptive eligibility for pregnant women
9 and submit a joint report on the subject, including projected
10 costs and the time needed for implementation, to the general
11 assembly. The department of social services, at the direction of
12 the general assembly, may implement presumptive eligibility by
13 regulation promulgated pursuant to chapter 207;

14 (23) All participants who would be eligible for aid to
15 families with dependent children benefits except for the
16 requirements of paragraph (d) of subdivision (1) of section
17 208.150;

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

27 (b) All persons who would be determined to be eligible for
28 aid to the blind benefits under the eligibility standards in

1 effect December 31, 1973, as authorized by 42 U.S.C. Section
2 1396a(f), or less restrictive methodologies as contained in the
3 MO HealthNet state plan as of January 1, 2005, except that less
4 restrictive income methodologies, as authorized in 42 U.S.C.
5 Section 1396a(r) (2), shall be used to raise the income limit to
6 one hundred percent of the federal poverty level;

7 (c) All persons who would be determined to be eligible for
8 permanent and total disability benefits under the eligibility
9 standards in effect December 31, 1973, as authorized by 42 U.S.C.
10 1396a(f); or less restrictive methodologies as contained in the
11 MO HealthNet state plan as of January 1, 2005; except that, on or
12 after July 1, 2005, less restrictive income methodologies, as
13 authorized in 42 U.S.C. Section 1396a(r) (2), may be used to
14 change the income limit if authorized by annual appropriations.
15 Eligibility standards for permanent and total disability benefits
16 shall not be limited by age;

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

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

28 2. Rules and regulations to implement this section shall be

1 promulgated in accordance with section 431.064 and chapter 536.
2 Any rule or portion of a rule, as that term is defined in section
3 536.010, that is created under the authority delegated in this
4 section shall become effective only if it complies with and is
5 subject to all of the provisions of chapter 536 and, if
6 applicable, section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the general
8 assembly pursuant to chapter 536 to review, to delay the
9 effective date or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and
11 any rule proposed or adopted after August 28, 2002, shall be
12 invalid and void.

13 3. After December 31, 1973, and before April 1, 1990, any
14 family eligible for assistance pursuant to 42 U.S.C. 601, et
15 seq., as amended, in at least three of the last six months
16 immediately preceding the month in which such family became
17 ineligible for such assistance because of increased income from
18 employment shall, while a member of such family is employed,
19 remain eligible for MO HealthNet benefits for four calendar
20 months following the month in which such family would otherwise
21 be determined to be ineligible for such assistance because of
22 income and resource limitation. After April 1, 1990, any family
23 receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in
24 at least three of the six months immediately preceding the month
25 in which such family becomes ineligible for such aid, because of
26 hours of employment or income from employment of the caretaker
27 relative, shall remain eligible for MO HealthNet benefits for six
28 calendar months following the month of such ineligibility as long

1 as such family includes a child as provided in 42 U.S.C. 1396r-6.
2 Each family which has received such medical assistance during the
3 entire six-month period described in this section and which meets
4 reporting requirements and income tests established by the
5 division and continues to include a child as provided in 42
6 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee
7 for an additional six months. The MO HealthNet division may
8 provide by rule and as authorized by annual appropriation the
9 scope of MO HealthNet coverage to be granted to such families.

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

18 5. The department of social services may apply to the
19 federal Department of Health and Human Services for a MO
20 HealthNet waiver amendment to the Section 1115 demonstration
21 waiver or for any additional MO HealthNet waivers necessary not
22 to exceed one million dollars in additional costs to the state,
23 unless subject to appropriation or directed by statute, but in no
24 event shall such waiver applications or amendments seek to waive
25 the services of a rural health clinic or a federally qualified
26 health center as defined in 42 U.S.C. 1396d(1)(1) and (2) or the
27 payment requirements for such clinics and centers as provided in
28 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver

1 application is approved by the oversight committee created in
2 section 208.955. A request for such a waiver so submitted shall
3 only become effective by executive order not sooner than ninety
4 days after the final adjournment of the session of the general
5 assembly to which it is submitted, unless it is disapproved
6 within sixty days of its submission to a regular session by a
7 senate or house resolution adopted by a majority vote of the
8 respective elected members thereof, unless the request for such a
9 waiver is made subject to appropriation or directed by statute.

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

17 208.275. 1. As used in this section, unless the context
18 otherwise indicates, the following terms mean:

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

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

25 2. There is hereby created the "Coordinating Council on
26 Special Transportation" within the Missouri department of
27 transportation. The members of the council shall be: two
28 members of the senate appointed by the president pro tem, who

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

28 3. State agency personnel shall serve on the council

1 without additional appropriations or compensation. The consumer
2 representatives shall serve without compensation except for
3 receiving reimbursement for the reasonable and necessary expenses
4 incurred in the performance of their duties on the council from
5 funds appropriated to the department of transportation.

6 Legislative members shall be reimbursed by their respective
7 appointing bodies out of the contingency fund for such body for
8 necessary expenses incurred in the performance of their duties.

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

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

16 6. The coordinating council on special transportation
17 shall:

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

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

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

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

28 (5) Review agency funding criteria and make recommendations

1 when appropriate;

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

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

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

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

11 208.955. 1. There is hereby established in the department
12 of social services the "MO HealthNet Oversight Committee", which
13 shall be appointed by January 1, 2008, and shall consist of
14 [eighteen] twenty members as follows:

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

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

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

25 (4) Two primary care physicians, licensed under chapter
26 334, [recommended by any Missouri organization or association
27 that represents a significant number of physicians licensed in
28 this state,] who care for participants, not from the same

1 geographic area, chosen in the same manner as described in
2 section 334.120;

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

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

10 (7) [~~One~~ Two nonphysician health care [~~professional~~
11 professionals, the first nonphysician health care professional
12 licensed under chapter 335 and the second nonphysician health
13 care professional licensed under chapter 337, who [~~cares~~ care
14 for participants [, recommended by the director of the department
15 of insurance, financial institutions and professional
16 registration];

17 (8) One dentist, who cares for participants[. The dentist
18 shall be recommended by any Missouri organization or association
19 that represents a significant number of dentists licensed in this
20 state], chosen in the same manner as described in section
21 332.021;

22 (9) Two patient advocates who have no financial interest in
23 the health care industry and who have not been employees of the
24 state within the last five years;

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

28 (11) The directors of the department of social services,

1 the department of mental health, the department of health and
2 senior services, or the respective directors' designees, who
3 shall serve as ex-officio members of the committee.

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

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

26 (2) Review the participant and provider satisfaction
27 reports and the reports of health outcomes, social and behavioral
28 outcomes, use of evidence-based medicine and best practices as

1 required of the health improvement plans and the department of
2 social services under section 208.950;

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

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

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

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

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

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

23 (9) Present significant findings of the analysis required
24 in subdivision (8) of this subsection in a report to the general
25 assembly and governor, at least annually, beginning January 1,
26 2009;

27 (10) Review the budget forecast issued by the legislative
28 budget office, and the report required under subsection (22) of

1 subsection 1 of section 208.151, and after study:

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

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

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

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

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

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

28 4. The oversight committee shall designate a subcommittee

1 devoted to advising the department on the development of a
2 comprehensive entry point system for long-term care that shall:

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

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

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

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

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

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

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

21 5. The subcommittee shall include the following members:

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

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

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

28 (4) One member representing residential care facilities,

1 predominantly serving MO HealthNet participants, designated by
2 the governor;

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

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

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

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

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

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

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

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

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

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

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

27 (16) Two members representing the aged, blind, and disabled
28 population, not of the same geographic area or demographic group

1 designated by the governor;

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

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

8

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

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

24 (1) A complete statewide universal information and
25 assistance system that is integrated into the web-based
26 electronic patient health record that can be accessible by phone,
27 in-person, via MO HealthNet providers and via the Internet that
28 connects consumers to services or providers and is used to

1 establish consumers' needs for services. Through the system,
2 consumers shall be able to independently choose from a full range
3 of home, community-based, and facility-based health and social
4 services as well as access appropriate services to meet
5 individual needs and preferences from the provider of the
6 consumer's choice;

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

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

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

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

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

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

24 210.496. The division may refuse to issue either a license
25 or a provisional license to an applicant, or may suspend or
26 revoke the license or provisional license of a licensee, who:

27 (1) Fails consistently to comply with the applicable
28 provisions of sections 208.400 to 208.535 and the applicable

1 rules promulgated thereunder;

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

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

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

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

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

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

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

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

23
24 Nothing in this section shall be construed to permit
25 discrimination on the basis of disability or disease of an
26 applicant. The disability or disease of an applicant shall not
27 constitute a basis for a determination that the applicant is
28 unfit or not suitable to be a foster parent without a specific

1 showing that there is a causal relationship between the
2 disability or disease and a substantial and significant risk of
3 harm to a child or an inability to perform the duties of a foster
4 parent.

5 210.900. 1. Sections 210.900 to 210.936 shall be known and
6 may be cited as the "Family Care Safety Act".

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

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

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

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

24 (4) "Elder-care provider", any operator licensed pursuant
25 to chapter 198 or any person, corporation, or association who
26 provides in-home services under contract with the division of
27 aging, or any employer of nurses or nursing assistants of home
28 health agencies licensed pursuant to sections 197.400 to 197.477,

1 or any nursing assistants employed by a hospice pursuant to
2 sections 197.250 to 197.280, or that portion of a hospital for
3 which subdivision (3) of subsection 1 of section 198.012 applies;

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

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

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

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

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

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

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

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

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

4 211.031. 1. Except as otherwise provided in this chapter,
5 the juvenile court or the family court in circuits that have a
6 family court as provided in sections 487.010 to 487.190 shall
7 have exclusive original jurisdiction in proceedings:

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

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

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

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

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

1 treatment or care for the child;

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

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

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

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

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

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

22 (3) Involving any child who is alleged to have violated a
23 state law or municipal ordinance, or any person who is alleged to
24 have violated a state law or municipal ordinance prior to
25 attaining the age of seventeen years, in which cases jurisdiction
26 may be taken by the court of the circuit in which the child or
27 person resides or may be found or in which the violation is
28 alleged to have occurred; except that, the juvenile court shall

1 not have jurisdiction over any child fifteen and one-half years
2 of age who is alleged to have violated a state or municipal
3 traffic ordinance or regulation, the violation of which does not
4 constitute a felony, and except that the juvenile court shall
5 have concurrent jurisdiction with the municipal court over any
6 child who is alleged to have violated a municipal curfew
7 ordinance, and except that the juvenile court shall have
8 concurrent jurisdiction with the circuit court on any child who
9 is alleged to have violated a state or municipal ordinance or
10 regulation prohibiting possession or use of any tobacco product;

11 (4) For the adoption of a person;

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

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

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

25 (2) Upon the motion of any party or on its own motion prior
26 to final disposition on the pending matter, the court in which a
27 proceeding is commenced may transfer the proceeding of a child or
28 person seventeen years of age to the court located in the county

1 of the child's residence or the residence of the person seventeen
2 years of age, or the county in which the offense pursuant to
3 subdivision (3) of subsection 1 of this section is alleged to
4 have occurred for further action;

5 (3) Upon motion of any party or on its own motion, the
6 court in which jurisdiction has been taken pursuant to subsection
7 1 of this section may at any time thereafter transfer
8 jurisdiction of a child or person seventeen years of age to the
9 court located in the county of the child's residence or the
10 residence of the person seventeen years of age for further action
11 with the prior consent of the receiving court;

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

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

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

28 3. In any proceeding involving any child or person

1 seventeen years of age taken into custody in a county other than
2 the county of the child's residence or the residence of a person
3 seventeen years of age, the juvenile court of the county of the
4 child's residence or the residence of a person seventeen years of
5 age shall be notified of such taking into custody within
6 seventy-two hours.

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

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

22 211.202. 1. If a child under the jurisdiction of the
23 juvenile court appears to be mentally disordered, other than
24 [mentally retarded or] intellectually disabled or developmentally
25 disabled, the court, on its own motion or on the motion or
26 petition of any interested party, may order the department of
27 mental health to evaluate the child.

