

FIRST REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 707

95TH GENERAL ASSEMBLY

1560L.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 44.090, 192.925, 197.500, 198.006, 198.074, 198.075, 198.070, 198.090, 198.532, 208.909, 208.912, 208.915, 210.900, 210.906, 210.933, 287.067, 319.306, 319.321, 455.038, 565.180, 565.182, 565.184, 565.188, 565.200, 570.030, 570.080, 570.223, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.040, 595.045, 595.065, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.512, 660.600, 660.603, 660.605, 660.608, 660.620, 660.625, 660.725, and 701.355, RSMo, and to enact in lieu thereof ninety-three new sections relating to public safety, with penalty provisions.

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

Section A. Sections 44.090, 192.925, 197.500, 198.006, 198.074, 198.075, 198.070, 198.090, 198.532, 208.909, 208.912, 208.915, 210.900, 210.906, 210.933, 287.067, 319.306, 319.321, 455.038, 565.180, 565.182, 565.184, 565.188, 565.200, 570.030, 570.080, 570.223, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.040, 595.045, 595.065, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.512, 660.600, 660.603, 660.605, 660.608, 660.620, 660.625, 660.725, and 701.355,

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

10 RSMo, are repealed and ninety-three new sections enacted in lieu thereof, to be known as
11 sections 44.090, 53.201, 94.903, 192.925, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009,
12 192.2012, 192.2015, 192.2020, 192.2025, 192.2030, 192.2033, 192.2035, 192.2040, 192.2100,
13 192.2103, 192.2106, 192.2109, 192.2112, 192.2115, 192.2118, 192.2121, 192.2124, 192.2127,
14 192.2130, 192.2150, 192.2153, 192.2175, 192.2178, 192.2181, 192.2184, 192.2187, 192.2200,
15 192.2203, 192.2206, 192.2209, 192.2212, 192.2215, 192.2218, 192.2221, 192.2224, 192.2227,
16 192.2250, 192.2253, 198.006, 198.074, 198.075, 198.090, 198.532, 198.700, 198.703, 198.705,
17 198.708, 208.909, 210.900, 210.906, 287.067, 300.349, 319.306, 319.321, 321.227, 455.038,
18 565.180, 565.182, 565.184, 565.188, 565.200, 570.030, 570.080, 570.223, 595.010, 595.015,
19 595.020, 595.025, 595.030, 595.035, 595.040, 595.045, 595.065, 650.465, 650.600, 650.602,
20 650.604, 650.606, 650.608, 650.610, 650.612, 660.010, 701.355, and 1, to read as follows:

44.090. 1. The executive officer of any political subdivision **or public safety agency**
2 may enter into mutual-aid arrangements or agreements with other public and private agencies
3 within and without the state for reciprocal emergency aid. Such arrangements or agreements
4 shall be consistent with the state disaster plan and program and the provisions of section 70.837,
5 RSMo, and section 320.090, RSMo. In time of emergency it shall be the duty of each local
6 organization for emergency management to render assistance in accordance with the provisions
7 of such mutual-aid arrangements or agreements.

8 2. Any contracts that are agreed upon may provide for compensation from the parties and
9 other terms that are agreeable to the parties and may be for an indefinite period as long as they
10 include a sixty-day cancellation notice provision by either party. The contracts agreed upon may
11 not be entered into for the purpose of reduction of staffing by either party.

12 3. At the time of significant emergency such as fire, earthquake, flood, tornado,
13 hazardous material incident, terrorist incident, or other such manmade or natural emergency
14 disaster **or public safety need** anywhere within the state or bordering states, the highest ranking
15 official of [a] **any political subdivision [available] or public safety agency or their designee**
16 may render aid to **or request aid from** any [requesting political] jurisdiction, **agency, or**
17 **organization** even without written agreement, as long as he or she is in accordance with the
18 policies and procedures set forth by the governing [board] **boards** of [that jurisdiction] **those**
19 **jurisdictions, agencies, or organizations. A public safety need, as used in this section, shall**
20 **include any event or incident necessitating mutual-aid assistance from another public**
21 **safety agency.**

22 4. When responding to mutual aid or emergency aid requests, political subdivisions **or**
23 **public safety agencies** shall be subject to all provisions of law as if it were providing service
24 within its own jurisdiction.

25 5. All political subdivisions **and public safety agencies** within the state are, upon
26 enactment of this legislation or execution of an agreement, automatically a part of the Missouri
27 statewide mutual aid system. A political subdivision within the state may elect not to participate
28 in the statewide mutual aid system upon enacting an appropriate resolution by its governing body
29 declaring that it elects not to participate in the statewide mutual aid system and by providing a
30 copy of the resolution to the [state fire marshal and state emergency management agency]
31 **director of the department of public safety or his or her designee.**

32 6. [Emergency response] **The Missouri mutual aid system shall be administered by**
33 **the department of public safety, which may authorize any organization to assist in the**
34 **administration of the mutual aid system. The department of public safety may promulgate**
35 **rules for this section. Any rule or portion of a rule, as that term is defined in section**
36 **536.010, RSMo, that is created under the authority delegated in this section shall become**
37 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
38 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
39 **nonseverable and if any of the powers vested with the general assembly under chapter 536,**
40 **RSMo, to review, to delay the effective date, or to disapprove and annul a rule are**
41 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
42 **proposed or adopted after August 28, 2009, shall be invalid and void.**

43 7. **For the purpose of this section, public safety agencies** shall include, but shall not
44 be limited to, fire service organizations, law enforcement agencies, emergency medical service
45 organizations, public health and medical personnel, emergency management officials,
46 infrastructure departments, public works agencies, and those other agencies, organizations, [and]
47 departments, **and specialized emergency response teams** that have personnel with special skills
48 or training that are needed to provide services during an emergency, **public safety need,** or
49 disaster, **declared or undeclared.**

50 [7.] 8. It shall be the responsibility of each political subdivision **and public safety**
51 **agency** to adopt and put into practice the National Incident Management System promulgated
52 by the United States Department of Homeland Security.

53 [8.] 9. In the event of a disaster **or other public safety need** that is beyond the capability
54 of local political subdivisions, the local governing authority **or public safety agency having**
55 **jurisdiction** may request assistance under this section.

56 [9.] 10. Any entity or individual that holds a license, certificate, or other permit issued
57 by a participating political subdivision, **public safety agency,** or state shall be deemed licensed,
58 certified, or permitted in the requesting political subdivision **or public safety agency's**
59 **jurisdiction** for the duration of the [declared] emergency or authorized drill.

60 [10.] 11. Reimbursement for services rendered under this section shall be in accordance
61 with **any local**, state and federal guidelines. Any political subdivision **or public safety agency**
62 providing assistance shall receive appropriate reimbursement according to those guidelines.

63 [11.] 12. Applicable benefits normally available to personnel while performing duties
64 for their jurisdiction are also available to such persons when an injury or death occurs when
65 rendering assistance to another political subdivision **or public safety agency** under this section.
66 Responders shall be eligible for the same state and federal benefits that may be available to them
67 for line-of-duty deaths **or injuries**, if such services are otherwise provided for within their
68 jurisdiction.

69 [12.] 13. All activities performed under this section **during any emergency, disaster,**
70 **or public safety need that is not declared by the governor as an emergency** are deemed to
71 be governmental functions. For the purposes of liability, all [participating] **members of any**
72 political [subdivisions] **subdivision or public safety agency** responding under operational
73 control of the requesting political subdivision **or a public safety agency** are deemed employees
74 of such [participating] **responding** political subdivision **or public safety agency and are**
75 **subject to the liability and workers' compensation provisions provided to them as**
76 **employees of their respective political subdivision or public safety agency.**

77 14. During an emergency declared by the governor, responders of any public safety
78 agency or political subdivision deployed by the governor or any state agency shall not be
79 liable for any civil damages or administrative sanctions for any failure, in the delivery of
80 services necessitated by the emergency during deployment, to exercise the skill and
81 learning of an ordinarily careful public safety professional in similar circumstances, but
82 shall be liable for damages due to willful and wanton acts or omissions in rendering such
83 services.

53.201. 1. As used in this section, the following terms mean:

2 (1) "Immediate family", any parent, sibling, spouse, child, or dependent relative
3 of a peace officer, whether the dependent relative lives with the peace officer or not;

4 (2) "Peace officer", any peace officer as defined in section 590.010, RSMo, any
5 county, state, or federal parole officer, or any federal pretrial officer.

6 2. No county assessor shall release the home address or any other information
7 contained in any of the assessor's records in any form, including any electronic format or
8 any geographic information system, regarding any person who is a peace officer, or who
9 is a member of the peace officer's immediate family. Any peace officer or member of the
10 peace officer's immediate family desiring such information and address to remain
11 confidential under this section shall send a written request to the assessor under this
12 section, along with proof that such person is eligible to make a request under this section.

94.903. 1. The governing body of any city of the fourth classification with more than thirteen thousand six hundred but fewer than thirteen thousand eight hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall be equal to one percent, and shall be imposed solely for the purpose of funding improvements to the public safety of the city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire, and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "(insert city name) Public Safety Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December

37 thirty-first of the calendar year in which such repeal was approved. If a majority of the
38 votes cast on the question by the qualified voters voting thereon are opposed to the repeal,
39 then the sales tax authorized in this section shall remain effective until the question is
40 resubmitted under this section to the qualified voters and the repeal is approved by a
41 majority of the qualified voters voting on the question.

42 5. Whenever the governing body of any city that has adopted the sales tax
43 authorized in this section receives a petition, signed by a number of registered voters of the
44 city equal to at least ten percent of the number of registered voters of the city voting in the
45 last gubernatorial election, calling for an election to repeal the sales tax imposed under this
46 section, the governing body shall submit to the voters of the city a proposal to repeal the
47 tax. If a majority of the votes cast on the question by the qualified voters voting thereon
48 are in favor of the repeal, the repeal shall become effective on December thirty-first of the
49 calendar year in which such repeal was approved. If a majority of the votes cast on the
50 question by the qualified voters voting thereon are opposed to the repeal, then the sales tax
51 authorized in this section shall remain effective until the question is resubmitted under this
52 section to the qualified voters and the repeal is approved by a majority of the qualified
53 voters voting on the question.

54 6. If the tax is repealed or terminated by any means, all funds remaining in the
55 special trust fund shall continue to be used solely for the designated purposes, and the city
56 shall notify the director of the department of revenue of the action at least ninety days
57 before the effective date of the repeal and the director may order retention in the trust
58 fund, for a period of one year, of two percent of the amount collected after receipt of such
59 notice to cover possible refunds or overpayment of the tax and to redeem dishonored
60 checks and drafts deposited to the credit of such accounts. After one year has elapsed after
61 the effective date of abolition of the tax in such city, the director shall remit the balance in
62 the account to the city and close the account of that city. The director shall notify each city
63 of each instance of any amount refunded or any check redeemed from receipts due the city.

192.925. 1. To increase public awareness of the problem of elder abuse and neglect **and**
2 **financial exploitation of the elderly**, the department of health and senior services shall
3 implement an education and awareness program. Such program shall have the goal of reducing
4 the incidences of elder abuse and neglect **and financial exploitation of the elderly**, and may
5 focus on:

6 (1) The education and awareness of mandatory reporters on their responsibility to report
7 elder abuse and neglect **and financial exploitation of the elderly**;

8 (2) Targeted education and awareness for the public on the problem, identification and
9 reporting of elder abuse and neglect **and financial exploitation of the elderly**;

- 10 (3) Publicizing the elder abuse and neglect hot line telephone number;
- 11 (4) Education and awareness for law enforcement agencies and prosecutors on the
- 12 problem and identification of elder abuse and neglect **and financial exploitation of the elderly**,
- 13 and the importance of prosecuting cases pursuant to chapter 565, RSMo; and
- 14 (5) Publicizing the availability of background checks prior to hiring an individual for
- 15 caregiving purposes.

16 2. The department of social services and facilities licensed pursuant to chapters 197 and

17 198, RSMo, shall cooperate fully with the department of health and senior services in the

18 distribution of information pursuant to this program.

[660.050.] **192.2000.** 1. The "Division of Aging" is hereby transferred from the

2 department of social services to the department of health and senior services by a type I transfer

3 as defined in the Omnibus State Reorganization Act of 1974. **All references in the revised**

4 **statutes of Missouri to the division of aging shall include any division or divisions**

5 **established by the department as a successor division or divisions to the division of aging.**

6 The division shall aid and assist the elderly and low-income [handicapped] adults **with**

7 **disabilities** living in the state of Missouri to secure and maintain maximum economic and

8 personal independence and dignity. The division shall regulate adult long-term care facilities

9 pursuant to the laws of this state and rules and regulations of federal and state agencies, to

10 safeguard the lives and rights of residents in these facilities.

11 2. In addition to its duties and responsibilities enumerated pursuant to other provisions

12 of law, the division shall:

13 (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service

14 program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73,

15 (42 U.S.C. 3001, et seq.), as amended;

16 (2) Assure that an information and referral system is developed and operated for the

17 elderly, including information on the Missouri care options program;

18 (3) Provide technical assistance, planning and training to local area agencies on aging;

19 (4) Contract with the federal government to conduct surveys of long-term care facilities

20 certified for participation in the Title XVIII program;

21 (5) Serve as liaison between the department of health and senior services and the Federal

22 Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the

23 United States Department of Health and Human Services;

24 (6) Conduct medical review (inspections of care) activities such as utilization reviews,

25 independent professional reviews, and periodic medical reviews to determine medical and social

26 needs for the purpose of eligibility for Title XIX, and for level of care determination;

27 (7) Certify long-term care facilities for participation in the Title XIX program;

28 (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for
29 Supplemental Security Income recipients in long-term care facilities and serve as the liaison
30 between the Social Security Administration and the department of health and senior services
31 concerning Supplemental Security Income beneficiaries;

32 (9) Review plans of proposed long-term care facilities before they are constructed to
33 determine if they meet applicable state and federal construction standards;

34 (10) Provide consultation to long-term care facilities in all areas governed by state and
35 federal regulations;

36 (11) Serve as the central state agency with primary responsibility for the planning,
37 coordination, development, and evaluation of policy, programs, and services for elderly persons
38 in Missouri consistent with the provisions of subsection 1 of this section and serve as the
39 designated state unit on aging, as defined in the Older Americans Act of 1965;

40 (12) With the advice of the governor's advisory council on aging, develop long-range
41 state plans for programs, services, and activities for elderly [and handicapped] persons **and long-**
42 **term care options for elderly persons and adults with disabilities.** State plans should be
43 revised annually and should be based on area agency on aging plans, statewide priorities, and
44 state and federal requirements;

45 (13) Receive and disburse all federal and state funds allocated to the division and solicit,
46 accept, and administer grants, including federal grants, or gifts made to the division or to the
47 state for the benefit of elderly persons in this state;

48 (14) Serve, within government and in the state at large, as an advocate for elderly
49 persons by holding hearings and conducting studies or investigations concerning matters
50 affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to
51 assure their rights to apply for and receive services and to be given fair hearings when such
52 services are denied;

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

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

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

61 (18) Maintain [and serve as a clearinghouse for] **information regarding resources that**
62 **provide** up-to-date information and technical assistance related to the needs and interests of
63 elderly persons and persons with Alzheimer's disease or related dementias, including information

64 on the Missouri care options program, dementia-specific training materials and dementia-specific
65 trainers. Such dementia-specific information and technical assistance shall be [maintained and]
66 provided in consultation with agencies, organizations and/or institutions of higher learning with
67 expertise in dementia care;

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

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

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

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

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

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

94 5. Any person hired by the department of health and senior services after August 13,
95 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198,
96 RSMo, shall complete at least one hundred hours of basic orientation regarding the inspection
97 process and applicable rules and statutes during the first six months of employment. Any such
98 person shall annually, on the anniversary date of employment, present to the department evidence

99 of having completed at least twenty hours of continuing education in at least two of the following
100 categories: communication techniques, skills development, resident care, or policy update.

101 The department of health and senior services shall by rule describe the curriculum and structure
102 of such continuing education.

103 6. The division may issue and promulgate rules to enforce, implement and effectuate the
104 powers and duties established in this section [and sections 198.070 and 198.090, RSMo, and
105 sections 660.250 and 660.300 to 660.320] , **section 192.2100, sections 192.2150 to 192.2187,**
106 **and section 198.090, RSMo.** Any rule or portion of a rule, as that term is defined in section
107 536.010, RSMo, that is created under the authority delegated in this section shall become
108 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
109 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
110 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
111 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
112 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
113 after August 28, 2001, shall be invalid and void.

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

117 8. The division shall, by January 1, 2002, establish minimum dementia-specific training
118 requirements for employees involved in the delivery of care to persons with Alzheimer's disease
119 or related dementias who are employed by skilled nursing facilities, intermediate care facilities,
120 residential care facilities, agencies providing in-home care services authorized by the [division
121 of aging] **department**, adult day-care programs, independent contractors providing direct care
122 to persons with Alzheimer's disease or related dementias and the [division of aging] **department**.
123 Such training shall be incorporated into new employee orientation and ongoing in-service
124 curricula for all employees involved in the care of persons with dementia. The department of
125 health and senior services shall, by January 1, 2002, establish minimum dementia-specific
126 training requirements for employees involved in the delivery of care to persons with Alzheimer's
127 disease or related dementias who are employed by home health and hospice agencies licensed
128 by chapter 197, RSMo. Such training shall be incorporated into the home health and hospice
129 agency's new employee orientation and ongoing in-service curricula for all employees involved
130 in the care of persons with dementia. The dementia training need not require additional hours
131 of orientation or ongoing in-service. Training shall include at a minimum, the following:

132 (1) For employees providing direct care to persons with Alzheimer's disease or related
133 dementias, the training shall include an overview of Alzheimer's disease and related dementias,

134 communicating with persons with dementia, behavior management, promoting independence in
135 activities of daily living, and understanding and dealing with family issues;

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

139

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

143 **9. All powers, duties, and functions of the board of nursing home administrators**
144 **contained in chapter 344, RSMo, are transferred by type I transfer to the department of**
145 **health and senior services.**

[660.060.] **192.2001.** All authority, powers, duties, functions, records, personnel,
2 property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging
3 shall be transferred to the department of health and senior services.

[660.053.] **192.2003.** As used in [section 199.025, RSMo, and sections 660.050 to
2 660.057 and 660.400 to 660.420] **sections 192.2000 to 192.2040 and sections 192.2200 to**
3 **192.2227**, the following terms mean:

4 (1) "Area agency on aging", the agency designated by the division in a planning and
5 service area to develop and administer a plan and administer available funds for a comprehensive
6 and coordinated system of services for the elderly and persons with disabilities who require
7 similar services;

8 (2) "Area agency board", the local policy-making board which directs the actions of the
9 area agency on aging under state and federal laws and regulations;

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

11 (4) "Director", the director of the [division of aging of the Missouri] department of
12 [social] **health and senior services, or the director's designee;**

13 [(4) "Division", the division of aging of the Missouri department of social services;]

14 (5) "Elderly" or "elderly persons", persons who are sixty years of age or older;

15 (6) "Disability", a mental or physical impairment that substantially limits one or more
16 major life activities, whether the impairment is congenital or acquired by accident, injury or
17 disease, where such impairment is verified by medical findings;

18 (7) "Local government", a political subdivision of the state whose authority is general
19 or a combination of units of general purpose local governments;

20 (8) "Major life activities", functions such as caring for one's self, performing manual
21 tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

22 (9) ["Medicaid"] "**MO HealthNet**", medical assistance provided under section 208.151,
23 RSMo, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social
24 Security Act (42 U.S.C. 301 et seq.), as amended;

25 (10) "Protective services", a service provided by the [Missouri division of aging in
26 response to the need for protection from harm or neglect to eligible adults under sections 660.250
27 to 660.295] **state or other governmental or private organizations or individuals to ensure**
28 **the safety and well being of elderly persons or adults with disabilities who are in danger**
29 **of being mistreated or neglected, and are unable to take care of themselves or protect**
30 **themselves from harm;**

31 (11) "Registered caregiver", a person who provides primary long-term care for an elderly
32 person and wishes to receive information, services or support from the shared care program;

33 (12) "Shared care", a program administered by the [division of aging] **department** in
34 which Missouri families who provide primary long-term care for an elderly person and register
35 as a shared care member with the [division of aging] **department** shall receive access to certain
36 supportive services and may receive a state tax credit;

37 (13) "Shared care community project", a project in a community that offers to help
38 support shared care participation through development of programs;

39 (14) "Shared care member", a registered caregiver or shared care provider who registers
40 with the [division of aging] **department** in order to participate in the shared care program;

41 (15) "Shared care provider", any state authorized long-term care provider in the state,
42 including, but not limited to, in-home, home health, hospice, adult day care, residential care
43 facility or assisted living facility, or nursing home, who voluntarily registers with the [division
44 of aging] **department** to be available as a resource for the shared care program;

45 (16) "Shared care tax credit", a tax credit to registered caregivers who meet the
46 requirements of section [660.055] **192.2009**.

[660.054.] **192.2006**. 1. The [division of aging of the department of social] **department**
2 **of health and senior** services shall establish a program to help families who provide the primary
3 long-term care for an elderly person. This program shall be known as "shared care" and has the
4 following goals:

5 (1) To provide services and support for families caring for an elderly person;

6 (2) To increase awareness of the variety of privately funded services which may be
7 available to those persons caring for an elderly person;

8 (3) To increase awareness of the variety of government services which may be available
9 to those caring for an elderly person;

10 (4) Recognition on an annual basis by the governor for those families participating in the
11 shared care program and community project groups participating in the shared care program;

12 (5) To provide a tax credit to members who meet the qualifications pursuant to section
13 [660.055] **192.2009**; and

14 (6) To promote community involvement by:

15 (a) Providing local communities information about the shared care program and to
16 encourage the establishment of support groups where none are available and to support existing
17 support groups, and other programs for shared care members and providers to share ideas,
18 information and resources on caring for an elderly person; and

19 (b) Encouraging local home care, adult day care or other long-term care providers, who
20 have regularly scheduled training sessions for paid caregivers, to voluntarily invite shared care
21 members to participate in education and training sessions at no cost to the registered caregivers.
22 Such providers shall not be held liable in any civil or criminal action related to or arising out of
23 the participation or training of shared care members in such sessions.

24 2. To further the goals of the shared care program, the director shall:

25 (1) Promulgate specific rules and procedures for the shared care program. Any rule or
26 portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the
27 authority delegated in sections [660.050 to 660.057] **192.2000 to 192.2012** shall become
28 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
29 and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August
30 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to
31 repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully
32 complied with all applicable provisions of law. This section and chapter 536, RSMo, are
33 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
34 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
35 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
36 after August 28, 1999, shall be invalid and void;

37 (2) Maintain a registry of names and addresses of shared care members and shared care
38 providers;

39 (3) [Compile a list, updated annually, of] **Maintain a web site with links to** public and
40 private resources, services and programs which may be available to assist and support the
41 registered caregiver with caring for the elderly. Such [list] **web site** shall be [given] **available**
42 to shared care members along with information on shared care providers in their community.
43 Private organizations and providers shall be responsible for [providing] **updating** information
44 to the [division of aging] **department** for inclusion on the [list] **web site**. The [division of
45 aging] **department** shall establish reporting procedures for private organizations and publicly
46 disseminate the [division's] **department's** guidelines statewide;

47 (4) [Compile and distribute to shared care members] **Post information on the Internet**
48 **regarding resources that contain** information about [the] services and benefits of the shared
49 care program [and a bibliography of] **with links to** resources and materials with information
50 helpful to such members. The [bibliography will give members an overview] **web links shall**
51 **provide access to an array** of available information and is not required to be comprehensive;

52 (5) Encourage shared care providers, consumer groups, churches and other philanthropic
53 organizations to help local communities develop local support systems where none are available
54 and to support existing support groups for persons caring for elderly persons and make [division]
55 **department** staff available, if possible;

56 (6) In conjunction with the director of revenue, develop a physician certification for
57 shared care tax credit form to be given to registered caregivers upon request. The form shall
58 require, but is not limited to:

59 (a) Identifying information about the registered caregiver for tax purposes, and the
60 signature of the registered caregiver certifying that he or she qualifies for the shared care tax
61 credit as provided in section [660.055] **192.2009**;

62 (b) Identifying information about the elderly person receiving care for verification
63 purposes;

64 (c) Identifying information about and the signature of the physician licensed pursuant
65 to the provisions of chapter 334, RSMo, for verification and certification purposes;

66 (d) A description by such physician of the physical or mental condition of the elderly
67 person that makes them incapable of living alone and lists the care, assistance with daily living
68 and oversight needed at home in order to prevent placement in a facility licensed pursuant to
69 chapter 198, RSMo; and

70 (e) A complete explanation of the shared care tax credit and its guidelines and directions
71 on completion of the form and how to file for the shared care tax credit with the department of
72 revenue; and

73 (7) In conjunction with the director of revenue, develop a [division of aging]
74 **department** certification for shared care tax credit form to be given at the request of the
75 registered caregivers when a [division of aging] **department** assessment has been completed for
76 other purposes. The form shall require, but is not limited to:

77 (a) Identifying information about the registered caregiver for tax purposes, and the
78 signature of the registered caregiver certifying that he or she qualifies for the shared care tax
79 credit as provided in section [660.055] **192.2009**;

80 (b) Identifying information about the elderly person receiving care for verification
81 purposes;

82 (c) Identifying information about and the signature of the [division of aging] **department**
83 staff for verification and certification purposes;

84 (d) A description by the [division of aging] **department** staff of the physical or mental
85 condition of the elderly person that makes them incapable of living alone and lists the care,
86 assistance with daily living and oversight needed at home in order to prevent placement in a
87 facility licensed pursuant to chapter 198, RSMo; and

88 (e) A complete explanation of the shared care tax credit and its guidelines and directions
89 for completing the form and how to file for the shared care tax credit with the department of
90 revenue.

91 3. Funds appropriated for the shared care program shall be appropriated to and
92 administered by the department of [social] **health and senior** services.

[660.055.] **192.2009.** 1. Any registered caregiver who meets the requirements of this
2 section shall be eligible for a shared care tax credit in an amount not to exceed five hundred
3 dollars to defray the cost of caring for an elderly person. In order to be eligible for a shared care
4 tax credit, a registered caregiver shall:

5 (1) Care for an elderly person, age sixty or older, who:

6 (a) Is physically or mentally incapable of living alone, as determined and certified by his
7 or her physician licensed pursuant to chapter 334, RSMo, or by the [division of aging]
8 **department** staff when an assessment has been completed for the purpose of qualification for
9 other services; and

10 (b) Requires assistance with activities of daily living to the extent that without care and
11 oversight at home would require placement in a facility licensed pursuant to chapter 198, RSMo;
12 and

13 (c) Under no circumstances, is able or allowed to operate a motor vehicle; and

14 (d) Does not receive funding or services through [Medicaid] **MO HealthNet** or social
15 services block grant funding;

16 (2) Live in the same residence to give protective oversight for the elderly person meeting
17 the requirements described in subdivision (1) of this subsection for an aggregate of more than
18 six months per tax year;

19 (3) Not receive monetary compensation for providing care for the elderly person meeting
20 the requirements described in subdivision (1) of this subsection; and

21 (4) File the original completed and signed physician certification for shared care tax
22 credit form or the original completed and signed [division of aging] **department** certification
23 for shared care tax credit form provided for in subsection 2 of section [660.054] **192.2006** along
24 with such caregiver's Missouri individual income tax return to the department of revenue.

25 2. The tax credit allowed by this section shall apply to any year beginning after
26 December 31, 1999.

27 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
28 is created under the authority delegated in sections [660.050 to 660.057] **192.2000 to 192.2012**
29 shall become effective only if it complies with and is subject to all of the provisions of chapter
30 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior
31 to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be
32 interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999,
33 if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo,
34 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
35 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are
36 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
37 or adopted after August 28, 1999, shall be invalid and void.

38 4. Any person who knowingly falsifies any document required for the shared care tax
39 credit shall be subject to the same penalties for falsifying other tax documents as provided in
40 chapter 143, RSMo.

 [660.057.] **192.2012.** 1. On and after August 13, 1984, an area agency on aging shall
2 operate with local administrative responsibility for Title III of the Older Americans Act, and
3 other funds allocated to it by the [division] **department**. The area agency board shall be
4 responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited
5 to, the accountability for funds and compliance with federal and state laws and rules. Such
6 responsibility shall include all geographic areas in which the area agency on aging is designated
7 to operate. The respective area agency board shall appoint a director of the area agency on aging
8 in its jurisdiction. [Beginning January 1, 1995,] The director of the area agency on aging shall
9 submit an annual performance report to the [division] **department** director, the speaker of the
10 house of representatives, the president pro tempore of the senate and the governor. Such
11 performance report shall give a detailed accounting of all funds which were available to and
12 expended by the area agency on aging from state, federal and private sources.

