

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 603

91ST GENERAL ASSEMBLY

0783S.03T

2001

AN ACT

To repeal section 660.050, RSMo 2000, relating to the department of health and senior services, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Section 660.050, RSMo 2000, is repealed and five new sections enacted in lieu thereof, to be known as sections 9.160, 192.002, 660.050, 660.060 and 660.062, to read as follows:

9.160. The governor shall annually issue a proclamation setting apart the second Tuesday of March as "Alzheimer's Awareness Day", and recommending to the people of the state that the day be appropriately observed through activities which will increase awareness of Alzheimer's disease and related dementias.

192.002. The department of health shall be known as the "Department of Health and Senior Services".

660.050. 1. The "Division of Aging" is hereby [created and established as a division of the department of social services] **transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974.** The division shall aid and assist the elderly and low-income handicapped adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The division shall regulate adult long-term care facilities [under] **pursuant to** the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated [under] **pursuant to** other provisions of law, the division shall:

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

- 11 (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service
12 program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73,
13 (42 U.S.C. 3001, et seq.), as amended;
- 14 (2) Assure that an information and referral system is developed and operated for the
15 elderly, including information on the Missouri care options program;
- 16 (3) Provide technical assistance, planning and training to local area agencies on aging;
- 17 (4) Contract with the federal government to conduct surveys of long-term care facilities
18 certified for participation in the Title XVIII program;
- 19 (5) Serve as liaison between the department of [social services] **health and senior**
20 **services** and the Federal Health Standards and Quality Bureau, as well as the Medicare and
21 Medicaid portions of the United States Department of Health and Human Services;
- 22 (6) Conduct medical review (inspections of care) activities such as utilization reviews,
23 independent professional reviews, and periodic medical reviews to determine medical and social
24 needs for the purpose of eligibility for Title XIX, and for level of care determination;
- 25 (7) Certify long-term care facilities for participation in the Title XIX program;
- 26 (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for
27 Supplemental Security Income recipients in long-term care facilities and serve as the liaison
28 between the Social Security Administration and the department of [social services] **health and**
29 **senior services** concerning Supplemental Security Income beneficiaries;
- 30 (9) Review plans of proposed long-term care facilities before they are constructed to
31 determine if they meet applicable state and federal construction standards;
- 32 (10) Provide consultation to long-term care facilities in all areas governed by state and
33 federal regulations;
- 34 (11) Serve as the central state agency with primary responsibility for the planning,
35 coordination, development, and evaluation of policy, programs, and services for elderly persons
36 in Missouri consistent with the provisions of subsection 1 of this section and serve as the
37 designated state unit on aging, as defined in the Older Americans Act of 1965;
- 38 (12) With the advice of the governor's advisory council on aging, develop long-range
39 state plans for programs, services, and activities for elderly and handicapped persons. State plans
40 should be revised annually and should be based on area agency on aging plans, statewide
41 priorities, and state and federal requirements;
- 42 (13) Receive and disburse all federal and state funds allocated to the division and solicit,
43 accept, and administer grants, including federal grants, or gifts made to the division or to the
44 state for the benefit of elderly persons in this state;
- 45 (14) Serve, within government and in the state at large, as an advocate for elderly
46 persons by holding hearings and conducting studies or investigations concerning matters

47 affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to
48 assure their rights to apply for and receive services and to be given fair hearings when such
49 services are denied;

50 (15) Provide information and technical assistance to the governor's advisory council on
51 aging and keep the council continually informed of the activities of the division;

52 (16) After consultation with the governor's advisory council on aging, make
53 recommendations for legislative action to the governor and to the general assembly;

54 (17) Conduct research and other appropriate activities to determine the needs of elderly
55 persons in this state, including, but not limited to, their needs for social and health services, and
56 to determine what existing services and facilities, private and public, are available to elderly
57 persons to meet those needs;

58 (18) Maintain [a clearinghouse for] **and serve as a clearinghouse for up-to-date**
59 **information and technical assistance** related to the needs and interests of elderly persons **and**
60 **persons with Alzheimer's disease or related dementias**, including information on the Missouri
61 care options program, **dementia-specific training materials and dementia-specific trainers.**
62 **Such dementia-specific information and technical assistance shall be maintained and**
63 **provided in consultation with agencies, organizations and/or institutions of higher learning**
64 **with expertise in dementia care;**

65 (19) Provide area agencies on aging with assistance in applying for federal, state, and
66 private grants and identifying new funding sources;

67 (20) Determine area agencies on aging annual allocations for Title XX and Title III of
68 the Older Americans Act expenditures;

69 (21) Provide transportation services, home delivered and congregate meals, in-home
70 services, counseling and other services to the elderly and low-income handicapped adults as
71 designated in the Social Services Block Grant Report, through contract with other agencies, and
72 shall monitor such agencies to ensure that services contracted for are delivered and meet
73 standards of quality set by the division;

74 (22) Monitor the process pursuant to the federal Patient Self-determination Act, 42
75 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients
76 concerning durable powers of attorney and living wills.