28 2. A mental health facility designated by the department of

1 mental health shall perform within twenty days an evaluation of
2 the child, on an outpatient basis if practicable, for the purpose
3 of determining whether inpatient admission is appropriate because
4 the following criteria are met:

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

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

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

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

15 3. If the facility determines, as a result of the
16 evaluation, that it is appropriate to admit the child as an
17 inpatient, the head of the mental health facility, or his
18 designee, shall recommend the child for admission, subject to the
19 availability of suitable accommodations, and send the juvenile
20 court notice of the recommendation and a copy of the evaluation.
21 Should the department evaluation recommend inpatient care, the
22 child, his parent, guardian or counsel shall have the right to
23 request an independent evaluation of the child. Within twenty
24 days of the receipt of the notice and evaluation by the facility,
25 or within twenty days of the receipt of the notice and evaluation
26 from the independent examiner, the court may order, pursuant to a
27 hearing, the child committed to the custody of the department of
28 mental health for inpatient care and treatment, or may otherwise

1 dispose of the matter; except, that no child shall be committed
2 to a mental health facility under this section for other than
3 care and treatment.

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

17 5. If at any time the facility determines that it is no
18 longer appropriate to provide inpatient care and treatment for
19 the child committed by the juvenile court, but that such child
20 appears to qualify for placement under section 630.610, the head
21 of the facility shall refer such child for placement. Subject to
22 the availability of an appropriate placement, the department of
23 mental health shall place any child who qualifies for placement
24 under section 630.610. If no appropriate placement is available,
25 the department of mental health shall discharge the child or make
26 such other arrangements as it may deem appropriate and consistent
27 with the child's welfare and safety. Notice of the placement or
28 discharge shall be sent to the juvenile court which first ordered

1 the child's detention.

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

5 211.203. 1. If a child under the jurisdiction of the
6 juvenile court appears to be mentally retarded or developmentally
7 disabled, as these terms are defined in chapter 630, the court,
8 on its own motion or on the motion or petition of any interested
9 party, may order the department of mental health to evaluate the
10 child.

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

24 3. If, as a result of reviewing the evaluation, the head of
25 the [mental retardation] developmental disability facility, or
26 his designee, determines that it is appropriate to admit such
27 child as a resident, the head of the [mental retardation]
28 developmental disability facility, or his or her designee, shall

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

26 4. If, as a result of the evaluation, the regional center
27 determines that it is not appropriate to admit such child as a
28 resident in a [mental retardation] developmental disability

1 facility, the regional center shall send a notice to the court
2 that it is inappropriate to admit such child, along with a copy
3 of the evaluation. If the child was evaluated on a residential
4 basis, the juvenile court shall transfer the child from the
5 department within five days of receiving the notice and
6 evaluation or set the matter for hearing within twenty days,
7 giving notice of the hearing to the director of the facility as
8 well as all others required by law.

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

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

25 211.206. 1. For each child committed to the department of
26 mental health by the juvenile court, the director of the
27 department of mental health, or his designee, shall prepare an
28 individualized treatment or habilitation plan, as defined in

1 chapter 630, within thirty days of the admission for treatment or
2 habilitation. The status of each child shall be reviewed at
3 least once every thirty days. Copies of all individualized
4 treatment plans, habilitation plans, and periodic reviews shall
5 be sent to the committing juvenile court.

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

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

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

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

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

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

28 3. If the committing court specifically retained

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

10 211.207. 1. If a child is committed to the division of
11 youth services and subsequently appears to be mentally
12 disordered, as defined in chapter 630, the division shall refer
13 the child to the department of mental health for evaluation. The
14 evaluation shall be performed within twenty days by a mental
15 health facility or regional center operated by the department of
16 mental health and, if practicable, on an outpatient basis, for
17 the purpose of determining whether inpatient care at a mental
18 health facility or residential habilitation in a [mental
19 retardation] developmental disability facility is appropriate
20 because the child meets the criteria specified in subsection 2 of
21 section 211.202 or in section 633.120, respectively.

22 2. If, as a result of the evaluation, the director of the
23 department of mental health, or his designee, determines that the
24 child is not mentally disordered so as to require inpatient care
25 and treatment in a mental health facility or residential
26 habilitation in a [mental retardation] developmental disability
27 facility, the director, or his designee, shall so notify the
28 director of the division of youth services. If the child was

1 evaluated on an inpatient or residential basis, the child shall
2 be returned to the division of youth services.

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

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

1 mental health, or his designee, shall so notify the director of
2 the division of youth services and shall return the child to the
3 custody of the division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (d) Repeated or continuous failure by the parent, although

1 physically or financially able, to provide the child with
2 adequate food, clothing, shelter, or education as defined by law,
3 or other care and control necessary for the child's physical,
4 mental, or emotional health and development.

5
6 Nothing in this subdivision shall be construed to permit
7 discrimination on the basis of disability or disease;

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

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

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

27 (c) A mental condition which is shown by competent evidence
28 either to be permanent or such that there is no reasonable

1 likelihood that the condition can be reversed and which renders
2 the parent unable to knowingly provide the child the necessary
3 care, custody and control;

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

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

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

21 (6) The parent is unfit to be a party to the parent and
22 child relationship because of a consistent pattern of committing
23 a specific abuse, including but not limited to, abuses as defined
24 in section 455.010, child abuse or drug abuse before the child or
25 of specific conditions directly relating to the parent and child
26 relationship either of which are determined by the court to be of
27 a duration or nature that renders the parent unable, for the
28 reasonably foreseeable future, to care appropriately for the

1 ongoing physical, mental or emotional needs of the child. It is
2 presumed that a parent is unfit to be a party to the parent-child
3 relationship upon a showing that within a three-year period
4 immediately prior to the termination adjudication, the parent's
5 parental rights to one or more other children were involuntarily
6 terminated pursuant to subsection 2 or 4 of this section or
7 subdivisions (1), (2), (3) or (4) of subsection 5 of this section
8 or similar laws of other states.

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

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

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

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

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

28 (4) Whether additional services would be likely to bring

1 about lasting parental adjustment enabling a return of the child
2 to the parent within an ascertainable period of time;

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

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

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

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

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

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

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

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

24 (2) Three members of the immediate family of persons who
25 are recipients of services provided by the department in the
26 habilitation of [the mentally retarded or developmentally
27 disabled] persons with intellectual disabilities or developmental
28 disabilities. The Missouri [advisory council on mental

1 retardation and] developmental disabilities council, created
2 pursuant to section 633.020, shall submit a panel of nine names
3 to the governor, from which he shall appoint three. One shall be
4 appointed for one year, one for two years and one for three
5 years. Thereafter, as the term of a trustee expires each year,
6 the Missouri [advisory council on mental retardation and]
7 developmental disabilities council shall submit to the governor a
8 panel of not less than three nor more than five proposed
9 trustees, and the governor shall appoint one trustee from such
10 panel for a term of three years;

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

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

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

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

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

1 of the senate and the speaker of the house of representatives.

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

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

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

26 3. The department of social services, division of family
27 services, shall develop rules and regulations regarding the
28 content of the assessment of the petitioner or petitioners. The

1 content of the assessment shall include but not be limited to, a
2 report on the condition of the petitioner's home and information
3 on the petitioner's education, financial, marital, medical and
4 psychological status and criminal background check. If an
5 assessment is conducted after August 28, 1997, but prior to the
6 promulgation of rules and regulations by the department
7 concerning the contents of such assessment, any discrepancy
8 between the contents of the actual assessment and the contents of
9 the assessment required by department rule shall not be used as
10 the sole basis for invalidating an adoption. No rule or portion
11 of a rule promulgated pursuant to the authority of this section
12 shall become effective unless it has been promulgated pursuant to
13 the provisions of chapter 536.

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

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

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

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

13 8. (1) Nothing in this section shall be construed to
14 permit discrimination on the basis of disability or disease of a
15 prospective adoptive parent.

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

22 475.121. 1. Pursuant to an application alleging that the
23 admission of the ward to a particular mental health or [mental
24 retardation] developmental disability facility is appropriate and
25 in the best interest of the ward, the court may authorize the
26 guardian or limited guardian to admit the ward to such facility.
27 Such application shall be accompanied by a physician's statement
28 setting forth the factual basis for the need for continued

1 admission including a statement of the ward's current diagnosis,
2 plan of care, treatment or habilitation and the probable duration
3 of the admission.

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

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

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

21 475.355. 1. If, upon the filing of a petition for the
22 adjudication of incapacity or disability it appears that the
23 respondent, by reason of a mental disorder or [mental
24 retardation] intellectual disability or developmental disability,
25 presents a likelihood of serious physical harm to himself or
26 others, he may be detained in accordance with the provisions of
27 chapter 632 if suffering from a mental disorder, or chapter 633
28 if [mentally retarded] the person has an intellectual or

1 developmental disability, pending a hearing on the petition for
2 adjudication.

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

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

10 476.537. In the event that any judge leaving no surviving
11 spouse or any surviving spouse receiving benefits under section
12 476.535 as a beneficiary dies leaving dependents who are unable
13 to care for or support themselves because of any [mental
14 retardation] intellectual disability or developmental disability,
15 disease or disability, or any physical [handicap or] disability,
16 the benefits that would be received by a surviving spouse on the
17 judge's death if there were a surviving spouse or the benefits
18 received by such surviving spouse, as the case may be, shall be
19 paid to such surviving dependent for the remainder of such
20 dependent's life. If the judge or such surviving spouse leaves
21 more than one dependent who would be eligible for benefits under
22 this section, then each eligible dependent shall receive a pro
23 rata share of the amount that would be paid to a surviving spouse
24 under section 476.535.

25 552.015. 1. Evidence that the defendant did or did not
26 suffer mental disease or defect shall not be admissible in a
27 criminal prosecution except as provided in this section.

28 2. Evidence that the defendant did or did not suffer from a

1 mental disease or defect shall be admissible in a criminal
2 proceeding:

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

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

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

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

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

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

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

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

23 (9) To determine if the defendant, if found not guilty by
24 reason of mental disease or defect, should be immediately
25 conditionally released by the court under the provisions of
26 section 552.040 to the community or committed to a mental health
27 or [mental retardation] developmental disability facility. This
28 question shall not be asked regarding defendants charged with any

1 of the dangerous felonies as defined in section 556.061, or with
2 those crimes set forth in subsection 11 of section 552.040, or
3 the attempts thereof.

4 552.020. 1. No person who as a result of mental disease or
5 defect lacks capacity to understand the proceedings against him
6 or to assist in his own defense shall be tried, convicted or
7 sentenced for the commission of an offense so long as the
8 incapacity endures.

9 2. Whenever any judge has reasonable cause to believe that
10 the accused lacks mental fitness to proceed, he shall, upon his
11 own motion or upon motion filed by the state or by or on behalf
12 of the accused, by order of record, appoint one or more private
13 psychiatrists or psychologists, as defined in section 632.005, or
14 physicians with a minimum of one year training or experience in
15 providing treatment or services to [mentally retarded or mentally
16 ill individuals] persons with an intellectual disability or
17 developmental disability or mental illness, who are neither
18 employees nor contractors of the department of mental health for
19 purposes of performing the examination in question, to examine
20 the accused; or shall direct the director to have the accused so
21 examined by one or more psychiatrists or psychologists, as
22 defined in section 632.005, or physicians with a minimum of one
23 year training or experience in providing treatment or services to
24 [mentally retarded or mentally ill individuals] persons with an
25 intellectual disability, developmental disability, or mental
26 illness. The order shall direct that a written report or reports
27 of such examination be filed with the clerk of the court. No
28 private physician, psychiatrist, or psychologist shall be

1 appointed by the court unless he has consented to act. The
2 examinations ordered shall be made at such time and place and
3 under such conditions as the court deems proper; except that, if
4 the order directs the director of the department to have the
5 accused examined, the director, or his designee, shall determine
6 the time, place and conditions under which the examination shall
7 be conducted. The order may include provisions for the interview
8 of witnesses and may require the provision of police reports to
9 the department for use in evaluations. The department shall
10 establish standards and provide training for those individuals
11 performing examinations pursuant to this section and section
12 552.030. No individual who is employed by or contracts with the
13 department shall be designated to perform an examination pursuant
14 to this chapter unless the individual meets the qualifications so
15 established by the department. Any examination performed
16 pursuant to this subsection shall be completed and filed with the
17 court within sixty days of the order unless the court for good
18 cause orders otherwise. Nothing in this section or section
19 552.030 shall be construed to permit psychologists to engage in
20 any activity not authorized by chapter 337. One pretrial
21 evaluation shall be provided at no charge to the defendant by the
22 department. All costs of subsequent evaluations shall be
23 assessed to the party requesting the evaluation.