13 2. Each area agency on aging shall have an area agency on aging advisory council, which
14 shall:

15 (1) Recommend basic policy guidelines for the administration of the activities of the area
16 agencies on aging on behalf of elderly persons and advise the area agency on aging on questions
17 of policy;

18 (2) Advise the area agency on aging with respect to the development of the area plan and
19 budget, and review and comment on the completed area plan and budget before its transmittal
20 to the [division] **department**;

- 21 (3) Review and evaluate the effectiveness of the area agency on aging in meeting the
22 needs of elderly persons in the planning and service area;
- 23 (4) Meet at least quarterly, with all meetings being subject to sections 610.010 to
24 610.030, RSMo.
- 25 3. Each area agency board shall:
- 26 (1) Conduct local planning functions for Title III and Title XX, and such other funds as
27 may be available;
- 28 (2) Develop a local plan for service delivery, subject to review and approval by the
29 **[division] department**, that complies with federal and state requirements and in accord with
30 locally determined objectives consistent with the state policy on aging;
- 31 (3) Assess the needs of elderly persons within the planning and service delivery area for
32 service for social and health services, and determine what resources are currently available to
33 meet those needs;
- 34 (4) Assume the responsibility of determining services required to meet the needs of
35 elderly persons, assure that such services are provided within the resources available, and
36 determine when such services are no longer needed;
- 37 (5) Endeavor to coordinate and expand existing resources in order to develop within its
38 planning and service area a comprehensive and coordinated system for the delivery of social and
39 health services to elderly persons;
- 40 (6) Serve as an advocate within government and within the community at large for the
41 interests of elderly persons within its planning and service area;
- 42 (7) Make grants to or enter into contracts with any public or private agency for the
43 provision of social or health services not otherwise sufficiently available to elderly persons
44 within the planning and service area;
- 45 (8) Monitor and evaluate the activities of its service providers to ensure that the services
46 being provided comply with the terms of the grant or contract. Where a provider is found to be
47 in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant
48 or contract;
- 49 (9) Conduct research, evaluation, demonstration or training activities appropriate to the
50 achievement of the goal of improving the quality of life for elderly persons within its planning
51 and service area;
- 52 (10) Comply with **[division] department** requirements that have been developed in
53 consultation with the area agencies for client and fiscal information, and provide to the **[division]**
54 **department** information necessary for federal and state reporting, program evaluation, program
55 management, fiscal control and research needs.

56 4. [Beginning January 1, 1995,] The records of each area agency on aging shall be
57 audited at least every other year. All audits required by the Older Americans Act of 1965, as
58 amended, shall satisfy this requirement.

 [660.058.] **192.2015.** 1. The [division of aging] **department** shall provide budget
2 allotment tables to each area agency on aging by January first of each year. Each area agency on
3 aging shall submit its area plan, area budget and service contracts to the [division of aging]
4 **department** by March first of each year. Each April, the area agencies on aging shall present
5 their plans to the [division of aging] **department** in a public hearing scheduled by the [division]
6 **department** and held in the area served by the area agency on aging. Within thirty days of such
7 hearing, the [division] **department** shall report findings and recommendations to the board of
8 directors for the area agency on aging, the area agency on aging advisory council, the members
9 of the senate budget committee and the members of the house appropriations committee for
10 social services and corrections.

11 2. Each area agency on aging shall include in its area plan performance measures and
12 outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall
13 also be presented to the [division] **department** during the public hearing.

14 3. The [division of aging] **department** shall conduct on-site monitoring of each area
15 agency on aging at least once a year. The [division of aging] **department** shall send all
16 monitoring reports to the area agency on aging advisory council and the board of directors for
17 the area agency which is the subject of the reports.

 [660.725.] **192.2020.** 1. Each area agency on aging may establish a program that
2 provides for volunteers to provide transportation within the geographic area of the agency to
3 elderly persons to health care facilities for scheduled appointments or for other health
4 care-related purposes.

5 2. Such volunteers shall utilize their own vehicles and shall be reimbursed for miles
6 driven to provide transportation for elderly persons under the program. The area agency on aging
7 may pay each volunteer a mileage allowance or reimbursement at the same rate as for state
8 employees under section 33.095, RSMo.

9 3. The area agency on aging may encourage passengers under the program to reimburse
10 the agency for all or part of the cost of providing such transportation services.

11 4. Any volunteer seeking a mileage allowance or reimbursement shall submit a monthly
12 report to the agency detailing the transportation services provided, the dates of such services, and
13 the miles driven. The agency may request further information from the volunteer on the monthly
14 report.

15 5. Subject to appropriations, each area agency on aging may request funding of up to one
16 thousand dollars annually per county for each county within the agency's jurisdiction from the

17 department of health and senior services to assist with the costs associated with administering
18 this program.

19 6. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

20 (1) Any new program authorized under this section shall automatically sunset six years
21 after August 28, [2007] **2009**, unless reauthorized by an act of the general assembly; and

22 (2) If such program is reauthorized, the program authorized under this section shall
23 automatically sunset twelve years after the effective date of the reauthorization of this section;
24 and

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

[660.062.] **192.2025.** 1. There is hereby created a "State Board of Senior Services"
2 which shall consist of seven members, who shall be appointed by the governor, by and with the
3 advice and consent of the senate. No member of the state board of senior services shall hold any
4 other office or employment under the state of Missouri other than in a consulting status relevant
5 to the member's professional status, licensure or designation. Not more than four of the members
6 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 members
8 first appointed, two shall be appointed for a term of one year, two for a term of two years, two
9 for a term of three years and one for a term of four years. The successors of each shall be
10 appointed for full terms of four years. No person may serve on the state board of senior services
11 for more than two terms. The terms of all members shall continue until their successors have
12 been duly appointed and qualified. One of the persons appointed to the state board of senior
13 services shall be a person currently working in the field of gerontology. One of the persons
14 appointed to the state board of senior services shall be a physician with expertise in geriatrics.
15 One of the persons appointed to the state board of senior services shall be a person with expertise
16 in nutrition. One of the persons appointed to the state board of senior services shall be a person
17 with expertise in rehabilitation services of persons with disabilities. One of the persons
18 appointed to the state board of senior services shall be a person with expertise in mental health
19 issues. In making the two remaining appointments, the governor shall give consideration to
20 individuals having a special interest in gerontology or disability-related issues, including senior
21 citizens. Four of the seven members appointed to the state board of senior services shall be
22 members of the governor's advisory council on aging. If a vacancy occurs in the appointed
23 membership, the governor may appoint a member for the remaining portion of the unexpired
24 term created by the vacancy. The members shall receive actual and necessary expenses plus
25 twenty-five dollars per day for each day of actual attendance.

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

30 4. The state board of senior services shall advise the department of health and senior
31 services in the:

32 (1) Promulgation of rules and regulations by the department of health and senior
33 services;

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

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

 [660.067.] **192.2030.** As used in sections [660.067 to 660.070] **192.2030 to 192.2035,**
2 the following terms shall mean:

3 (1) "Adult day care", a group program that emphasizes appropriate services for persons
4 eighteen years of age or older [having Alzheimer's disease and related disorders] **who have**
5 **functional impairments** and that provides services for periods of less than twenty-four hours
6 but more than two hours per day in a place other than the adult's home;

7 (2) "Alzheimer's disease and related disorders", diseases resulting from significant
8 destruction of brain tissue and characterized by a decline of memory and other intellectual
9 functions. These diseases include but are not limited to progressive, degenerative and dementing
10 illnesses such as presenile and senile dementias, Alzheimer's disease and other related disorders;

11 (3) "Appropriate services", services that emphasize surveillance, safety, behavior
12 management and other techniques used to assist persons having Alzheimer's disease and related
13 disorders;

14 (4) "Director", the director of [the division of aging of] the department of [social] **health**
15 **and senior services, or the director's designee;**

16 (5) ["Division", the division of aging of the department of social services;

17 (6)] "In-home companion", someone trained to provide appropriate services to persons
18 having Alzheimer's disease and related disorders and who provides those services in the home;

19 [(7)] **(6)** "Respite care", a program that provides temporary and short-term residential
20 care, sustenance, supervision and other appropriate services for persons having Alzheimer's
21 disease and related disorders who otherwise reside in their own or in a family home.

 [660.069.] **192.2033.** 1. To encourage development of appropriate services for persons
2 having Alzheimer's disease and related disorders, the [division] **department** may make grants
3 to public and private entities for pilot projects from funds specifically appropriated for this
4 purpose. Pilot projects shall have the following goals:

5 (1) To prevent or postpone institutionalization of persons having Alzheimer's disease and
6 related disorders who currently live in their own home or in a family home;

7 (2) To offer services that emphasize safety, surveillance and behavior management rather
8 than, or in addition to, medical treatment, homemaker, chore or personal care services;

9 (3) To temporarily relieve family members or others who have assumed direct care
10 responsibilities by offering services that allow care givers to leave the home. These services
11 shall include but not be limited to adult day care, in-home companions and respite care;

12 (4) To test the practical and economic feasibility of providing services in settings and
13 at levels designed for varying needs; and

14 (5) To develop program models that can be adapted and operated by other public and
15 private entities.

16 2. The director, in accordance with chapter 536, RSMo, shall promulgate rules that
17 establish procedures for grant application, review, selection, monitoring and auditing of grants
18 made [pursuant to sections 660.067 to 660.070] **under this section and section 192.2035.**

19 3. The grants shall be limited to a duration of one year but may be renewable for one
20 additional year at the director's discretion and if funds are appropriated for this purpose.

[660.070.] **192.2035.** The commissioner of administration, in consultation with the
2 director of the [division of aging] **department**, shall promulgate rules that establish procedures
3 for contracting with grantees receiving funds under [sections 660.067 to 660.070] **this section**
4 **and section 192.2033.** No rule or portion of a rule promulgated under the authority of [sections
5 660.067 to 660.070] **this section and section 192.2033** shall become effective unless it has been
6 promulgated pursuant to the provisions of section 536.024, RSMo.

[660.099.] **192.2040.** 1. The general assembly may appropriate funds in addition to the
2 amount currently being provided per annum for nutrition services for the elderly. Funds so
3 designated to provide nutrition services for the elderly shall be allocated to the [Missouri]
4 department [of health and senior services] to be equitably distributed to each area agency on
5 aging throughout the state of Missouri based upon formulas promulgated by the department of
6 health and senior services.

7 2. The general assembly may appropriate funds in addition to the amount currently being
8 provided per annum through the Missouri elderly and handicapped transportation program.
9 Funds so designated to provide transportation for the elderly and developmentally disabled shall
10 be allocated to the [Missouri] department [of health and senior services] to be equitably
11 distributed to each area agency on aging throughout the state of Missouri based upon formulas
12 promulgated by the department of health and senior services.

13 3. The general assembly may appropriate funds in addition to the amount currently being
14 provided per annum for home-delivered meals for the elderly. Such additional funds shall be

15 allocated to the [Missouri] department [of health and senior services] to be equitably distributed
16 to each area agency on aging throughout the state of Missouri based upon formulas promulgated
17 by the department of health and senior services.

[660.250.] **192.2100.** As used in sections [660.250 to 660.321] **192.2100 to 192.2130**
2 **and sections 192.2175 to 192.2187**, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including
4 financial exploitation by any person, firm or corporation;

5 (2) "Court", the circuit court;

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

7 (4) "Director", director of the department of health and senior services or his or her
8 designees;

9 (5) "Eligible adult", a person sixty years of age or older who is unable to protect his or
10 her own interests or adequately perform or obtain services which are necessary to meet his or her
11 essential human needs or an adult with a disability, as defined in section [660.053] **192.2003**,
12 between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or
13 adequately perform or obtain services which are necessary to meet his or her essential human
14 needs;

15 (6) "Home health agency", the same meaning as such term is defined in section 197.400,
16 RSMo;

17 (7) "Home health agency employee", a person employed by a home health agency;

18 (8) "Home health patient", an eligible adult who is receiving services through any home
19 health agency;

20 (9) "In-home services client", an eligible adult who is receiving services in his or her
21 private residence through any in-home services provider agency;

22 (10) "In-home services employee", a person employed by an in-home services provider
23 agency;

24 (11) "In-home services provider agency", a business entity under contract with the
25 department or with a [Medicaid] **MO HealthNet** participation agreement, which employs
26 persons to deliver any kind of services provided for eligible adults in their private homes;

27 (12) "Least restrictive environment", a physical setting where protective services for the
28 eligible adult and accommodation is provided in a manner no more restrictive of an individual's
29 personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

30 (13) "Likelihood of serious physical harm", one or more of the following:

31 (a) A substantial risk that physical harm to an eligible adult will occur because of his or
32 her failure or inability to provide for his or her essential human needs as evidenced by acts or

33 behavior which has caused such harm or which gives another person probable cause to believe
34 that the eligible adult will sustain such harm;

35 (b) A substantial risk that physical harm will be inflicted by an eligible adult upon
36 himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused
37 such harm or which places another person in reasonable fear that the eligible adult will sustain
38 such harm;

39 (c) A substantial risk that physical harm will be inflicted by another upon an eligible
40 adult as evidenced by recent acts or behavior which has caused such harm or which gives another
41 person probable cause to believe the eligible adult will sustain such harm;

42 (d) A substantial risk that further physical harm will occur to an eligible adult who has
43 suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting
44 of his or her financial resources by another person;

45 (14) "Neglect", the failure to provide services to an eligible adult by any person, firm or
46 corporation with a legal or contractual duty to do so, when such failure presents either an
47 imminent danger to the health, safety, or welfare of the client or a substantial probability that
48 death or serious physical harm would result;

49 (15) "Protective services", services provided by the state or other governmental or private
50 organizations or individuals [which are necessary for the eligible adult to meet his or her
51 essential human needs] **to ensure the safety and well-being of elderly persons or adults with**
52 **disabilities who are in danger of being mistreated or neglected, and are unable to take care**
53 **of themselves or protect themselves from harm.**

[660.255.] **192.2103.** 1. Any person having reasonable cause to suspect that an eligible
2 adult presents a likelihood of suffering serious physical harm and is in need of protective services
3 shall report such information to the department.

4 2. The report shall be made orally or in writing. It shall include, if known:

- 5 (1) The name, age, and address of the eligible adult;
6 (2) The name and address of any person responsible for the eligible adult's care;
7 (3) The nature and extent of the eligible adult's condition; and
8 (4) Other relevant information.

9 3. Reports regarding persons determined not to be eligible adults as defined in section
10 [660.250] **192.2100** shall be referred to the appropriate state or local authorities.

11 4. The department shall maintain a statewide toll free phone number for receipt of
12 reports.

13 5. **Any person complying with this section in the making of a report or in**
14 **cooperating with the department in any of its activities under sections 192.2100 to 192.2130**
15 **shall be immune from any civil or criminal liability for making such a report or in**

16 **cooperating with the department, unless such person acted negligently, recklessly, in bad**
17 **faith, or with malicious purpose. Any person who purposely files a false report of elder**
18 **abuse or neglect is guilty of a crime under sections 565.186 and 565.188, RSMo.**

[660.260.] **192.2106.** 1. Upon receipt of a report, the department shall make a prompt
2 and thorough investigation to determine whether or not an eligible adult is facing a likelihood
3 of serious physical harm and is in need of protective services. The department shall provide for
4 any of the following:

5 (1) Identification of the eligible adult and determination that the eligible adult is eligible
6 for services;

7 (2) Evaluation and diagnosis of the needs of eligible adults;

8 (3) Provision of social casework, counseling or referral to the appropriate local or state
9 authority;

10 (4) Assistance in locating and receiving alternative living arrangements as necessary;

11 (5) Assistance in locating and receiving necessary protective services; or

12 (6) The coordination and cooperation with other state agencies and public and private
13 agencies in exchange of information and the avoidance of duplication of services.

14 [660.261.] **2.** Upon receipt of a report that an eligible adult between the ages of eighteen
15 and fifty-nine is facing a likelihood of serious physical harm, the department shall:

16 (1) Investigate or refer the report to appropriate law enforcement or state agencies; and

17 (2) Provide services or refer to local community or state agencies.

[660.263.] **192.2109.** 1. Reports made pursuant to sections [660.250 to 660.295]
2 **192.2100 to 192.2130** shall be confidential and shall not be deemed a public record and shall not
3 be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo.

4 2. Such reports shall be accessible for examination and copying only to the following
5 persons or offices, or to their designees:

6 (1) The department or any person or agency designated by the department;

7 (2) The attorney general;

8 (3) The department of mental health for persons referred to that department;

9 (4) Any appropriate law enforcement agency; and

10 (5) The eligible adult or [his] **the eligible adult's** legal guardian.

11 3. The name of the reporter shall not be disclosed unless:

12 (1) Such reporter specifically authorizes disclosure of [his] **the reporter's** name; and

13 (2) The department determines that disclosure of the name of the reporter is necessary
14 in order to prevent further harm to an eligible adult.

15 4. Any person who violates the provisions of this section, or who permits or encourages
16 the unauthorized dissemination of information contained in the central registry and in reports and

17 records made pursuant to sections [660.250 to 660.295] **192.2100 to 192.2130**, shall be guilty
18 of a class A misdemeanor.

19 5. The department shall maintain a central registry capable of receiving and maintaining
20 reports received in a manner that facilitates rapid access and recall of the information reported,
21 and of subsequent investigations and other relevant information. The department shall
22 electronically record any telephone report of suspected abuse and neglect received by the
23 department and such recorded reports shall be retained by the department for a period of one year
24 after recording.

25 6. Although reports to the central registry may be made anonymously, the department
26 shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect,
27 attempt to obtain the name and address of any person making a report.

 [660.265.] **192.2112.** When an eligible adult gives consent to receive protective services,
2 the department shall assist the adult in locating and arranging for necessary services in the least
3 restrictive environment reasonably available.

 [660.270.] **192.2115.** When the department receives a report that there has been abuse
2 or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and
3 that he or she is in need of protective services and the department is unable to conduct an
4 investigation because access to the eligible adult is barred by any person, the director may
5 petition the appropriate court for a warrant or other order to enter upon the described premises
6 and investigate the report or to produce the information. The application for the warrant or order
7 shall identify the eligible adult and the facts and circumstances which require the issuance of the
8 warrant or order. The director may also seek an order to enjoin the person from barring access
9 to an eligible adult or from interfering with the investigation. If the court finds that, based on
10 the report and relevant circumstances and facts, probable cause exists showing that the eligible
11 adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in
12 need of protective services and the director has been prevented by another person from
13 investigating the report, the court may issue the warrant or enjoin the interference with the
14 investigation or both.

 [660.275.] **192.2118.** If an eligible adult gives consent to receive protective services and
2 any other person interferes with or prevents the delivery of such services, the director may
3 petition the appropriate court for an order to enjoin the interference with the delivery of the
4 services. The petition shall allege the consent of the eligible adult and shall allege specific facts
5 sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need
6 of the protective services and that delivery is barred by the person named in the petition. If the
7 court finds upon a preponderance of evidence that the allegations in the petition are true, the
8 court may issue an order enjoining the interference with the delivery of the protective services

9 and may establish such conditions and restrictions on the delivery as the court deems necessary
10 and proper under the circumstances.

[660.280.] **192.2121.** When an eligible adult facing the likelihood of serious physical
2 harm and in need of protective services is unable to give consent because of incapacity or legal
3 disability and the guardian of the eligible adult refuses to provide the necessary services or allow
4 the provision of such services, the director shall inform the court having supervisory jurisdiction
5 over the guardian of the facts showing that the eligible adult faces the likelihood of serious
6 physical harm and is in need of protective services and that the guardian refuses to provide the
7 necessary services or allow the provision of such services under the provisions of sections
8 [660.250 to 660.295] **192.2100 to 192.2130.** Upon receipt of such information, the court may
9 take such action as it deems necessary and proper to insure that the eligible adult is able to meet
10 his essential human needs.

[660.285.] **192.2124.** 1. If the director determines after an investigation that an eligible
2 adult is unable to give consent to receive protective services and presents a likelihood of serious
3 physical harm, the director may initiate proceedings pursuant to chapter 202, RSMo, or chapter
4 475, RSMo, if appropriate.

5 2. In order to expedite adult guardianship and conservatorship cases, the department may
6 retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

[660.290.] **192.2127.** 1. When a peace officer has probable cause to believe that an
2 eligible adult will suffer an imminent likelihood of serious physical harm if not immediately
3 placed in a medical facility for care and treatment, that the adult is incapable of giving consent,
4 and that it is not possible to follow the procedures in section [660.285] **192.2124**, the officer may
5 transport, or arrange transportation for, the eligible adult to an appropriate medical facility which
6 may admit the eligible adult and shall notify the next of kin, if known, and the director.

7 2. Where access to the eligible adult is barred and a substantial likelihood exists of
8 serious physical harm resulting to the eligible adult if he is not immediately afforded protective
9 services, the peace officer may apply to the appropriate court for a warrant to enter upon the
10 described premises and remove the eligible adult. The application for the warrant shall identify
11 the eligible adult and the circumstances and facts which require the issuance of the warrant.

12 3. If immediately upon admission to a medical facility, a person who is legally
13 authorized to give consent for the provision of medical treatment for the eligible adult, has not
14 given or refused to give such consent, and it is the opinion of the medical staff of the facility that
15 treatment is necessary to prevent serious physical harm, the director or the head of the medical
16 facility shall file a petition in the appropriate court for an order authorizing specific medical
17 treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the
18 above, if a licensed physician designated by the facility for such purpose examines the eligible

19 adult and determines that the treatment is immediately or imminently necessary and any delay
20 occasioned by the hearing provided in this subsection would jeopardize the life of the person
21 affected, the medical facility may treat the eligible adult prior to such court hearing.

22 4. The court shall conduct a hearing pursuant to chapter 475, RSMo, forthwith and, if
23 the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person
24 of the eligible adult to determine the nature and extent of the medical treatment necessary for the
25 benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad
26 litem shall promptly report the completion of treatment to the court, who shall thereupon conduct
27 a restoration hearing or a hearing to appoint a permanent guardian.

28 5. The medical care under this section may not be rendered in a mental health facility
29 unless authorized pursuant to the civil commitment procedures in chapter 632, RSMo.

30 6. Nothing contained in this section or [in any other section of sections 660.250 to
31 660.295] **sections 192.2100 to 192.2130** shall be construed as requiring physician or medical
32 care or hospitalization of any person who, because of religious faith or conviction, relies on
33 spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of
34 sections [660.250 to 660.295] **192.2100 to 192.2130** be construed so as to designate any person
35 as an eligible adult who presents a likelihood of suffering serious physical harm and is in need
36 of protective services solely because such person, because of religious faith or conviction, relies
37 on spiritual means or prayer to cure or prevent disease or suffering.

[660.295.] **192.2130.** If an eligible adult does not consent to the receipt of reasonable and
2 necessary protective services, or if an eligible adult withdraws previously given consent, the
3 protective services shall not be provided or continued; except that, if the director has reasonable
4 cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court
5 order pursuant to the provisions of section [660.285] **192.2124.**

[198.070.] **192.2150.** 1. [When] As **used in sections 192.2150 to 192.2187, unless the**
2 **context clearly indicates otherwise, the following terms mean:**

3 (1) "Consumer", a consumer of personal care assistance services as defined in
4 section 208.900, RSMo;

5 (2) "In-home services client", the same meaning as such term is defined in section
6 192.2100 or a participant in a healthy children and youth program who receives in-home
7 care authorized by the department in accordance with the provisions of Section 6403 of
8 P.L. 101-239 and federal regulations promulgated thereunder;

9 (3) "Misappropriation", the dishonest conversion of property or moneys of a
10 patient, resident, in-home services client, or consumer;

11 (4) "Patient", any patient of any entity licensed or certified under chapter 197,
12 RSMo;

- 13 (5) "Personal care attendant", a person hired to provide personal care assistance
14 services as defined in section 208.900, RSMo;
- 15 (6) "Principal", a provider officer, director, owner, partner, or other person with
16 primary management or supervisory responsibilities;
- 17 (7) "Provider", any person or entity who:
- 18 (a) Is licensed or certified as an operator under chapter 197 or 198, RSMo;
- 19 (b) Provides in-home services under contract with the department;
- 20 (c) Employs health care staff for temporary or intermittent placement in health
21 care facilities;
- 22 (d) Is a licensed adult day care provider;
- 23 (e) Is a vendor as defined in section 208.900, RSMo; or
- 24 (f) Has a MO HealthNet participation agreement and employs persons to deliver
25 any kind of services provided for patients, in-home services clients, or consumers in their
26 private homes;
- 27 (8) "Resident", any resident of any entity licensed or certified under chapter 198,
28 RSMo, or a client of any adult day care provider, as defined in section 192.2200.
- 29 2. Any adult day care worker; chiropractor; Christian Science practitioner; coroner;
30 dentist; embalmer; employee of the departments of social services, mental health, or health and
31 senior services; employee of a local area agency on aging or an organized area agency on aging
32 program; funeral director; home health agency or home health agency employee; hospital and
33 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
34 provider, operator, or employee; law enforcement officer; long-term care facility administrator
35 or employee; medical examiner; medical resident or intern; mental health professional; minister;
36 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
37 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
38 psychologist; social worker; **personal care attendant as defined in section 208.900, RSMo;**
39 **owner, operator, or employee of a vendor as defined in section 208.900, RSMo;** or other
40 person **charged with the care of or caring for** a person sixty years of age or older or an eligible
41 adult, **as defined in section 192.2100, who** has reasonable cause to believe that a [resident of
42 a facility] **patient, resident, in-home services client, or consumer** has been abused or
43 neglected, [he or she] **that misappropriation of property or moneys belonging to a patient,**
44 **resident, in-home services client, or consumer has occurred, or that the falsification of any**
45 **documents verifying service delivery of in-home services or consumer-directed services has**
46 **occurred** shall [immediately] report or cause a report to be made to the department **within**
47 **twenty-four hours after the act or discovery of the act by such person, whichever is later.**
- 48 [2.] 3. In addition to those persons required to report under subsection 2 of this

49 section, any other person having reasonable cause to believe that a patient, resident, in-
50 home services client, or consumer has been abused or neglected, that misappropriation of
51 property or moneys belonging to a patient, resident, in-home services client, or consumer
52 has occurred, or that falsification of any documents verifying service delivery of in-home
53 services or consumer-directed services has occurred may report such information to the
54 department.

55 4. If a report is made by the patient's, in-home services client's, consumer's, or
56 resident's physician, the department shall provide information regarding the progress of
57 the investigation to the physician upon request.

58 5. The report shall contain:

59 (1) The name and address of the [facility, the name of the resident,] **provider and the**
60 **patient, resident, in-home services client, or consumer;**

61 (2) Information regarding the nature of the abuse or neglect, **misappropriation, or**
62 **falsification of documents verifying service delivery;**

63 (3) The name of the complainant[,] ; and

64 (4) Any other information which might be helpful in an investigation **including the**
65 **alleged perpetrator or perpetrators, if known.**

66 [3. Any person required in subsection 1 of this section to report or cause a report to be
67 made to the department who knowingly fails to make a report within a reasonable time after the
68 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

69 4. In addition to the penalties imposed by this section, any administrator who knowingly
70 conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in
71 section 565.002, RSMo, is guilty of a class D felony.

72 5. In addition to those persons required to report pursuant to subsection 1 of this section,
73 any other person having reasonable cause to believe that a resident has been abused or neglected
74 may report such information to the department.]

75 6. Upon receipt of a report **that indicates an imminent danger to the health, safety,**
76 **or welfare of a patient, resident, in-home services client, or consumer, or substantial**
77 **probability that death or serious physical injury will result,** the department shall [initiate an
78 investigation within twenty-four hours and] **make a prompt and thorough investigation. The**
79 **department shall initiate all other investigations as soon as practicable. As provided in**
80 **section 565.186, RSMo, substantiated reports of elder abuse shall be promptly reported by**
81 **the department to the appropriate law enforcement agency and prosecutor. In the case of**
82 **investigations alleging abuse, neglect, misappropriation, or exploitation of a resident of a**
83 **facility licensed under chapter 198, RSMo, by a facility employee or other resident:**

84 **(1) If the resident has been appointed a guardian or conservator, or both, under**
85 **chapter 475, RSMo, or if the resident has been certified to be incapacitated in accordance**
86 **with sections 404.800 to 404.872, RSMo, the department,** as soon as possible during the
87 course of the investigation, shall notify the resident's [next of kin or responsible party] **legal**
88 **representative** of the report [and] , the investigation, and [further notify them] whether the
89 report was substantiated or unsubstantiated unless such person is the alleged perpetrator [of the
90 abuse or neglect.] ;

91 **(2) The department may notify family members, guardians, or conservators of the**
92 **results of investigations in accordance with section 198.532, RSMo.**

93

94 [As provided in section 565.186, RSMo, substantiated reports of elder abuse shall be promptly
95 reported by the department to the appropriate law enforcement agency and prosecutor.]

