

SECOND REGULAR SESSION

HOUSE BILL NO. 1985

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEVENSON.

4768L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 632.005, 632.150, 632.155, 632.305, 632.310, 632.315, and 632.320, RSMo, and to enact in lieu thereof seven new sections relating to comprehensive psychiatric services.

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

Section A. Sections 632.005, 632.150, 632.155, 632.305, 632.310, 632.315, and
2 632.320, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as
3 sections 632.005, 632.150, 632.155, 632.305, 632.310, 632.315, and 632.320, to read as follows:

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

- 3 (1) "Comprehensive psychiatric services", any one, or any combination of two or more,
4 of the following services to persons affected by mental disorders other than mental retardation
5 or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization,
6 emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation,
7 prevention, screening, transitional living, medical prevention and treatment for alcohol abuse,
8 and medical prevention and treatment for drug abuse;
- 9 (2) "Council", the Missouri advisory council for comprehensive psychiatric services;
- 10 (3) "Court", the court which has jurisdiction over the respondent or patient;
- 11 (4) "Division", the division of comprehensive psychiatric services of the department of
12 mental health;
- 13 (5) "Division director", director of the division of comprehensive psychiatric services
14 of the department of mental health, or [his] **the director's** designee;

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.

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

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

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

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

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

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

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

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

49 (11) "Mental health coordinator", a mental health professional who has knowledge of
50 the laws relating to hospital admissions and civil commitment and who is authorized by the

51 [director of the department, or his designee,] **probate judge seated in the county where the**
52 **mental health facility is located** to serve a [designated geographic area or] mental health facility
53 and who has the powers, duties and responsibilities provided in this chapter;

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

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

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

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

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

74 (17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter
75 335, RSMo, and who has had at least two years of experience as a registered professional nurse
76 in providing psychiatric nursing treatment to individuals suffering from mental disorders;

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

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

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

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

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

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

632.150. 1. A voluntary patient who has applied for his **or her** own admission may
2 request his **or her** release either orally or in writing to the head of the mental health facility and
3 shall be released immediately; except, that if the head of the facility determines that [he] **the**
4 **patient** is mentally disordered and, as a result, presents a likelihood of serious physical harm to
5 himself **or herself** or others, the head of the facility may refuse the request for release.

6 2. If the request for release is refused, the mental health facility may detain the person
7 only if a mental health coordinator[,] **or** a licensed physician[, a registered professional nurse
8 designated by the facility and approved by the department, a mental health professional or a
9 peace officer completes an application for detention] **signs an affidavit for the detention of the**
10 **respondent** for evaluation and treatment [to begin the involuntary detention of the patient under
11 this chapter]. **The affidavit shall comply with the requirements for involuntary detention**
12 **under section 632.305.**

632.155. 1. A voluntary patient who is a minor and who requests his **or her** release
2 either orally or in writing, or whose release is requested in writing to the head of the facility by
3 his **or her** parent, spouse, adult next of kin, or person entitled to his **or her** custody, shall be
4 released immediately; except, that if the patient was admitted on the application of another
5 person, his **or her** release shall be conditioned upon receiving the consent of the person applying
6 for his **or her** admission.

7 2. If the head of the mental health facility determines that the minor is mentally
8 disordered and, as a result, presents a likelihood of serious physical harm to himself **or herself**
9 or others, the head of the facility may refuse the release. The mental health facility may detain
10 the minor only if a mental health coordinator[,] **or** a licensed physician[, a mental health
11 professional or a registered professional nurse designated by the facility and approved by the
12 department] completes an [application] **affidavit** for detention for evaluation and treatment to
13 begin the involuntary detention of the minor under this chapter or, if appropriate, the minor is
14 detained in the facility under the provisions of chapter 211, RSMo. **The affidavit shall comply**
15 **with the requirements for involuntary detention under section 632.305.**

632.305. 1. An application for detention for evaluation and treatment may be executed
2 by any adult person, who need not be an attorney or represented by an attorney, including the
3 mental health coordinator, on a form provided by the court for such purpose, and must allege
4 under oath that the applicant has reason to believe that the respondent is suffering from a mental
5 disorder and presents a likelihood of serious harm to himself **or herself** or to others. The
6 application must specify the factual information on which such belief is based and [should] **shall**
7 contain the names and addresses of all persons known to the applicant who have knowledge of
8 such facts through personal observation.

9 2. The filing of a written application in court by any adult person, who need not be an
10 attorney or represented by an attorney[, including the mental health coordinator,] shall authorize
11 the applicant to bring the matter before the court on an ex parte basis to determine whether the
12 respondent should be taken into custody and transported to a mental health facility. The
13 application may be filed in the court having probate jurisdiction in any county where the
14 respondent may be found **or in the county of the mental health facility where the respondent**
15 **has been taken for evaluation and treatment.** If the court finds that there is probable cause,
16 either upon testimony under oath or upon a review of affidavits, to believe that the respondent
17 may be suffering from a mental disorder and presents a likelihood of serious harm to himself **or**
18 **herself** or others, it shall direct a peace officer to take the respondent into custody and transport
19 him **or her** to a mental health facility for detention for evaluation and treatment for a period not
20 to exceed ninety-six hours unless further detention and treatment is authorized pursuant to this
21 chapter. Nothing herein shall be construed to prohibit the court, in the exercise of its discretion,
22 from giving the respondent an opportunity to be heard.