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

- 26 (1) Detailed findings;
- 27 (2) An opinion as to whether the accused has a mental
28 disease or defect;

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

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

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

12 4. If the accused has pleaded lack of responsibility due to
13 mental disease or defect or has given the written notice provided
14 in subsection 2 of section 552.030, the court shall order the
15 report of the examination conducted pursuant to this section to
16 include, in addition to the information required in subsection 3
17 of this section, an opinion as to whether at the time of the
18 alleged criminal conduct the accused, as a result of mental
19 disease or defect, did not know or appreciate the nature,
20 quality, or wrongfulness of his conduct or as a result of mental
21 disease or defect was incapable of conforming his conduct to the
22 requirements of law. A plea of not guilty by reason of mental
23 disease or defect shall not be accepted by the court in the
24 absence of any such pretrial evaluation which supports such a
25 defense. In addition, if the accused has pleaded not guilty by
26 reason of mental disease or defect, and the alleged crime is not
27 a dangerous felony as defined in section 556.061, or those crimes
28 set forth in subsection 11 of section 552.040, or the attempts

1 thereof, the court shall order the report of the examination to
2 include an opinion as to whether or not the accused should be
3 immediately conditionally released by the court pursuant to the
4 provisions of section 552.040 or should be committed to a mental
5 health or [mental retardation] developmental disability facility.

6 If such an evaluation is conducted at the direction of the
7 director of the department of mental health, the court shall also
8 order the report of the examination to include an opinion as to
9 the conditions of release which are consistent with the needs of
10 the accused and the interest of public safety, including, but not
11 limited to, the following factors:

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

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

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

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

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

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

1 determination of the issue of mental fitness to proceed.

2 6. The clerk of the court shall deliver copies of the
3 report to the prosecuting or circuit attorney and to the accused
4 or his counsel. The report shall not be a public record or open
5 to the public. Within ten days after the filing of the report,
6 both the defendant and the state shall, upon written request, be
7 entitled to an order granting them an examination of the accused
8 by a psychiatrist or psychologist, as defined in section 632.005,
9 or a physician with a minimum of one year training or experience
10 in providing treatment or services to [mentally retarded or
11 mentally ill individuals] persons with an intellectual disability
12 or developmental disability or mental illness, of their own
13 choosing and at their own expense. An examination performed
14 pursuant to this subsection shall be completed and a report filed
15 with the court within sixty days of the date it is received by
16 the department or private psychiatrist, psychologist or physician
17 unless the court, for good cause, orders otherwise. A copy shall
18 be furnished the opposing party.

19 7. If neither the state nor the accused nor his counsel
20 requests a second examination relative to fitness to proceed or
21 contests the findings of the report referred to in subsections 2
22 and 3 of this section, the court may make a determination and
23 finding on the basis of the report filed or may hold a hearing on
24 its own motion. If any such opinion is contested, the court
25 shall hold a hearing on the issue. The court shall determine the
26 issue of mental fitness to proceed and may impanel a jury of six
27 persons to assist in making the determination. The report or
28 reports may be received in evidence at any hearing on the issue

1 but the party contesting any opinion therein shall have the right
2 to summon and to cross-examine the examiner who rendered such
3 opinion and to offer evidence upon the issue.

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

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

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

28 11. The following provisions shall apply after a commitment

1 as provided in this section:

2 (1) Six months after such commitment, the court which
3 ordered the accused committed shall order an examination by the
4 head of the facility in which the accused is committed, or a
5 qualified designee, to ascertain whether the accused is mentally
6 fit to proceed and if not, whether there is a substantial
7 probability that the accused will attain the mental fitness to
8 proceed to trial in the foreseeable future. The order shall
9 direct that written report or reports of the examination be filed
10 with the clerk of the court within thirty days and the clerk
11 shall deliver copies to the prosecuting attorney or circuit
12 attorney and to the accused or his counsel. The report required
13 by this subsection shall conform to the requirements under
14 subsection 3 of this section with the additional requirement that
15 it include an opinion, if the accused lacks mental fitness to
16 proceed, as to whether there is a substantial probability that
17 the accused will attain the mental fitness to proceed in the
18 foreseeable future;

19 (2) Within ten days after the filing of the report, both
20 the accused and the state shall, upon written request, be
21 entitled to an order granting them an examination of the accused
22 by a psychiatrist or psychologist, as defined in section 632.005,
23 or a physician with a minimum of one year training or experience
24 in providing treatment or services to [mentally retarded or
25 mentally ill individuals] persons with an intellectual disability
26 or developmental disability or mental illness, of their own
27 choosing and at their own expense. An examination performed
28 pursuant to this subdivision shall be completed and filed with

1 the court within thirty days unless the court, for good cause,
2 orders otherwise. A copy shall be furnished to the opposing
3 party;

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

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

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

23 (6) If it is found that the accused lacks mental fitness to
24 proceed and there is no substantial probability that the accused
25 will be mentally fit to proceed in the reasonably foreseeable
26 future, the court shall dismiss the charges without prejudice and
27 the accused shall be discharged, but only if proper proceedings
28 have been filed under chapter 632 or chapter 475, in which case

1 those sections and no others will be applicable. The probate
2 division of the circuit court shall have concurrent jurisdiction
3 over the accused upon the filing of a proper pleading to
4 determine if the accused shall be involuntarily detained under
5 chapter 632, or to determine if the accused shall be declared
6 incapacitated under chapter 475, and approved for admission by
7 the guardian under section 632.120 or 633.120, to a mental health
8 or [retardation] developmental disability facility. When such
9 proceedings are filed, the criminal charges shall be dismissed
10 without prejudice if the court finds that the accused is mentally
11 ill and should be committed or that he is incapacitated and
12 should have a guardian appointed. The period of limitation on
13 prosecuting any criminal offense shall be tolled during the
14 period that the accused lacks mental fitness to proceed.

15 12. If the question of the accused's mental fitness to
16 proceed was raised after a jury was impaneled to try the issues
17 raised by a plea of not guilty and the court determines that the
18 accused lacks the mental fitness to proceed or orders the accused
19 committed for an examination pursuant to this section, the court
20 may declare a mistrial. Declaration of a mistrial under these
21 circumstances, or dismissal of the charges pursuant to subsection
22 11 of this section, does not constitute jeopardy, nor does it
23 prohibit the trial, sentencing or execution of the accused for
24 the same offense after he has been found restored to competency.

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

27 14. No statement made by the accused in the course of any
28 examination or treatment pursuant to this section and no

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

13 552.030. 1. A person is not responsible for criminal
14 conduct if, at the time of such conduct, as a result of mental
15 disease or defect such person was incapable of knowing and
16 appreciating the nature, quality, or wrongfulness of such
17 person's conduct.

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

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

12 3. Whenever the accused has pleaded mental disease or
13 defect excluding responsibility or has given the written notice
14 provided in subsection 2 of this section, and such defense has
15 not been accepted as provided in subsection 2 of this section,
16 the court shall, after notice and upon motion of either the state
17 or the accused, by order of record, appoint one or more private
18 psychiatrists or psychologists, as defined in section 632.005, or
19 physicians with a minimum of one year training or experience in
20 providing treatment or services to [mentally retarded or mentally
21 ill individuals] persons with an intellectual disability or
22 developmental disability or mental illness, who are neither
23 employees nor contractors of the department of mental health for
24 purposes of performing the examination in question, to examine
25 the accused, or shall direct the director of the department of
26 mental health, or the director's designee, to have the accused so
27 examined by one or more psychiatrists or psychologists, as
28 defined in section 632.005, or physicians with a minimum of one

1 year training or experience in providing treatment or services to
2 [mentally retarded or mentally ill individuals] persons with an
3 intellectual disability or developmental disability or mental
4 illness designated by the director, or the director's designee,
5 as qualified to perform examinations pursuant to this chapter.
6 The order shall direct that written report or reports of such
7 examination be filed with the clerk of the court. No private
8 psychiatrist, psychologist, or physician shall be appointed by
9 the court unless such psychiatrist, psychologist or physician has
10 consented to act. The examinations ordered shall be made at such
11 time and place and under such conditions as the court deems
12 proper; except that, if the order directs the director of the
13 department of mental health to have the accused examined, the
14 director, or the director's designee, shall determine the time,
15 place and conditions under which the examination shall be
16 conducted. The order may include provisions for the interview of
17 witnesses and may require the provision of police reports to the
18 department for use in evaluation. If an examination provided in
19 section 552.020 was made and the report of such examination
20 included an opinion as to whether, at the time of the alleged
21 criminal conduct, the accused, as a result of mental disease or
22 defect, did not know or appreciate the nature, quality or
23 wrongfulness of such accused's conduct or as a result of mental
24 disease or defect was incapable of conforming such accused's
25 conduct to the requirements of law, such report may be received
26 in evidence, and no new examination shall be required by the
27 court unless, in the discretion of the court, another examination
28 is necessary. If an examination is ordered pursuant to this

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

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

22 5. No statement made by the accused in the course of any
23 such examination and no information received by any physician or
24 other person in the course thereof, whether such examination was
25 made with or without the consent of the accused or upon the
26 accused's motion or upon that of others, shall be admitted in
27 evidence against the accused on the issue of whether the accused
28 committed the act charged against the accused in any criminal

1 proceeding then or thereafter pending in any court, state or
2 federal. The statement or information shall be admissible in
3 evidence for or against the accused only on the issue of the
4 accused's mental condition, whether or not it would otherwise be
5 deemed to be a privileged communication. If the statement or
6 information is admitted for or against the accused on the issue
7 of the accused's mental condition, the court shall, both orally
8 at the time of its admission and later by instruction, inform the
9 jury that it must not consider such statement or information as
10 any evidence of whether the accused committed the act charged
11 against the accused.

12 6. All persons are presumed to be free of mental disease or
13 defect excluding responsibility for their conduct, whether or not
14 previously adjudicated in this or any other state to be or to
15 have been sexual or social psychopaths, or incompetent; provided,
16 however, the court may admit evidence presented at such
17 adjudication based on its probative value. The issue of whether
18 any person had a mental disease or defect excluding
19 responsibility for such person's conduct is one for the trier of
20 fact to decide upon the introduction of substantial evidence of
21 lack of such responsibility. But, in the absence of such
22 evidence, the presumption shall be conclusive. Upon the
23 introduction of substantial evidence of lack of such
24 responsibility, the presumption shall not disappear and shall
25 alone be sufficient to take that issue to the trier of fact. The
26 jury shall be instructed as to the existence and nature of such
27 presumption when requested by the state and, where the issue of
28 such responsibility is one for the jury to decide, the jury shall

1 be told that the burden rests upon the accused to show by a
2 preponderance or greater weight of the credible evidence that the
3 defendant was suffering from a mental disease or defect excluding
4 responsibility at the time of the conduct charged against the
5 defendant. At the request of the defense the jury shall be
6 instructed by the court as to the contents of subsection 2 of
7 section 552.040.

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

15 552.040. 1. For the purposes of this section, the
16 following words mean:

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

20 (2) "Secure facility", a state mental health facility,
21 state [mental retardation] developmental disability facility,
22 private facility under contract with the department of mental
23 health, or a section within any of these facilities, in which
24 persons committed to the department of mental health pursuant to
25 this chapter, shall not be permitted to move about the facility
26 or section of the facility, nor to leave the facility or section
27 of the facility, without approval by the head of the facility or
28 such head's designee and adequate supervision consistent with the

1 safety of the public and the person's treatment, habilitation or
2 rehabilitation plan;

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

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

1 and the director shall honor the immediate conditional release as
2 granted by the court. If the court determines that an immediate
3 conditional release is warranted, the court shall order the
4 person committed to the director of the department of mental
5 health before ordering such a release. The court granting the
6 immediate conditional release shall retain jurisdiction over the
7 case for the duration of the conditional release. This shall not
8 limit the authority of the director of the department of mental
9 health or the director's designee to revoke the conditional
10 release or the trial release of any committed person pursuant to
11 subsection 17 of this section. If the accused is committed to a
12 mental health or [mental retardation] developmental disability
13 facility, the director of the department of mental health, or the
14 director's designee, shall determine the time, place and
15 conditions of confinement.