96 7. If the investigation indicates possible abuse or neglect [of a resident],
97 **misappropriation of property or moneys, or falsification of documents verifying service**
98 **delivery of in-home services or consumer-directed services,** the investigator shall refer the
99 complaint together with the investigator's report to the department director or the director's
100 designee for appropriate action. **When information gained from an investigation indicates**
101 **a crime has occurred, the department shall report such information to the appropriate law**
102 **enforcement agency.**

103 8. If, during the investigation or at its completion, the department has reasonable cause
104 to believe that immediate [removal] **action** is necessary to protect the resident, **patient, in-home**
105 **services client, or consumer, or his or her assets,** from abuse or neglect, **or misappropriation**
106 **of property or moneys,** the department or the local prosecuting attorney may, or the attorney
107 general upon request of the department shall, file a petition for temporary care and protection of
108 the resident, **patient, in-home services client, or consumer, or his or her assets,** in a circuit
109 court of competent jurisdiction. The circuit court in which the petition is filed shall have
110 equitable jurisdiction to issue an ex parte order granting the department authority for the
111 temporary care and protection of the resident, **patient, in-home services client, or consumer,**
112 **or his or her assets** for a period not to exceed thirty days.

113 [8.] 9. Reports shall be confidential, [as provided pursuant to section 660.320, RSMo]
114 **shall not be deemed a public record, and shall not be subject to the provisions of section**
115 **109.180, RSMo, or chapter 610, RSMo. The name of the complainant or any person**
116 **mentioned in the reports shall not be disclosed unless:**

117 **(1) The complainant, patient, resident, in-home services client, or consumer**
118 **mentioned, or such person's legal representative agrees to disclosure of his or her name;**

119 **(2) The department determines that disclosure is necessary to prevent further abuse**
120 **or neglect, misappropriation of property or moneys, or falsification of any documents**
121 **verifying service delivery of in-home services or consumer-directed services;**

122 **(3) Release of a name is required for compliance with a lawful subpoena; except**
123 **that, the name of the complainant or reporter shall only be required after a court of**
124 **competent jurisdiction determines that it is necessary to avoid substantial and irreversible**
125 **prejudice to the party requesting the name of the complainant or reporter;**

126 **(4) Release of a name is required in connection with a review by the administrative**
127 **hearing commission in accordance with section 192.2187 or section 198.039, RSMo;**

128 **(5) The department determines that release of a name is appropriate when**
129 **forwarding a report of findings of an investigation to a licensing authority; or**

130 **(6) Release of a name is requested by the department of social services for the**
131 **purpose of licensure under chapter 210, RSMo.**

132 **10. Within five working days after a report required to be made under this section**
133 **is received, the person making the report shall be notified of its receipt and the initiation**
134 **of the investigation.**

135 **[9.] 11. Anyone, except any person who has abused or neglected a resident [in a facility]**
136 **, patient, in-home services client, or consumer, or who has benefited from the**
137 **misappropriation of property or moneys of a patient, resident, in-home services client, or**
138 **consumer, or who has falsified documents verifying service delivery of in-home services or**
139 **consumer-directed services, who makes a report pursuant to this section or who testifies in any**
140 **administrative or judicial proceeding arising from the report, or who cooperates with the**
141 **department in any activities under this section shall be immune from any civil or criminal**
142 **liability for making such a report or for testifying except for liability for perjury, unless such**
143 **person acted negligently, recklessly, in bad faith or with malicious purpose. It is a crime**
144 **pursuant to section 565.186 and 565.188, RSMo, for any person to purposely file a false report**
145 **of elder abuse or neglect.**

146 **[10. Within five working days after a report required to be made pursuant to this section**
147 **is received, the person making the report shall be notified in writing of its receipt and of the**
148 **initiation of the investigation.**

149 **11. No person who directs or exercises any authority in a facility shall evict, harass,**
150 **dismiss or retaliate against a resident or employee because such resident or employee or any**
151 **member of such resident's or employee's family has made a report of any violation or suspected**
152 **violation of laws, ordinances or regulations applying to the facility which the resident, the**
153 **resident's family or an employee has reasonable cause to believe has been committed or has**
154 **occurred. Through the existing department information and referral telephone contact line,**

155 residents, their families and employees of a facility shall be able to obtain information about their
156 rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to
157 a report being made pursuant to this section.

158 12. Any person who abuses or neglects a resident of a facility is subject to criminal
159 prosecution under section 565.180, 565.182, or 565.184, RSMo.

160 13.] **12.** The department shall maintain the employee disqualification list and place on
161 the employee disqualification list the names of any persons who are or have been employed [in
162 any facility] **by any provider or consumer** and who have been finally determined by the
163 department pursuant to section [660.315, RSMo,] **192.2175:**

164 **(1) To have purposely, knowingly, or recklessly abused or neglected a resident, patient,**
165 **in-home services client, or consumer.** For purposes of this section only, "abuse" and
166 "neglect" shall have the same meaning as such terms are defined in section 192.2100, and
167 "purposely", "knowingly" and "recklessly" shall have the meanings [that are ascribed to them
168 in this section. A person acts "knowingly" with respect to the person's conduct when a
169 reasonable person should be aware of the result caused by his or her conduct. A person acts
170 "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the
171 person's conduct will result in serious physical injury and such disregard constitutes a gross
172 deviation from the standard of care that a reasonable person would exercise in the situation] **as**
173 **such terms are defined in chapter 562, RSMo;**

174 **(2) To have falsified documents verifying service delivery to an in-home services**
175 **client or consumer;**

176 **(3) To have misappropriated property or moneys belonging to a patient, resident,**
177 **in-home services client, or consumer.**

178 **13. No person who directs or exercises any authority on behalf of a provider and**
179 **no personal care attendant, as defined in section 208.900, RSMo, shall evict, harass,**
180 **dismiss, or retaliate against a patient, resident, in-home services client, consumer, or**
181 **employee because such patient, resident, in-home services client, consumer, or employee,**
182 **or any member of such patient's, resident's, in-home services client's, consumer's, or**
183 **employee's family has made a report of any violation or suspected violation of laws,**
184 **standards, or regulations applying to the provider or attendant which the complainant has**
185 **reasonable cause to believe has been committed or has occurred. Through existing**
186 **department information and referral telephone contact line, patients, residents, in-home**
187 **services clients, consumers, their families, and employees of a provider may obtain**
188 **information regarding their rights, protections, and options in cases of eviction,**
189 **harassment, dismissal, or retaliation due to a report being made under this section.**

190 **14. In the case of investigations involving facilities licensed under chapter 198,**
191 **RSMo,** the timely self-reporting of incidents to the central registry by a facility shall continue
192 to be investigated in accordance with department policy, and shall not be counted or reported by
193 the department as a hot-line call but rather a self-reported incident. If the self-reported incident
194 results in a regulatory violation, such incident shall be reported as a substantiated report.

195 **15. Any potential consumer or in-home services client whose services are funded**
196 **by MO HealthNet shall be screened to ascertain if they are included on the Missouri sexual**
197 **offender registry maintained by the Missouri state highway patrol. If any potential**
198 **consumer or in-home services client whose services are funded by MO HealthNet is listed**
199 **on the Missouri sexual offender registry, the department shall notify the provider at the**
200 **time of the referral.**

192.2153. 1. Any person required to report or cause a report to be made to the
2 **department under subsection 2 of section 192.2150 who fails to make such a report or who**
3 **causes such a report not be made of abuse or neglect, misappropriation of property or**
4 **moneys, or falsification of documents verifying service delivery of in-home services or**
5 **consumer-directed services within twenty-four hours after the act or discovery of the act**
6 **by such person, whichever is later, is guilty of a class A misdemeanor.**

7 **2. Any person who abuses or neglects an in-home services client, patient, resident,**
8 **or consumer is subject to criminal prosecution under section 565.180, 565.182, or 565.184,**
9 **RSMo. Any person who puts to his or her own use or the use of the provider, or otherwise**
10 **diverts from the in-home services client's, patient's, resident's, or consumer's use of any**
11 **personal property or moneys of the in-home services client, patient, resident, or consumer,**
12 **or falsifies any documents verifying service delivery of in-home services or consumer-**
13 **directed services is guilty of a class A misdemeanor.**

14 **3. In addition to any other penalties imposed by this section, any provider,**
15 **principal in the operation of a provider as defined in section 192.2150, or employee of a**
16 **provider who knowingly conceals any act of abuse or neglect that results in death or**
17 **serious physical injury, as defined in section 565.002, RSMo, is guilty of a class D felony.**

18 **4. If a provider willfully and knowingly fails to report abuse by an employee of the**
19 **provider and such employee is later found guilty or pleads guilty to a violation of section**
20 **565.180, 565.182, or 565.184, RSMo, the provider may be subject to an administrative**
21 **penalty of one thousand dollars per violation to be collected by the department. Any**
22 **moneys collected shall be transferred to the state school moneys fund established in section**
23 **166.051, RSMo, and distributed to the public schools of this state in the manner provided**
24 **in section 163.031, RSMo. Any provider that has an administrative penalty imposed by the**
25 **department may seek an administrative review of the department's action under chapter**

26 **621, RSMo. Any decision of the administrative hearing commission may be appealed to**
27 **the circuit court in the county where the violation occurred for judicial review as a**
28 **contested case under chapter 536, RSMo.**

[660.315.] **192.2175.** 1. After an investigation and a determination has been made to
2 place a person's name on the employee disqualification list, that person shall be notified in
3 writing mailed to his or her last known address that:

4 (1) An allegation has been made against the person, the substance of the allegation and
5 that an investigation has been conducted which tends to substantiate the allegation;

6 (2) The person's name will be included in the employee disqualification list of the
7 department;

8 (3) The consequences of being so listed including the length of time to be listed; and

9 (4) The person's rights and the procedure to challenge the allegation.

10 2. **Notice by mail to the last known address, as provided by the person to the**
11 **person's employer at the time of the allegation, shall satisfy the requirements of this**
12 **section. If the person has provided the department with a more recent address, notice shall**
13 **be sent to the more recent address. Notice shall be complete upon such mailing.** If no reply
14 has been received within thirty days of mailing the notice, the department may include the name
15 of such person on its list. The length of time the person's name shall appear on the employee
16 disqualification list shall be determined by the director or the director's designee, based upon the
17 criteria contained in subsection 9 of this section.

18 3. If the person so notified wishes to challenge the allegation, such person may file an
19 application for a hearing with the department. The department shall grant the application within
20 thirty days after receipt by the department and set the matter for hearing[, or the department shall
21 notify the applicant that, after review, the allegation has been held to be unfounded and the
22 applicant's name will not be listed].

23 4. If a person's name is included on the employee disqualification list without the
24 department providing notice as required under [subsection 1] **subsections 1 and 2** of this section,
25 such person may file a request with the department for removal of the name or for a hearing.
26 Within thirty days after receipt of the request, the department shall either remove the name from
27 the list or grant a hearing and set a date therefor.

28 5. Any hearing shall be conducted [in the county of the person's residence] by the
29 director of the department or the director's designee **in Cole County or the county of the**
30 **person's residence, or by telephone at the discretion of the director or the director's**
31 **designee.** The provisions of chapter 536, RSMo, for a contested case except those provisions
32 or amendments which are in conflict with this section shall apply to and govern the proceedings
33 contained in this section and the rights and duties of the parties involved. The person appealing

34 such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536,
35 RSMo, relevant to the allegations.

36 6. Upon the record made at the hearing, the director of the department or the director's
37 designee shall determine all questions presented and shall determine whether the person shall
38 be listed on the employee disqualification list. The director of the department or the director's
39 designee shall clearly state the reasons for his or her decision and shall include a statement of
40 findings of fact and conclusions of law pertinent to the questions in issue.

41 7. A person aggrieved by the decision following the hearing shall be informed of his or
42 her right to seek judicial review as provided under chapter 536, RSMo. If the person fails to
43 appeal the director's findings, those findings shall constitute a final determination that the person
44 shall be placed on the employee disqualification list.

45 8. A decision by the director shall be inadmissible in any civil action brought against a
46 [facility or the in-home services provider agency] **provider or employee of such provider or**
47 **personal care attendant** and arising out of the facts and circumstances which brought about the
48 employment disqualification proceeding, unless the civil action is brought against the [facility
49 or the in-home services provider agency] **provider or employee of such provider or personal**
50 **care attendant** by the department of health and senior services or one of its divisions.

51 9. The length of time the person's name shall appear on the employee disqualification
52 list shall be determined by the director of the department of health and senior services or the
53 director's designee, based upon the following:

54 (1) Whether the person acted **purposely**, recklessly, or knowingly, as defined in chapter
55 562, RSMo;

56 (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the
57 imminent danger to the health, safety or welfare of [a resident or in-home services client] **the**
58 **alleged victim**;

59 (3) The degree of misappropriation of the property or funds, or falsification of any
60 documents for service delivery of [an in-home services client] **a patient, resident, in-home**
61 **services client, or consumer**;

62 (4) Whether the person has previously been listed on the employee disqualification list;

63 (5) Any mitigating circumstances;

64 (6) Any aggravating circumstances; and

65 (7) Whether alternative sanctions resulting in conditions of continued employment are
66 appropriate in lieu of placing a person's name on the employee disqualification list. Such
67 conditions of employment may include, but are not limited to, additional training and employee
68 counseling. Conditional employment shall terminate upon the expiration of the designated

length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall ~~[provide]~~ **make available** the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198, RSMo;

(2) Provides in-home services under contract with the department;

(3) Employs ~~[nurses and nursing assistants]~~ **health care staff** for temporary or intermittent placement ~~[in health care facilities]~~ **with providers**;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under chapter 197, RSMo; or

(6) **Is a personal care assistance services vendor agency, as defined in section 208.900, RSMo;**

(7) **Is an adult day care provider licensed under sections 192.2200 to 192.2227; or**

(8) Is a recognized school of nursing, medicine, or other health profession **that receives the list** for the purpose of ~~[determining whether students scheduled to]~~ **checking its students who** participate in clinical rotations with entities described in ~~[subdivision]~~ **subdivisions (1), (2), or (5)] to (7)** of this subsection ~~[are included in the employee disqualification list].~~

The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. **No person, corporation, or association who is entitled to access the employee disqualification list shall disclose the information to any person, corporation, or association who is not entitled to access the list. Any person, corporation, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, or association who is not entitled to access the list is guilty of an infraction.**

12. The department shall, upon request, provide to the division of employment security within the department of labor and industrial relations copies of the investigative reports related to an employee being placed on the employee disqualification list.

13. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to ~~[(5)]~~ (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. **No person who is listed on the employee disqualification list shall be paid from public moneys as a personal**

105 **care assistance services attendant.** Any person, corporation, organization, or association who
106 received the employee disqualification list under subdivisions (1) to [(5)] (7) of subsection 11
107 of this section, or any **consumer or** person responsible for providing health care service, who
108 declines to employ or terminates a person whose name is listed in this section shall be immune
109 from suit by that person or anyone else acting for or in behalf of that person for the failure to
110 employ or for the termination of the person whose name is listed on the employee
111 disqualification list.

112 [13.] **14.** Any employer who is required to discharge an employee because the employee
113 was placed on [a] **the employee** disqualification list maintained by the department of health and
114 senior services after the date of hire shall not be charged for unemployment insurance benefits
115 based on wages paid to the employee for work prior to the date of discharge, pursuant to section
116 288.100, RSMo.

117 [14.] **15.** Any person who has been listed on the employee disqualification list may
118 request that the director remove his or her name from the employee disqualification list. The
119 request shall be written and may not be made more than once every twelve months. The request
120 will be granted by the director upon a clear showing, by written submission only, that the person
121 will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or
122 the falsification of any documents [of] **verifying** service delivery to an in-home services client
123 **or consumer.** The director may make conditional the removal of a person's name from the list
124 on any terms that the director deems appropriate, and failure to comply with such terms may
125 result in the person's name being relisted. The director's determination of whether to remove the
126 person's name from the list is not subject to appeal.

[660.317.] **192.2178.** 1. For the purposes of this section, the term "provider" [means any
2 person, corporation or association who:
3 (1) Is licensed as an operator pursuant to chapter 198, RSMo;
4 (2) Provides in-home services under contract with the department;
5 (3) Employs nurses or nursing assistants for temporary or intermittent placement in
6 health care facilities;
7 (4) Is an entity licensed pursuant to chapter 197, RSMo;
8 (5) Is a public or private facility, day program, residential facility or specialized service
9 operated, funded or licensed by the department of mental health; or
10 (6) Is a licensed adult day care provider] **has the same meaning as such term is defined**
11 **in section 192.2150; except that, provider also includes a public or private facility, day**
12 **program, residential facility, or specialized service operated, funded, or licensed by the**
13 **department of mental health.**

14 2. For the purpose of this section "patient or resident" has the same meaning as such term
15 is defined in section 43.540, RSMo, **"in-home services client" has the same meaning as such**
16 **term is defined in section 192.2150, and "consumer" has the same meaning as such term**
17 **is defined in section 208.900, RSMo.**

18 3. Prior to [allowing any person who has been hired as] **hiring** a full-time, part-time or
19 temporary **employee for any** position to have contact with any patient [or] , resident, **in-home**
20 **services client or consumer, or finding a personal care attendant eligible to have contact**
21 **with a consumer,** the provider shall[, or] **make an inquiry to the department of health and**
22 **senior services whether the person is listed on the employee disqualification list as provided**
23 **in section 192.2175.** In the case of temporary employees hired through or contracted for an
24 employment agency, the employment agency, shall prior to sending a temporary employee to a
25 provider, **make an inquiry to the department of health and senior services whether the**
26 **person is listed on the employee disqualification list as provided in section 192.2175.**

27 4. **Prior to allowing any person who has been hired in a full-time, part-time, or**
28 **temporary position to have contact with any patient, resident, in-home services client, or**
29 **consumer, the provider shall or in the case of temporary employees hired through or**
30 **contracted for an employment agency, the employment agency, prior to sending a**
31 **temporary employee to a provider, shall:**

32 (1) Request a criminal background check as provided in section 43.540, RSMo.
33 Completion of an inquiry to the highway patrol **or family care safety registry** for criminal
34 records that are available for disclosure to a provider for the purpose of conducting an employee
35 criminal records background check shall be deemed to fulfill the provider's duty to conduct
36 employee criminal background checks pursuant to this section; except that, completing the
37 inquiries pursuant to this subsection shall not be construed to exempt a provider from further
38 inquiry pursuant to common law requirements governing due diligence. If an applicant has not
39 resided in this state for five consecutive years prior to the date of his or her application for
40 employment, the provider shall request a nationwide check for the purpose of determining if the
41 applicant has a prior criminal history in other states. The fingerprint [cards] **card** and any
42 required fees shall be sent to the highway patrol's criminal records division. The [first] set of
43 fingerprints shall be used for searching the state repository of criminal history information[. If
44 no identification is made, the second set of fingerprints] **and** shall be forwarded to the Federal
45 Bureau of Investigation, Identification Division, for the searching of the federal criminal history
46 files. The patrol shall notify the submitting state agency of any criminal history information or
47 lack of criminal history information discovered on the individual. The provisions relating to
48 applicants for employment who have not resided in this state for five consecutive years shall
49 apply only to persons who have no employment history with a licensed Missouri facility during

50 that five-year period. Notwithstanding the provisions of section 610.120, RSMo, all records
51 related to any criminal history information discovered shall be accessible and available to the
52 provider making the record request; and

53 (2) [Make an inquiry to the department of health and senior services whether the person
54 is listed on the employee disqualification list as provided in section 660.315] **Request of the**
55 **person a physical address where the person may be located in addition to any other**
56 **address provided by the person such as a post office box address; and**

57 (3) **Make an inquiry to the department of mental health to determine whether the**
58 **person is listed on the disqualification registry as provided in section 630.170, RSMo.**

59 5. **For any worker registered with the family care safety registry as required by**
60 **sections 210.900 to 210.936, RSMo, a provider may access the family care safety registry**
61 **in lieu of the requirements in subsections 3 and 4 of this section.**

62 [4.] 6. When the provider requests a criminal background check pursuant to section
63 43.540, RSMo, the requesting entity may require that the applicant reimburse the provider for
64 the cost of such record check. When a provider requests a nationwide criminal background
65 check pursuant to subdivision (1) of subsection [3] 4 of this section, the total cost to the provider
66 of any background check required pursuant to this section shall not exceed five dollars which
67 shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide
68 criminal background check shall be subject to the availability of appropriations.

69 [5.] 7. An applicant for a position to have contact with patients, **in-home services**
70 **clients, consumers,** or residents of a provider shall:

71 (1) Sign a consent form as required by section 43.540, RSMo, so the provider may
72 request a criminal records review;

73 (2) Disclose the applicant's criminal history. For the purposes of this subdivision
74 "criminal history" includes any conviction or a plea of guilty **or nolo contendere** to a
75 misdemeanor or felony charge **in this state or any other state** and shall include any suspended
76 imposition of sentence, any suspended execution of sentence or any period of probation or
77 parole; and

78 (3) Disclose if the applicant is listed on the employee disqualification list as provided
79 in section [660.315] **192.2175 and disclose whether the applicant is a registered sexual**
80 **offender under section 589.400, RSMo, listed in the Missouri uniform law enforcement**
81 **system (MULES) and the patrol's sex offender registry web site.**

82 [6.] 8. An applicant who knowingly fails to disclose his or her criminal history as
83 required in subsection [5] 7 of this section is guilty of a class A misdemeanor. A provider is
84 guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have
85 contact with patients, **in-home services clients, consumers,** or residents and the person has been

86 convicted of, pled guilty to or nolo contendere in this state or any other state or has been found
87 guilty of a crime, which if committed in Missouri would be a class A or B felony violation of
88 chapter **195**, 565, 566, **568**, or 569, RSMo, [or any violation of subsection 3 of section 198.070,
89 RSMo, or section 568.020, RSMo] **a violation of section 570.090, RSMo, a felony violation**
90 **or three or more misdemeanor violations of section 570.030, RSMo, a violation of section**
91 **570.145, RSMo, or any violation of subsection 1 of section 192.2153. For any person hired**
92 **on or after August 28, 2009, a provider shall not hire any person with a disqualifying**
93 **criminal history unless such person has first obtained a good cause waiver of the**
94 **disqualifying criminal history.**

95 **9. For any persons hired on or after August 28, 2009, a provider is guilty of a class**
96 **A misdemeanor if the provider knowingly hires or retains any person who is a registered**
97 **sex offender under section 589.400, RSMo, whose name appears on the sexual offender**
98 **registry, or who has been convicted of an offense in this state or for an offense in any state,**
99 **foreign country, tribal or under federal or military jurisdiction which, if committed in this**
100 **state, would require registry under section 589.400, RSMo.**

101 **[7.] 10. Any in-home services provider agency [or] , consumer-directed services**
102 **vendor, home health agency [shall be] , or hospice is guilty of a class A misdemeanor if such**
103 **vendor, hospice, or agency knowingly [employs] hires or retains a person to provide in-home**
104 **services, consumer-directed services, hospice services, or home health services to any in-home**
105 **services client, consumer-directed services consumer, hospice patient, or home health patient,**
106 **or determines a personal care attendant eligible to have contact with a consumer, and such**
107 **person [either] refuses to register with the family care safety registry [or is listed on any of the**
108 **background check lists in] . Any in-home services provider agency, home health agency, or**
109 **hospice is guilty of a class A misdemeanor if such agency or hospice allows an employee to**
110 **have contact with a patient or in-home services client prior to requesting a background**
111 **screening from the family care safety registry pursuant to sections 210.900 to [210.937]**
112 **210.936, RSMo.**

113 **[8. The highway patrol shall examine whether protocols can be developed to allow a**
114 **provider to request a statewide fingerprint criminal records review check through local law**
115 **enforcement agencies.**

116 **9.] 11. A provider may use a private investigatory agency rather than the highway patrol**
117 **to do a criminal history records review check, and alternatively, the applicant pays the private**
118 **investigatory agency such fees as the provider and such agency shall agree.**

119 **[10.] 12. Except for the hiring restriction based on the department of health and senior**
120 **services employee disqualification list established pursuant to section [660.315] 192.2175, and**
121 **the registration as a sexual offender under section 589.400, RSMo, the department of health**

122 and senior services shall promulgate rules and regulations to waive the hiring restrictions
123 pursuant to this section for good cause. For purposes of this section, "good cause" means the
124 department has made a determination by examining [the employee's prior work history and other]
125 relevant factors [that such employee does not present a risk to the health or safety of residents]
126 **as established by rule and determined that the hiring restriction contained in subsections**
127 **8 and 10 of this section is removed and the hiring decision remains the responsibility of the**
128 **provider.**

[660.300.] **192.2181.** 1. [When any adult day care worker; chiropractor; Christian
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of social services,
3 mental health, or health and senior services; employee of a local area agency on aging or an
4 organized area agency on aging program; funeral director; home health agency or home health
5 agency employee; hospital and clinic personnel engaged in examination, care, or treatment of
6 persons; in-home services owner, provider, operator, or employee; law enforcement officer;
7 long-term care facility administrator or employee; medical examiner; medical resident or intern;
8 mental health professional; minister; nurse; nurse practitioner; optometrist; other health
9 practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant;
10 podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to
11 believe that an in-home services client has been abused or neglected, as a result of in-home
12 services, he or she shall immediately report or cause a report to be made to the department. If
13 the report is made by a physician of the in-home services client, the department shall maintain
14 contact with the physician regarding the progress of the investigation.

15 2.] When a report of deteriorating physical condition resulting in possible abuse or
16 neglect of an in-home services client **or consumer** is received by the department, [the client's
17 case manager and] the department nurse shall be notified. The [client's case manager]
18 **department** shall investigate and immediately report the results of the investigation to the
19 department nurse. The department may authorize [the] **an** in-home services provider nurse to
20 assist [the case manager] with the investigation.

21 [3.] 2. If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection [1 of this section] **2 of section 192.2150** regarding the detection and
23 report of abuse and neglect [pursuant to this section].

24 4. Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 5. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the

29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 6. In addition to those persons required to report under subsection 1 of this section, any
32 other person having reasonable cause to believe that an in-home services client or home health
33 patient has been abused or neglected by an in-home services employee or home health agency
34 employee may report such information to the department.

35 7. If the investigation indicates possible abuse or neglect of an in-home services client
36 or home health patient, the investigator shall refer the complaint together with his or her report
37 to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home
42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 8. Reports shall be confidential, as provided under section 660.320.

47 9. Anyone, except any person who has abused or neglected an in-home services client
48 or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 10. Within five working days after a report required to be made under this section is
53 received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

55 11. No person who directs or exercises any authority in an in-home services provider
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or any member of his or her family has made a report of any violation or suspected
59 violation of laws, standards or regulations applying to the in-home services provider agency or
60 home health agency or any in-home services employee or home health agency employee which
61 he has reasonable cause to believe has been committed or has occurred.

62 12. Any person who abuses or neglects an in-home services client or home health patient
63 is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such
64 person is an in-home services employee and has been found guilty by a court, and if the

65 supervising in-home services provider willfully and knowingly failed to report known abuse by
66 such employee to the department, the supervising in-home services provider may be subject to
67 administrative penalties of one thousand dollars per violation to be collected by the department
68 and the money received therefor shall be paid to the director of revenue and deposited in the state
69 treasury to the credit of the general revenue fund. Any in-home services provider which has had
70 administrative penalties imposed by the department or which has had its contract terminated may
71 seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any
72 decision of the administrative hearing commission may be appealed to the circuit court in the
73 county where the violation occurred for a trial de novo. For purposes of this subsection, the term
74 "violation" means a determination of guilt by a court.

75 13.] .

76 3. The department shall establish a quality assurance and supervision process for **in-**
77 **home services** clients that requires an in-home services provider agency to [conduct random
78 visits to] verify compliance with program standards and verify the accuracy of records kept by
79 an in-home services employee.

80 [14. The department shall maintain the employee disqualification list and place on the
81 employee disqualification list the names of any persons who have been finally determined by the
82 department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or
83 neglected an in-home services client or home health patient while employed by an in-home
84 services provider agency or home health agency. For purposes of this section only, "knowingly"
85 and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts
86 "knowingly" with respect to the person's conduct when a reasonable person should be aware of
87 the result caused by his or her conduct. A person acts "recklessly" when the person consciously
88 disregards a substantial and unjustifiable risk that the person's conduct will result in serious
89 physical injury and such disregard constitutes a gross deviation from the standard of care that a
90 reasonable person would exercise in the situation.

91 15.] 4. At the time [a] **an in-home services** client has been assessed to determine the
92 level of care as required by rule and is eligible for in-home services, the department shall conduct
93 a "Safe at Home Evaluation" to determine the **in-home services** client's physical, mental, and
94 environmental capacity. The department shall develop the safe at home evaluation tool by rule
95 in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure
96 that each **in-home services** client has the appropriate level of services and professionals involved
97 in the **in-home services** client's care. The plan of service or care for each in-home services client
98 shall be authorized by a nurse. The department may authorize the licensed in-home services
99 nurse, in lieu of the department nurse, to conduct the assessment of the **in-home services** client's
100 condition and to establish a plan of services or care. The department may use the expertise,

101 services, or programs of other departments and agencies on a case-by-case basis to establish the
102 plan of service or care.