77 3. The division director, subject to the supervision of the director of the department of
78 [social services] **health and senior services**, shall be the chief administrative officer of the
79 division and shall exercise for the division the powers and duties of an appointing authority
80 [under] **pursuant to** chapter 36, RSMo, to employ such administrative, technical and other
81 personnel as may be necessary for the performance of the duties and responsibilities of the
82 division.

83 4. The division may withdraw designation of an area agency on aging only when it can
84 be shown the federal or state laws or rules have not been complied with, state or federal funds
85 are not being expended for the purposes for which they were intended, or the elderly are not
86 receiving appropriate services within available resources, and after consultation with the director
87 of the area agency on aging and the area agency board. Withdrawal of any particular program
88 of services may be appealed to the director of the department of [social services] **health and**
89 **senior services** and the governor. In the event that the division withdraws the area agency on
90 aging designation in accordance with the Older Americans Act, the division shall administer the
91 services to clients previously performed by the area agency on aging until a new area agency on
92 aging is designated.

93 5. Any person hired by the department of [social services] **health and senior services**
94 after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant
95 to chapter 198, RSMo, shall complete at least one hundred hours of basic orientation regarding
96 the inspection process and applicable rules and statutes during the first six months of
97 employment. Any such person shall annually, on the anniversary date of employment, present
98 to the department evidence of having completed at least twenty hours of continuing education
99 in at least two of the following categories: communication techniques, skills development,
100 resident care, or policy update. The department of [social services] **health and senior services**
101 shall by rule describe the curriculum and structure of such continuing education.

102 6. The division may issue and promulgate rules to enforce, implement and effectuate the
103 powers and duties established in sections 198.070 and 198.090, RSMo, and sections 660.050,
104 660.250 and 660.300 to 660.320. [No rule or portion of a rule promulgated under the authority
105 of this chapter and sections 198.070 and 198.090, RSMo, shall become effective unless it has
106 been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion**
107 **of a rule, as that term is defined in section 536.010, RSMo, that is created under the**
108 **authority delegated in this section shall become effective only if it complies with and is**
109 **subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
110 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers**
111 **vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the**
112 **effective date or to disapprove and annul a rule are subsequently held unconstitutional,**
113 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
114 **2001, shall be invalid and void.**

115 7. Missouri care options is a program, operated and coordinated by the division of aging,
116 which informs individuals of the variety of care options available to them when they may need
117 long-term care.

118 8. The division shall, by January 1, 2002, establish minimum dementia-specific

training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care facilities, residential care facilities, agencies providing in-home care services authorized by the division of aging, adult daycare programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and on-going in-service curricula for all employees involved in the care of persons with dementia. The department of health shall, by January 1, 2002, establish minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197, RSMo. Such training shall be incorporated into the home health and hospice agency's new employee orientation and on-going in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or on-going in-service. Training shall include at a minimum, the following:

(1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia.

As used in this subsection, the term "employee" includes persons hired as independent contractors. The training requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

660.060. All authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging shall be transferred to the department of health and senior services.

660.062. 1. There is hereby created a "State Board of Senior Services" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of senior services shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of senior services shall be from the same political party.

7 **2. Each member shall be appointed for a term of four years; except that of the**
8 **members first appointed, two shall be appointed for a term of one year, two for a term of**
9 **two years, two for a term of three years and one for a term of four years. The successors**
10 **of each shall be appointed for full terms of four years. No person may serve on the state**
11 **board for senior services for more than two terms. The terms of all members shall**
12 **continue until their successors have been duly appointed and qualified. One of the persons**
13 **appointed to the state board for senior services shall be a person currently working in the**
14 **field of gerontology. One of the persons appointed to the state board for senior services**
15 **shall be a physician with expertise in geriatrics. One of the persons appointed to the state**
16 **board for senior services shall be a person with expertise in nutrition. One of the persons**
17 **appointed to the state board for senior services shall be a person with expertise in**
18 **rehabilitation services of persons with disabilities. One of the persons appointed to the**
19 **state board for senior services shall be a person with expertise in mental health issues. In**
20 **making the two remaining appointments, the governor shall give consideration to**
21 **individuals having a special interest in gerontology or disability-related issues, including**
22 **senior citizens. Four of the seven members appointed to the state board of senior services**
23 **shall be members of the governor's advisory council on aging. If a vacancy occurs in the**
24 **appointed membership, the governor may appoint a member for the remaining portion of**
25 **the unexpired term created by the vacancy. The members shall receive actual and**
26 **necessary expenses plus twenty-five dollars per day for each day of actual attendance.**

27 **3. The board shall elect from among its membership a chairman and a vice**
28 **chairman, who shall act as chairman in his or her absence. The board shall meet at the call**
29 **of the chairman. The chairman may call meetings at such times as he or she deems**
30 **advisable, and shall call a meeting when requested to do so by three or more members of**
31 **the board.**

32 **4. The state board of senior services shall advise the department of health and**
33 **senior services in the:**

34 **(1) Promulgation of rules and regulations by the department of health and senior**
35 **services;**

36 **(2) Formulation of the budget for the department of health and senior services; and**

37 **(3) Planning for and operation of the department of health and senior services.**