16 3. The provisions of sections 630.110, 630.115, 630.130,
17 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183,
18 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395,
19 and 632.435 shall apply to persons committed pursuant to
20 subsection 2 of this section. If the department does not have a
21 treatment or rehabilitation program for a mental disease or
22 defect of an individual, that fact may not be the basis for a
23 release from commitment. Notwithstanding any other provision of
24 law to the contrary, no person committed to the department of
25 mental health who has been tried and acquitted by reason of
26 mental disease or defect as provided in section 552.030 shall be
27 conditionally or unconditionally released unless the procedures
28 set out in this section are followed. Upon request by an

1 indigent committed person, the appropriate court may appoint the
2 office of the public defender to represent such person in any
3 conditional or unconditional release proceeding under this
4 section.

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

10 5. The committed person or the head of the facility where
11 the person is committed may file an application in the court that
12 committed the person seeking an order releasing the committed
13 person unconditionally; except that any person who has been
14 denied an application for a conditional release pursuant to
15 subsection 13 of this section shall not be eligible to file for
16 an unconditional release until the expiration of one year from
17 such denial. In the case of a person who was immediately
18 conditionally released after being committed to the department of
19 mental health, the released person or the director of the
20 department of mental health, or the director's designee, may file
21 an application in the same court that released the committed
22 person seeking an order releasing the committed person
23 unconditionally. Copies of the application shall be served
24 personally or by certified mail upon the head of the facility
25 unless the head of the facility files the application, the
26 committed person unless the committed person files the
27 application, or unless the committed person was immediately
28 conditionally released, the director of the department of mental

1 health, and the prosecutor of the jurisdiction where the
2 committed person was tried and acquitted. Any party objecting to
3 the proposed release must do so in writing within thirty days
4 after service. Within a reasonable period of time after any
5 written objection is filed, which period shall not exceed sixty
6 days unless otherwise agreed upon by the parties, the court shall
7 hold a hearing upon notice to the committed person, the head of
8 the facility, if necessary, the director of the department of
9 mental health, and the prosecutor of the jurisdiction where the
10 person was tried. Prior to the hearing any of the parties, upon
11 written application, shall be entitled to an examination of the
12 committed person, by a psychiatrist or psychologist, as defined
13 in section 632.005, or a physician with a minimum of one year
14 training or experience in providing treatment or services to
15 mentally retarded or mentally ill individuals of its own choosing
16 and at its expense. The report of the mental condition of the
17 committed person shall accompany the application. By agreement
18 of all parties to the proceeding any report of the mental
19 condition of the committed person which may accompany the
20 application for release or which is filed in objection thereto
21 may be received by evidence, but the party contesting any opinion
22 therein shall have the right to summon and to cross-examine the
23 examiner who rendered such opinion and to offer evidence upon the
24 issue.

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

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

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

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

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

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

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

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

25 8. The court shall enter an order either denying the
26 application for unconditional release or granting an
27 unconditional release. An order denying the application shall be
28 without prejudice to the filing of another application after the

1 expiration of one year from the denial of the last application.

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

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

28 (1) A copy of the application shall also be served upon the

1 prosecutor of the jurisdiction where the person is being
2 detained, unless the released person was immediately
3 conditionally released after being committed to the department of
4 mental health, or unless the application was required to be filed
5 in the court that committed the person in which case a copy of
6 the application shall be served upon the prosecutor of the
7 jurisdiction where the person was tried and acquitted and the
8 prosecutor of the jurisdiction into which the committed person is
9 to be released;

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

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

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

1 appear and represent the public safety interest.

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

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

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

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

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

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

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

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

28 13. The court shall enter an order either denying the

1 application for a conditional release or granting conditional
2 release. An order denying the application shall be without
3 prejudice to the filing of another application after the
4 expiration of one year from the denial of the last application.

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

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

13 (1) The head of the facility where the person is committed
14 shall notify the prosecutor of the jurisdiction where the
15 committed person was tried and acquitted and the prosecutor of
16 the jurisdiction into which the committed person is to be
17 released at least thirty days before the date of the proposed
18 trial release;

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

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

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

1 additional requirements:

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

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

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

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

22 17. The director of the department of mental health, or the
23 director's designee, may revoke the conditional release or the
24 trial release and request the return of the committed person if
25 such director or coordinator has reasonable cause to believe that
26 the person has violated the conditions of such release. If
27 requested to do so by the director or coordinator, a peace
28 officer of a jurisdiction in which a patient on conditional

1 release is found shall apprehend and return such patient to the
2 facility. No peace officer responsible for apprehending and
3 returning the committed person to the facility upon the request
4 of the director or coordinator shall be civilly liable for
5 apprehending or transporting such patient to the facility so long
6 as such duties were performed in good faith and without
7 negligence. If a person on conditional release is returned to a
8 facility under the provisions of this subsection, a hearing shall
9 be held within ninety-six hours, excluding Saturdays, Sundays and
10 state holidays, to determine whether the person violated the
11 conditions of the release or whether resumption of full-time
12 hospitalization is the least restrictive alternative consistent
13 with the person's needs and public safety. The director of the
14 department of mental health, or the director's designee, shall
15 conduct the hearing. The person shall be given notice at least
16 twenty-four hours in advance of the hearing and shall have the
17 right to have an advocate present.

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

27 19. The head of a mental health facility, upon any notice
28 that a committed person has escaped confinement, or left the

1 facility or its grounds without authorization, shall immediately
2 notify the prosecutor and sheriff of the county wherein the
3 committed person is detained of the escape or unauthorized
4 leaving of grounds and the prosecutor and sheriff of the county
5 where the person was tried and acquitted.

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

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

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

23 630.003. 1. There is hereby created a department of mental
24 health to be headed by a mental health commission who shall
25 appoint a director, by and with the advice and consent of the
26 senate. The director shall be the administrative head of the
27 department and shall serve at the pleasure of the commission and
28 be compensated as provided by law for the director, division of

1 mental health. All employees of the department shall be selected
2 in accordance with chapter 36.

3 2. (1) The "State Mental Health Commission", composed of
4 seven members, is the successor to the former state mental health
5 commission and it has all the powers, duties and responsibilities
6 of the former commission. All members of the commission shall be
7 appointed by the governor, by and with the advice and consent of
8 the senate. None of the members shall otherwise be employed by
9 the state of Missouri.

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

16 (3) At least two of the members of the commission shall be
17 physicians, one of whom shall be recognized as an expert in the
18 field of the treatment of nervous and mental diseases, and one of
19 whom shall be recognized as an expert in the field of [mental
20 retardation or of other] intellectual or developmental
21 disabilities. At least two of the members of the commission
22 shall be representative of persons or groups who are consumers
23 having substantial interest in the services provided by the
24 division, one of whom shall represent [the mentally retarded or
25 developmentally disabled] persons with an intellectual disability
26 or developmental disability and one of whom shall represent those
27 persons being treated for nervous and mental diseases. Of the
28 other three members at least one must be recognized for his

1 expertise in general business management procedures, and two
2 shall be recognized for their interest and expertise in dealing
3 with alcohol/drug abuse problems, or community mental health
4 services.

5 3. The provisions of sections 191.120, 191.125, 191.130,
6 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200,
7 191.210 and others as they relate to the division of mental
8 health not previously reassigned by executive reorganization plan
9 number 2 of 1973 as submitted by the governor under chapter 26
10 are transferred by specific type transfer from the department of
11 public health and welfare to the department of mental health.
12 The division of mental health, department of health and welfare,
13 chapter 202 and others are abolished and all powers, duties and
14 functions now assigned by law to the division, the director of
15 the divisions of mental health or any of the institutions or
16 officials of the division are transferred by type I transfer to
17 the department of mental health.

18 4. The Missouri institute of psychiatry, which is under the
19 board of curators of the University of Missouri is hereafter to
20 be known as the "Missouri Institute of Mental Health". The
21 purpose of the institute will be that of conducting research into
22 improving services for persons served by the department of mental
23 health for fostering the training of psychiatric residents in
24 public psychiatry and for fostering excellence in mental health
25 services through employee training and the study of mental health
26 policy and ethics. To assist in this training, hospitals
27 operated by and providers contracting with the department of
28 mental health may be used for the same purposes and under the

1 same arrangements as the board of curators of the University of
2 Missouri utilizes with other hospitals in the state in
3 supervising residency training for medical doctors.
4 Appropriations requests for the Missouri institute of mental
5 health shall be jointly developed by the University of Missouri
6 and the department of mental health. All appropriations for the
7 Missouri institute of mental health shall be made to the curators
8 of the University of Missouri but shall be submitted separately
9 from the appropriations of the curators of the University of
10 Missouri.

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

25 6. All the duties, powers and functions of the advisory
26 council on mental retardation and community health centers,
27 sections 202.664 to 202.666, are hereby transferred by type I
28 transfer to the division of mental retardation and developmental

1 disabilities of the department of mental health. The advisory
2 council on mental retardation and community health centers shall
3 be appointed by the division director.

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

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

19 630.005. As used in this chapter and chapters 631, 632, and
20 633, unless the context clearly requires otherwise, the following
21 terms shall mean:

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

25 (2) "Alcohol abuse", the use of any alcoholic beverage,
26 which use results in intoxication or in a psychological or
27 physiological dependency from continued use, which dependency
28 induces a mental, emotional or physical impairment and which

1 causes socially dysfunctional behavior;

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

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

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

11 (6) "Consumer", a person:

12 (a) Who qualifies to receive department services; or
13 (b) Who is a parent, child or sibling of a person who
14 receives department services; or
15 (c) Who has a personal interest in services provided by the
16 department. A person who provides services to persons affected
17 by [mental retardation,] intellectual disabilities, developmental
18 disabilities, mental disorders, mental illness, or alcohol or
19 drug abuse shall not be considered a consumer;

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

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

1 (9) "Developmental disability", a disability:
2 (a) Which is attributable to:
3 a. Mental retardation, cerebral palsy, epilepsy, head
4 injury or autism, or a learning disability related to a brain
5 dysfunction; or
6 b. Any other mental or physical impairment or combination
7 of mental or physical impairments; and
8 (b) Is manifested before the person attains age twenty-
9 two; and
10 (c) Is likely to continue indefinitely; and
11 (d) Results in substantial functional limitations in two or
12 more of the following areas of major life activities:
13 a. Self-care;
14 b. Receptive and expressive language development and use;
15 c. Learning;
16 d. Self-direction;
17 e. Capacity for independent living or economic self-
18 sufficiency;
19 f. Mobility; and
20 (e) Reflects the person's need for a combination and
21 sequence of special, interdisciplinary, or generic care,
22 habilitation or other services which may be of lifelong or
23 extended duration and are individually planned and coordinated;
24 (10) "Director", the director of the department of mental
25 health, or his designee;
26 (11) "Domiciled in Missouri", a permanent connection
27 between an individual and the state of Missouri, which is more
28 than mere residence in the state; it may be established by the

1 individual being physically present in Missouri with the
2 intention to abandon his previous domicile and to remain in
3 Missouri permanently or indefinitely;

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

11 (13) "Habilitation", a process of treatment, training, care
12 or specialized attention which seeks to enhance and maximize [the
13 mentally retarded or developmentally disabled person's abilities
14] a person with an intellectual disability or an developmental
15 disability ability to cope with the environment and to live as
16 normally as possible;

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

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

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

24 (17) "Individualized habilitation plan", a document which
25 sets forth habilitation goals and objectives for [mentally
26 retarded or developmentally disabled] residents and clients with
27 an intellectual disability or a developmental disability, and
28 which details the habilitation program as required by law, rules

1 and funding sources;

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

7 (19) "Individualized treatment plan", a document which sets
8 forth the care, treatment and rehabilitation goals and objectives
9 for [mentally disordered or mentally ill] patients and clients
10 with mental disorders or mental illness, and which details the
11 treatment program as required by law, rules and funding sources;