103

104 The department may, as indicated by the safe at home evaluation, refer any **in-home services**
105 client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment
106 as necessary.

107 [16.] 5. Authorized nurse visits shall occur at least twice annually to assess [the client
108 and the client's plan of services] **each in-home services client or consumer and his or her plan**
109 **of care**. The [provider] nurse shall report the results of his or her visits to the [client's case
110 manager] **department**. If the [provider] nurse believes that the plan of [service] **care** requires
111 alteration, the department shall be notified and the department shall make [a client] **an**
112 evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All
113 authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services
114 clients **or consumers** whose services have reached one hundred percent of the average statewide
115 charge for care and treatment in an intermediate care facility, provided that the services have
116 been preauthorized by the department.

117 [17.] 6. All in-home services clients **and consumers** shall be advised of their rights **and**
118 **responsibilities** by the department **or the department's designee** at the initial evaluation. The
119 rights shall include, but not be limited to, the right to call the department for any reason,
120 including dissatisfaction with the provider or services. The department shall establish a process
121 to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

122 [18.] 7. Subject to appropriations, all nurse visits authorized in [sections 660.250 to
123 660.300] **this section and sections 192.2100 to 192.2130** shall be reimbursed to the in-home
124 services provider agency.

[660.321.] **192.2184**. Notwithstanding any other provision of law, the department shall
2 not disclose personally identifiable medical, social, personal, or financial records of any eligible
3 adult being served by the [division of senior services] **department** except when disclosed in a
4 manner that does not identify the eligible adult, or when ordered to do so by a court of competent
5 jurisdiction. Such records shall be accessible without court order for examination and copying
6 only to the following persons or offices, or to their designees:

7 (1) The department or any person or agency designated by the department for such
8 purposes as the department may determine;

9 (2) The attorney general, to perform his or her constitutional or statutory duties;

10 (3) The department of mental health for residents placed through that department, to
11 perform its constitutional or statutory duties;

12 (4) Any appropriate law enforcement agency, to perform its constitutional or statutory
13 duties;

14 (5) The eligible adult, his or her legal guardian or any other person designated by the
15 eligible adult; and

16 (6) The department of social services for individuals who receive [Medicaid] **MO**
17 **HealthNet** benefits, to perform its constitutional or statutory duties.

[660.310.] **192.2187.** 1. Notwithstanding any other provision of law, if the department
2 of health and senior services proposes to deny, suspend, place on probation, or terminate an
3 in-home services provider agency contract, the department of health and senior services shall
4 serve upon the applicant or contractor written notice of the proposed action to be taken. The
5 notice shall contain a statement of the type of action proposed, the basis for it, the date the action
6 will become effective, and a statement that the applicant or contractor shall have thirty days from
7 the date of mailing or delivery of the notice to file a complaint requesting a hearing before the
8 administrative hearing commission. The administrative hearing commission may consolidate
9 an applicant's or contractor's complaint with any proceeding before the administrative hearing
10 commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156,
11 RSMo, involving a common question of law or fact. Upon the filing of the complaint, the
12 provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145, RSMo, shall apply.
13 With respect to cases in which the department has denied a contract to an in-home services
14 provider agency, the administrative hearing commission shall conduct a hearing to determine the
15 underlying basis for such denial. However, if the administrative hearing commission finds that
16 the contract denial is supported by the facts and the law, the case need not be returned to the
17 department. The administrative hearing commission's decision shall constitute affirmation of
18 the department's contract denial.

19 2. The department of health and senior services may issue letters of censure or warning
20 without formal notice or hearing.

21 3. The administrative hearing commission may stay the suspension or termination of an
22 in-home services provider agency's contract, or the placement of the contractor on probation,
23 pending the commission's findings and determination in the cause, upon such conditions, with
24 or without the agreement of the parties, as the commission deems necessary and appropriate,
25 including the posting of bond or other security except that the commission shall not grant a stay,
26 or if a stay has already been entered shall set aside its stay, unless the commission finds that the
27 contractor has established that servicing the department's clients pending the commission's final
28 determination would not present an imminent danger to the health, safety, or welfare of any
29 client or a substantial probability that death or serious physical harm would result. The
30 commission may remove the stay at any time that it finds that the contractor has violated any of

31 the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the
32 commission, pending the decision of the commission and any subsequent departmental action
33 at which time the stay shall be removed. In any case in which the department has refused to issue
34 a contract, the commission shall have no authority to stay or to require the issuance of a contract
35 pending final determination by the commission.

36 4. Stays granted to contractors by the administrative hearing commission shall, as a
37 condition of the stay, require at a minimum that the contractor under the stay operate under the
38 same contractual requirements and regulations as are in effect, from time to time, as are
39 applicable to all other contractors in the program.

40 5. The administrative hearing commission shall make its final decision based upon the
41 circumstances and conditions as they existed at the time of the action of the department and not
42 based upon circumstances and conditions at the time of the hearing or decision of the
43 commission.

44 6. In any proceeding before the administrative hearing commission pursuant to this
45 section, the burden of proof shall be on the contractor or applicant seeking review.

46 7. Any person, including the department, aggrieved by a final decision of the
47 administrative hearing commission may seek judicial review of such decision as provided in
48 section 621.145, RSMo.

[660.400.] **192.2200.** As used in sections [199.025, RSMo, and 660.403 to 660.420]
2 **192.2203 to 192.2227**, unless the context clearly indicates otherwise, the following terms mean:

3 (1) "Adult", an individual over the age of eighteen;

4 (2) "Adult day care program", a group program designed to provide care and supervision
5 to meet the needs of functionally impaired adults for periods of less than twenty-four hours but
6 more than two hours per day in a place other than the adult's own home;

7 (3) "Adult day care provider", the person, corporation, partnership, association or
8 organization legally responsible for the overall operation of the adult day care program;

9 (4) "Department", the department of [social] **health and senior** services;

10 (5) "Director", the director of the [division of aging] **department of health and senior**
11 **services**;

12 (6) ["Division", the division of aging;

13 (7)] "Functionally impaired adult", an adult who by reason of age or infirmity requires
14 care and supervision;

15 [(8)] (7) "License", the document issued by the [division] **department** in accordance
16 with the provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**
17 to an adult day care program which authorizes the adult day care provider to operate the program

18 in accordance with the provisions of sections [199.025, RSMo, and 660.403 to 660.420]
19 **192.2203 to 192.2227** and the applicable rules promulgated pursuant thereto;

20 [(9)] (8) "Participant", a functionally impaired adult who is enrolled in an adult day care
21 program;

22 [(10)] (9) "Person", any individual, firm, corporation, partnership, association, agency,
23 or an incorporated or unincorporated organization regardless of the name used;

24 [(11)] (10) "Provisional license", the document issued by the [division] **department** in
25 accordance with the provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203**
26 **to 192.2227** to an adult day care provider which is not currently meeting the requirements
27 necessary to obtain a license;

28 [(12)] (11) "Related", any of the following by blood, marriage or adoption: parent, child,
29 grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first
30 cousin;

31 [(13)] (12) "Staff participant ratio", the number of adult care staff required by the
32 [division] **department** in relation to the number of adults being cared for by such staff.

[660.403.] **192.2203.** 1. It shall be unlawful for any person to establish, maintain, or
2 operate an adult day care program, or to advertise or hold himself out as being able to perform
3 any adult day care service, unless he has obtained the proper license.

4 2. All applications for licenses shall be made on forms provided by the [division]
5 **department** and in the manner prescribed by the [division] **department**. All forms provided
6 shall include a fee schedule.

7 3. The [division] **department** shall conduct an investigation of the adult day care
8 program, and the applicant, for which a license is sought in order to determine if such program
9 is complying with the following:

10 (1) Local fire safety requirements or fire safety requirements of the [division]
11 **department** if there are no local codes;

12 (2) Local or state sanitation requirements;

13 (3) Local building and zoning requirements, where applicable;

14 (4) Staff/adult ratios required by the [division] **department**; and

15 (5) Other applicable provisions of sections [199.025, RSMo, and 660.403 to 660.420]
16 **192.2203 to 192.2227** and all applicable rules promulgated pursuant thereto, including but not
17 limited to:

18 (a) The applicant's ability to render adult day care;

19 (b) The proposed plan for providing adult day care;

20 (c) The proposed plan of operation of the adult day care program, so that, in the
21 judgment of the [division] **department**, minimum standards are being met to insure the health
22 and safety of the participants.

23 4. Following completion of its investigation made pursuant to subsection 3 of this
24 section and a finding that the applicant for a license has complied with all applicable rules
25 promulgated pursuant to sections [199.025, RSMo, and 660.403 to 660.420 the division]
26 **192.2203 to 192.2227, the department** shall issue a license to such applicant. Such license shall
27 be valid for the period designated by the [division] **department**, which period shall not exceed
28 two years from the date of issuance, for the premises and persons named in the application.

29 5. Each license issued under sections [199.025, RSMo, and 660.403 to 660.420]
30 **192.2203 to 192.2227** shall include the name of the provider, owner and operator; the name of
31 the adult day care program; the location of the adult day care program; the hours of operations;
32 the number and any limitations or the type of participants who may be served; and the period for
33 which such license is valid.

34 6. The [division] **department** may issue a provisional license to an adult day care
35 program that is not currently meeting requirements for a license but which demonstrates the
36 potential capacity to meet full requirements for license; except that, no provisional license shall
37 be issued unless the director is satisfied that the operation of the adult day care program is not
38 detrimental to the health and safety of the participants being served. The provisional license
39 shall be nonrenewable and shall be valid for the period designated by the [division] **department**,
40 which period shall not exceed six months from the date of issuance. Upon issuance of a regular
41 license, a day care program's provisional license shall immediately be null and void.

[660.405.] **192.2206.** 1. The provisions of sections [199.025, RSMo, and 660.403 to
2 660.420] **192.2203 to 192.2227** shall not apply to the following:

3 (1) Any adult day care program operated by a person in which care is offered for no more
4 than two hours per day;

5 (2) Any adult day care program maintained or operated by the federal government except
6 where care is provided through a management contract;

7 (3) Any person who cares solely for persons related to the provider or who has been
8 designated as guardian of that person;

9 (4) Any adult day care program which cares for no more than four persons unrelated to
10 the provider;

11 (5) Any adult day care program licensed by the department of mental health under
12 chapter 630, RSMo, which provides care, treatment and habilitation exclusively to adults who
13 have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental
14 disability as defined;

15 (6) Any adult day care program administered or maintained by a religious not-for-profit
16 organization serving a social or religious function if the adult day care program does not hold
17 itself out as providing the prescription or usage of physical or medical therapeutic activities or
18 as providing or administering medicines or drugs.

19 2. Nothing in this section shall prohibit any person listed in subsection 1 of this section
20 from applying for a license or receiving a license if the adult day care program owned or operated
21 by such person conforms to the provisions of sections [199.025, RSMo, and 660.403 to 660.420]
22 **192.2203 to 192.2227** and all applicable rules promulgated pursuant thereto.

[660.407.] **192.2209.** 1. The director, or his authorized representative, shall have the
2 right to enter the premises of an applicant for or holder of a license at any time during the hours
3 of operation of a center to determine compliance with provisions of sections [199.025, RSMo,
4 and 660.403 to 660.420] **192.2203 to 192.2227** and applicable rules promulgated pursuant
5 thereto. Entry shall also be granted for investigative purposes involving complaints regarding
6 the operations of an adult day care program. The [division] **department** shall make at least two
7 inspections per year, at least one of which shall be unannounced to the operator or provider. The
8 [division] **department** may make such other inspections, announced or unannounced, as it
9 deems necessary to carry out the provisions of sections [199.025, RSMo, and 660.403 to
10 660.420] **192.2203 to 192.2227**.

11 2. The applicant for or holder of a license shall cooperate with the investigation and
12 inspection by providing access to the adult day care program, records and staff, and by providing
13 access to the adult day care program to determine compliance with the rules promulgated
14 pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**.

15 3. Failure to comply with any lawful request of the [division] **department** in connection
16 with the investigation and inspection is a ground for refusal to issue a license or for the
17 suspension or revocation of a license.

18 4. The [division] **department** may designate to act for it, with full authority of law, any
19 instrumentality of any political subdivision of the state of Missouri deemed by the [division]
20 **department** to be competent to investigate and inspect applicants for or holders of licenses.

[660.409.] **192.2212.** Each application for a license, or the renewal thereof, issued
2 pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** shall be
3 accompanied by a nonrefundable fee in the amount required by the [division] **department**. The
4 fee, to be determined by the director [of the division], shall not exceed one hundred dollars and
5 shall be based on the licensed capacity of the applicant.

[660.411.] **192.2215.** The [division] **department** shall offer technical assistance or
2 consultation to assist applicants for or holders of licenses or provisional licenses in meeting the
3 requirements of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, staff

4 qualifications, and other aspects involving the operation of an adult day care program, and to
5 assist in the achievement of programs of excellence related to the provision of adult day care.

[660.414.] **192.2218.** 1. Whenever the [division] **department** is advised or has reason
2 to believe that any person is operating an adult day care program without a license, or provisional
3 license, or that any holder of license, or provisional license is not in compliance with the
4 provisions of sections [199.025, RSMo, and 660.403 to 660.420, the division] **192.2203 to**
5 **192.2227, the department** shall make an investigation and inspection to ascertain the facts. If
6 the [division] **department** is not permitted access to the adult day care program in question, the
7 [division] **department** may apply to the circuit court of the county in which the program is
8 located for an order authorizing entry for inspection. The court shall issue the order if it finds
9 reasonable grounds necessitating the inspection.

10 2. If the [division] **department** finds that the adult day care program is being operated
11 in violation of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, it may
12 seek, among other remedies, injunctive relief against the adult day care program.

[660.416.] **192.2221.** 1. Any person aggrieved by an official action of the [division]
2 **department** either refusing to issue a license or revoking or suspending a license may seek a
3 determination thereon by the administrative hearing commission [pursuant to the provisions of
4 section 161.272] **under section 621.045**, RSMo, et seq.; except that, the petition must be filed
5 with the administrative hearing commission within thirty days after the mailing or delivery of
6 notice to the applicant for or holder of such license or certificate. When the notification of the
7 official action is mailed to the applicant for or holder of such a license, there shall be included
8 in the notice a statement of the procedure whereby the applicant for or holder of such license may
9 appeal the decision of the [division] **department** before the administrative hearing commission.
10 It shall not be a condition to such determination that the person aggrieved seek a reconsideration,
11 a rehearing or exhaust any other procedure within the [division] **department**.

12 2. The administrative hearing commission may stay the revocation or suspension of such
13 certificate or license, pending the commission's findings and determination in the cause, upon
14 such conditions as the commission deems necessary and appropriate including the posting of
15 bond or other security; except that, the commission shall not grant a stay or if a stay has already
16 been entered shall set aside its stay, if, upon application of the [division] **department**, the
17 commission finds reason to believe that continued operation of the facility to which the
18 certificate or license in question applies pending the commission's final determination would
19 present an imminent danger to the health, safety or welfare of any person or a substantial
20 probability that death or serious physical harm would result. In any case in which the [division]
21 **department** has refused to issue a certificate or license, the commission shall have no authority
22 to stay or to require the issuance of a license pending final determination by the commission.

23 3. The administrative hearing commission shall make the final decision as to the
24 issuance, suspension, or revocation of a license. Any person aggrieved by a final decision of the
25 administrative hearing commission, including the [division] **department**, may seek judicial
26 review of such decision by filing a petition for review in the court of appeals for the district in
27 which the adult day care program to which the license in question applies is located. Review
28 shall be had in accordance with the provisions of sections [161.337 and 161.338] **621.189 and**
29 **621.193**, RSMo.

 [660.418.] **192.2224.** The director [of the division] shall have the authority to promulgate
2 rules pursuant to this section and chapter 536, RSMo, in order to carry out the provisions of
3 sections [199.025, RSMo, and 660.403 to 660.420. No rule or portion of a rule promulgated
4 under the authority of section 199.025, RSMo, and sections 660.403 to 660.420 shall become
5 effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo]
6 **192.2203 to 192.2227. Any rule or portion of a rule, as that term is defined in section**
7 **536.010, RSMo, that is created under the authority delegated in this section shall become**
8 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
9 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
10 **nonseverable and if any of the powers vested with the general assembly pursuant to**
11 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
12 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
13 **rule proposed or adopted after August 28, 2009, shall be invalid and void.**

 [660.420.] **192.2227.** 1. Any person who violates any provision of sections [199.025,
2 RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, or who, for himself or for any other
3 person, makes materially false statements in order to obtain a certificate or license, or the renewal
4 thereof, issued pursuant to sections [199.025, RSMo, and 660.403 to 660.420, shall be] **192.2203**
5 **to 192.2227**, is guilty of a class A misdemeanor.

 2. Any person who is convicted pursuant to this section shall, in addition to all other
7 penalties provided by law, have any license issued to [him] **such person** under sections
8 [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** revoked, and shall not operate,
9 nor hold any license to operate, any adult day care program, or other entity governed by the
10 provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** for a
11 period of three years after such conviction.

 [660.620.] **192.2250.** 1. There is hereby established an "Office of Advocacy and
2 Assistance for Senior Citizens" within the office of lieutenant governor.

 2. The senior citizen advocate shall coordinate activities with the long-term care
4 ombudsman program, as defined in section [660.600] **198.700, RSMo**, on complaints made by
5 or on behalf of senior citizens residing in long-term care facilities.

6 3. The senior citizen advocate shall conduct a suitable investigation into any actions
7 complained of unless the senior citizen advocate finds that the complaint pertains to a matter
8 outside the scope of the authority of the senior citizen advocate, the complainant has no
9 substantive or procedural interest which is directly affected by the matter complained about, or
10 the complaint is trivial, frivolous, vexatious or not made in good faith.

11 4. After completing his investigation of a complaint, the senior citizen advocate shall
12 inform the complainant, the agency, official or employee of action recommended by the senior
13 citizen advocate. The senior citizen advocate shall make such reports and recommendations to
14 the affected agencies, the governor and the general assembly as he deems necessary to further
15 the purposes of sections [660.620 and 660.625] **192.2250 and 192.2253.**

16 5. The senior citizen advocate shall, in conjunction with the [division of senior services,
17 act as a clearinghouse for] **department, maintain** information pertaining to and of interest to
18 senior citizens and shall disseminate such information as is necessary to inform senior citizens
19 of their rights and of governmental and nongovernmental services available to them.

 [660.625.] **192.2253.** The senior citizen advocate shall maintain confidentiality with
2 respect to all matters, including the identities of the complainants or witnesses coming before
3 the senior citizen advocate unless the complainant consents to the use of his or her name in the
4 course of the investigation.

 198.006. As used in sections 198.003 to 198.186, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm, **or financial**
4 **exploitation by any person, firm, or corporation as defined in section 570.145, RSMo;**

5 (2) "Activities of daily living" or "ADL", one or more of the following activities of daily
6 living:

7 (a) Eating;

8 (b) Dressing;

9 (c) Bathing;

10 (d) Toileting;

11 (e) Transferring; and

12 (f) Walking;

13 (3) "Administrator", the person who is in general administrative charge of a facility;

14 (4) "Affiliate":

15 (a) With respect to a partnership, each partner thereof;

16 (b) With respect to a limited partnership, the general partner and each limited partner
17 with an interest of five percent or more in the limited partnership;

18 (c) With respect to a corporation, each person who owns, holds or has the power to vote
19 five percent or more of any class of securities issued by the corporation, and each officer and
20 director;

21 (d) With respect to a natural person, any parent, child, sibling, or spouse of that person;

22 (5) "Appropriately trained and qualified individual", an individual who is licensed or
23 registered with the state of Missouri in a health care-related field or an individual with a degree
24 in a health care-related field or an individual with a degree in a health care, social services, or
25 human services field or an individual licensed under chapter 344, RSMo, and who has received
26 facility orientation training under 19 CSR [30-86042(18)] **30-86.047(62)**, and dementia training
27 under section [660.050, RSMo] **192.2000**, and twenty-four hours of additional training, approved
28 by the department, consisting of definition and assessment of activities of daily living,
29 assessment of cognitive ability, service planning, and interview skills;

30 (6) "Assisted living facility", any premises, other than a residential care facility,
31 intermediate care facility, or skilled nursing facility, that is utilized by its owner, operator, or
32 manager to provide twenty-four-hour care and services and protective oversight to three or more
33 residents who are provided with shelter, board, and who may need and are provided with the
34 following:

35 (a) Assistance with any activities of daily living and any instrumental activities of daily
36 living;

37 (b) Storage, distribution, or administration of medications; and

38 (c) Supervision of health care under the direction of a licensed physician, provided that
39 such services are consistent with a social model of care;

40

41 Such term shall not include a facility where all of the residents are related within the fourth
42 degree of consanguinity or affinity to the owner, operator, or manager of the facility;

43 (7) "Community-based assessment", documented basic information and analysis
44 provided by appropriately trained and qualified individuals describing an individual's abilities
45 and needs in activities of daily living, instrumental activities of daily living, vision/hearing,
46 nutrition, social participation and support, and cognitive functioning using an assessment tool
47 approved by the department of health and senior services that is designed for community-based
48 services and that is not the nursing home minimum data set;

49 (8) "Dementia", a general term for the loss of thinking, remembering, and reasoning so
50 severe that it interferes with an individual's daily functioning, and may cause symptoms that
51 include changes in personality, mood, and behavior;

52 (9) "Department", the Missouri department of health and senior services;

53 (10) "Emergency", a situation, physical condition or one or more practices, methods or
54 operations which presents imminent danger of death or serious physical or mental harm to
55 residents of a facility;

56 (11) "Facility", any residential care facility, assisted living facility, intermediate care
57 facility, or skilled nursing facility;

58 (12) "Health care provider", any person providing health care services or goods to
59 residents and who receives funds in payment for such goods or services under [Medicaid] **MO**
60 **HealthNet**;

61 (13) "Instrumental activities of daily living", or "IADL", one or more of the following
62 activities:

- 63 (a) Preparing meals;
- 64 (b) Shopping for personal items;
- 65 (c) Medication management;
- 66 (d) Managing money;
- 67 (e) Using the telephone;
- 68 (f) Housework; and
- 69 (g) Transportation ability;

70 (14) "Intermediate care facility", any premises, other than a residential care facility,
71 assisted living facility, or skilled nursing facility, which is utilized by its owner, operator, or
72 manager to provide twenty-four-hour accommodation, board, personal care, and basic health and
73 nursing care services under the daily supervision of a licensed nurse and under the direction of
74 a licensed physician to three or more residents dependent for care and supervision and who are
75 not related within the fourth degree of consanguinity or affinity to the owner, operator or
76 manager of the facility;

77 (15) "Manager", any person other than the administrator of a facility who contracts or
78 otherwise agrees with an owner or operator to supervise the general operation of a facility,
79 providing such services as hiring and training personnel, purchasing supplies, keeping financial
80 records, and making reports;

81 (16) ["Medicaid"] "**MO HealthNet**", medical assistance under section 208.151, RSMo,
82 et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social
83 Security Act (42 U.S.C. 301, et seq.), as amended;

84 (17) "Neglect", the failure to provide, by those responsible for the care, custody, and
85 control of a resident in a facility, the services which are reasonable and necessary to maintain the
86 physical and mental health of the resident, when such failure presents either an imminent danger
87 to the health, safety or welfare of the resident or a substantial probability that death or serious
88 physical harm would result;

89 (18) "Operator", any person licensed or required to be licensed under the provisions of
90 sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

91 (19) "Owner", any person who owns an interest of five percent or more in:

92 (a) The land on which any facility is located;

93 (b) The structure or structures in which any facility is located;

94 (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by
95 the land or structure in or on which a facility is located; or

96 (d) Any lease or sublease of the land or structure in or on which a facility is located.

97

98 "Owner" does not include a holder of a debenture or bond purchased at public issue nor does it
99 include any regulated lender unless the entity or person directly or through a subsidiary operates
100 a facility;

101 (20) "Protective oversight", an awareness twenty-four hours a day of the location of a
102 resident, the ability to intervene on behalf of the resident, the supervision of nutrition,
103 medication, or actual provisions of care, and the responsibility for the welfare of the resident,
104 except where the resident is on voluntary leave;

105 (21) "Resident", a person who by reason of aging, illness, disease, or physical or mental
106 infirmity receives or requires care and services furnished by a facility and who resides or boards
107 in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding
108 twenty-four consecutive hours;

109 (22) "Residential care facility", any premises, other than an assisted living facility,
110 intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or
111 manager to provide twenty-four-hour care to three or more residents, who are not related within
112 the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility
113 and who need or are provided with shelter, board, and with protective oversight, which may
114 include storage and distribution or administration of medications and care during short-term
115 illness or recuperation, except that, for purposes of receiving supplemental welfare assistance
116 payments under section 208.030, RSMo, only any residential care facility licensed as a
117 residential care facility II immediately prior to August 28, 2006, and that continues to meet such
118 licensure requirements for a residential care facility II licensed immediately prior to August 28,
119 2006, shall continue to receive after August 28, 2006, the payment amount allocated immediately
120 prior to August 28, 2006, for a residential care facility II under section 208.030;

121 (23) "Skilled nursing facility", any premises, other than a residential care facility, an
122 assisted living facility, or an intermediate care facility, which is utilized by its owner, operator
123 or manager to provide for twenty-four-hour accommodation, board and skilled nursing care and
124 treatment services to at least three residents who are not related within the fourth degree of

consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four- hours-a-day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

(24) "Social model of care", long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional and promotes the dignity, individuality, privacy, independence, and autonomy of the individual. Any facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as being more home-like than institutional with respect to construction and physical plant standards;

(25) "Vendor", any person selling goods or services to a health care provider;

(26) "Voluntary leave", an off-premise leave initiated by:

(a) A resident that has not been declared mentally incompetent or incapacitated by a court; or

(b) A legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

198.074. 1. Effective August 28, 2007, all new facilities licensed **under this chapter** on or after August 28, 2007, or any [facilities completing a] **section of a facility licensed under this chapter in which a** major renovation [to the facility] **has been completed** on or after August 28, 2007, as defined and approved by the department, [and which are licensed under this chapter] shall install and maintain an approved sprinkler system in accordance with National Fire Protection Association (NFPA) 13.

2. Facilities that were initially licensed and had an approved sprinkler system prior to August 28, 2007, shall continue to meet all laws, rules, and regulations for testing, inspection and maintenance of the sprinkler system that were in effect for such facilities on August 27, 2007.

3. Multi-level assisted living facilities that accept or retain any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13. Single-story assisted living facilities that accept or retain any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13R.

4. All residential care and assisted living facilities [with] **licensed for** more than twenty [residents] **beds** not included in subsection 3 of this section, which are initially licensed under this chapter prior to August 28, 2007, and that do not have installed an approved sprinkler system

20 in accordance with NFPA 13R prior to August 28, 2007, shall install and maintain an approved
21 sprinkler system in accordance with NFPA 13R by December 31, 2012, unless the facility meets
22 the safety requirements of Chapter 33 of existing residential board and care occupancies of
23 NFPA 101 life safety code. **Any such facilities that do not have an approved sprinkler**
24 **system in accordance with NFPA 13R by December 31, 2012, shall be required to install**
25 **and maintain an approved sprinkler system in accordance with NFPA 13 by December 13,**
26 **2013.**

27 5. All skilled nursing and intermediate care facilities not required prior to August 28,
28 2007, to install and maintain an approved sprinkler system shall install and maintain an approved
29 sprinkler system in accordance with NFPA 13 by December 31, 2012, unless the facility receives
30 an exemption from the department and presents evidence in writing from a certified sprinkler
31 system representative or licensed engineer that the facility is unable to install an approved
32 [National Fire Protection Association] **NFPA 13** system due to the unavailability of water supply
33 requirements associated with this system or the facility meets the safety requirements of Chapter
34 33 of existing residential board and care occupancies of NFPA 101 life safety code.

35 6. Facilities that [take a substantial step] **have submitted a plan for compliance**, as
36 [specified in] **required by** subsection [7] **10** of this section, to install an approved NFPA **13 or**
37 **13R** system prior to December 31, 2012, may apply to the department for a loan in accordance
38 with section 198.075 to install such system. However, such loan shall [not] **only** be available
39 [if by December 31, 2009,] **until** the average total reimbursement for the care of persons eligible
40 for Medicaid public assistance in an assisted living facility and residential care facility is equal
41 to or exceeds fifty-two dollars per day. The average total reimbursement includes room, board,
42 and care delivered by the facility, but shall not include payments to the facility for care or
43 services not provided by the facility. [If a facility under this subsection does not have an
44 approved sprinkler system installed by December 31, 2012, such facility shall be required to
45 install and maintain an approved sprinkler system in accordance with NFPA 13 by December 31,
46 2013.] Such loans received under this subsection and in accordance with section 198.075, shall
47 be paid in full as follows:

48 (1) Ten years for those facilities approved for the loan and whose average total
49 reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to
50 forty-eight and no more than forty-nine dollars per day;

51 (2) Eight years for those facilities approved for the loan and whose average total
52 reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than
53 forty-nine and no more than fifty-two dollars per day; or

54 (3) Five years for those facilities approved for the loan and whose average total
55 reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than
56 fifty-two dollars per day.