23 3. A mental health coordinator may request a peace officer to take or a peace officer may
24 take a person into custody for detention for evaluation and treatment for a period not to exceed
25 ninety-six hours only when such mental health coordinator or peace officer has reasonable cause
26 to believe that such person is suffering from a mental disorder and that the likelihood of serious
27 harm by such person to himself or others is imminent unless such person is immediately taken
28 into custody. Upon arrival at the mental health facility, the [peace officer or] mental health
29 coordinator [who conveyed such person or caused him to be conveyed shall either present the
30 application for detention for evaluation and treatment upon which the court has issued a finding
31 of probable cause and the respondent was taken into custody or complete an application for
32 initial detention for evaluation and treatment for a period not to exceed ninety-six hours which
33 shall be based upon his own personal observations or investigations and shall contain the
34 information required in subsection 1 of this section] **for the mental health facility shall present**
35 **an affidavit to the court showing why the respondent is being detained for evaluation and**
36 **treatment.**

37 4. If a person presents himself or is presented by others to a mental health facility and
38 a licensed physician[, a registered professional nurse or a mental health professional designated
39 by the head of the facility and approved by the department for such purpose] has reasonable
40 cause to believe that the person is mentally disordered and presents an imminent likelihood of
41 serious harm to himself **or herself** or others unless he **or she** is accepted for detention, the
42 licensed physician[, the mental health professional or the registered professional nurse designated
43 by the facility and approved by the department] may complete an application for detention for
44 evaluation and treatment for a period not to exceed ninety-six hours. The application shall be
45 based on his **or her** own personal observations or investigation and shall contain the information
46 required in subsection 1 of this section.

632.310. 1. Whenever a court has authorized the initial detention and evaluation of a
2 respondent pursuant to subsection 2 of section 632.305, or whenever a mental health coordinator
3 submits an application for initial detention and evaluation pursuant to subsection 3 of section
4 632.305, or whenever a licensed physician[, a registered professional nurse designated by the
5 facility and approved by the department, or a mental health professional] submits an application
6 for initial detention and evaluation pursuant to subsection 4 of section 632.305, a public mental
7 health facility shall, and a private mental health facility may immediately accept such application
8 and the respondent on a provisional basis, and the facility shall then evaluate the respondent's
9 condition and admit him **or her** for treatment or release him **or her** in accordance with the
10 provisions of this chapter.

11 2. Whenever a peace officer applies for initial detention and evaluation pursuant to
12 subsection 3 of section 632.305, the mental health facility may, but is not required to, accept the
13 application and the respondent. If the facility accepts the application and the respondent, the
14 facility shall evaluate the respondent's condition and admit him **or her** for treatment or release
15 him **or her** in accordance with the provisions of this chapter.

16 3. If the respondent is not accepted for admission by a facility providing ninety-six-hour
17 evaluation and treatment, the facility shall immediately furnish transportation, if not otherwise
18 available, to return the respondent to his **or her** place of residence or other appropriate place;
19 provided, that in the case of a person transported to the facility by a peace officer or other
20 governmental agency, such peace officer or agency shall furnish or arrange for such
21 transportation.

22 4. The department may require, pursuant to an affiliation agreement and contract with
23 a community-based service certified by the department to serve the catchment area where a
24 respondent whose mental disorder consists of alcohol or drug abuse resides, that the service
25 immediately accept the application and respondent engaging in alcohol or drug abuse on a
26 provisional basis and that the service then evaluate such respondent's condition and admit him

27 **or her** for treatment for up to ninety-six hours, petition for further detention and treatment, or
28 release him **or her** in accordance with the provisions of chapter 631, RSMo.

632.315. Any mental health facility accepting a respondent pursuant to section 632.310
2 shall be furnished a copy of the application for initial detention and evaluation **or the mental**
3 **health coordinator's affidavit of detention**. If a person is involuntarily detained in a mental
4 health facility pursuant to section 632.310, no later than twenty-four hours after his **or her**
5 arrival, excluding Saturdays, Sundays and legal holidays, the head of the mental health facility
6 or the mental health coordinator shall file with the court the application, a copy of the notice
7 required by section 632.325 and proof that the notice was given. The person's designated
8 attorney shall receive a copy of all documents. The head of the mental health facility shall send
9 copies of all completed applications, whether accepted for admission or not, to the designated
10 mental health coordinator for the region.

632.320. 1. Within three hours of the time at which the respondent arrives at a mental
2 health facility he shall:

- 3 (1) Be seen by a mental health professional or registered professional nurse; and
- 4 (2) Be given a copy of the application for initial detention and evaluation **or the mental**
5 **health coordinator's affidavit of detention**, a notice of rights pursuant to section 632.325 and
6 a notice giving the name, business address and telephone number of the attorney appointed to
7 represent him **or her**; and
- 8 (3) Be provided assistance in contacting the appointed attorney or an attorney of his **or**
9 **her** own choosing, if so requested.

10 2. Within eighteen hours after the respondent arrives at the mental health facility, he **or**
11 **she** shall be examined by a licensed physician.

12 3. Within four days after the respondent arrives at the mental health facility, unless
13 sooner released, the mental health coordinator shall meet with the respondent and explain his **or**
14 **her** statutory rights under this chapter.

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