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

17 (21) "Least restrictive environment", a reasonably
18 available setting or mental health program where care, treatment,
19 habilitation or rehabilitation is particularly suited to the
20 level and quality of services necessary to implement a person's
21 individualized treatment, habilitation or rehabilitation plan and
22 to enable the person to maximize his or her functioning potential
23 to participate as freely as feasible in normal living activities,
24 giving due consideration to potentially harmful effects on the
25 person and the safety of other facility or program clients and
26 public safety. For some [mentally disordered or mentally
27 retarded] persons with mental disorders, intellectual
28 disabilities, or developmental disabilities, the least

1 restrictive environment may be a facility operated by the
2 department, a private facility, a supported community living
3 situation, or an alternative community program designed for
4 persons who are civilly detained for outpatient treatment or who
5 are conditionally released pursuant to chapter 632;

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

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

19 (a) Mental retardation, developmental disability or
20 narcolepsy;

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

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

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

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

1 (a) Originates before age eighteen; and
2 (b) Is associated with a significant impairment in adaptive
3 behavior;
4 (25) "Minor", any person under the age of eighteen years;
5 (26) "Patient", an individual under observation, care,
6 treatment or rehabilitation by any hospital or other mental
7 health facility or mental health program pursuant to the
8 provisions of chapter 632;
9 (27) "Psychosurgery",
10 (a) Surgery on the normal brain tissue of an individual not
11 suffering from physical disease for the purpose of changing or
12 controlling behavior; or
13 (b) Surgery on diseased brain tissue of an individual if
14 the sole object of the surgery is to control, change or affect
15 behavioral disturbances, except seizure disorders;
16 (28) "Rehabilitation", a process of restoration of a
17 person's ability to attain or maintain normal or optimum health
18 or constructive activity through care, treatment, training,
19 counseling or specialized attention;
20 (29) "Residence", the place where the patient has last
21 generally lodged prior to admission or, in case of a minor, where
22 his family has so lodged; except, that admission or detention in
23 any facility of the department shall not be deemed an absence
24 from the place of residence and shall not constitute a change in
25 residence;
26 (30) "Resident", a person receiving residential services
27 from a facility, other than mental health facility, operated,
28 funded or licensed by the department;

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

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

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

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

19 630.010. 1. The state mental health commission,
20 established by the omnibus reorganization act of 1974, section 9,
21 appendix B, RSMo, shall be composed of seven members appointed by
22 the governor, by and with the advice and consent of the senate.
23 The terms of members appointed under the reorganization act
24 before August 13, 1980, shall continue until the terms under
25 which the members were regularly appointed expire. The terms
26 shall be for four years. Each commissioner shall hold office
27 until his successor has been appointed and qualified.

28 2. The commission shall be comprised of members who are not

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

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

6 (2) A physician recognized as an expert in the evaluation
7 or habilitation of [the mentally retarded and developmentally
8 disabled] persons with an intellectual disability or
9 developmental disability;

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

13 (4) A representative of groups who are consumers or
14 families of consumers interested in the services provided by the
15 department in the habilitation of [the mentally retarded] persons
16 with an intellectual disability or developmental disability;

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

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

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

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

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

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

9 630.053. 1. There is hereby created in the state treasury
10 a fund to be known as the "Mental Health Earnings Fund". The
11 state treasurer shall credit to the fund any interest earned from
12 investing the moneys in the fund. Notwithstanding the provisions
13 of section 33.080, money in the mental health earnings fund shall
14 not be transferred and placed to the credit of general revenue at
15 the end of the biennium.

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

26 3. The mental health earnings fund may be used for the
27 deposit of revenue received for the provision of services under a
28 managed care agreement entered into by the department of mental

1 health. Subject to the approval through the appropriation
2 process, such revenues may be expended for the purposes of
3 providing such services pursuant to the managed care agreement
4 and for no other purpose and shall be accounted for separately
5 from all other revenues deposited in the fund.

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

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

20 6. The department of mental health shall promulgate rules
21 and regulations to implement and administer the provisions of
22 this section. No rule or portion of a rule promulgated pursuant
23 to the authority of this chapter shall become effective unless it
24 has been promulgated pursuant to the provisions of section
25 536.024.

26 630.095. The department may copyright or obtain a trademark
27 for any instructional, training and informational audio-visual
28 materials, manuals and documents which are prepared by department

1 personnel or by persons who receive department funding to prepare
2 such material. If the material is sold directly or for
3 distribution, the department shall pay the proceeds of the sales
4 to the director of revenue for deposit to the general revenue
5 fund, except for proceeds received under subsection 5 of section
6 630.053.

7 630.097. 1. The department of mental health shall develop,
8 in partnership with all departments represented on the children's
9 services commission, a unified accountable comprehensive
10 children's mental health service system. The department of
11 mental health shall establish a state interagency comprehensive
12 children's mental health service system team comprised of
13 representation from:

- 14 (1) Family-run organizations and family members;
- 15 (2) Child advocate organizations;
- 16 (3) The department of health and senior services;
- 17 (4) The department of social services' children's division,
18 division of youth services, and the division of medical services;
- 19 (5) The department of elementary and secondary education;
- 20 (6) The department of mental health's division of alcohol
21 and drug abuse, division of [mental retardation and]
22 developmental disabilities, and the division of comprehensive
23 psychiatric services;
- 24 (7) The department of public safety;
- 25 (8) The office of state courts administrator;
- 26 (9) The juvenile justice system; and
- 27 (10) Local representatives of the member organizations of
28 the state team to serve children with emotional and behavioral

1 disturbance problems, developmental disabilities, and substance
2 abuse problems. The team shall be called "The Comprehensive
3 System Management Team". There shall be a stakeholder advisory
4 committee to provide input to the comprehensive system management
5 team to assist the departments in developing strategies and to
6 ensure positive outcomes for children are being achieved. The
7 department of mental health shall obtain input from appropriate
8 consumer and family advocates when selecting family members for
9 the comprehensive system management team, in consultation with
10 the departments that serve on the children's services commission.
11 The implementation of a comprehensive system shall include all
12 state agencies and system partner organizations involved in the
13 lives of the children served. These system partners may include
14 private and not-for-profit organizations and representatives from
15 local system of care teams and these partners may serve on the
16 stakeholder advisory committee. The department of mental health
17 shall promulgate rules for the implementation of this section in
18 consultation with all of the departments represented on the
19 children's services commission.

20 2. The department of mental health shall, in partnership
21 with the departments serving on the children's services
22 commission and the stakeholder advisory committee, develop a
23 state comprehensive children's mental health service system plan.
24 This plan shall be developed and submitted to the governor, the
25 general assembly, and children's services commission by December,
26 2004. There shall be subsequent annual reports that include
27 progress toward outcomes, monitoring, changes in populations and
28 services, and emerging issues. The plan shall:

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

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

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

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

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

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

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

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

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

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

27 3. The comprehensive system management team shall
28 collaborate to develop uniform language to be used in intake and

1 throughout the provision of services.

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

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

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

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

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

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

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

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

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

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

28 (e) Provide services in the least restrictive most

1 appropriate environment that meets the needs of the child; and

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

3 (6) Include early screening and prompt intervention to:

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

7 (b) Prevent further deterioration;

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

10 (a) Access to private insurance coverage;

11 (b) Public funding, including:

12 a. Assuring that funding follows children across
13 departments; and

14 b. Maximizing federal financial participation;

15 (c) Private funding and services;

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

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

23 (10) Be outcome based.

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

1 progress of achieving outcomes.

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

10 630.165. 1. When any physician, physician assistant,
11 dentist, chiropractor, optometrist, podiatrist, intern, resident,
12 nurse, nurse practitioner, medical examiner, social worker,
13 licensed professional counselor, certified substance abuse
14 counselor, psychologist, other health practitioner, minister,
15 Christian Science practitioner, peace officer, pharmacist,
16 physical therapist, facility administrator, nurse's aide, orderly
17 or any other direct-care staff in a residential facility, day
18 program, group home or [mental retardation] developmental
19 disability facility as defined in section 633.005, or specialized
20 service operated, licensed, certified, or funded by the
21 department or in a mental health facility or mental health
22 program in which people may be admitted on a voluntary basis or
23 are civilly detained pursuant to chapter 632, or employee of the
24 departments of social services, mental health, or health and
25 senior services; or home health agency or home health agency
26 employee; hospital and clinic personnel engaged in examination,
27 care, or treatment of persons; in-home services owner, provider,
28 operator, or employee; law enforcement officer, long-term care

1 facility administrator or employee; mental health professional,
2 probation or parole officer, or other nonfamilial person with
3 responsibility for the care of a patient, resident, or client of
4 a facility, program, or service has reasonable cause to suspect
5 that a patient, resident or client of a facility, program or
6 service has been subjected to abuse or neglect or observes such
7 person being subjected to conditions or circumstances that would
8 reasonably result in abuse or neglect, he or she shall
9 immediately report or cause a report to be made to the department
10 in accordance with section 630.163.

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

19 3. Every person who has been previously convicted of or
20 pled guilty to failing to make a report as required in subsection
21 1 of this section and who is subsequently convicted of failing to
22 make a report under subsection 2 of this section is guilty of a
23 class D felony and shall be subject to a fine up to five thousand
24 dollars. Penalties collected for violation of this subsection
25 shall be transferred to the state school moneys fund as
26 established in section 166.051 and distributed to the public
27 schools of this state in the manner provided in section 163.031.
28 Such penalties shall not considered charitable for tax purposes.

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

9 5. Every person who has been previously convicted of or
10 pled guilty to making a false report to the department and who is
11 subsequently convicted of making a false report under subsection
12 4 of this section is guilty of a class D felony and shall be
13 subject to a fine up to five thousand dollars. Penalties
14 collected for violations of this subsection shall be transferred
15 to the state school moneys fund as established in section 166.051
16 and distributed to the public schools of this state in the manner
17 provided in section 163.031. Such penalties shall not considered
18 charitable for tax purposes.

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

23 7. Any residential facility, day program, or specialized
24 service operated, funded, or licensed by the department that
25 prevents or discourages a patient, resident, [or] client,
26 employee, or other person from reporting that a patient,
27 resident, or client of a facility, program, or service has been
28 abused or neglected shall be subject to loss of their license

1 issued pursuant to sections 630.705 to 630.760 and civil fines of
2 up to five thousand dollars for each attempt to prevent or
3 discourage reporting.

4 630.167. 1. Upon receipt of a report, the department or
5 the department of health and senior services, if such facility or
6 program is licensed pursuant to chapter 197, shall initiate an
7 investigation within twenty-four hours.

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

24 3. (1) Except as otherwise provided in this section,
25 reports referred to in section 630.165 and the investigative
26 reports referred to in this section shall be confidential, shall
27 not be deemed a public record, and shall not be subject to the
28 provisions of section 109.180 or chapter 610. Investigative

1 reports pertaining to abuse and neglect shall remain confidential
2 until a final report is complete, subject to the conditions
3 contained in this section. Final reports of substantiated abuse
4 or neglect issued on or after August 28, 2007, are open and shall
5 be available for release in accordance with chapter 610. The
6 names and all other identifying information in such final
7 substantiated reports, including diagnosis and treatment
8 information about the patient, resident, or client who is the
9 subject of such report, shall be confidential and may only be
10 released to the patient, resident, or client who has not been
11 adjudged incapacitated under chapter 475, the custodial parent or
12 guardian parent, or other guardian of the patient, resident or
13 client. The names and other descriptive information of the
14 complainant, witnesses, or other persons for whom findings are
15 not made against in the final substantiated report shall be
16 confidential and not deemed a public record. Final reports of
17 unsubstantiated allegations of abuse and neglect shall remain
18 closed records and shall only be released to the parents or other
19 guardian of the patient, resident, or client who is the subject
20 of such report, patient, resident, or client and the department
21 vendor, provider, agent, or facility where the patient, resident,
22 or client was receiving department services at the time of the
23 unsubstantiated allegations of abuse and neglect, but the names
24 and any other descriptive information of the complainant or any
25 other person mentioned in the reports shall not be disclosed
26 unless such complainant or person specifically consents to such
27 disclosure. Requests for final reports of substantiated or
28 unsubstantiated abuse or neglect from a patient, resident or

1 client who has not been adjudged incapacitated under chapter 475
2 may be denied or withheld if the director of the department or
3 his or her designee determines that such release would jeopardize
4 the person's therapeutic care, treatment, habilitation, or
5 rehabilitation, or the safety of others and provided that the
6 reasons for such denial or withholding are submitted in writing
7 to the patient, resident or client who has not been adjudged
8 incapacitated under chapter 475. All reports referred to in this
9 section shall be admissible in any judicial proceedings or
10 hearing in accordance with section [36.390] 621.075 or any
11 administrative hearing before the director of the department of
12 mental health, or the director's designee. All such reports may
13 be disclosed by the department of mental health to law
14 enforcement officers and public health officers, but only to the
15 extent necessary to carry out the responsibilities of their
16 offices, and to the department of social services, and the
17 department of health and senior services, and to boards appointed
18 pursuant to sections 205.968 to 205.990 that are providing
19 services to the patient, resident or client as necessary to
20 report or have investigated abuse, neglect, or rights violations
21 of patients, residents or clients provided that all such law
22 enforcement officers, public health officers, department of
23 social services' officers, department of health and senior
24 services' officers, and boards shall be obligated to keep such
25 information confidential.