57 (4) No payments or interest shall be due until the average total reimbursement rate for
58 the care of persons eligible for Medicaid public assistance is equal to or greater than forty-eight
59 dollars.

60 7. (1) All facilities licensed under this chapter shall be equipped with a complete fire
61 alarm system in compliance with [NFPA 101, Life Safety Code for Detection, Alarm, and
62 Communication Systems as referenced in] NFPA 72, or shall maintain a system that was
63 approved by the department when such facility was constructed so long as such system is a
64 complete fire alarm system. A complete fire alarm system shall include, but not be limited to,
65 interconnected smoke detectors throughout the facility, automatic transmission to the fire
66 department, dispatching agency, or central monitoring company, manual pull stations at each
67 required exit and attendant's station, heat detectors, and audible and visual alarm indicators. **If**
68 **a facility submits a plan of compliance for installation of a sprinkler system required by**
69 **this chapter, such facility shall install a complete fire alarm system that complies with**
70 **NFPA 72 upon installation of the sprinkler system. Until such time that the sprinkler**
71 **system is installed in the facility which has submitted a plan of compliance, each resident**
72 **room or any room designated for sleeping in the facility shall be equipped with at least one**
73 **battery-powered smoke alarm installed, tested, and maintained in accordance with NFPA**
74 **72. In addition, any such facility shall be equipped with heat detectors interconnected to**
75 **the fire alarm system which are installed, tested, and maintained in accordance with NFPA**
76 **72 in all areas subject to nuisances alarms, including but not limited to kitchens, laundries,**
77 **bathrooms, mechanical air handling rooms, and attic spaces.**

78 (2) In addition, each floor accessed by residents shall be divided into at least two smoke
79 sections by one-hour rated smoke partitions. No smoke section shall exceed one hundred fifty
80 feet in length. If neither the length nor the width of the floor exceeds seventy-five feet, no
81 smoke-stop partition shall be required. Facilities with a complete fire alarm system and smoke
82 sections meeting the requirements of this subsection prior to August 28, 2007, shall continue to
83 meet such requirements. Facilities initially licensed on or after August 28, 2007, shall comply
84 with such requirements beginning August 28, 2007, or on the effective date of licensure.

85 (3) Except as otherwise provided in this subsection, the requirements for complete fire
86 alarm systems and smoke sections shall be enforceable on December 31, 2008.

87 8. The requirements of this section shall be construed to supersede the provisions of
88 section 198.058 relating to the exemption of facilities from construction standards.

89 9. Fire safety inspections of facilities licensed under this chapter for compliance with this
90 section shall be conducted annually by the state fire marshal [if such inspections are not available
91 to be conducted by local fire protection districts or fire departments. The provisions of this
92 section shall be enforced by the state fire marshal or by the local fire protection district or fire
93 department, depending on which entity conducted the inspection] **or by local fire protection**
94 **districts or fire departments if such districts or departments are deemed qualified to**
95 **conduct facility inspections by the state fire marshal. The state fire marshal shall report**
96 **the results of facility inspections to the department in order for the department to make**
97 **licensure and other appropriate decisions.**

98 10. By July 1, 2008, all facilities licensed under this chapter shall submit a plan for
99 compliance with the provisions of this section to the state fire marshal.

 198.075. 1. There is hereby created in the state treasury the "Fire Safety Standards Loan
2 Fund", for implementing the provisions of subsection [3] **6** of section 198.074. Moneys
3 deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri
4 Constitution. The state treasurer shall be custodian of the fund and may disburse moneys from
5 the fund in accordance with sections 30.170 and 30.180, RSMo. Any moneys remaining in the
6 fund at the end of the biennium shall revert to the credit of the general revenue fund. The state
7 treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any
8 interest and moneys earned on such investments shall be credited to the fund.

9 2. Qualifying facilities shall make an application to the department of health and senior
10 services upon forms provided by the department. **Such application and loan shall be available**
11 **to facilities by January 1, 2009.** Upon receipt of an application for a loan, the department shall
12 review the application and advise the governor before state funds are allocated for a loan. For
13 purposes of this section, a "qualifying facility" shall mean a facility licensed under this chapter
14 that is in substantial compliance. "Substantial compliance" shall mean a facility that has no
15 uncorrected deficiencies and is in compliance with department of health and senior services rules
16 and regulations governing such facility.

17 3. The fund shall be a loan of which the interest rate shall not exceed two and one-half
18 percent.

19 4. The fund shall be administered by the department of health and senior services.

 198.090. 1. An operator may make available to any resident the service of holding in
2 trust personal possessions and funds of the resident and shall, as authorized by the resident,
3 expend the funds to meet the resident's personal needs. In providing this service the operator
4 shall:

5 (1) At the time of admission, provide each resident or his next of kin or legal guardian
6 with a written statement explaining the resident's rights regarding personal funds;

7 (2) Accept funds and personal possessions from or for a resident for safekeeping and
8 management, only upon written authorization by the resident or by his designee, or guardian in
9 the case of an adjudged incompetent;

10 (3) Deposit any personal funds received from or on behalf of a resident in an account
11 separate from the facility's funds, except that an amount to be established by rule of the [division
12 of aging] **department** may be kept in a petty cash fund for the resident's personal needs;

13 (4) Keep a written account, available to a resident and his designee or guardian,
14 maintained on a current basis for each resident, with written receipts, for all personal possessions
15 and funds received by or deposited with the facility and for all disbursements made to or on
16 behalf of the resident;

17 (5) Provide each resident or his designee or guardian with a quarterly accounting of all
18 financial transactions made on behalf of the resident;

19 (6) Within five days of the discharge of a resident, provide the resident, or his designee
20 or guardian, with an up-to-date accounting of the resident's personal funds and return to the
21 resident the balance of his funds and all his personal possessions;

22 (7) Upon the death of a resident who has been a recipient of aid, assistance, care,
23 services, or who has had moneys expended on his **or her** behalf by the department of social
24 services, provide the department **of social services** a complete account of all the resident's
25 personal funds within sixty days from the date of death.

26
27 The total amount paid to the decedent or expended upon his **or her** behalf by the department **of**
28 **social services** shall be a debt due the state and recovered from the available funds upon the
29 [department's] claim **by the department of social services** on such funds. The department **of**
30 **social services** shall make a claim on the funds within sixty days from the date of the accounting
31 of the funds by the facility. The nursing facility shall pay the claim made by the department of
32 social services from the resident's personal funds within sixty days. Where the name and address
33 are reasonably ascertainable, the department of social services shall give notice of the debt due
34 the state to the person whom the recipient had designated to receive the quarterly accounting of
35 all financial transactions made under this section, or the resident's guardian or conservator or the
36 person or persons listed in nursing home records as a responsible party or the fiduciary of the
37 resident's estate. If any funds are available after the [department's] claim **by the department of**
38 **social services**, the remaining provisions of this section shall apply to the balance, unless the
39 funds belonged to a person other than the resident, in which case the funds shall be paid to that
40 person;

41 (8) Upon the death of a resident who has not been a recipient of aid, assistance, care,
42 services, or who has not had moneys expended on his **or her** behalf by the department of social

43 services or the department **of social services** has not made a claim on the funds, provide the
44 fiduciary of resident's estate, at the fiduciary's request, a complete account of all the resident's
45 personal funds and possessions and deliver to the fiduciary all possessions of the resident and
46 the balance of the resident's funds. If, after one year from the date of death, no fiduciary makes
47 claim upon such funds or possessions, the operator shall notify the department that the funds
48 remain unclaimed. Such unclaimed funds or possessions shall be disposed of as follows:

49 (a) If the unclaimed funds or possessions have a value totaling one hundred and fifty
50 dollars or less, the funds or the proceeds of the sale of the possessions may be deposited in a fund
51 to be used for the benefit of all residents of the facility by providing the residents social or
52 educational activities. The facility shall keep an accounting of the acquisitions and expenditure
53 of these funds; or

54 (b) If the unclaimed funds or possessions have a value greater than one hundred and fifty
55 dollars, the funds or possessions shall be immediately presumed to be abandoned property under
56 sections 447.500 to 447.585, RSMo, and the procedures provided for in those sections shall
57 apply notwithstanding any other provisions of those sections which require a period greater than
58 two years for a presumption of abandonment;

59 (9) Upon ceasing to be the operator of a facility, all funds and property held in trust
60 pursuant to this section shall be transferred to the new operator in accordance with sound
61 accounting principles, and a closeout report signed by both the outgoing operator and the
62 successor operator shall be prepared. The closeout report shall include a list of current balances
63 of all funds held for residents respectively and an inventory of all property held for residents
64 respectively. If the outgoing operator refuses to sign the closeout report, he shall state in writing
65 the specific reasons for his failure to so sign, and the successor operator shall complete the report
66 and attach an affidavit stating that the information contained therein is true to the best of his
67 knowledge and belief. Such report shall be retained with all other records and accounts required
68 to be maintained under this section;

69 (10) Not be required to invest any funds received from or on behalf of a resident, nor to
70 increase the principal of any such funds.

71 2. Any owner, operator, manager, employee, or affiliate of an owner or operator who
72 receives any personal property or anything else of value from a resident, shall, if the thing
73 received has a value of ten dollars or more, make a written statement giving the date it was
74 received, from whom it was received, and its estimated value. Statements required to be made
75 pursuant to this subsection shall be retained by the operator and shall be made available for
76 inspection by the department, or by the department of mental health when the resident has been
77 placed by that department, and by the resident, and his designee or legal guardian. Any person
78 who fails to make a statement required by this subsection is guilty of a class C misdemeanor.

79 3. No owner, operator, manager, employee, or affiliate of an owner or operator shall in
80 one calendar year receive any personal property or anything else of value from the residents of
81 any facility which have a total estimated value in excess of one hundred dollars.

82 4. Subsections 2 and 3 of this section shall not apply if the property or other thing of
83 value is held in trust in accordance with subsection 1 of this section, is received in payment for
84 services rendered or pursuant to the terms of a lawful contract, or is received from a resident who
85 is related to the recipient within the fourth degree of consanguinity or affinity.

86 5. Any operator who fails to maintain records or who fails to maintain any resident's
87 personal funds in an account separate from the facility's funds as required by this section shall
88 be guilty of a class C misdemeanor.

89 6. Any operator, or any affiliate or employee of an operator, who puts to his own use or
90 the use of the facility or otherwise diverts from the resident's use any personal funds of the
91 resident shall be guilty of a class A misdemeanor.

92 [7. Any person having reasonable cause to believe that a misappropriation of a resident's
93 funds or property has occurred may report such information to the department.

94 8. For each report the division shall attempt to obtain the name and address of the
95 facility, the name of the facility employee, the name of the resident, information regarding the
96 nature of the misappropriation, the name of the complainant, and any other information which
97 might be helpful in an investigation.

98 9. Upon receipt of a report, the department shall initiate an investigation.

99 10. If the investigation indicates probable misappropriation of property or funds of a
100 resident, the investigator shall refer the complaint together with his report to the department
101 director or his designee for appropriate action.

102 11. Reports shall be confidential, as provided under section 660.320, RSMo.

103 12. Anyone, except any person participating in or benefiting from the misappropriation
104 of funds, who makes a report pursuant to this section or who testifies in any administrative or
105 judicial proceeding arising from the report shall be immune from any civil or criminal liability
106 for making such a report or for testifying except for liability for perjury, unless such person acted
107 negligently, recklessly, in bad faith, or with malicious purpose.

108 13. Within five working days after a report required to be made under this section is
109 received, the person making the report shall be notified in writing of its receipt and of the
110 initiation of the investigation.

111 14. No person who directs or exercises any authority in a facility shall evict, harass,
112 dismiss or retaliate against a resident or employee because he or any member of his family has
113 made a report of any violation or suspected violation of laws, ordinances or regulations applying
114 to the facility which he has reasonable cause to believe has been committed or has occurred.

115 15. The department shall maintain the employee disqualification list and place on the
116 employee disqualification list the names of any persons who have been finally determined by the
117 department, pursuant to section 660.315, RSMo, to have misappropriated any property or funds
118 of a resident while employed in any facility.]

198.532. 1. Complaints filed with the department of health and senior services against
2 a long-term care facility which allege that harm has occurred or is likely to occur to a resident
3 or residents of the facility due to actions or the lack of actions taken by the facility shall be
4 investigated within thirty days of receipt of such complaints. The purpose of such investigation
5 shall be to ensure the safety, protection and care of all residents of the facility likely to be
6 affected by the alleged action or inaction. Such investigation shall be in addition to the
7 investigation requirements for abuse and neglect reports pursuant to section [198.070] **192.2150,**
8 **RSMo.**

9 2. The department shall provide the results of all investigations in accordance with
10 section [660.320] **192.2150,** RSMo. The department shall provide the results of such
11 investigation in writing to all parties to the complaint, and if requested, to any of the facility's
12 residents, or their family members or guardians. Complaints and written results will be readily
13 available for public access and review at the department of health and senior services and at the
14 long-term care facility. Personal information identifying the resident will be blanked out, except
15 in regard to immediate family, the attorney-in-fact or the legal guardian of the resident in
16 question. This information will remain readily available for a period of time determined by the
17 department of health and senior services.

[660.600.] **198.700.** As used in sections [660.600 to 660.608] **198.700 to 198.708,** the
2 following terms mean:

3 (1) ["Division", the division of aging of] **"Department",** the department of [social]
4 **health and senior** services;

5 (2) "Long-term care facility", any facility licensed pursuant to chapter 198, RSMo, and
6 long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;

7 (3) "Office", the office of the state ombudsman for long-term care facility residents;

8 (4) "Ombudsman", the state ombudsman for long-term care facility residents;

9 (5) "Regional ombudsman coordinators", designated individuals working for, or under
10 contract with, the area agencies on aging, and who are so designated by the area agency on aging
11 and certified by the ombudsman as meeting the qualifications established by the [division]
12 **department;**

13 (6) "Resident", any person who is receiving care or treatment in a long-term care facility.

[660.603.] **198.703.** 1. There is hereby established within the department of health and
2 senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the

3 purpose of helping to assure the adequacy of care received by residents of long-term care
4 facilities and to improve the quality of life experienced by them, in accordance with the federal
5 Older Americans Act, 42 U.S.C. 3001, et seq.

6 2. The office shall be administered by the state ombudsman, who shall devote his or her
7 entire time to the duties of his or her position.

8 3. The office shall establish and implement procedures for receiving, processing,
9 responding to, and resolving complaints made by or on behalf of residents of long-term care
10 facilities relating to action, inaction, or decisions of providers, or their representatives, of
11 long-term care services, of public agencies or of social service agencies, which may adversely
12 affect the health, safety, welfare or rights of such residents.

13 4. The department shall establish and implement procedures for resolution of complaints.
14 The ombudsman or representatives of the office shall have the authority to:

15 (1) Enter any long-term care facility and have access to residents of the facility at a
16 reasonable time and in a reasonable manner. The ombudsman shall have access to review
17 resident records, if given permission by the resident or the resident's legal guardian. Residents
18 of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

19 (2) Make the necessary inquiries and review such information and records as the
20 ombudsman or representative of the office deems necessary to accomplish the objective of
21 verifying these complaints.

22 5. The office shall acknowledge complaints, report its findings, make recommendations,
23 gather and disseminate information and other material, and publicize its existence.

24 6. The ombudsman may recommend to the relevant governmental agency changes in the
25 rules and regulations adopted or proposed by such governmental agency which do or may
26 adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility.
27 The office shall analyze and monitor the development and implementation of federal, state and
28 local laws, regulations and policies with respect to long-term care facilities and services in the
29 state and shall recommend to the department changes in such laws, regulations and policies
30 deemed by the office to be appropriate.

31 7. The office shall promote community contact and involvement with residents of
32 facilities through the use of volunteers and volunteer programs directed by the regional
33 ombudsman coordinators.

34 8. The office shall develop and establish by regulation of the department statewide
35 policies and standards for implementing the activities of the ombudsman program, including the
36 qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

37 9. The office shall develop and propose programs for use, training and coordination of
38 volunteers in conjunction with the regional ombudsman coordinators and may:

- 39 (1) Establish and conduct recruitment programs for volunteers;
40 (2) Establish and conduct training seminars, meetings and other programs for volunteers;
41 and
42 (3) Supply personnel, written materials and such other reasonable assistance, including
43 publicizing their activities, as may be deemed necessary.
- 44 10. The regional ombudsman coordinators and ombudsman volunteers shall have the
45 authority to report instances of abuse and neglect to the ombudsman hotline operated by the
46 department.
- 47 11. If the regional ombudsman coordinator or volunteer finds that a nursing home
48 administrator is not willing to work with the ombudsman program to resolve complaints, the
49 state ombudsman shall be notified. The department shall establish procedures by rule in
50 accordance with chapter 536, RSMo, for implementation of this subsection.
- 51 12. The office shall prepare and distribute to each facility written notices which set forth
52 the address and telephone number of the office, a brief explanation of the function of the office,
53 the procedure to follow in filing a complaint and other pertinent information.
- 54 13. The administrator of each facility shall ensure that such written notice is given to
55 every resident or the resident's guardian upon admission to the facility and to every person
56 already in residence, or to his guardian. The administrator shall also post such written notice in
57 a conspicuous, public place in the facility in the number and manner set forth in the regulations
58 adopted by the department.
- 59 14. The office shall inform residents, their guardians or their families of their rights and
60 entitlements under state and federal laws and rules and regulations by means of the distribution
61 of educational materials and group meetings.

[660.605.] **198.705.** 1. Any files maintained by the ombudsman program shall be
2 disclosed only at the discretion of the ombudsman having authority over the disposition of such
3 files, except that the identity of any complainant or resident of a long-term care facility shall not
4 be disclosed by such ombudsman unless:

5 (1) Such complainant or resident, or the complainant's or resident's legal representative,
6 consents in writing to such disclosure; or
7 (2) Such disclosure is required by court order.

8 2. Any representative of the office conducting or participating in any examination of a
9 complaint who shall knowingly and willfully disclose to any person other than the office, or
10 those authorized by the office to receive it, the name of any witness examined or any information
11 obtained or given upon such examination, shall be guilty of a class A misdemeanor. However,
12 the ombudsman conducting or participating in any examination of a complaint shall disclose the
13 final result of the examination to the facility with the consent of the resident.

14 3. Any statement or communication made by the office relevant to a complaint received
15 by, proceedings before or activities of the office and any complaint or information made or
16 provided in good faith by any person, shall be absolutely privileged and such person shall be
17 immune from suit.

18 4. The office shall not be required to testify in any court with respect to matters held to
19 be confidential in this section except as the court may deem necessary to enforce the provisions
20 of sections [660.600 to 660.608] **198.700 to 198.708**, or where otherwise required by court order.

 [660.608.] **198.708.** 1. Any regional coordinator or local program staff, whether an
2 employee or an unpaid volunteer, shall be treated as a representative of the office. No
3 representative of the office shall be held liable for good faith performance of his **or her** official
4 duties under the provisions of sections [660.600 to 660.608] **198.700 to 198.708** and shall be
5 immune from suit for the good faith performance of such duties. Every representative of the
6 office shall be considered a state employee under section 105.711, RSMo.

7 2. No reprisal or retaliatory action shall be taken against any resident or employee of a
8 long-term care facility for any communication made or information given to the office. Any
9 person who knowingly or willfully violates the provisions of this subsection shall be guilty of
10 a class A misdemeanor. Any person who serves or served on a quality assessment and assurance
11 committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. [483.75(r)] **483.75(o)**,
12 or as amended, shall be immune from civil liability only for acts done directly as a member of
13 such committee so long as the acts are performed in good faith, without malice and are required
14 by the activities of such committee as defined in 42 CFR sec. [483.75(r)] **483.75(o)**.

 208.909. 1. Consumers receiving personal care assistance services shall be responsible
2 for:

- 3 (1) Supervising their personal care attendant;
- 4 (2) Verifying wages to be paid to the personal care attendant;
- 5 (3) Preparing and submitting time sheets, signed by both the consumer and personal care
6 attendant, to the vendor on a biweekly basis;
- 7 (4) Promptly notifying the department within ten days of any changes in circumstances
8 affecting the personal care assistance services plan or in the consumer's place of residence; and
- 9 (5) Reporting any problems resulting from the quality of services rendered by the
10 personal care attendant to the vendor. If the consumer is unable to resolve any problems
11 resulting from the quality of service rendered by the personal care attendant with the vendor, the
12 consumer shall report the situation to the department.

13 2. Participating vendors shall be responsible for:

- 14 (1) Collecting time sheets and certifying their accuracy;

15 (2) The [Medicaid] **MO HealthNet** reimbursement process, including the filing of
16 claims and reporting data to the department as required by rule;

17 (3) Transmitting the individual payment directly to the personal care attendant on behalf
18 of the consumer;

19 (4) Monitoring the performance of the personal care assistance services plan.

20 3. No state or federal financial assistance shall be authorized or expended to pay for
21 services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the
22 services is to the household unit, or is a household task that the members of the consumer's
23 household may reasonably be expected to share or do for one another when they live in the same
24 household, unless such service is above and beyond typical activities household members may
25 reasonably provide for another household member without a disability.

26 4. No state or federal financial assistance shall be authorized or expended to pay for
27 personal care assistance services provided by a personal care attendant who [is listed on any of
28 the background check lists in the family care safety registry under sections 210.900 to 210.937,
29 RSMo, unless a good cause waiver is first obtained from the department in accordance with
30 section 660.317, RSMo] :

31 **(1) Is listed on the employee disqualification list maintained by the department of**
32 **health and senior services under section 192.2150, RSMo;**

33 **(2) Is registered as a sexual offender under section 589.400, RSMo, and whose name**
34 **appears on the sexual offender registry; or**

35 **(3) Has a disqualifying criminal history under section 192.2178, RSMo, unless a**
36 **good cause waiver is first obtained from the department in accordance with section**
37 **192.2178, RSMo.**

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

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

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

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

- 14 (3) "Department", the department of health and senior services;
- 15 (4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, or any
16 person, corporation, or association who provides in-home services under contract with the
17 [division of aging] **department**, or any employer of nurses or nursing assistants of home health
18 agencies licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants
19 employed by a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a
20 hospital for which subdivision (3) of subsection 1 of section 198.012, RSMo, applies;
- 21 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who
22 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as
23 remuneration for elder-care services;
- 24 (6) "Patrol", the Missouri state highway patrol;
- 25 (7) "Employer", any child-care provider, elder-care provider, or personal-care provider
26 as defined in this section;
- 27 (8) "Personal-care attendant" or "personal-care worker", a person who performs routine
28 services or supports necessary for a person with a physical or mental disability to enter and
29 maintain employment or to live independently;
- 30 (9) "Personal-care provider", any person, corporation, or association who provides
31 personal-care services or supports under contract with the department of mental health, [the
32 division of aging,] the department of health and senior services or the department of elementary
33 and secondary education;
- 34 (10) "Related child care", child care provided only to a child or children by such child's
35 or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence
36 separate from the child or children;
- 37 (11) "Related elder care", care provided only to an elder by an adult child, a spouse, a
38 grandchild, a great-grandchild or a sibling of such elder;
- 39 **(12) "Related personal care", care provided for a person with a physical or mental**
40 **disability by an adult child, spouse, grandchild, great-grandchild, or sibling of such person.**
- 210.906. 1. Every child-care worker or elder-care worker hired on or after January 1,
2 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration
3 form provided by the department. The department shall make such forms available no later than
4 January 1, 2001, and may, by rule, determine the specific content of such form, but every form
5 shall:
- 6 (1) Request the valid Social Security number of the applicant;
- 7 (2) Include information on the person's right to appeal the information contained in the
8 registry pursuant to section 210.912;

9 (3) Contain the signed consent of the applicant for the background checks required
10 pursuant to this section; and

11 (4) Contain the signed consent for the release of information contained in the
12 background check for employment purposes only.

13 2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and
14 every personal-care worker hired on or after January 1, 2002, shall complete a registration form
15 within fifteen days of the beginning of such person's employment. Any person employed as a
16 child-care, elder-care or personal-care worker who fails to submit a completed registration form
17 to the department of health and senior services as required by sections 210.900 to 210.936
18 without good cause, as determined by the department, is guilty of a class B misdemeanor.

19 3. The costs of the criminal background check may be paid by the individual applicant,
20 or by the provider if the applicant is so employed, or for those applicants receiving public
21 assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325,
22 RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall
23 be deposited to the credit of the criminal record system fund as required by section 43.530,
24 RSMo.

25 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically
26 registered in the family care safety registry at no additional cost other than the costs required
27 pursuant to sections 210.481 to 210.565.

28 5. Any person not required to register pursuant to the provisions of sections 210.900 to
29 210.936 may also be included in the registry if such person voluntarily applies to the department
30 for registration and meets the requirements of this section and section 210.909, including
31 submitting to the background checks in subsection 1 of section 210.909.

32 6. The provisions of sections 210.900 to 210.936 shall not extend to related child care,
33 related elder care or related personal care **that is not reimbursed from state or federal moneys**
34 **directly or indirectly.**

287.067. 1. In this chapter the term "occupational disease" is hereby defined to mean,
2 unless a different meaning is clearly indicated by the context, an identifiable disease arising with
3 or without human fault out of and in the course of the employment. Ordinary diseases of life to
4 which the general public is exposed outside of the employment shall not be compensable, except
5 where the diseases follow as an incident of an occupational disease as defined in this section.
6 The disease need not to have been foreseen or expected but after its contraction it must appear
7 to have had its origin in a risk connected with the employment and to have flowed from that
8 source as a rational consequence.

9 2. An injury by occupational disease is compensable only if the occupational exposure
10 was the prevailing factor in causing both the resulting medical condition and disability. The

11 "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both
12 the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive
13 degeneration of the body caused by aging or by the normal activities of day-to-day living shall
14 not be compensable.

15 3. An injury due to repetitive motion is recognized as an occupational disease for
16 purposes of this chapter. An occupational disease due to repetitive motion is compensable only
17 if the occupational exposure was the prevailing factor in causing both the resulting medical
18 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation
19 to any other factor, causing both the resulting medical condition and disability. Ordinary,
20 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal
21 activities of day-to-day living shall not be compensable.

22 4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for
23 purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to
24 prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of
25 producing occupational deafness.

26 5. "Radiation disability" is recognized as an occupational disease for purposes of this
27 chapter and is hereby defined to be that disability due to radioactive properties or substances or
28 to Roentgen rays (X-rays) or exposure to ionizing radiation caused by any process involving the
29 use of or direct contact with radium or radioactive properties or substances or the use of or direct
30 exposure to Roentgen rays (X-rays) or ionizing radiation.

31 6. Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the
32 heart or cardiovascular system, including carcinoma, may be recognized as occupational diseases
33 for the purposes of this chapter and are defined to be disability due to exposure to smoke, gases,
34 carcinogens, inadequate oxygen, of paid firefighters of a paid fire department or paid police
35 officers of a paid police department certified under chapter 590, RSMo, if a direct causal
36 relationship is established, or psychological stress of firefighters of a paid fire department **or**
37 **paid police officers of a paid police department certified under chapter 590, RSMo**, if a
38 direct causal relationship is established.

39 7. Any employee who is exposed to and contracts any contagious or communicable
40 disease arising out of and in the course of his or her employment shall be eligible for benefits
41 under this chapter as an occupational disease.

42 8. With regard to occupational disease due to repetitive motion, if the exposure to the
43 repetitive motion which is found to be the cause of the injury is for a period of less than three
44 months and the evidence demonstrates that the exposure to the repetitive motion with the
45 immediate prior employer was the prevailing factor in causing the injury, the prior employer
46 shall be liable for such occupational disease.

300.349. 1. For purposes of this section, "off-highway vehicle" means an all-terrain vehicle, motorized bicycle, motortricycle, motorized trail bike, or utility vehicle operated primarily on gravel or dirt roads that is designed by the manufacturer primarily for travel over unimproved terrain, and has an unladen weight of eighteen hundred pounds or less.

2. Notwithstanding any other section, a licensed driver may operate an off-highway vehicle on gravel or dirt roads located within any charter county provided the vehicle meets the requirements of this section.

3. A driver shall not operate an off-highway vehicle as follows:

(1) With reckless disregard for the safety of persons or property;

(2) Off of an existing road, trail, or route in a manner that causes damage to wildlife habitat, riparian areas, cultural or natural resources, property, or improvements;

(3) On roads, trails, routes, or areas closed as indicated in rules or regulations of a federal agency, the state of Missouri, a county or municipality, or by proper posting if the land is private land;

(4) Over unimproved roads, trails, routes, or areas unless driving on roads, trails, routes, or areas where such driving is allowed by rule or regulation.

4. A person shall not operate an off-highway vehicle in a manner that damages the environment, including excessive pollution of air, water, or land, abuse of the watershed or cultural or natural resources or impairment of plant or animal life, where it is prohibited by rule, regulation, ordinance, or code.

5. An off-highway vehicle in operation in this state shall be equipped with the following:

(1) Brakes adequate to control the movement of the vehicle and to stop and hold the vehicle under normal operating conditions;

(2) Lighted headlights and taillights that meet or exceed original equipment manufacturer guidelines if operated between one-half hour after sunset and one-half hour before sunrise;

(3) Except when operating on a closed course, either a muffler or other noise dissipating device that prevents sound above ninety-six decibels;

(4) A spark arrester device that is approved by the United States Department of Agriculture and that is in constant operation, except if operating on a closed course; and

(5) A safety flag that is at least six by twelve inches and that is attached to an off-highway vehicle at least eight feet above the surface of level ground.

6. No person shall operate or ride an off-highway vehicle on public or state land unless that person is wearing protective eyewear and protective headgear that is properly

36 fitted and fastened, designed for motorized vehicle use, and has a minimum United States
37 Department of Transportation safety rating.

38 7. Nothing in this section shall prohibit a private landowner or lessee from
39 performing normal agricultural or ranching practices while operating an all-terrain
40 vehicle or an off-highway vehicle on the private or leased land.

41 8. A violation of this section shall be a class C misdemeanor. In addition to other
42 legal remedies, the attorney general or county prosecuting attorney may institute a civil
43 action in the court of competent jurisdiction for injunctive relief to prevent such violation
44 or future violations and for the assessment of a civil penalty not to exceed one thousand
45 dollars per day of violation.

319.306. 1. Any individual who uses explosives in Missouri shall obtain a blaster's
2 license, except those exempted in subsection 18 of this section. A person using explosives shall
3 not be required to hold a blaster's license, but all blasting on behalf of a person using explosives
4 shall be performed only by licensed blasters. Applications for a blaster's license or renewal of
5 a blaster's license shall be on a form designated by the Missouri division of fire safety, and shall
6 contain the following:

- 7 (1) The applicant's full name;
- 8 (2) The applicant's home address;
- 9 (3) The applicant's date of birth;
- 10 (4) The applicant's sex;
- 11 (5) The applicant's physical description;
- 12 (6) The applicant's driver's license number;
- 13 (7) The applicant's current place of employment;
- 14 (8) A listing of any other blasting license or certification held by the applicant, to include
15 the name, address, and phone number of the regulatory authority that issued the license or
16 certification;
- 17 (9) Any other information required to fulfill the obligations of sections 319.300 to
18 319.345.

19 2. Any individual who has met the qualifications set forth in subsection 4 of this section
20 may apply for a blaster's license.

21 3. An applicant for a blaster's license shall submit an application fee and two copies of
22 the applicant's photograph with the application submitted to the division of fire safety. The
23 amount of such fee shall be established by rule promulgated by the division of fire safety. The
24 fee established by rule shall be no greater than the cost of administering this section, but shall
25 not exceed one hundred dollars.

- 26 4. An applicant for a blaster's license shall:
- 27 (1) Be at least twenty-one years of age;
- 28 (2) Not have willfully violated any provisions of sections 319.300 to 319.345;
- 29 (3) Not have knowingly withheld information or has not made any false or fictitious
- 30 statement intended or likely to deceive in connection with the application;
- 31 (4) Have familiarity and understanding of relevant federal and state laws relating to
- 32 explosives materials;
- 33 (5) Not have been convicted in any court of, or pled guilty to, a felony;
- 34 (6) Not be a fugitive from justice;
- 35 (7) Not be an unlawful user of any controlled substance in violation of chapter 195,
- 36 RSMo;
- 37 (8) Except as provided in subsections 11 and 13 of this section, have completed an
- 38 approved blaster's training course that meets the requirements of subsection 14 of this section
- 39 and **[has] have** successfully passed the licensing examination under the provisions of
- 40 subdivisions (1) to (5) of subsection 15 of this section;
- 41 (9) Have accumulated at least one thousand hours of experience directly relating to the
- 42 use of explosives within two years immediately prior to applying for a blaster's license and shall
- 43 provide signed documentation from an employer, supervisor, or other responsible party verifying
- 44 the applicant's experience;
- 45 (10) Not have been adjudicated as mentally defective; and
- 46 (11) Not advocate or knowingly belong to any organization or group that advocates
- 47 violent action against any federal, state, or local government, or against any person.
- 48 5. Any individual holding a blaster's license under the provisions of this section shall
- 49 promptly notify the division of fire safety if he or she has had any change of material fact relating
- 50 to any qualification for holding a blaster's license.
- 51 6. If the division of fire safety finds that the requirements for a blaster's license have been
- 52 satisfied, a license shall be issued to the applicant.
- 53 7. A blaster's license shall expire three years from the date of issuance. To qualify for
- 54 a renewal of a blaster's license, an individual will be required to provide documentation of
- 55 completing eight hours of training in an explosives-related course of instruction that is approved
- 56 by the division of fire safety, at least half of which shall have been completed within the year
- 57 prior to renewal. The remainder of such training for renewal of the license may be acquired at
- 58 any time during the three-year period that a license is valid. Additional training beyond an
- 59 accumulated eight hours during any three-year period is not valid for more than one subsequent
- 60 renewal of the license.

61 8. Each license issued under the provisions of this section shall provide documentation
62 to the license holder in the form of a letter or letter-sized certificate and a card that is
63 approximately two inches by three inches in size. Each shall specify a unique license number,
64 the name of the individual, his or her driver's license number, the individual's photograph, the
65 blaster's license's effective date and its expiration date, and any other record-keeping information
66 needed by the division of fire safety. In addition, the card form of the license shall contain a
67 photographic image of the license holder.

68 9. Each individual required to have a blaster's license shall keep at least one form of
69 license documentation on his or her person or at the site of blasting and shall provide
70 documentation that he or she has a currently valid license to a representative of the division of
71 fire safety upon a written or verbal request. No enforcement action shall be taken against any
72 individual that cannot comply with such a request so long as the division of fire safety's records
73 provide documentation that the individual has a valid blaster's license.

74 10. (1) A blaster's license issued under the provisions of this section may be suspended
75 or revoked by the division of fire safety upon substantial proof that the individual holding the
76 license has:

77 (a) Knowingly failed to monitor the use of explosives as provided in section 319.309;
78 (b) Negligently or habitually exceeded the limits established under section 319.312;
79 (c) Knowingly or habitually failed to create a record of blasts as required by section
80 319.315;

81 (d) Had a change in material fact relating to their qualifications for holding a blaster's
82 license as described in subsection 4 of this section;

83 (e) Failed to advise the division of fire safety of any change of material fact relating to
84 his or her qualifications for holding a blaster's license; or

85 (f) Knowingly made a material misrepresentation of any information by any means of
86 false pretense, deception, fraud, misrepresentation, or cheating for the purpose of obtaining
87 training or otherwise meeting the qualifications of obtaining a license.

88 (2) The division of fire safety shall provide any notice of suspension or revocation, as
89 provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last known
90 address of the holder of the license. The notice may also be verbal, but this does not eliminate
91 the requirement for written notice. Upon receipt of a verbal or written notice of suspension or
92 revocation from the division of fire safety, the individual holding the license shall immediately
93 surrender all copies of the license to a representative of the division of fire safety and shall
94 immediately cease all blasting activity.

(3) The individual holding the license may appeal any suspension or revocation to the state blasting safety board established under section 319.324 within forty-five days of the date written notice was received. The division of fire safety shall immediately notify the chairman of the board that an appeal has been received and a hearing before the board shall be held. The board shall consider and make a decision on any appeal received by the division of fire safety within thirty days of the date the appeal is received by the division of fire safety. The board shall make a decision on the appeal by majority vote of the board and shall immediately notify the licensee of its decision in writing. The written statement of the board's decision shall be prepared by the division of fire safety or its designee and shall be approved by the chairman of the board. The approved statement of the board's decision shall be sent by certified mail to the last known address of the holder of the license.

11. Any individual whose license has been expired for a period of three years or less shall be required to successfully pass the examination as provided in subdivisions (1) to (5) of subsection 15 of this section and attend the eight hours of training required for renewal of a license as minimum qualifications for submitting an application for reinstatement of the license. Any individual whose license has been expired for a period of more than three years shall meet the qualifications set forth in subsection 4 of this section, including completing twenty hours of training and passing the examination, prior to applying for a blaster's license.

12. A license may be granted to applicants who within the last three years have held a valid license or certification from any other source if all of the qualifications for obtaining the license or certification meet or exceed the provisions of this section. It is the duty of the division of fire safety to investigate the qualifications required for obtaining a license or certification from any other source. Licenses or certification held prior to the effective date of the rule required by subsection 19 of this section shall be deemed to meet requirements for this subsection, provided that they meet requirements of the rule.

13. A license may be granted upon the application of an individual employed as a blaster on or before December 31, 2000, and who has accumulated one thousand hours of training or education pertaining to blasting and experience working for a specific person using explosives within two years immediately prior to applying for a license. The application shall include a statement of hours of experience in the form of an affidavit signed by the person using explosives who has employed or contracted with the blaster for the preceding two years. Such applicant also shall meet the requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of subsection 4 of this section. Any individual granted a license under this subsection shall be limited to blasting performed for the person using explosives submitting the affidavit required

129 by this subsection. Such licensee shall meet the requirements for continuing training required
130 by subsection 7 of this section.

131 14. (1) The division of fire safety or its authorized agent shall offer annually at least two
132 courses of instruction that fulfill the training requirement of qualifying for a blaster's license and
133 two courses that fulfill the training requirement for renewal of a blaster's license. In addition,
134 any person may apply to the division of fire safety for approval of a course of instruction that
135 meets the training requirement of obtaining a blaster's license or renewal of a blaster's license.
136 The application shall include a description of the qualifications of the instructor, a description
137 of instructional materials to be used in the course, and an outline of the subject matter to be
138 taught, including minimum hours of instruction on each topic. The division of fire safety shall
139 review the application regarding the knowledge and experience of proposed instructors, the total
140 hours of training and the adequacy of proposed training in subject matter with regard to the
141 provisions of sections 319.300 to 319.345. If the division of fire safety determines that training
142 proposed by the applicant is adequate, a letter of approval shall be issued to the applicant. The
143 letter of approval shall be effective for a period of three years. If at any time the division of fire
144 safety determines that an approved training course no longer meets the standards of this section,
145 the letter of approval may be revoked with written notice. The division of fire safety or any
146 person providing a course of instruction may charge an appropriate fee to recover the cost of
147 conducting such instruction.

148 (2) To be approved by the division of fire safety, a blaster's training course shall contain
149 at least twenty hours of instruction to prepare attendees for obtaining a blaster's license the first
150 time, or eight hours of instruction to prepare attendees for obtaining a license renewal.

151 (3) Any person providing training in a course of instruction approved by the division of
152 fire safety shall submit a list of individuals that attended any such course to the division of fire
153 safety within ten business days after completion of the course.

154 (4) The division of fire safety shall maintain a current list of persons who provide
155 approved training and shall make this list available by any reasonable means to professional and
156 trade associations, labor organizations, universities, vocational schools, and others upon request.

157 15. (1) The division of fire safety shall approve a standard examination or examinations
158 for the purpose of qualifying an individual to obtain a blaster's license. Each individual taking
159 the examination shall pay a fee to the division of fire safety, or the division's agent, that is
160 established by rule. Testing fees shall be no greater than what is required to administer the
161 testing provisions of this section and shall not exceed fifty dollars per test.

162 (2) Except as provided in subsection 11 of this section, no individual shall be allowed
163 to take an examination for purposes of obtaining a blaster's license unless that individual has

164 completed a training course approved by the division of fire safety. The individual must have
165 completed an approved course of instruction as provided in subdivision (1) of subsection 14 of
166 this section no longer than two years prior to taking the examination. The examination may be
167 administered by any person approved to provide a course of instruction, as provided in
168 subdivision (1) of subsection 14 of this section, at the site of instruction, provided that any such
169 examination may, at the discretion of the state fire marshal, be conducted under the supervision
170 of the division of fire safety. The division of fire safety may also administer such examinations
171 at other times and locations.

172 (3) Standards for passing the examination shall be set by the division of fire safety by
173 rule.

174 (4) The division of fire safety or its authorized agent shall provide a written statement
175 within thirty days to the individual taking the examination as to whether that individual passed
176 or failed.

177 (5) Any individual failing to pass the examination may retake the examination within
178 six months without having to complete an additional approved course of instruction. If the
179 individual fails the second examination, the person must complete another course of instruction
180 as required in subdivision (1) of subsection 14 of this section before taking the examination
181 again. No limit will be placed on how many times any individual may take the examination,
182 subject to the provisions of this subdivision .

183 (6) Individuals having previously taken an approved blaster's training course, and passed
184 an approved examination, and having taken an approved blaster's renewal training course, or that
185 have obtained a blaster's license as provided in subsections 12 and 13 of this section are eligible
186 for renewal of a blaster's license after meeting the requirements of subsection 7 of this section.
187 The fee for renewal of a license shall be the same as the fee specified in subsection 3 of this
188 section.

189 16. No individual shall load or fire explosives or direct, order, or otherwise cause any
190 individual to load or fire explosives in this state unless that individual has a valid blaster's license
191 or is under the direct supervision and responsibility of an individual having a valid blaster's
192 license. For purposes of this section, "direct supervision" means the supervisor is physically
193 present on the same job site as the individual who is loading or firing explosives. An individual
194 without a blaster's license who is loading or firing explosives while under the direct supervision
195 and responsibility of someone having a blaster's license shall not be in violation of sections
196 319.300 to 319.345.

197 17. Persons found guilty of loading or firing explosives, or directing, ordering, or
198 otherwise causing any individual to load or fire explosives in this state without having a valid

199 blaster's license, or that loads and fires explosives without being under the direct supervision and
200 responsibility of an individual holding a blaster's license as provided in sections 319.300 to
201 319.345, [shall be] is guilty of a class B misdemeanor for the first offense or a class A
202 misdemeanor for a second or subsequent offense. Any individual convicted of a class A
203 misdemeanor under the provisions of sections 319.300 to 319.345 shall be permanently
204 prohibited from obtaining a blaster's license in this state.

205 18. The requirement for obtaining a blaster's license shall not apply to:

206 (1) Individuals employed by universities, colleges, or trade schools when the use of
207 explosives is confined to instruction or research;

208 (2) Individuals using explosive materials in the forms prescribed by the official U.S.
209 Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

210 (3) Individuals conducting training or emergency operations of any federal, state, or local
211 government including all departments, agencies, and divisions thereof, provided they are acting
212 in their official capacity and in the proper performance of their duties or functions;

213 (4) Individuals that are members of the armed forces or any military unit of Missouri or
214 the United States who are using explosives while on official training exercises or who are on
215 active duty;

216 (5) Individuals using pyrotechnics, commonly known as fireworks, including signaling
217 devices such as flares, fuses, and torpedoes;

218 (6) Individuals using small arms ammunition and components thereof which are subject
219 to the Gun Control Act of 1968, 18 U.S.C., Section 44, and regulations promulgated thereunder;

220 (7) Any individual performing duties in underground mines regulated by 30 CFR Part
221 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining regulated by 30 CFR Part
222 75, and 30 CFR Part 77 of the Code of Federal Regulations, as amended, or using explosives
223 within an industrial furnace;

224 (8) Any individual having a valid blaster's license or certificate issued under the
225 provisions of any requirement of the U.S. government in which the requirements for obtaining
226 the license or certificate meet or exceed the requirements of sections 319.300 to 319.345;

227 (9) Individuals using agricultural fertilizers when used for agricultural or horticultural
228 purposes;

229 (10) Individuals handling explosives while in the act of transporting them from one
230 location to another;

231 (11) Individuals assisting or training under the direct supervision of a licensed blaster;

232 (12) Individuals handling explosives while engaged in the process of explosives
233 manufacturing;

234 (13) Employees, agents, or contractors of rural electric cooperatives organized or
235 operating under chapter 394, RSMo; [and]

236 (14) Individuals discharging historic firearms and cannon or reproductions of historic
237 firearms and cannon; **and**

238 **(15) Individuals using explosive materials along with a well screen cleaning device**
239 **for the purpose of unblocking clogged screens of agricultural irrigation wells.**

240 19. The division of fire safety shall promulgate rules under this section to become
241 effective no later than July 1, 2008. Any individual loading or firing explosives after the
242 effective date of such rule shall obtain a license within one hundred eighty days of the effective
243 date of such rule. Any experience or training prior to the effective date of such rule that meets
244 the standards established by the rule shall be deemed to comply with this section.

319.321. Sections 319.309, 319.312, 319.315, and 319.318 shall not apply to:

2 (1) Universities, colleges, or trade schools when confined to the purpose of instruction
3 or research;

4 (2) The use of explosive materials in the forms prescribed by the official U.S.
5 Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

6 (3) The training or emergency operations of any federal, state, or local government
7 including all departments, agencies, and divisions thereof, provided they are acting in their
8 official capacity and in the proper performance of their duties or functions;

9 (4) The use of explosives by the military or any agency of the United States;

10 (5) The use of pyrotechnics, commonly known as fireworks, including signaling devices
11 such as flares, fuses, and torpedoes;

12 (6) The use of small arms ammunition and components thereof which are subject to the
13 Gun Control Act of 1968, 18 U.S.C., Section 44, and regulations promulgated thereunder. Any
14 small arms ammunition and components thereof exempted by the Gun Control Act of 1968 and
15 regulations promulgated thereunder are also exempted from the provisions of sections 319.300
16 to 319.345;

17 (7) Any person performing duties using explosives within an industrial furnace **or using**
18 **explosives along with a well screen cleaning device for the purpose of unblocking clogged**
19 **screens of agricultural irrigation wells;**

20 (8) The use of agricultural fertilizers when used for agricultural or horticultural purposes;

21 (9) The use of explosives for lawful demolition of structures;

22 (10) The use of explosives by employees, agents, or contractors of rural electric
23 cooperatives organized or operating under chapter 394, RSMo; and

24 (11) Individuals discharging historic firearms and cannon or reproductions of historic
25 firearms and cannon.

321.227. 1. The governing body of any fire protection district, which has property
2 contained within its boundaries that is subject to tax abatement or a redistribution of tax
3 revenues under the provisions of chapter 72, 99, 100, 135, or 353, RSMo, or any other
4 abatement program, and is located in any county with a charter form of government and
5 with more than one million inhabitants, may, by order or ordinance, impose a sales tax on
6 all retail sales made within the fire protection district which are subject to sales tax under
7 chapter 144, RSMo. The tax authorized in this section shall not exceed one percent, and
8 shall be imposed solely for the purpose of funding the operation of such fire protection
9 district. Any fire protection district imposing a sales tax authorized under this section shall
10 reduce the district's property tax rate, as such term is defined in section 137.073, RSMo,
11 by an amount sufficient to decrease property tax revenues by fifty percent of the previous
12 year's revenue received from the fire protection district sales tax fund.

13 2. Any tax imposed under this section shall not be considered "economic activity
14 taxes" as such term is defined under sections 99.805 and 99.918, RSMo, and tax revenues
15 derived from such tax shall not be subject to allocation under the provisions of subsection
16 3 of section 99.845, RSMo, or subsection 4 of section 99.957, RSMo. The tax authorized in
17 this section shall be in addition to all other taxes imposed by law, and shall be stated
18 separately from all other charges and taxes.

19 3. No order or ordinance adopted under this section shall become effective unless
20 the governing body of the fire protection district submits to the voters residing within the
21 fire protection district at a state general, primary, or special election a proposal to
22 authorize the governing body of the fire protection district to impose a tax under this
23 section.

24 4. Such proposal shall be submitted in substantially the following form:

25
26 "Shall (insert name of fire protection district) impose a sales tax of (insert
27 amount up to one percent) for the purpose of providing revenues for the operation of the
28 (insert name of fire protection district) and the total property tax levy on
29 properties in the (insert name of fire protection district) shall be decreased
30 annually by an amount which reduces property tax revenues by fifty percent of the
31 previous year's revenue received from the fire protection district sales tax fund?".

32 5. If a majority of the votes cast on the question by the qualified voters voting
33 thereon are in favor of the question, then the tax shall become effective on the first day of

34 the second calendar quarter after the director of revenue receives notification of adoption
35 of the local sales tax. If a majority of the votes cast on the question by the qualified voters
36 voting thereon are opposed to the question, then the tax shall not become effective unless
37 and until the question is resubmitted under this section to the qualified voters and such
38 question is approved by a majority of the qualified voters voting on the question.

39 6. All revenue collected under this section by the director of the department of
40 revenue on behalf of any fire protection district, except for one percent for the cost of
41 collection which shall be deposited in the state's general revenue fund, shall be deposited
42 in a special trust fund, which is hereby created within the treasury and shall be known as
43 the "Fire Protection District Sales Tax Fund". Moneys in the fund shall not be deemed to
44 be state funds, and shall not be commingled with any funds of the state. The director of
45 revenue may authorize the state treasurer to make refunds from the amounts in the fund
46 for erroneous payments and overpayments made. Any interest and moneys earned on
47 moneys in the fund shall be credited to the fund.

48 7. Revenues from the fire protection district sales tax fund shall be distributed, at
49 the end of each calendar quarter, in the following manner:

50 (1) Ninety percent of revenues generated from the sales tax shall be allocated to the
51 fire protection district from which they were collected;

52 (2) Ten percent shall be distributed to distressed fire protection districts per capita
53 based upon the population of each distressed fire protection district.

54 8. As used in this section "distressed fire protection districts" means a fire
55 protection district with an assessed valuation of two hundred and twenty-five million
56 dollars or less, located within any county with a charter form of government with more
57 than one million inhabitants.

455.038. Every circuit clerk shall be responsible for providing information to individuals
2 petitioning for ex parte orders of protection regarding notification of service of these orders of
3 protection. Such notification to the petitioner is required if the petitioner has registered a
4 telephone number with the victim notification system, established under subsection 3 of section
5 650.310, RSMo. The petitioner shall be informed of his or her option to receive notification of
6 service of an ex parte order of protection on the respondent by the circuit clerk and shall be
7 provided information on how to receive notification of service of ex parte orders of protection.
8 The local law enforcement agency or any other government agency responsible for serving ex
9 parte orders of protection shall enter service information into the Missouri uniform law
10 enforcement system or future secure electronic databases that are intended for law
11 enforcement use only within twenty-four hours after the ex parte order is served on the

12 **respondent or** shall notify the circuit clerk when no more service attempts are planned by that
13 agency. The provisions of this section shall only apply to those circuit clerks able to access a
14 statewide victim notification system designed to provide notification of service of orders of
15 protection.

565.180. 1. A person commits the crime of elder abuse in the first degree if he attempts
2 to kill, knowingly causes or attempts to cause serious physical injury, as defined in section
3 565.002, to any person sixty years of age or older or an eligible adult as defined in section
4 [660.250] **192.2100**, RSMo.

5 2. Elder abuse in the first degree is a class A felony.

565.182. 1. A person commits the crime of elder abuse in the second degree if [he] **such**
2 **person:**

3 (1) Knowingly causes, attempts to cause physical injury to any person sixty years of age
4 or older or an eligible adult, as defined in section [660.250] **192.2100**, RSMo, by means of a
5 deadly weapon or dangerous instrument; or

6 (2) Recklessly [and purposely] causes serious physical injury, as defined in section
7 565.002, to a person sixty years of age or older or an eligible adult as defined in section
8 [660.250] **192.2100**, RSMo.

9 2. Elder abuse in the second degree is a class B felony.

565.184. 1. A person commits the crime of elder abuse in the third degree if [he] **such**
2 **person:**

3 (1) Knowingly causes or attempts to cause physical contact with any person sixty years
4 of age or older or an eligible adult as defined in section [660.250] **192.2100**, RSMo, knowing
5 the other person will regard the contact as harmful or provocative; or

6 (2) Purposely engages in conduct involving more than one incident that causes grave
7 emotional distress to a person sixty years of age or older or an eligible adult, as defined in section
8 [660.250] **192.2100**, RSMo. The course of conduct shall be such as would cause a reasonable
9 person age sixty years of age or older or an eligible adult, as defined in section [660.250]
10 **192.2100**, RSMo, to suffer substantial emotional distress; or

11 (3) Purposely or knowingly places a person sixty years of age or older or an eligible
12 adult, as defined in section [660.250] **192.2100**, RSMo, in apprehension of immediate physical
13 injury; or

14 (4) Intentionally fails to provide care, goods or services to a person sixty years of age or
15 older or an eligible adult, as defined in section [660.250] **192.2100**, RSMo. The result of the
16 conduct shall be such as would cause a reasonable person age sixty or older or an eligible adult,
17 as defined in section [660.250] **192.2100**, RSMo, to suffer physical or emotional distress; or

18 (5) Knowingly acts or knowingly fails to act in a manner which results in a grave risk
19 to the life, body or health of a person sixty years of age or older or an eligible adult, as defined
20 in section [660.250] **192.2100**, RSMo.

21 2. Elder abuse in the third degree is a class A misdemeanor.

565.188. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental
3 health, or health and senior services; employee of a local area agency on aging or an organized
4 area agency on aging program; funeral director; home health agency or home health agency
5 employee; hospital and clinic personnel engaged in examination, care, or treatment of persons;
6 in-home services owner, provider, operator, or employee; law enforcement officer; long-term
7 care facility administrator or employee; medical examiner; medical resident or intern; mental
8 health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner;
9 peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist;
10 probation or parole officer; psychologist; social worker; **personal care attendant as defined in**
11 **section 208.900, RSMo; owner, operator, or employee of a vendor as defined in section**
12 **208.900, RSMo; or other person with responsibility for the care of a person sixty years of age**
13 **or older, or an eligible adult, as defined in section 192.2100, RSMo, has reasonable cause to**
14 **suspect that such a person has been subjected to abuse or neglect, or financial exploitation by**
15 **any person, firm, or corporation as defined in section 570.145, RSMo, or observes such a**
16 **person being subjected to conditions or circumstances which would reasonably result in abuse**
17 **or neglect or financial exploitation by any person, firm, or corporation as defined in section**
18 **570.145, RSMo, he or she shall immediately report or cause a report to be made to the**
19 **department in accordance with the provisions of sections [660.250 to 660.295] 192.2100 to**
20 **192.2130, RSMo. Any other person who becomes aware of circumstances which may**
21 **reasonably be expected to be the result of or result in abuse or neglect, or financial exploitation**
22 **by any person, firm, or corporation as defined in section 570.145, RSMo, may report to the**
23 **department.**

24 2. Any person who knowingly fails to make a report as required in subsection 1 of this
25 section is guilty of a class A misdemeanor.

26 3. Any person who purposely files a false report of elder abuse or neglect, **or financial**
27 **exploitation by any person, firm, or corporation as defined in section 570.145, RSMo, is**
28 **guilty of a class [A misdemeanor] D felony.**

29 4. Every person who has been previously convicted of or pled guilty to making a false
30 report to the department and who is subsequently convicted of making a false report under
31 subsection 3 of this section is guilty of a class [D] C felony.

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

 565.200. 1. Any owner or employee of a skilled nursing facility, as defined in section
2 198.006, RSMo, or an Alzheimer's special unit or program, as defined in section 198.505,
3 RSMo, who:

4 (1) Has sexual contact, as defined in section 566.010, RSMo, with a resident is guilty
5 of a class **[B] A** misdemeanor. Any person who commits a second or subsequent violation of
6 this subdivision is guilty of a class **[A misdemeanor] D felony**; or

7 (2) Has sexual intercourse or deviate sexual intercourse, as defined in section 566.010,
8 RSMo, with a resident is guilty of a class **[A misdemeanor] C felony**. Any person who commits
9 a second or subsequent violation of this subdivision is guilty of a class **[D] B** felony.

10 2. The provisions of this section shall not apply to an owner or employee of a skilled
11 nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined
12 in section 566.010, RSMo, with a resident to whom the owner or employee is married.

13 3. Consent of the victim is not a defense to a prosecution pursuant to this section.

 570.030. 1. A person commits the crime of stealing if he or she appropriates property
2 or services of another with the purpose to deprive him or her thereof, either without his or her
3 consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution pursuant to this
5 section on the issue of the requisite knowledge or belief of the alleged stealer:

6 (1) That he or she failed or refused to pay for property or services of a hotel, restaurant,
7 inn or boardinghouse;

8 (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or
9 boardinghouse a check or negotiable paper on which payment was refused;

10 (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not
11 pay for property or services;

12 (4) That he or she surreptitiously removed or attempted to remove his or her baggage
13 from a hotel, inn or boardinghouse;

14 (5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters,
15 transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal
16 price code label, or possesses with intent to cheat or defraud, the device that manufactures
17 fraudulent receipts or universal price code labels.