26 (2) Except as otherwise provided in this section, the
27 proceedings, findings, deliberations, reports and minutes of
28 committees of health care professionals as defined in section

1 537.035 or mental health professionals as defined in section
2 632.005 who have the responsibility to evaluate, maintain, or
3 monitor the quality and utilization of mental health services are
4 privileged and shall not be subject to the discovery, subpoena or
5 other means of legal compulsion for their release to any person
6 or entity or be admissible into evidence into any judicial or
7 administrative action for failure to provide adequate or
8 appropriate care. Such committees may exist, either within
9 department facilities or its agents, contractors, or vendors, as
10 applicable. Except as otherwise provided in this section, no
11 person who was in attendance at any investigation or committee
12 proceeding shall be permitted or required to disclose any
13 information acquired in connection with or in the course of such
14 proceeding or to disclose any opinion, recommendation or
15 evaluation of the committee or board or any member thereof;
16 provided, however, that information otherwise discoverable or
17 admissible from original sources is not to be construed as immune
18 from discovery or use in any proceeding merely because it was
19 presented during proceedings before any committee or in the
20 course of any investigation, nor is any member, employee or agent
21 of such committee or other person appearing before it to be
22 prevented from testifying as to matters within their personal
23 knowledge and in accordance with the other provisions of this
24 section, but such witness cannot be questioned about the
25 testimony or other proceedings before any investigation or before
26 any committee.

27 (3) Nothing in this section shall limit authority otherwise
28 provided by law of a health care licensing board of the state of

1 Missouri to obtain information by subpoena or other authorized
2 process from investigation committees or to require disclosure of
3 otherwise confidential information relating to matters and
4 investigations within the jurisdiction of such health care
5 licensing boards; provided, however, that such information, once
6 obtained by such board and associated persons, shall be governed
7 in accordance with the provisions of this subsection.

8 (4) Nothing in this section shall limit authority otherwise
9 provided by law in subdivisions (5) and (6) of subsection 2 of
10 section 630.140 concerning access to records by the entity or
11 agency authorized to implement a system to protect and advocate
12 the rights of persons with developmental disabilities under the
13 provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or
14 agency authorized to implement a system to protect and advocate
15 the rights of persons with mental illness under the provisions of
16 42 U.S.C. 10801. In addition, nothing in this section shall
17 serve to negate assurances that have been given by the governor
18 of Missouri to the U.S. Administration on Developmental
19 Disabilities, Office of Human Development Services, Department of
20 Health and Human Services concerning access to records by the
21 agency designated as the protection and advocacy system for the
22 state of Missouri. However, such information, once obtained by
23 such entity or agency, shall be governed in accordance with the
24 provisions of this subsection.

25 4. Anyone who makes a report pursuant to this section or
26 who testifies in any administrative or judicial proceeding
27 arising from the report shall be immune from any civil liability
28 for making such a report or for testifying unless such person

1 acted in bad faith or with malicious purpose.

2 5. Within five working days after a report required to be
3 made pursuant to this section is received, the person making the
4 report shall be notified in writing of its receipt and of the
5 initiation of the investigation.

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

14 7. Any person who is discharged as a result of an
15 administrative substantiation of allegations contained in a
16 report of abuse or neglect may, after exhausting administrative
17 remedies as provided in chapter 36, appeal such decision to the
18 circuit court of the county in which such person resides within
19 ninety days of such final administrative decision. The court may
20 accept an appeal up to twenty-four months after the party filing
21 the appeal received notice of the department's determination,
22 upon a showing that:

23 (1) Good cause exists for the untimely commencement of the
24 request for the review;

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

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

28 630.183. Subject to other provisions of this chapter, the

1 head of a mental health or [mental retardation] developmental
2 disability facility may authorize the medical and surgical
3 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
7 or resident who 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
10 jurisdiction.

11 630.192. No biomedical or pharmacological research shall be
12 conducted in any mental health facility or mental health program
13 in which people may be civilly detained pursuant to chapter 632
14 or in any public or private residential facilities or day
15 programs operated, funded or licensed by the department for
16 persons affected by [mental retardation] intellectual
17 disabilities, developmental disabilities, mental illness, mental
18 disorders or alcohol or drug abuse unless such research is
19 intended to alleviate or prevent the disabling conditions or is
20 reasonably expected to be of direct therapeutic benefit to the
21 participants. Without a specific court order, no involuntary
22 patient shall consent to participate in any biomedical or
23 pharmacological research. The application for the order shall be
24 filed in the court having probate jurisdiction in the county in
25 which the mental health facility is located, provided, however,
26 that if the patient requests that the hearing be held by the
27 court which has committed the patient, or if the court having
28 probate jurisdiction deems it appropriate, the hearing on the

1 application shall be transferred to the committing court.

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

24 2. The director shall apply the standard means test
25 annually and may make application of the test upon his own
26 initiative or upon request of an interested party whenever
27 evidence is offered tending to show that the current support
28 status of any patient, resident or client is no longer proper.

1 Any change of support status shall be retroactive to the date of
2 application or request for review. If the persons responsible to
3 pay under section 630.205 or 552.080 refuse to cooperate in
4 providing information necessary to properly apply the test or if
5 retroactive benefits are paid on behalf of the patient, resident
6 or client, the charges may be retroactive to a date prior to the
7 date of application or request for review. The decision of the
8 director in determining the amount to be charged for services to
9 a patient, resident or client shall be final. Appeals from the
10 determination may be taken to the circuit court of Cole County or
11 the county where the person responsible for payment resides in
12 the manner provided by chapter 536.

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

23 4. Whenever a patient, resident or client is receiving
24 services from a residential facility, day program or specialized
25 service operated or funded by the department, and the state,
26 county, municipality, parent, guardian or other person
27 responsible for support of the patient, resident or client fails
28 to pay any installment required to be paid for support, the

1 department or the residential facility, day program or
2 specialized service may discharge the patient, resident or client
3 as provided by chapter 31. The patient, resident or client shall
4 not be discharged under this subsection until the final
5 disposition of any appeal filed under subsection 2 of this
6 section.

7 5. The standard means test may be waived for a child in
8 need of mental health services to avoid inappropriate custody
9 transfers to the children's division. The department of mental
10 health shall notify the child's parent or custodian that the
11 standard means test may be waived. The department of mental
12 health shall promulgate rules for waiving the standard means
13 test. Any rule or portion of a rule, as that term is defined in
14 section 536.010, that is created under the authority delegated in
15 this section shall become effective only if it complies with and
16 is subject to all of the provisions of chapter 536 and, if
17 applicable, section 536.028. This section and chapter 536 are
18 nonseverable and if any of the powers vested with the general
19 assembly pursuant to chapter 536 to review, to delay the
20 effective date, or to disapprove and annul a rule are
21 subsequently held unconstitutional, then the grant of rulemaking
22 authority and any rule proposed or adopted after August 28, 2004,
23 shall be invalid and void.

24 630.335. 1. With the approval of the director, the head of
25 any of the department's mental health or [mental retardation]
26 developmental disability facilities or regional centers may
27 establish and operate a canteen or commissary for the use and
28 benefit of patients, residents and employees.

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

21 630.405. 1. The department may purchase services for
22 patients, residents or clients from private and public vendors in
23 this state with funds appropriated for this purpose.

24 2. Services that may be purchased may include prevention,
25 diagnosis, evaluation, treatment, habilitation, rehabilitation,
26 transportation and other special services for persons affected by
27 mental disorders, mental illness, [mental retardation,]
28 intellectual disabilities, developmental disabilities or alcohol

1 or drug abuse.

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

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

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

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

25 630.425. 1. The department may make incentive grants from
26 funds specifically appropriated for this purpose to private and
27 public entities seeking to establish a residential facility, day
28 program or specialized service for persons affected by mental

1 disorders, mental illness, [mental retardation,] intellectual
2 disabilities, developmental disabilities or alcohol or drug abuse
3 in unserved, underserved or inappropriately served areas of the
4 state.

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

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

10 630.510. At least once every three years, the department
11 shall conduct a complete statewide inventory of its existing
12 facilities and a survey of needs for persons affected by mental
13 disorders, mental illness, [mental retardation,] intellectual
14 disabilities, developmental disabilities and alcohol or drug
15 abuse, and shall make a public report of its inventory and survey
16 and recommend a state plan for the construction of additional
17 facilities.

18 630.605. The department shall establish a placement program
19 for persons affected by a mental disorder, mental illness,
20 [mental retardation,] intellectual disability, developmental
21 disability or alcohol or drug abuse. The department may utilize
22 residential facilities, day programs and specialized services
23 which are designed to maintain a person who is accepted in the
24 placement program in the least restrictive environment in
25 accordance with the person's individualized treatment,
26 habilitation or rehabilitation plan. The department shall
27 license, certify and fund, subject to appropriations, a continuum
28 of facilities, programs and services short of admission to a

1 department facility to accomplish this purpose.

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

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

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

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

25 (2) The person is in need of special care, treatment,
26 habilitation or rehabilitation services as described in this
27 chapter, including room or board, or both; provided, however,
28 that no person shall be accepted for placement if the sole reason

1 for the application or referral is that residential placement is
2 necessary for a school-aged child, as defined in chapter 162, to
3 receive an appropriate special education.

4 630.635. 1. If a resident in a [mental retardation]
5 developmental disability facility, or his parent if he is a
6 minor, or his legal guardian refuses to consent to the proposed
7 placement, the head of the [mental retardation] developmental
8 disability facility may petition, under the procedures in section
9 633.135, the director of the division of [mental retardation and]
10 developmental disabilities to determine whether the proposed
11 placement is appropriate under chapter 633.

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

18 3. The director of the division of comprehensive
19 psychiatric services shall refer the petition to the chairman of
20 the state advisory council for his division who shall appoint and
21 convene a review panel composed of three members. At least one
22 member of the panel shall be a family member or guardian of a
23 patient who resides in a mental health facility operated by the
24 department. The remaining members of the panel shall be persons
25 who are from nongovernmental organizations or groups concerned
26 with the prevention of mental disorders, evaluation, care,
27 treatment or rehabilitation of persons affected by the same
28 conditions as the patient the department seeks to place and who

1 are familiar with services and service needs of persons in mental
2 health facilities operated by the department. No member of the
3 panel shall be an officer or employee of the department.

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

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

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

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

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

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

19 630.705. 1. The department shall promulgate rules setting
20 forth reasonable standards for residential facilities and day
21 programs for persons who are affected by a mental disorder,
22 mental illness, [mental retardation] intellectual disability, or
23 developmental disability.

24 2. The rules shall provide for the facilities and programs
25 to be reasonably classified as to resident or client population,
26 size, type of services or other reasonable classification. The
27 department shall design the rules to promote and regulate safe,
28 humane and adequate facilities and programs for the care,

1 treatment, habilitation and rehabilitation of persons described
2 in subsection 1 of this section.

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

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

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

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

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

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

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

1 Facilities;

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

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

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

19
20 However, the department shall require annually that any
21 facilities and programs already licensed by the department of
22 social services under chapter 198 which desire to provide
23 services to persons diagnosed [as mentally disordered, mentally
24 ill, mentally retarded or developmentally disabled] with a mental
25 disorder, mental illness, or developmental disability in
26 accordance with sections 630.705 to 630.760 meet the department's
27 requirements in excess of those required for licensure or
28 certification under chapter 198, which are appropriate to

1 admission criteria and care, treatment, habilitation and
2 rehabilitation needs of such persons.

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

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

22 630.735. 1. No person or governmental unit, acting
23 separately or jointly with any other person or governmental unit,
24 shall establish, conduct or maintain any residential facility in
25 this state for the care, treatment, habilitation or
26 rehabilitation of [mentally retarded or developmentally disabled]
27 persons with an intellectual disability or a developmental
28 disability without a valid license issued by the department.

1 Licenses in effect on August 13, 1982, shall continue in effect
2 until they regularly expire unless sooner revoked; except that in
3 no case shall a license continue in effect beyond one year after
4 August 13, 1982.

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

15 632.005. As used in chapter 631 and this chapter, unless
16 the context clearly requires otherwise, the following terms shall
17 mean:

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

28 (2) "Council", the Missouri advisory council for

1 comprehensive psychiatric services;

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

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

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

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

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

15 (8) "Licensed physician", a physician licensed pursuant to
16 the provisions of chapter 334 or a person authorized to practice
17 medicine in this state pursuant to the provisions of section
18 334.150;

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

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

27 (a) A substantial risk that serious physical harm will be
28 inflicted by a person upon his own person, as evidenced by recent

1 threats, including verbal threats, or attempts to commit suicide
2 or inflict physical harm on himself. Evidence of substantial
3 risk may also include information about patterns of behavior that
4 historically have resulted in serious harm previously being
5 inflicted by a person upon himself;

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

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

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

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

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

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

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

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

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

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

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

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

27 (21) "Resident in psychiatry", a licensed physician who is
28 in a training program in psychiatry approved by the American

1 Medical Association, the American Osteopathic Association or
2 other training program certified as equivalent by the department;

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

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

10 632.105. 1. The head of a private mental health facility
11 may, and the head of a department mental health facility shall,
12 except in the case of a medical emergency and subject to the
13 availability of suitable programs and accommodations, accept for
14 evaluation, on an outpatient basis if practicable, any person
15 eighteen years of age or over who applies for his admission. The
16 department may require that a community-based service where the
17 person resides perform the evaluation pursuant to an affiliation
18 agreement and contract with the department.

19 2. If a person is diagnosed as having a mental disorder,
20 other than [mental retardation] an intellectual disability or
21 developmental disability without another accompanying mental
22 disorder, and is determined to be in need of inpatient treatment,
23 the person may be admitted by a private mental health facility
24 and shall be admitted by a department mental health facility, if
25 suitable accommodations are available, for care and treatment as
26 an inpatient for such periods and under such conditions as
27 authorized by law. The department may require that a
28 community-based service where the patient resides admit the

1 person for inpatient care and treatment pursuant to an
2 affiliation agreement and contract with the department.

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

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

18 2. If the minor is diagnosed as having a mental disorder,
19 other than [mental retardation] an intellectual disability or
20 developmental disability without another accompanying mental
21 disorder, and found suitable for inpatient treatment as a result
22 of the evaluation, the minor may be admitted by a private mental
23 health facility or shall be admitted by a department mental
24 health facility, if suitable accommodations are available, for
25 care, treatment and rehabilitation as an inpatient for such
26 periods and under such conditions as authorized by law. The
27 department may require that a community-based service where the
28 patient resides admit the person for inpatient care, treatment

1 and rehabilitation pursuant to an affiliation agreement and
2 contract with the department.

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

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

13 632.115. The head of a private mental health facility may,
14 and the head of a public mental health facility shall, except in
15 the case of medical emergency and subject to the availability of
16 suitable programs and accommodations, admit any minor who has
17 symptoms of mental disorder other than ~~[mental retardation]~~ an
18 intellectual disability or developmental disability, who is under
19 the jurisdiction of a juvenile court and who is committed to a
20 facility not operated by the state of Missouri under section
21 211.181 or to the custody of the director pursuant to sections
22 211.201 to 211.207 for assignment by the director to an
23 appropriate facility.

24 632.120. 1. The head of a private mental health facility
25 may, and the head of a department facility shall, except in the
26 case of a medical emergency and subject to the availability of
27 suitable programs and accommodations, accept for evaluation and
28 treatment, on an outpatient basis if practicable, any person who

1 has been declared incapacitated by a court of competent
2 jurisdiction and for whom an application for voluntary admission
3 is made by his guardian. The department may require that a
4 community-based service where the person resides perform the
5 evaluation pursuant to an affiliation agreement and contract with
6 the department.

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

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

22 632.370. 1. The department may transfer, or authorize the
23 transfer of, an involuntary patient detained under this chapter,
24 chapter 211, chapter 475, or chapter 552 from one mental health
25 program to another if the department determines that it would be
26 consistent with the medical needs of the patient to do so. If a
27 minor is transferred from a ward for minors to an adult ward, the
28 department shall conduct a due process hearing within six days of

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

27 2. Upon receipt of a certificate of an agency of the United
28 States that facilities are available for the care or treatment of

1 any individual heretofore ordered involuntarily detained, treated
2 and evaluated pursuant to this chapter in any facility for the
3 care or treatment of [the mentally ill, mentally retarded or
4 developmentally disabled] persons with a mental illness or an
5 intellectual disability or a developmental disability and that
6 such individual is eligible for care or treatment in a hospital
7 or institution of such agency, the department may cause his
8 transfer to such agency of the United States for hospitalization.
9 Upon effecting any such transfer, the court ordering
10 hospitalization, the legal guardian, spouse and parents, or, if
11 none be known, his nearest known relative or friend shall be
12 notified thereof immediately by the department. No person shall
13 be transferred to an agency of the United States if he is
14 confined pursuant to a conviction for any felony or misdemeanor
15 or if he has been acquitted of any felony or misdemeanor solely
16 on the ground of mental illness, unless prior to transfer the
17 court originally ordering confinement of such person enters an
18 order for the transfer after appropriate motion and hearing. Any
19 person transferred to an agency of the United States shall be
20 deemed to be hospitalized by such agency pursuant to the original
21 order of hospitalization.

22 632.380. Persons [who are mentally retarded,
23 developmentally disabled,] with an intellectual disability or a
24 developmental disability or who are senile or impaired by
25 alcoholism or drug abuse shall not be detained judicially under
26 this chapter, unless they are also mentally ill and as a result
27 present likelihood of serious harm to themselves or to others.
28 Such persons may, however, be committed upon court order under

1 this chapter and the provisions of chapter 475 relating to
2 incapacitated persons, pursuant to chapter 211 relating to
3 juveniles, or may be admitted as voluntary patients under section
4 632.105 or 632.120.

5 633.005. As used in this chapter, unless the context
6 clearly requires otherwise, the following terms shall mean:

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

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

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

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

25 (5) "[Mental retardation] Developmental disability
26 facility", a private or department facility, other than a
27 regional center, which admits persons [who are mentally retarded
28 or developmentally disabled] with an intellectual disability or a

1 developmental disability for residential habilitation and other
2 services and which is qualified or licensed as such by the
3 department pursuant to chapter 630. Such terms shall include,
4 but shall not be limited to, habilitation centers and private or
5 public residential facilities for persons [who are
6 developmentally disabled] with an intellectual disability or a
7 developmental disability;

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

12 (7) "Respite care", temporary and short-term residential
13 care, sustenance and supervision of a [mentally retarded or
14 developmentally disabled] person with an intellectual disability
15 or a developmental disability who otherwise resides in a family
16 home;

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

20 633.010. 1. The division of [mental retardation and]
21 developmental disabilities, created by the omnibus reorganization
22 act of 1974, section 9, appendix B, RSMo, shall be a division of
23 the department. The division shall have the responsibility of
24 insuring that [mental retardation] intellectual disabilities and
25 developmental disabilities prevention, evaluation, care,
26 habilitation and rehabilitation services are accessible, wherever
27 possible. The division shall have and exercise supervision of
28 division residential facilities, day programs and other

1 specialized services operated by the department, and oversight
2 over facilities, programs and services funded or licensed by the
3 department.

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

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

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

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

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

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

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

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

1 (8) Cooperation with other state agencies to encourage
2 appropriate health facilities to serve, without discrimination,
3 persons [who are mentally retarded or developmentally disabled]
4 with an intellectual disability or a developmental disability who
5 require medical care and to provide them with adequate and
6 appropriate services;

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

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

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

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

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

26 633.020. 1. The "Missouri [Advisory Council on Mental
27 Retardation and] Developmental Disabilities Council", consisting
28 of up to twenty-five members, the number to be determined under

1 the council bylaws, is hereby created to advise the division and
2 the division director.

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

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

26 4. Each member shall be reimbursed for reasonable and
27 necessary expenses, including travel expenses, pursuant to
28 department travel regulations, actually incurred in the

1 performance of his official duties.

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

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

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

14 8. The council shall be advisory and shall:

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

22 (2) Study and review current prevention, evaluation, care,
23 treatment and rehabilitation technologies and recommend
24 appropriate preparation, training, retraining and distribution of
25 manpower and resources in the provision of services to [mentally
26 retarded or developmentally disabled] persons with an
27 intellectual disability or a developmental disability through
28 private and public residential facilities, day programs and other

1 specialized services;

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

6 (4) Participate in developing and disseminating criteria
7 and standards to qualify mental retardation or developmental
8 disability residential facilities, day programs and other
9 specialized services in this state for funding or licensing, or
10 both, by the department.

11 633.029. All persons determined eligible for services
12 provided by the division of [mental retardation and]
13 developmental disabilities prior to January 1, 1991, shall be
14 eligible for services on the basis of their earlier determination
15 of eligibility without regard to their eligibility status under
16 the definition of developmental disability contained in section
17 630.005.

18 633.030. 1. The department shall prepare a state plan to
19 secure coordinated [mental retardation and] intellectual
20 disabilities and developmental disabilities habilitation services
21 accessible to persons in need of them in defined geographic
22 areas, which plan shall be reviewed and revised annually.

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

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

28 (2) Statements of short-term and long-term goals for

1 meeting the needs of currently served, underserved, unserved or
2 inappropriately served populations and areas of the state;

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

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

8 (5) Descriptions of the following:

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

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

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

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

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

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

28 633.045. 1. Any regional advisory councils established

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

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

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

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

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

17 633.050. 1. In addition to such other advisory functions
18 as may be agreed upon with the division, the regional advisory
19 councils shall review and advise on programs and policies of the
20 regional centers. The councils shall review, advise on, and
21 recommend regional program budgets and shall report to the
22 division director their findings as to their conformity with the
23 regional plans before they are transmitted to the department to
24 be considered for inclusion in the department budget request.

25 2. The regional councils may advise the department, the
26 division and the regional centers on methods of operation and
27 service delivery which will assure comprehensive services with
28 the minimum amount of duplication, fragmentation and unnecessary

1 expenditures. In making such proposals, the councils shall
2 consider the most appropriate use of existing agencies and
3 professional personnel providing residential facilities, day
4 programs and other specialized services for [the mentally
5 retarded and developmentally disabled] persons with an
6 intellectual disability or developmental disability in their
7 regions.

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

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

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

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

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

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

22 633.110. 1. Any person suspected to [be mentally retarded
23 or developmentally disabled] have an intellectual disability or
24 developmental disability shall be eligible for initial diagnostic
25 and counseling services through the regional centers.