18 3. Notwithstanding any other provision of law, any offense in which the value of
19 property or services is an element is a class C felony if:

- 20 (1) The value of the property or services appropriated is five hundred dollars or more but
21 less than twenty-five thousand dollars; or
- 22 (2) The actor physically takes the property appropriated from the person of the victim;
23 or
- 24 (3) The property appropriated consists of:
- 25 (a) Any motor vehicle, watercraft or aircraft; or
- 26 (b) Any will or unrecorded deed affecting real property; or
- 27 (c) Any credit card or letter of credit; or
- 28 (d) Any firearms; or
- 29 (e) **Any explosive weapon as defined in section 571.010, RSMo; or**
- 30 (f) A United States national flag designed, intended and used for display on buildings
31 or stationary flagstaffs in the open; or
- 32 [(f)] (g) Any original copy of an act, bill or resolution, introduced or acted upon by the
33 legislature of the state of Missouri; or
- 34 [(g)] (h) Any pleading, notice, judgment or any other record or entry of any court of this
35 state, any other state or of the United States; or
- 36 [(h)] (i) Any book of registration or list of voters required by chapter 115, RSMo; or
- 37 [(i)] (j) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or
- 38 [(j)] (k) Live fish raised for commercial sale with a value of seventy-five dollars; or
- 39 [(k)] (l) Any controlled substance as defined by section 195.010, RSMo; or
- 40 [(l)] (m) Anhydrous ammonia;
- 41 [(m)] (n) Ammonium nitrate; or
- 42 [(n)] (o) Any document of historical significance which has fair market value of five
43 hundred dollars or more.
- 44 4. If an actor appropriates any material with a value less than five hundred dollars in
45 violation of this section with the intent to use such material to manufacture, compound, produce,
46 prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such
47 violation is a class C felony. The theft of any amount of anhydrous ammonia or liquid nitrogen,
48 or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class B felony.
49 The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail
50 tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.
- 51 5. The theft of any item of property or services pursuant to subsection 3 of this section
52 which exceeds five hundred dollars may be considered a separate felony and may be charged in
53 separate counts.

54 6. Any person with a prior conviction of paragraph [(i)] **(j)** of subdivision (3) of
55 subsection 3 of this section and who violates the provisions of paragraph [(i)] **(j)** of subdivision
56 (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three
57 thousand dollars is guilty of a class B felony.

58 7. Any offense in which the value of property or services is an element is a class B felony
59 if the value of the property or services equals or exceeds twenty-five thousand dollars.

60 8. Any violation of this section for which no other penalty is specified in this section is
61 a class A misdemeanor.

 570.080. 1. A person commits the crime of receiving stolen property if for the purpose
2 of depriving the owner of a lawful interest therein, he or she receives, retains or disposes of
3 property of another knowing that it has been stolen, or believing that it has been stolen.

4 2. Evidence of the following is admissible in any criminal prosecution pursuant to this
5 section to prove the requisite knowledge or belief of the alleged receiver:

6 (1) That he or she was found in possession or control of other property stolen on separate
7 occasions from two or more persons;

8 (2) That he or she received other stolen property in another transaction within the year
9 preceding the transaction charged;

10 (3) That he or she acquired the stolen property for a consideration which he or she knew
11 was far below its reasonable value;

12 (4) That he or she obtained control over stolen property knowing the property to have
13 been stolen or under such circumstances as would reasonably induce a person to believe the
14 property was stolen.

15 3. Receiving stolen property is a class A misdemeanor unless the property involved has
16 a value of five hundred dollars or more, or the person receiving the property is a dealer in goods
17 of the type in question, **or the property involved is a firearm or explosive weapon as those**
18 **terms are defined in section 571.010, RSMo**, in which cases receiving stolen property is a class
19 C felony.

 570.223. 1. A person commits the crime of identity theft if he or she knowingly and with
2 the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer
3 or use, one or more means of identification not lawfully issued for his or her use.

4 2. The term "means of identification" as used in this section includes, but is not limited
5 to, the following:

6 (1) Social Security numbers;

7 (2) Drivers license numbers;

8 (3) Checking account numbers;

- 9 (4) Savings account numbers;
10 (5) Credit card numbers;
11 (6) Debit card numbers;
12 (7) Personal identification (PIN) code;
13 (8) Electronic identification numbers;
14 (9) Digital signatures;
15 (10) Any other numbers or information that can be used to access a person's financial
16 resources;
17 (11) Biometric data;
18 (12) Fingerprints;
19 (13) Passwords;
20 (14) Parent's legal surname prior to marriage;
21 (15) Passports; or
22 (16) Birth certificates.
- 23 3. A person found guilty of identity theft shall be punished as follows:
- 24 (1) Identity theft or attempted identity theft which does not result in the theft or
25 appropriation of credit, money, goods, services, or other property is a class B misdemeanor;
26 (2) Identity theft which results in the theft or appropriation of credit, money, goods,
27 services, or other property not exceeding five hundred dollars in value is a class A misdemeanor;
28 (3) Identity theft which results in the theft or appropriation of credit, money, goods,
29 services, or other property exceeding five hundred dollars and not exceeding five thousand
30 dollars in value is a class C felony;
31 (4) Identity theft which results in the theft or appropriation of credit, money, goods,
32 services, or other property exceeding five thousand dollars and not exceeding fifty thousand
33 dollars in value is a class B felony;
34 (5) Identity theft which results in the theft or appropriation of credit, money, goods,
35 services, or other property exceeding fifty thousand dollars in value is a class A felony;
36 **(6) Any person who commits the offense of identity theft against an individual who**
37 **is an elderly or disabled person as defined in section 570.145 at the time of the offense may**
38 **be punished by a fine of up to one and one-half times the maximum fine otherwise**
39 **authorized for the offense and may be imprisoned for a term of up to one and one-half**
40 **times the maximum term of imprisonment otherwise authorized for the offense, or both.**
- 41 4. In addition to the provisions of subsection 3 of this section, the court may order that
42 the defendant make restitution to any victim of the offense. Restitution may include payment
43 for any costs, including attorney fees, incurred by the victim:

44 (1) In clearing the credit history or credit rating of the victim; and

45 (2) In connection with any civil or administrative proceeding to satisfy any debt, lien,
46 or other obligation of the victim arising from the actions of the defendant.

47 5. In addition to the criminal penalties in subsections 3 and 4 of this section, any person
48 who commits an act made unlawful by subsection 1 of this section shall be liable to the person
49 to whom the identifying information belonged for civil damages of up to five thousand dollars
50 for each incident, or three times the amount of actual damages, whichever amount is greater. A
51 person damaged as set forth in subsection 1 of this section may also institute a civil action to
52 enjoin and restrain future acts that would constitute a violation of subsection 1 of this section.
53 The court, in an action brought under this subsection, may award reasonable attorneys' fees to
54 the plaintiff.

55 6. If the identifying information of a deceased person is used in a manner made unlawful
56 by subsection 1 of this section, the deceased person's estate shall have the right to recover
57 damages pursuant to subsection 5 of this section.

58 7. Civil actions under this section must be brought within five years from the date on
59 which the identity of the wrongdoer was discovered or reasonably should have been discovered.

60 8. Civil action pursuant to this section does not depend on whether a criminal
61 prosecution has been or will be instituted for the acts that are the subject of the civil action. The
62 rights and remedies provided by this section are in addition to any other rights and remedies
63 provided by law.

64 9. This section and section 570.224 shall not apply to the following activities:

65 (1) A person obtains the identity of another person to misrepresent his or her age for the
66 sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or
67 another privilege denied to minors. Nothing in this subdivision shall affect the provisions of
68 subsection 10 of this section;

69 (2) A person obtains means of identification or information in the course of a bona fide
70 consumer or commercial transaction;

71 (3) A person exercises, in good faith, a security interest or right of offset by a creditor
72 or financial institution;

73 (4) A person complies, in good faith, with any warrant, court order, levy, garnishment,
74 attachment, or other judicial or administrative order, decree, or directive, when any party is
75 required to do so;

76 (5) A person is otherwise authorized by law to engage in the conduct that is the subject
77 of the prosecution.

78 10. Any person who obtains, transfers, or uses any means of identification for the
79 purpose of manufacturing and providing or selling a false identification card to a person under
80 the age of twenty-one for the purpose of purchasing or obtaining alcohol shall be guilty of a class
81 A misdemeanor.

82 11. Notwithstanding the provisions of subdivision (1) or (2) of subsection 3 of this
83 section, every person who has previously pled guilty to or been found guilty of identity theft or
84 attempted identity theft, and who subsequently pleads guilty to or is found guilty of identity theft
85 or attempted identity theft of credit, money, goods, services, or other property not exceeding five
86 hundred dollars in value is guilty of a class D felony and shall be punished accordingly.

87 12. The value of property or services is its highest value by any reasonable standard at
88 the time the identity theft is committed. Any reasonable standard includes, but is not limited to,
89 market value within the community, actual value, or replacement value.

90 13. If credit, property, or services are obtained by two or more acts from the same person
91 or location, or from different persons by two or more acts which occur in approximately the same
92 location or time period so that the identity thefts are attributable to a single scheme, plan, or
93 conspiracy, the acts may be considered as a single identity theft and the value may be the total
94 value of all credit, property, and services involved.

 595.010. 1. As used in sections 595.010 to 595.075, unless the context requires
2 otherwise, the following terms shall mean:

3 (1) "Child", a dependent, unmarried person who is under eighteen years of age and
4 includes a posthumous child, stepchild, or an adopted child;

5 (2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of
6 a victim eligible for compensation pursuant to sections 595.010 to 595.075;

7 (3) "Conservator", a person or corporation appointed by a court to have the care and
8 custody of the estate of a minor or a disabled person, including a limited conservator;

9 (4) "Counseling", problem-solving and support concerning emotional issues that result
10 from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential
11 service provided either on an individual basis or in a group. Counseling has as a primary purpose
12 to enhance, protect and restore a person's sense of well-being and social functioning after
13 victimization. Counseling does not include victim advocacy services such as crisis telephone
14 counseling, attendance at medical procedures, law enforcement interviews or criminal justice
15 proceedings;

16 (5) "Crime", an act committed in this state which, if committed by a mentally competent,
17 criminally responsible person who had no legal exemption or defense, would constitute a crime;
18 provided that, such act involves the application of force or violence or the threat of force or

19 violence by the offender upon the victim but shall include the crime of driving while intoxicated,
20 vehicular manslaughter and hit and run; and provided, further, that no act involving the operation
21 of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run
22 which results in injury to another shall constitute a crime for the purpose of sections 595.010 to
23 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A
24 crime shall also include **property damage and** an act of terrorism, as defined in 18 U.S.C.
25 section 2331, which has been committed outside of the United States against a resident of
26 Missouri;

27 (6) "Crisis intervention counseling", helping to reduce psychological trauma where
28 victimization occurs;

29 (7) "Department", the department of public safety;

30 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child,
31 grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially
32 dependent for support upon, and living with, but shall include children entitled to child support
33 but not living with, the victim at the time of his **or her** injury or death due to a crime alleged in
34 a claim pursuant to sections 595.010 to [595.070] **595.075**;

35 (9) "Direct service", providing physical services to a victim of crime including, but not
36 limited to, transportation, funeral arrangements, child care, emergency food, clothing, shelter,
37 notification and information;

38 (10) "Director", the director of public safety of this state or a person designated by [him]
39 **the director** for the purposes of sections 595.010 to [595.070] **595.075**;

40 (11) "Disabled person", one who is unable by reason of any physical or mental condition
41 to receive and evaluate information or to communicate decisions to such an extent that the
42 person lacks ability to manage his **or her** financial resources, including a partially disabled
43 person who lacks the ability, in part, to manage his **or her** financial resources;

44 (12) "Division", the division of workers' compensation of the state of Missouri;

45 (13) "Emergency service", those services provided within thirty days to alleviate the
46 immediate effects of the criminal act or offense, and may include cash grants of not more than
47 one hundred dollars;

48 (14) "Earnings", net income or net wages;

49 (15) "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild,
50 brother, sister, half brother, half sister, adopted children of parent, or spouse's parents;

51 (16) "Funeral expenses", the expenses of the funeral, burial, cremation or other chosen
52 method of interment, including plot or tomb and other necessary incidents to the disposition of
53 the remains;

54 (17) "Gainful employment", engaging on a regular and continuous basis, up to the date
55 of the incident upon which the claim is based, in a lawful activity from which a person derives
56 a livelihood;

57 (18) "Guardian", one appointed by a court to have the care and custody of the person of
58 a minor or of an incapacitated person, including a limited guardian;

59 (19) "Hit and run", the crime of leaving the scene of a motor vehicle accident as defined
60 in section 577.060, RSMo;

61 (20) "Incapacitated person", one who is unable by reason of any physical or mental
62 condition to receive and evaluate information or to communicate decisions to such an extent that
63 he **or she** lacks capacity to meet essential requirements for food, clothing, shelter, safety or other
64 care such that serious physical injury, illness, or disease is likely to occur, including a partially
65 incapacitated person who lacks the capacity to meet, in part, such essential requirements;

66 (21) "Injured victim", a person:

67 (a) Killed or receiving a personal physical injury in this state as a result of another
68 person's commission of or attempt to commit any crime;

69 (b) Killed or receiving a personal physical injury in this state while in a good faith
70 attempt to assist a person against whom a crime is being perpetrated or attempted;

71 (c) Killed or receiving a personal physical injury in this state while assisting a law
72 enforcement officer in the apprehension of a person who the officer has reason to believe has
73 perpetrated or attempted a crime;

74 **(d) Receiving damage to his or her property as a result of another person's**
75 **commission of or attempt to commit any dangerous felony;**

76 (22) "Law enforcement official", a sheriff and his **or her** regular deputies, municipal
77 police officer or member of the Missouri state highway patrol and such other persons as may be
78 designated by law as peace officers;

79 (23) "Offender", a person who commits a crime;

80 (24) "Personal physical injury", actual bodily harm only with respect to the victim.
81 Personal physical injury may include mental or nervous shock resulting from the specific
82 incident upon which the claim is based;

83 (25) "Private agency", a not-for-profit corporation, in good standing in this state, which
84 provides services to victims of crime and their dependents;

85 (26) "Public agency", a part of any local or state government organization which
86 provides services to victims of crime;

87 (27) "Relative", the spouse of the victim or a person related to the victim within the third
88 degree of consanguinity or affinity as calculated according to civil law;

89 (28) "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child of the
90 deceased victim of the victim's household at the time of the crime;

91 (29) "Victim", a person who suffers personal physical injury or death as a direct result
92 of a crime, as defined in subdivision (5) of this subsection **or a person who suffers damage to**
93 **his or her property as a direct result of a dangerous felony;**

94 (30) "Victim advocacy", assisting the victim of a crime and his **or her** dependents to
95 acquire services from existing community resources.

96 2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075,
97 the term "alcohol-related traffic offense" means those offenses defined by sections 577.001,
98 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation
99 of a motor vehicle while under the influence of alcohol.

595.015. 1. The division of workers' compensation shall, pursuant to the provisions of
2 sections 595.010 to 595.075, have jurisdiction to determine and award compensation to, or on
3 behalf of, victims of crimes. The division of workers' compensation may pay directly to the
4 provider of the services compensation for medical or funeral expenses, or expenses for other
5 services as described in section 595.030, incurred by the claimant. The division is not required
6 to provide compensation in any case, nor is it required to award the full amount claimed. The
7 division shall make its award of compensation based upon independent verification obtained
8 during its investigation.

9 2. Such claims shall be made by filing an application for compensation with the division
10 of workers' compensation. The application form shall be furnished by the division and the
11 signature shall be notarized. The application shall include:

12 (1) The name and address of the victim;

13 (2) If the claimant is not the victim, the name and address of the claimant and
14 relationship to the victim, the names and addresses of the victim's dependents, if any, and the
15 extent to which each is so dependent;

16 (3) The date and nature of the crime or attempted crime on which the application for
17 compensation is based;

18 (4) The date and place where, and the law enforcement officials to whom, notification
19 of the crime was given;

20 (5) The nature and extent of the injuries sustained by the victim, the names and addresses
21 of those giving medical and hospital treatment to the victim and whether death resulted **or the**
22 **nature and extent of the property damage sustained by the victim;**

23 (6) The loss to the claimant or a dependent resulting from the injury [or] , death, **or**
24 **property damage;**

25 (7) The amount of benefits, payments or awards, if any, payable from any source which
26 the claimant or dependent has received or for which the claimant or dependent is eligible as a
27 result of the injury [or] , death, **or property damage**;

28 (8) Releases authorizing the surrender to the division of reports, documents and other
29 information relating to the matters specified under this section; and

30 (9) Such other information as the division determines is necessary.

31 3. In addition to the application, the division may require that the claimant submit
32 materials substantiating the facts stated in the application.

33 4. If the division finds that an application does not contain the required information or
34 that the facts stated therein have not been substantiated, it shall notify the claimant in writing of
35 the specific additional items of information or materials required and that the claimant has thirty
36 days from the date of mailing in which to furnish those items to the division. Unless a claimant
37 requests and is granted an extension of time by the division, the division shall reject with
38 prejudice the claim of the claimant for failure to file the additional information or materials
39 within the specified time.

40 5. The claimant may file an amended application or additional substantiating materials
41 to correct inadvertent errors or omissions at any time before the division has completed its
42 consideration of the original application.

43 6. The claimant, victim or dependent shall cooperate with law enforcement officials in
44 the apprehension and prosecution of the offender in order to be eligible, or the division has found
45 that the failure to cooperate was for good cause.

46 7. Any state or local agency, including a prosecuting attorney or law enforcement agency,
47 shall make available without cost to the fund, all reports, files and other appropriate information
48 which the division requests in order to make a determination that a claimant is eligible for an
49 award pursuant to sections 595.010 to 595.075.

595.020. 1. Except as hereinafter provided, the following persons shall be eligible for
2 compensation pursuant to sections 595.010 to 595.075:

3 (1) A victim of a crime;

4 (2) In the case of a sexual assault victim[:

5 (a)] , a relative of the victim requiring counseling in order to better assist the victim in
6 his **or her** recovery; and

7 (3) In the case of the death of the victim as a direct result of the crime:

8 (a) A dependent of the victim;

9 (b) Any member of the family who legally assumes the obligation, or who pays the
10 medical or burial expenses incurred as a direct result thereof; and

11 (c) A survivor of the victim requiring counseling as a direct result of the death of the
12 victim.

13 2. An offender or an accomplice of an offender shall in no case be eligible to receive
14 compensation with respect to a crime committed by the offender. No victim or dependent shall
15 be denied compensation solely because he **or she** is a relative of the offender or was living with
16 the offender as a family or household member at the time of the injury or death. However, the
17 division may award compensation to a victim or dependent who is a relative, family or household
18 member of the offender only if the division can reasonably determine the offender will receive
19 no substantial economic benefit or unjust enrichment from the compensation.

20 3. No compensation of any kind may be made to a victim or intervenor **who is** injured
21 **or who sustains property damage** while confined in any federal, state, county, or municipal
22 jail, prison or other correctional facility, including house arrest.

23 4. No compensation of any kind may be made to a victim who has been finally
24 adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two
25 felonies within the past ten years, of which one or both involves illegal drugs or violence. The
26 division may waive this restriction if it determines that the interest of justice would be served
27 otherwise.

28 5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of
29 this section, who is incarcerated as a result of a conviction of a crime not related to the incident
30 upon which the claim is based at the time of application, or at any time following the filing of
31 the application:

32 (1) The division shall suspend all proceedings and payments until such time as the
33 claimant is released from incarceration;

34 (2) The division shall notify the applicant at the time the proceedings are suspended of
35 the right to reactivate the claim within six months of release from incarceration. The notice shall
36 be deemed sufficient if mailed to the applicant at the applicant's last known address;

37 (3) The claimant shall file an application to request that the case be reactivated not later
38 than six months after the date the claimant is released from incarceration. Failure to file such
39 request within the six-month period shall serve as a bar to any recovery.

40 6. Victims of crime who are not residents of the state of Missouri may be compensated
41 only when federal funds are available for that purpose. Compensation for nonresident victims
42 shall terminate when federal funds for that purpose are no longer available.

43 7. A Missouri resident who suffers personal physical injury, **property damage**, or, in
44 the case of death, a dependent of the victim or any member of the family who legally assumes
45 the obligation, or who pays the medical or burial expenses incurred as a direct result thereof, in

46 another state, possession or territory of the United States may make application for compensation
47 in Missouri if:

48 (1) The victim of the crime would be compensated if the crime had occurred in the state
49 of Missouri;

50 (2) The place that the crime occurred is a state, possession or territory of the United
51 States, or location outside of the United States that is covered and defined in 18 U.S.C. section
52 2331, that does not have a crime victims' compensation program for which the victim is eligible
53 and which provides at least the same compensation that the victim would have received if he **or**
54 **she** had been injured in Missouri.

595.025. 1. A claim for compensation may be filed by a person eligible for
2 compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's
3 spouse, parent, conservator, or guardian.

4 2. A claim shall be filed not later than two years after the occurrence of the crime or the
5 discovery of the crime upon which it is based.

6 3. Each claim shall be filed in person or by mail. The division of workers' compensation
7 shall investigate such claim, prior to the opening of formal proceedings. The claimant shall be
8 notified of the date and time of any hearing on such claim. In determining the amount of
9 compensation for which a claimant is eligible, the division shall consider the facts stated on the
10 application filed pursuant to section 595.015, and:

11 (1) Need not consider whether or not the alleged assailant has been apprehended or
12 brought to trial or the result of any criminal proceedings against that person; however, if any
13 person is convicted of the crime which is the basis for an application for compensation, proof
14 of the conviction shall be conclusive evidence that the crime was committed;

15 (2) Shall determine the amount of the loss to the claimant, or the victim's survivors or
16 dependents;

17 (3) Shall determine the degree or extent to which the victim's acts or conduct provoked,
18 incited, or contributed to the **property damage**, injuries, or death of the victim.

19 4. The claimant may present evidence and testimony on his **or her** own behalf or may
20 retain counsel. The division of workers' compensation may, as part of any award entered under
21 sections 595.010 to 595.075, determine and allow reasonable attorney's fees, which shall not
22 exceed fifteen percent of the amount awarded as compensation under sections 595.010 to
23 595.075, which fee shall be paid out of, but not in addition to, the amount of compensation, to
24 the attorney representing the claimant. No attorney for the claimant shall ask for, contract for
25 or receive any larger sum than the amount so allowed.

26 **5. In the case of injury or death of the victim,** the person filing a claim shall, prior to
27 any hearing thereon, submit reports, if available, from all hospitals, physicians or surgeons who
28 treated or examined the victim for the injury for which compensation is sought. If, in the opinion
29 of the division of workers' compensation, an examination of the injured victim and a report
30 thereon, or a report on the cause of death of the victim, would be of material aid, the division of
31 workers' compensation may appoint a duly qualified, impartial physician to make such
32 examination and report.

33 **6. In the case of a victim suffering property damage the person filing a claim shall,**
34 **prior to any hearing thereon, submit any receipts, estimates, or any other evidence which**
35 **demonstrates the value of the property damaged and the extent of the loss. If, in the**
36 **opinion of the division of workers' compensation, an independent expert would be of**
37 **material aid in determining the amount of the loss sustained, the division of workers'**
38 **compensation may appoint such a duly qualified expert to make such determination.**

39 **7.** Each and every payment shall be exempt from attachment, garnishment or any other
40 remedy available to creditors for the collection of a debt.

41 **[7.] 8.** Payments of compensation shall not be made directly to any person legally
42 incompetent to receive them but shall be made to the parent, guardian or conservator for the
43 benefit of such minor, disabled or incapacitated person.

 595.030. 1. No compensation shall be paid **in the case of injury or death** unless the
2 claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous
3 weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean
4 unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

5 (1) For medical care or other services, including psychiatric, psychological or counseling
6 expenses, necessary as a result of the crime upon which the claim is based, except that the
7 amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not
8 exceed two thousand five hundred dollars; or

9 (2) As a result of personal property being seized in an investigation by law enforcement.
10 Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal
11 to the loss sustained, but shall not exceed two hundred fifty dollars.

12 **2. No compensation shall be paid in the case of property damage unless the**
13 **claimant has incurred an out-of-pocket loss of at least fifty dollars for the repair or**
14 **replacement of the damaged property.**

15 **3.** No compensation shall be paid unless the division of workers' compensation finds that
16 a crime was committed, that such crime directly resulted in **property damage or** personal
17 physical injury to, or the death of, the victim, and that police records show that such crime was

18 promptly reported to the proper authorities. In no case may compensation be paid if the police
19 records show that such report was made more than forty-eight hours after the occurrence of such
20 crime, unless the division of workers' compensation finds that the report to the police was
21 delayed for good cause. If the victim is under eighteen years of age such report may be made by
22 the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room
23 personnel; by the division of family services personnel; or by any other member of the victim's
24 family. In the case of a sexual offense, filing a report of the offense to the proper authorities may
25 include, but not be limited to, the filing of the report of the forensic examination by the
26 appropriate medical provider, as defined in section 191.225, RSMo, with the prosecuting
27 attorney of the county in which the alleged incident occurred.

28 [3.] 4. No compensation shall be paid for medical care if the service provider is not a
29 medical provider as that term is defined in section 595.027, and the individual providing the
30 medical care is not licensed by the state of Missouri or the state in which the medical care is
31 provided.

32 [4.] 5. No compensation shall be paid for psychiatric treatment or other counseling
33 services, including psychotherapy, unless the service provider is a:

34 (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine
35 in the state in which the service is provided;

36 (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice
37 psychology in the state in which the service is provided;

38 (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

39 (4) Professional counselor licensed pursuant to chapter 337, RSMo.

40 [5.] 6. Any compensation paid pursuant to sections 595.010 to 595.075 for death or
41 personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of
42 earnings or support from gainful employment, not to exceed two hundred dollars per week,
43 resulting from such injury or death. In the event of death of the victim, an award may be made
44 for reasonable and necessary expenses actually incurred for preparation and burial not to exceed
45 five thousand dollars.

46 [6.] 7. Any compensation for loss of earnings or support from gainful employment shall
47 be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week;
48 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
49 twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of
50 the death of a person which is the direct result of a crime or in the case of a sexual assault, the
51 compensation shall be apportioned by the division of workers' compensation among the
52 claimants in proportion to their loss.

53 [7.] 8. The method and timing of the payment of any compensation pursuant to sections
54 595.010 to 595.075 shall be determined by the division.

595.035. 1. For the purpose of determining the amount of compensation payable
2 pursuant to sections 595.010 to 595.075, the division of workers' compensation shall, insofar as
3 practicable, formulate standards for the uniform application of sections 595.010 to 595.075,
4 taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts
5 of compensation payable for **property damage**, injuries and death pursuant to other laws of this
6 state and of the United States, excluding pain and suffering, and the availability of funds
7 appropriated for the purpose of sections 595.010 to 595.075. All decisions of the division of
8 workers' compensation on claims heard pursuant to sections 595.010 to 595.075 shall be in
9 writing, setting forth the name of the claimant, the amount of compensation and the reasons for
10 the decision. The division of workers' compensation shall immediately notify the claimant in
11 writing of the decision and shall forward to the state treasurer a certified copy of the decision and
12 a warrant for the amount of the claim. The state treasurer, upon certification by the
13 commissioner of administration, shall, if there are sufficient funds in the crime victims'
14 compensation fund, pay to or on behalf of the claimant the amount determined by the division.

15 2. **In the case of injury to or death of the victim**, the crime victims' compensation fund
16 is not a state health program and is not intended to be used as a primary payor to other health
17 care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is
18 to assist victims of violent crimes through a period of financial hardship, as a payor of last resort.
19 Accordingly, any compensation paid pursuant to sections 595.010 to 595.075 shall be reduced
20 by the amount of any payments, benefits or awards received or to be received as a result of the
21 injury or death:

22 (1) From or on behalf of the offender;

23 (2) Under private or public insurance programs, including champus, Medicare, Medicaid
24 and other state or federal programs, but not including any life insurance proceeds; or

25 (3) From any other public or private funds, including an award payable pursuant to the
26 workers' compensation laws of this state.

27 3. In determining the amount of compensation payable, the division of workers'
28 compensation shall determine whether, because of the victim's consent, provocation, incitement
29 or negligence, the victim contributed to the infliction of the **property damage**, victim's injury,
30 or death, and shall reduce the amount of the compensation or deny the claim altogether, in
31 accordance with such determination; provided, however, that the division of workers'
32 compensation may disregard the responsibility of the victim for his or her own **property damage**
33 **or** injury where such responsibility was attributable to efforts by the victim to aid a victim, or

34 to prevent a crime or an attempted crime from occurring in his or her presence, or to apprehend
35 a person who had committed a crime in his or her presence or had in fact committed a felony.

36 4. In determining the amount of compensation payable pursuant to sections 595.010 to
37 [595.070] **595.075**, monthly Social Security disability or retirement benefits received by the
38 victim shall not be considered by the division as a factor for reduction of benefits.