26 2. If it is determined by a regional center through a
27 comprehensive evaluation that a person [is mentally retarded or
28 developmentally disabled] has an intellectual disability or a

1 developmental disability so as to require the provision of
2 services, and if such person, such person's parent, if the person
3 is a minor, or legal guardian, requests that he be registered as
4 a client of a regional center, the regional center shall, within
5 the limits of available resources, secure a comprehensive program
6 of any necessary services for such person. Such services may
7 include, but need not be limited to, the following:

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

22 3. In securing the comprehensive program of services, the
23 regional centers shall involve the client, his family or his
24 legal guardian in decisions affecting his care, habilitation,
25 placement or referral. Nothing in this chapter shall be
26 construed as authorizing the care, treatment, habilitation,
27 referral or placement of any [mentally retarded or
28 developmentally disabled] person with an intellectual disability

1 or developmental disability to any residential facility, day
2 program or other specialized service without the written consent
3 of the client, his parent, if he is a minor, or his legal
4 guardian, unless such care, treatment, habilitation, referral, or
5 placement is authorized pursuant to an order of the court under
6 the provisions of chapter 475.

7 633.115. The regional center shall secure services for its
8 clients in the least restrictive environment consistent with
9 individualized habilitation plans. As a result of its
10 comprehensive evaluation, the regional center shall utilize the
11 following entities to secure services:

12 (1) Agencies serving persons not diagnosed [as mentally
13 retarded or developmentally disabled] with an intellectual
14 disability or developmental disability in which the client would
15 be eligible to receive available services or in which the
16 services could be made available to the client through the
17 purchase of assistive or supportive services;

18 (2) Agencies serving [mentally retarded or developmentally
19 disabled] persons with an intellectual disability or
20 developmental disability in which the client would be eligible to
21 receive available services or in which services could be made
22 available to the client through the purchase of assistive or
23 supportive services;

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

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

28 (5) A residential facility licensed through the department

1 placement program, but not operated by the department;

2 (6) A [mental retardation] developmental disability
3 facility operated by the department for clients who are
4 [developmentally disabled or mentally retarded] persons with an
5 intellectual disability or developmental disability.

6 633.120. 1. A regional center may refer a client for
7 admission to a [mental retardation] developmental disability
8 facility only if determined by a comprehensive evaluation that:

9 (1) The person has a developmental disability;

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

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

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

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

23 3. The head of a private [mental retardation] developmental
24 disability facility may, and the head of a department [mental
25 retardation] developmental disability facility shall, admit the
26 person if, as a result of reviewing the evaluation, the head of
27 the [mental retardation] developmental disability facility
28 determines that the client is appropriate for admission as a

1 resident and suitable accommodations are available. If the head
2 of a department [mental retardation] developmental disability
3 facility rejects the referral, the regional center may appeal the
4 rejection to the division director. After consulting with the
5 head of the referring regional center and the head of the
6 department [mental retardation] developmental disability
7 facility, the division director shall determine the appropriate
8 disposition of the client.

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

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

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

23 633.125. 1. A resident admitted to a [mental retardation]
24 developmental disability facility pursuant to section 633.120
25 shall be discharged immediately when the person who applied for
26 his admission requests the release orally, in writing or
27 otherwise from the head of the [mental retardation] developmental
28 disability facility; except, that if the head of the [mental

1 retardation] developmental disability facility regards the
2 resident as presenting a likelihood of serious harm to himself or
3 others, the head of the facility may initiate involuntary
4 detention procedures pursuant to chapter 632, if appropriate, or
5 any individual, including the head of the facility or the mental
6 health coordinator may initiate guardianship proceedings and, if
7 appropriate, obtain an emergency commitment order pursuant to
8 chapter 475.

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

18 3. A resident shall either be discharged from a department
19 [mental retardation] developmental disability facility or shall
20 be referred to a regional center for placement in a least
21 restrictive environment pursuant to section 630.610, if it is
22 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
25 for the protection or adequate care of the resident or others the
26 resident needs department residential habilitation or other
27 services;

28 (2) The [mental retardation] developmental disability

1 facility does not offer a program which best meets the resident's
2 needs; or

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

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

12 633.130. 1. At least once every one hundred eighty days,
13 the head of each [mental retardation] developmental disability
14 facility shall cause the condition and status of each resident to
15 be reviewed and evaluated for the purpose of determining whether
16 the resident needs further residential habilitation, placement in
17 the least restrictive environment or discharge.

18 2. The head of the facility shall initiate proceedings to
19 discharge any resident whose continued residential habilitation
20 is no longer appropriate; except, that the head of the facility
21 may refer the resident to the appropriate regional center for
22 placement pursuant to section 630.610.

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

26 633.135. 1. If a resident, or his parent if he is a minor,
27 or his legal guardian refuses to consent to the proposed
28 placement or to discharge from the facility, the head of the

1 [mental retardation] developmental disability facility may
2 petition the director of the division to determine whether the
3 proposed placement is appropriate under sections 630.610, 630.615
4 and 630.620 or whether the proposed discharge is appropriate
5 under sections 633.120, 633.125 and 633.130.

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

21 3. After prompt notice and hearing, the panel shall
22 determine whether the proposed placement is appropriate under
23 sections 630.610, 630.615 and 630.620 or whether the proposed
24 discharge is appropriate under sections 633.120, 633.125 and
25 633.130. The hearing shall be electronically recorded for
26 purposes of obtaining a transcript. The council shall forward
27 the tape recording, recommended findings of fact, conclusions of
28 law and decision to the director who shall enter findings of

1 fact, conclusions of law and the final decision. Notice of the
2 director's decision shall be sent to the resident, or his parent
3 if he is a minor, or his guardian, by registered mail, return
4 receipt requested. The director shall expedite this review in
5 all respects.

6 4. If the resident, or his parent if he is a minor, or his
7 guardian disagrees with the decision of the director, he may
8 appeal the decision, within thirty days after notice of the
9 decision is sent, to the circuit court of the county where the
10 resident, or his parent if he is a minor, or his guardian
11 resides. The court shall review the record, proceedings and
12 decision of the director not only under the provisions of chapter
13 536, but also as to whether or not the head of the facility
14 sustained his burden of proof that the proposed placement is
15 appropriate under sections 630.110, 630.115 and 630.120, or the
16 proposed discharge is appropriate under sections 633.120, 633.125
17 and 633.130. The court shall expedite this review in all
18 respects. Notwithstanding the provisions of section 536.140, a
19 court may, for good cause shown, hear and consider additional
20 competent and material evidence.

21 5. Any resident of a [mental retardation] developmental
22 disability facility who is age eighteen or older and who does not
23 have a legal guardian shall not be discharged unless probate
24 division of the circuit court approval is obtained to confirm
25 that the resident is not in need of the care, treatment or
26 programs now being received in the [mental retardation]
27 developmental disability facility.

28 6. The notice and procedure for the hearing by the panel

1 shall be in accordance with chapter 536.

2 7. In all proceedings either before the panel or before the
3 circuit court, the burden of proof shall be upon the head of the
4 facility to demonstrate by preponderance of evidence that the
5 proposed placement is appropriate under the criteria set forth in
6 sections 630.610, 630.615, and 630.120, or that the proposed
7 discharge is appropriate under the criteria set forth in sections
8 633.120, 633.125 and 633.130.

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

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

19 633.140. 1. If any resident leaves a **[mental retardation]**
20 developmental disability facility without authorization, the
21 sheriff of the county where the resident is found shall apprehend
22 and return him to the center if requested to do so by the head of
23 the facility.

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

27 (1) The resident is a minor whose admission was applied for
28 by his parent or legal custodian, and such parent or guardian has

1 not requested the resident's release;

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

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

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

11 633.145. 1. The department may transfer a resident from
12 one department [mental retardation] developmental disability
13 facility to another if the division director determines that such
14 transfer is desirable to provide the resident improved
15 habilitation or other services, to better insure his safety and
16 welfare, or to locate him in closer proximity to his family and
17 friends.

18 2. Transfers may only be made to a private [mental
19 retardation] developmental disability facility pursuant to
20 section 630.610.

21 3. Determinations by the division director pursuant to this
22 section shall be written and noted in the resident's records.
23 The division director shall notify the resident, his guardian or
24 next of kin of such determination. The department shall not
25 transfer any resident unless it receives the consent of the
26 resident, his guardian or his parent, if the resident is a minor.

27 633.150. The head of a [mental retardation] developmental
28 disability facility may transfer a resident to a mental health

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

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

12 2. Notwithstanding the provisions of section 633.120 and
13 section 475.120, a regional center may admit [a mentally
14 retarded] an intellectually disabled or developmentally disabled
15 person who has been declared legally incapacitated for respite
16 care without a court order authorizing the guardian of such
17 person to obtain such care of up to twenty-one days for good
18 cause shown.

19 633.160. If a person presents himself, or is presented, to
20 a regional center or department [mental retardation]
21 developmental disability facility and is determined to be
22 [mentally retarded or] intellectually disabled or developmentally
23 disabled and, as a result, presents an imminent likelihood of
24 serious harm to himself or others as defined in chapter 632, the
25 regional center or [mental retardation] developmental disability
26 facility may accept the person for detention for evaluation and
27 treatment for a period not to exceed ninety-six hours under the
28 same procedures contained in chapter 632. The head of the

1 regional center or [mental retardation] developmental disability
2 facility may initiate guardianship proceedings to have the person
3 detained beyond the ninety-six hours under chapter 475, or may
4 refer the person to a mental health facility, if the person is
5 mentally ill, for further detention under the procedures in
6 chapter 632.

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

- 20 (1) Respite care;
- 21 (2) Personal and attendant care;
- 22 (3) Architectural and vehicular modifications;
- 23 (4) Health- and mental health-related costs not otherwise
24 covered;
- 25 (5) Equipment and supplies;
- 26 (6) Specialized nutrition and clothing;
- 27 (7) Homemaker services;
- 28 (8) Transportation;

- 1 (9) Integrated community activities;
- 2 (10) Training and technical assistance; and
- 3 (11) Individual, family and group counseling.

4 2. Application for such stipend shall be made to the
5 appropriate regional center. The regional center shall determine
6 the eligibility of the individual to receive services from the
7 division and the division shall forward the application to the
8 regional advisory council to determine the amount of the stipend
9 which may be approved by the council.

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

14 633.185. 1. The division of [mental retardation and]
15 developmental disabilities, subject to appropriation by the
16 general assembly, is authorized to implement and administer, as
17 part of the family support program, a family support loan
18 program, which shall provide a family with an annual income of
19 sixty thousand dollars or less which has an individual with a
20 developmental disability residing in the home, with low-interest,
21 short-term loans to purchase goods and services for the family
22 member with a developmental disability.

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

1 3. Applications for loans shall be made to the appropriate
2 regional center. The regional center shall determine the
3 eligibility of the individual to receive services from the
4 division and the division shall forward the application to the
5 regional advisory council to determine the amount of the loan
6 which may be approved by the council.

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

19 633.190. 1. The division of [mental retardation and]
20 developmental disabilities, in cooperation with the Missouri
21 planning council for developmental disabilities, shall adopt
22 policies and procedures and, when necessary, shall promulgate
23 rules and regulations regarding:

- 24 (1) Program guidelines and specifications;
- 25 (2) Additional duties of the regional advisory councils;
- 26 (3) Annual evaluation of services provided by each regional
27 center, including an assessment of consumer satisfaction;
- 28 (4) Coordination of the family support program and the use

1 of its funds throughout the state and within each region, with
2 other publicly funded programs, including Medicaid;

3 (5) Methodology for allocating resources to families with
4 the funds available;

5 (6) Resolution of grievances filed by families pertaining
6 to actions of the family support program;

7 (7) Methodology for outreach and education.

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

11 633.210. 1. There is hereby established in the department
12 of mental health within the division of [mental retardation and]
13 developmental disabilities, an "Office of Autism Services". The
14 office of autism services, under the supervision of the director
15 of the division of [mental retardation and] developmental
16 disabilities, shall provide leadership in program development for
17 children and adults with autism spectrum disorders, to include
18 establishment of program standards and coordination of program
19 capacity.

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

26 633.300. 1. All group homes and [mental retardation]
27 developmental disability facilities as defined in section 633.005
28 shall be subject to all applicable federal and state laws,

1 regulations, and monitoring, including but not limited to
2 sections 630.705 to 630.805.

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

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

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

26 633.303. Any employee, including supervisory personnel, of
27 a group home or [mental retardation] developmental disability
28 facility who has been placed on the disqualification registry

1 pursuant to section 630.170 shall be terminated. Such
2 requirements shall be specified in contracts between the
3 department and providers pursuant to this section.

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