39 5. The division shall not be liable for payment of compensation for any out-of-pocket
40 expenses incurred more than three years following the date of the occurrence of the crime upon
41 which the claim is based.

595.040. 1. Acceptance of any compensation under sections 595.010 to 595.075 shall
2 subrogate this state, to the extent of such compensation paid, to any right or right of action
3 accruing to the claimant or to the victim to recover payments on account of losses resulting from
4 the crime with respect to which the compensation has been paid. The attorney general may
5 enforce the subrogation, and he shall bring suit to recover from any person to whom
6 compensation is paid, to the extent of the compensation actually paid under sections 595.010 to
7 595.075, any amount received by the claimant from any source exceeding the actual loss to the
8 victim.

9 2. The division shall have a lien on any compensation received by the claimant, in
10 addition to compensation received under provisions of sections 595.010 to 595.075, for **property**
11 **damage**, injuries, or death resulting from the incident upon which the claim is based. The
12 claimant shall retain, as trustee for the division, so much of the recovered funds as necessary to
13 reimburse the Missouri crime victims' compensation fund to the extent that compensation was
14 awarded to the claimant from that fund.

15 3. If a claimant initiates any legal proceeding to recover restitution or damages related
16 to the crime upon which the claim is based, or if the claimant enters into negotiations to receive
17 any proceeds in settlement of a claim for restitution or damages related to the crime, the claimant
18 shall give the division written notice within fifteen days of the filing of the action or entering into
19 negotiations. The division may intervene in the proceeding of a complainant to recover the
20 compensation awarded. If a claimant fails to give such written notice to the division within the
21 stated time period, or prior to any attempt by claimant to reach a negotiated settlement of claims
22 for recovery of damages related to the crime upon which the claim is based, the division's right
23 of subrogation to receive or recover funds from claimant, to the extent that compensation was
24 awarded by the division, shall not be reduced in any amount or percentage by the costs incurred
25 by claimant attributable to such legal proceedings or settlement, including, but not limited to,
26 attorney's fees, investigative cost or cost of court. If such notice is given, attorney fees may be
27 awarded in an amount not to exceed fifteen percent of the amount subrogated to the division.

28 4. Whenever compensation is awarded to a claimant who is entitled to restitution from
29 a criminal defendant, the division may initiate restitution hearings in such criminal proceedings
30 or intervene in the same. The division shall be entitled to receive restitution in such proceedings
31 to the extent compensation was awarded; provided, however, the division shall be exempt from
32 the payment of any fees or other charges for the recording of restitution orders in the offices of
33 the judges of probate. The claimant shall notify this division when restitution is ordered. Failure
34 to notify the division will result in possible forfeiture of any amount already received from the
35 division.

36 5. Whenever the division shall deem it necessary to protect, maintain or enforce the
37 division's right to subrogation or to exercise any of its powers or to carry out any of its duties or
38 responsibilities, the attorney general may initiate legal proceedings or intervene in legal
39 proceedings as the division's legal representative.

 595.045. 1. There is established in the state treasury the "Crime Victims' Compensation
2 Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court
3 proceeding filed in any court in the state in all criminal cases including violations of any county
4 ordinance or any violation of criminal or traffic laws of the state, including an infraction and
5 violation of a municipal ordinance; except that no such fee shall be collected in any proceeding
6 in any court when the proceeding or the defendant has been dismissed by the court or when costs
7 are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents
8 shall be assessed as costs in a juvenile court proceeding in which a child is found by the court
9 to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031,
10 RSMo.

11 2. Notwithstanding any other provision of law to the contrary, the moneys collected by
12 clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected
13 and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to
14 the director of the department of revenue.

15 3. The director of revenue shall deposit annually the amount of two hundred fifty
16 thousand dollars to the state forensic laboratory account administered by the department of public
17 safety to provide financial assistance to defray expenses of crime laboratories if such analytical
18 laboratories are registered with the federal Drug Enforcement Agency or the Missouri department
19 of health and senior services. Subject to appropriations made therefor, such funds shall be
20 distributed by the department of public safety to the crime laboratories serving the courts of this
21 state making analysis of a controlled substance or analysis of blood, breath or urine in relation
22 to a court proceeding.

23 4. The remaining funds collected under subsection 1 of this section shall be denoted to
24 the payment of an annual appropriation for the administrative and operational costs of the office
25 for victims of crime and, if a statewide automated crime victim notification system is established
26 pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred
27 in the operation of such system. Additional remaining funds shall be subject to the following
28 provisions:

29 (1) On the first of every month, the director of revenue or the director's designee shall
30 determine the balance of the funds in the crime victims' compensation fund available to satisfy
31 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
32 595.050 and 595.055;

33 (2) Beginning on September 1, 2004, and on the first of each month, the director of
34 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
35 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
36 fund established in section 595.100.

37 5. The director of revenue or such director's designee shall at least monthly report the
38 moneys paid pursuant to this section into the crime victims' compensation fund and the services
39 to victims fund to the division of workers' compensation and the department of public safety,
40 respectively.

41 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this
42 section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo.
43 Five percent of such moneys shall be payable to the city treasury of the city from which such
44 funds were collected. The remaining ninety-five percent of such moneys shall be payable to the
45 director of revenue. The funds received by the director of revenue pursuant to this subsection
46 shall be distributed as follows:

47 (1) On the first of every month, the director of revenue or the director's designee shall
48 determine the balance of the funds in the crime victims' compensation fund available to satisfy
49 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
50 595.050 and 595.055;

51 (2) Beginning on September 1, 2004, and on the first of each month the director of
52 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
53 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
54 fund established in section 595.100.

55 7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such
56 audit shall include all records associated with crime victims' compensation funds collected, held
57 or disbursed by any state agency.

58 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court
59 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
60 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class
61 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C or D felony;
62 and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri
63 law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo,
64 relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle
65 financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo,
66 relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle
67 equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments
68 shall collect and disburse such crime victims' compensation judgments in the manner provided
69 by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and
70 deposited to the credit of the crime victims' compensation fund.

71 9. The clerk of the court processing such funds shall maintain records of all dispositions
72 described in subsection 1 of this section and all dispositions where a judgment has been entered
73 against a defendant in favor of the state of Missouri in accordance with this section; all payments
74 made on judgments for alcohol-related traffic offenses; and any judgment or portion of a
75 judgment entered but not collected. These records shall be subject to audit by the state auditor.
76 The clerk of each court transmitting such funds shall report separately the amount of dollars
77 collected on judgments entered for alcohol-related traffic offenses from other crime victims'
78 compensation collections or services to victims collections.

79 10. The department of revenue shall maintain records of funds transmitted to the crime
80 victims' compensation fund by each reporting court and collections pursuant to subsection 16 of
81 this section and shall maintain separate records of collection for alcohol-related offenses.

82 11. The state courts administrator shall include in the annual report required by section
83 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation
84 judgments entered.

85 12. All awards made to [injured] victims **who suffered property damage, injury, or**
86 **death** under sections 595.010 to 595.105 and all appropriations for administration of sections
87 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims'
88 compensation fund. Any unexpended balance remaining in the crime victims' compensation
89 fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo,
90 requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but
91 shall remain in the crime victims' compensation fund. In the event that there are insufficient
92 funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid

93 on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim
94 shall be paid until funds have again accumulated in the crime victims' compensation fund. When
95 sufficient funds become available from the fund, awards which have not been paid shall be paid
96 in chronological order with the oldest paid first. In the event an award was to be paid in
97 installments and some remaining installments have not been paid due to a lack of funds, then
98 when funds do become available that award shall be paid in full. All such awards on which
99 installments remain due shall be paid in full in chronological order before any other postdated
100 award shall be paid. Any award pursuant to this subsection is specifically not a claim against the
101 state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

102 13. When judgment is entered against a defendant as provided in this section and such
103 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
104 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to
105 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be
106 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall
107 be entered on the court record. Under no circumstances shall the general revenue fund be used
108 to reimburse court costs or pay for such judgment. The director of the department of corrections
109 shall have the authority to pay into the crime victims' compensation fund from an offender's
110 compensation or account the amount owed by the offender to the crime victims' compensation
111 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering
112 a correctional facility of the department of corrections.

113 14. All interest earned as a result of investing funds in the crime victims' compensation
114 fund shall be paid into the crime victims' compensation fund and not into the general revenue of
115 this state.

116 15. Any person who knowingly makes a fraudulent claim or false statement in
117 connection with any claim hereunder is guilty of a class A misdemeanor.

118 16. Any gifts, contributions, grants or federal funds specifically given to the division for
119 the benefit of victims of crime shall be credited to the crime victims' compensation fund.
120 Payment or expenditure of moneys in such funds shall comply with any applicable federal crime
121 victims' compensation laws, rules, regulations or other applicable federal guidelines.

595.065. Orders for payment of compensation pursuant to section 595.045 shall be made
2 only as to **property damage**, injuries, or death resulting from offenses occurring on or after July
3 1, 1982.

650.465. All law enforcement, ambulance, and fire protection agencies shall remove
2 **all emergency lights, sirens, and decals designating a vehicle as an emergency vehicle prior**

3 to selling or consigning such vehicle unless such vehicle is being sold directly to another
4 public or private public safety agency.

650.600. As used in sections 650.600 to 650.612, the following terms shall mean:

- 2 (1) "Canine handler", a certified law enforcement officer authorized and
3 designated by a law enforcement agency to utilize a police service dog to perform law
4 enforcement duties;
- 5 (2) "Canine judge", any individual or law enforcement officer who is a master
6 trainer or trainer in accordance with the standards set forth by the department to conduct
7 certification of canine teams;
- 8 (3) "Canine team", a police service dog and a certified law enforcement officer who
9 have been certified as a team;
- 10 (4) "Department", the department of public safety;
- 11 (5) "Law enforcement agency", any state, county, or municipal law enforcement
12 agency in this state. Law enforcement agency shall not include the Missouri department
13 of corrections, any agency of a political subdivision of this state which utilizes canines
14 exclusively in jails or prisons, any state, county, or municipal fire department, or any
15 federal agency;
- 16 (6) "Police service dog", a canine used by a law enforcement agency to assist a law
17 enforcement officer.

650.602. 1. Beginning July 1, 2011, no state, county, or municipal law enforcement
2 agency or law enforcement officer shall use a canine to perform or assist in the
3 performance of any law enforcement specialties set forth in subsection 3 of this section
4 unless the canine team is certified by an association approved by the department of public
5 safety as an appropriate certifying association.

6 2. The department shall by rule establish standards and criteria for canine
7 certification and recertification. Such standards and criteria shall include, but not be
8 limited to, testing in the following four areas:

- 9 (1) Obedience;
- 10 (2) Aggression;
- 11 (3) Narcotics detection;
- 12 (4) Explosives detection; and
- 13 (5) Accelerant testing.

14 3. Each law enforcement canine team in this state shall be initially certified and
15 annually recertified in one or more of the following specialties:

16 (1) The detection of the odors of drugs and controlled substances, including but not
17 limited to marijuana and its derivatives, cocaine, heroin, and methamphetamine, or any
18 other illegal narcotics;

19 (2) The detection of the odors of explosive materials and accelerants;

20 (3) Apprehension or search skills, including but not limited to tracking, building
21 suspect search, article recovery, evidence search; and

22 (4) Suspect apprehension.

 650.604. 1. Unless renewed, certification as a canine team shall expire one year
2 after the date of issuance.

3 2. A canine team may renew its certification by satisfying the requirements for
4 certification and passing a recertification evaluation prescribed and administered by an
5 authorized canine judge.

 650.606. The appropriate law enforcement agency shall maintain canine team
2 certification and recertification evaluations filed by canine judges. Such documents shall
3 be provided to the department upon request.

 650.608. 1. A canine team failing an evaluation required by sections 650.600 to
2 650.612 may repeat the evaluation. A law enforcement agency shall not use a canine team
3 to perform any of the specialties set forth in subsection 3 of section 650.602 that failed
4 while the canine team is waiting to repeat a failed examination.

5 2. The department shall not impose a fee for certification or recertification of a
6 canine team, or to retake an evaluation.

 650.610. The department may revoke or suspend the certification of any canine
2 team or authorization of any canine judge if the canine team or canine judge violates any
3 rule of the department pertaining to sections 650.600 to 650.612. In addition, the
4 department may revoke or suspend the certification of any canine team if the team fails to
5 maintain compliance with the standards set forth by the department.

 650.612. The department shall promulgate rules to implement the provisions of
2 sections 650.600 to 650.612. Any rule or portion of a rule, as that term is defined in section
3 536.010, RSMo, that is created under the authority delegated in sections 650.600 to 650.612
4 shall become effective only if it complies with and is subject to all of the provisions of
5 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
6 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
7 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
8 annul a rule are subsequently held unconstitutional, then the grant of rulemaking

9 **authority and any rule proposed or adopted after August 28, 2009, shall be invalid and**
10 **void.**

660.010. 1. There is hereby created a "Department of Social Services" in charge of a
2 director appointed by the governor, by and with the advice and consent of the senate. All the
3 powers, duties and functions of the director of the department of public health and welfare,
4 chapters 191 and 192, RSMo and others, not previously reassigned by executive reorganization
5 plan number 2 of 1973 as submitted by the governor under chapter 26, RSMo, except those
6 assigned to the department of mental health, are transferred by type I transfer to the director of
7 the department of social services and the office of the director, department of public health and
8 welfare is abolished. The department of public health and welfare is abolished. All employees
9 of the department of social services shall be covered by the provisions of chapter 36, RSMo,
10 except the director of the department and his secretary, all division directors and their secretaries,
11 and no more than three additional positions in each division which may be designated by the
12 division director.

13 2. It is the intent of the general assembly in establishing the department of social
14 services, as provided herein, to authorize the director of the department to coordinate the state's
15 programs devoted to those unable to provide for themselves and for the rehabilitation of victims
16 of social disadvantage. The director shall use the resources provided to the department to
17 provide comprehensive programs and leadership striking at the roots of dependency, disability
18 and abuse of society's rules with the purpose of improving service and economical operations.
19 The department is directed to take all steps possible to consolidate and coordinate the field
20 operations of the department to maximize service to the citizens of the state.

21 3. All the powers, duties and functions of the division of welfare, chapters 205, 207, 208,
22 209, and 210, RSMo, and others, are transferred by type I transfer to the "Division of Family
23 Services" which is hereby created in the department of social services. The director of the
24 division shall be appointed by the director of the department. All references to the division of
25 welfare shall hereafter be construed to mean the division of family services of the department
26 of social services.

27 4. [All the powers, duties and functions of the board of nursing home administrators,
28 chapter 344, RSMo, are transferred by type I transfer to the department of social services. The
29 public members of the board shall be appointed by the director of the department.

30 5.] The state's responsibility under public law 452 of the eighty-eighth Congress and
31 others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the
32 department of social services.

33 [6. The state's responsibility under public law 73, Older Americans Act of 1965, of the
34 eighty-ninth Congress is transferred by type I transfer to the department of social services.

35 7.] 5. All the powers, duties and functions vested by law in the curators of the University
36 of Missouri relating to crippled children's services, chapter 201, RSMo, are transferred by type
37 I transfer to the department of social services.

38 [8.] 6. All the powers, duties and functions vested in the state board of training schools,
39 chapter 219, RSMo, and others, are transferred by type I transfer to the "Division of Youth
40 Services" hereby authorized in the department of social services headed by a director appointed
41 by the director of the department. The state board of training schools shall be reconstituted as
42 an advisory board on youth services, appointed by the director of the department. The advisory
43 board shall visit each facility of the division as often as possible, shall file a written report with
44 the director of the department and the governor on conditions they observed relating to the care
45 and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility
46 and any other matters pertinent in their judgment. Copies of these reports shall be filed with the
47 legislative library. Members of the advisory board shall receive reimbursement for their
48 expenses and twenty-five dollars a day for each day they engage in official business relating to
49 their duties. The members of the board shall be provided with identification means by the
50 director of the division permitting immediate access to all facilities enabling them to make
51 unannounced entrance to facilities they wish to inspect.

701.355. The board shall have the following powers:

2 (1) To consult with engineering authorities and organizations who are studying and
3 developing elevator safety codes;

4 (2) To adopt a code of rules and regulations governing **licenses of elevator mechanics**
5 **and elevator contractors**, construction, maintenance, testing, and inspection of both new and
6 existing installations and. The board shall have the power to adopt a safety code only for those
7 types of equipment defined in the rule. In promulgating the elevator safety code the board may
8 consider any existing or future American National Standards Institute safety code affecting
9 elevators as defined in sections 701.350 to 701.380, or any other nationally acceptable standard;

10 (3) To certify state, municipal inspectors and political subdivision inspectors, and special
11 inspectors, who shall enforce the provisions of a safety code adopted pursuant to sections
12 701.350 to 701.380;

13 (4) To appoint a chief safety inspector together with a staff for the purpose of ensuring
14 compliance with any safety code established pursuant to sections 701.350 to 701.380.

Section 1. 1. Any county of the first classification may make and promulgate
2 **orders, ordinances, rules or regulations establishing curfew hours for persons under the**

3 age of seventeen for public streets, highways, roads, alleys, parks, playgrounds or other
4 public grounds, public places and public buildings, places of amusement and
5 entertainment, vacant lots or other unsupervised places available to persons under the age
6 of seventeen.

7 2. Any minor who violates the provisions of any order, ordinance, rule or
8 regulation adopted under this section shall be guilty of a class C misdemeanor.

9 3. Any parent, guardian or other person having the legal care or custody of a minor
10 child in violation of any order, ordinance, rule or regulation adopted under this section
11 shall be guilty of a class C misdemeanor if he or she has knowledge of the violation.

12 [197.500. 1. The department shall maintain an employee disqualification
13 list and place on the employee disqualification list the names of any persons who
14 are or who have been employed by any entity licensed pursuant to this chapter
15 and who have been finally determined by the department pursuant to section
16 660.315, RSMo, to have knowingly or recklessly abused or neglected a patient.
17 For the purpose of this section, "abuse" and "neglect" shall have the same
18 meanings as such terms are defined in section 198.006, RSMo. For purposes of
19 this section only, "knowingly" and "recklessly" shall have the meanings that are
20 ascribed to them in this section. A person acts "knowingly" with respect to the
21 person's conduct when a reasonable person should be aware of the result caused
22 by his or her conduct. A person acts "recklessly" when the person consciously
23 disregards a substantial and unjustifiable risk that the person's conduct will result
24 in serious physical injury and such disregard constitutes a gross deviation from
25 the standard of care that a reasonable person would exercise in the situation.

26 2. The department shall compile and maintain an employee
27 disqualification list in the same manner as the employee disqualification list
28 compiled and maintained by the department pursuant to section 660.315, RSMo.]

29 [208.912. 1. When any adult day care worker; chiropractor, Christian
30 Science practitioner, coroner, dentist, embalmer, employee of the departments of
31 social services, mental health, or health and senior services; employee of a local
32 area agency on aging or an organized area agency on aging program; funeral
33 director; home health agency or home health agency employee; hospital and
34 clinic personnel engaged in examination, care, or treatment of persons; in-home
35 services owner, provider, operator, or employee; law enforcement officer;
36 long-term care facility administrator or employee; medical examiner; medical
37 resident or intern; mental health professional; minister; nurse; nurse practitioner;
38 optometrist; other health practitioner; peace officer; pharmacist; physical
39 therapist; physician; physician's assistant; podiatrist; probation or parole officer;
40 psychologist; vendor as defined in section 208.900; personal care attendant; or
41 social worker has reasonable cause to believe that a consumer has been abused

14 or neglected as defined in section 660.250, RSMo, as a result of the delivery of
15 or failure to deliver personal care assistance services, he or she shall immediately
16 report or cause a report to be made to the department. If the report is made by a
17 physician of the consumer, the department shall maintain contact with the
18 physician regarding the progress of the investigation.

19 2. When a report of deteriorating physical condition resulting in possible
20 abuse or neglect of a consumer is received by the department, the department's
21 case manager and the department nurse shall be notified. The case manager shall
22 investigate and immediately report the results of the investigation to the
23 department nurse.

24 3. If requested, local area agencies on aging shall provide volunteer
25 training to those persons listed in subsection 1 of this section regarding the
26 detection and reporting of abuse and neglect under this section.

27 4. Any person required in subsection 1 of this section to report or cause
28 a report to be made to the department who fails to do so within a reasonable time
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 5. The report shall contain the names and addresses of the vendor, the
31 personal care attendant, and the consumer, and information regarding the nature
32 of the abuse or neglect, the name of the complainant, and any other information
33 which might be helpful in an investigation.

34 6. In addition to those persons required to report under subsection 1 of
35 this section, any other person having reasonable cause to believe that a consumer
36 has been abused or neglected by a personal care attendant may report such
37 information to the department.

38 7. If the investigation indicates possible abuse or neglect of a consumer,
39 the investigator shall refer the complaint together with his or her report to the
40 department director or his or her designee for appropriate action. If, during the
41 investigation or at its completion, the department has reasonable cause to believe
42 that immediate action is necessary to protect the consumer from abuse or neglect,
43 the department or the local prosecuting attorney may, or the attorney general
44 upon request of the department shall, file a petition for temporary care and
45 protection of the consumer in a circuit court of competent jurisdiction. The
46 circuit court in which the petition is filed shall have equitable jurisdiction to issue
47 an ex parte order granting the department authority for the temporary care and
48 protection of consumer, for a period not to exceed thirty days.

49 8. Reports shall be confidential, as provided under section 660.320,
50 RSMo.

51 9. Anyone, except any person who has abused or neglected a consumer,
52 who makes a report pursuant to this section or who testifies in any administrative
53 or judicial proceeding arising from the report shall be immune from any civil or
54 criminal liability for making such a report or for testifying, except for liability for

perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority as a vendor, and no personal care attendant, shall harass, dismiss or retaliate against a consumer because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the vendor or personal care attendant which he or she has reasonable cause to believe has been committed or has occurred.

12. The department shall place on the employee disqualification list established in section 660.315, RSMo, the names of any persons who have been finally determined by the department to have recklessly, knowingly or purposely abused or neglected a consumer while employed by a vendor, or employed by a consumer as a personal care attendant.

13. The department shall provide the list maintained pursuant to section 660.315, RSMo, to vendors as defined in section 208.900.

14. Any person, corporation or association who received the employee disqualification list under subsection 13 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.]

[208.915. 1. Any person having reasonable cause to believe that a misappropriation of a consumer's property or funds, or the falsification of any documents verifying personal care assistance services delivery to the consumer, has occurred may report such information to the department.

2. For each report the department shall attempt to obtain the name and address of the vendor, the personal care attendant, the personal care assistance services consumer, information regarding the nature of the misappropriation or falsification, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any personal care assistance services vendor, or personal care attendant who puts to his or her own use or the use of the personal care assistance services vendor or otherwise diverts from the personal care assistance services consumer's use any personal property or funds of the consumer, or falsifies any documents for service delivery, is guilty of a class A misdemeanor.

15 4. Upon receipt of a report, the department shall immediately initiate an
16 investigation and report information gained from such investigation to
17 appropriate law enforcement authorities.

18 5. If the investigation indicates probable misappropriation of property or
19 funds, or falsification of any documents for service delivery of a personal care
20 assistance services consumer, the investigator shall refer the complaint together
21 with the investigator's report to the department director or the director's designee
22 for appropriate action.

23 6. Reports shall be confidential, as provided under section 660.320,
24 RSMo.

25 7. Anyone, except any person participating in or benefitting from the
26 misappropriation of funds, who makes a report under this section or who testifies
27 in any administrative or judicial proceeding arising from the report shall be
28 immune from any civil or criminal liability for making such a report or for
29 testifying except for liability for perjury, unless such person acted negligently,
30 recklessly, in bad faith, or with malicious purpose.

31 8. Within five working days after a report required to be made under this
32 section is received, the person making the report shall be notified in writing of
33 its receipt and of the initiation of the investigation.

34 9. No person who directs or exercises any authority in a personal care
35 assistance services vendor agency shall harass, dismiss or retaliate against a
36 personal care assistance services consumer or a personal care attendant because
37 he or she or any member of his or her family has made a report of any violation
38 or suspected violation of laws, ordinances or regulations applying to the personal
39 care assistance services vendor or any personal care attendant which he or she has
40 reasonable cause to believe has been committed or has occurred.

41 10. The department shall maintain the employee disqualification list and
42 place on the employee disqualification list the names of any personal care
43 attendants who are or have been employed by a personal care assistance services
44 consumer, and the names of any persons who are or have been employed by a
45 vendor as defined in subdivision (10) of section 208.900, and who have been
46 finally determined by the department under section 660.315, RSMo, to have
47 misappropriated any property or funds, or falsified any documents for service
48 delivery to a personal care assistance services consumer and who came to be
49 known to the consumer, directly or indirectly by virtue of the consumer's
50 participation in the personal care assistance services program.]

51
2 [210.933. For any elder-care worker listed in the registry or who has
3 submitted the registration form as required by sections 210.900 to 210.936, an
4 elder-care provider may access the registry in lieu of the requirements established
5 pursuant to section 660.315, RSMo, or to subsections 3, 4 and 5 of section
660.317, RSMo.]

2 [660.305. 1. Any person having reasonable cause to believe that a
3 misappropriation of an in-home services client's property or funds, or the
4 falsification of any documents verifying service delivery to the in-home services
5 client has occurred, may report such information to the department.

6 2. For each report the department shall attempt to obtain the names and
7 addresses of the in-home services provider agency, the in-home services
8 employee, the in-home services client, information regarding the nature of the
9 misappropriation or falsification, the name of the complainant, and any other
10 information which might be helpful in an investigation.

11 3. Any in-home services provider agency or in-home services employee
12 who puts to his or her own use or the use of the in-home services provider agency
13 or otherwise diverts from the in-home services client's use any personal property
14 or funds of the in-home services client, or falsifies any documents for service
15 delivery, is guilty of a class A misdemeanor.

16 4. Upon receipt of a report, the department shall immediately initiate an
17 investigation and report information gained from such investigation to
18 appropriate law enforcement authorities.

19 5. If the investigation indicates probable misappropriation of property or
20 funds, or falsification of any documents for service delivery of an in-home
21 services client, the investigator shall refer the complaint together with the
22 investigator's report to the department director or the director's designee for
23 appropriate action.

24 6. Reports shall be confidential, as provided under section 660.320.

25 7. Anyone, except any person participating in or benefiting from the
26 misappropriation of funds, who makes a report pursuant to this section or who
27 testifies in any administrative or judicial proceeding arising from the report shall
28 be immune from any civil or criminal liability for making such a report or for
29 testifying except for liability for perjury, unless such person acted negligently,
30 recklessly, in bad faith, or with malicious purpose.

31 8. Within five working days after a report required to be made under this
32 section is received, the person making the report shall be notified in writing of
33 its receipt and of the initiation of the investigation.

34 9. No person who directs or exercises any authority in an in-home
35 services provider agency shall harass, dismiss or retaliate against an in-home
36 services client or employee because he or she or any member of his or her family
37 has made a report of any violation or suspected violation of laws, ordinances or
38 regulations applying to the in-home services provider agency or any in-home
39 services employee which he or she has reasonable cause to believe has been
40 committed or has occurred.

41 10. The department shall maintain the employee disqualification list and
42 place on the employee disqualification list the names of any persons who are or
43 have been employed by an in-home service provider agency and who have been

43 finally determined by the department to, pursuant to section 660.315, have
44 misappropriated any property or funds, or falsified any documents for service
45 delivery of an in-home services client and who came to be known to the person,
46 directly, or indirectly while employed by an in-home services provider agency.]
47

2 [660.320. 1. Reports confidential under section 198.070, RSMo, and
3 sections 660.300 to 660.315 shall not be deemed a public record and shall not be
4 subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo. The
5 name of the complainant or any person mentioned in the reports shall not be
6 disclosed unless:

7 (1) The complainant, resident or the in-home services client mentioned
8 agrees to disclosure of his or her name;

9 (2) The department determines that disclosure is necessary in order to
10 prevent further abuse, neglect, misappropriation of property or funds, or
11 falsification of any documents verifying service delivery to an in-home services
12 client;

13 (3) Release of a name is required for conformance with a lawful
14 subpoena;

15 (4) Release of a name is required in connection with a review by the
16 administrative hearing commission in accordance with section 198.039, RSMo;

17 (5) The department determines that release of a name is appropriate when
18 forwarding a report of findings of an investigation to a licensing authority; or

19 (6) Release of a name is requested by the division of family services for
20 the purpose of licensure under chapter 210, RSMo.

21 2. The department shall, upon request, provide to the division of
22 employment security within the department of labor and industrial relations
23 copies of the investigative reports that led to an employee being placed on the
24 disqualification list.]

2 [660.512. No rule or portion of a rule promulgated under the authority of chapter 210,
3 RSMo, shall become effective unless it has been promulgated pursuant to the provisions of
4 section 536.024, RSMo.]

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