

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1854
96TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, May 15, 2012, with recommendation that the Senate Committee Substitute do pass.

5726S.08C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 135.630, 135.1150, 209.200, 209.202, 288.034, 301.143, and 304.028, RSMo, and to enact in lieu thereof nine new sections relating to services provided to individuals with disabilities, with penalty provisions, an expiration date for a certain section and an emergency clause for a certain section.

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

Section A. Sections 135.630, 135.1150, 209.200, 209.202, 288.034, 301.143, 2 and 304.028, RSMo, are repealed and nine new sections enacted in lieu thereof, 3 to be known as sections 135.630, 135.1150, 135.1180, 161.870, 209.200, 209.202, 4 288.034, 301.143, and 304.028, to read as follows:

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

2 (1) "Contribution", a donation of cash, stock, bonds, or other marketable
3 securities, or real property;

4 (2) "Director", the director of the department of social services;

5 (3) "Pregnancy resource center", a nonresidential facility located in this
6 state:

7 (a) Established and operating primarily to provide assistance to women
8 with crisis pregnancies or unplanned pregnancies by offering pregnancy testing,
9 counseling, emotional and material support, and other similar services to
10 encourage and assist such women in carrying their pregnancies to term; and

11 (b) Where childbirths are not performed; and

12 (c) Which does not perform, induce, or refer for abortions and which does

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

13 not hold itself out as performing, inducing, or referring for abortions; and

14 (d) Which provides direct client services at the facility, as opposed to
15 merely providing counseling or referral services by telephone; and

16 (e) Which provides its services at no cost to its clients; and

17 (f) When providing medical services, such medical services must be
18 performed in accordance with Missouri statute; and

19 (g) Which is exempt from income taxation pursuant to the Internal
20 Revenue Code of 1986, as amended;

21 (4) "State tax liability", in the case of a business taxpayer, any liability
22 incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148,
23 and 153, excluding sections 143.191 to 143.265 and related provisions, and in the
24 case of an individual taxpayer, any liability incurred by such taxpayer pursuant
25 to the provisions of chapter 143, excluding sections 143.191 to 143.265 and
26 related provisions;

27 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a
28 shareholder in an S corporation doing business in the state of Missouri and
29 subject to the state income tax imposed by the provisions of chapter 143, or a
30 corporation subject to the annual corporation franchise tax imposed by the
31 provisions of chapter 147, or an insurance company paying an annual tax on its
32 gross premium receipts in this state, or other financial institution paying taxes
33 to the state of Missouri or any political subdivision of this state pursuant to the
34 provisions of chapter 148, or an express company which pays an annual tax on
35 its gross receipts in this state pursuant to chapter 153, or an individual subject
36 to the state income tax imposed by the provisions of chapter 143, or any
37 charitable organization which is exempt from federal income tax and whose
38 Missouri unrelated business taxable income, if any, would be subject to the state
39 income tax imposed under chapter 143.

40 2. For all tax years beginning on or after January 1, 2007, a taxpayer
41 shall be allowed to claim a tax credit against the taxpayer's state tax liability in
42 an amount equal to fifty percent of the amount such taxpayer contributed to a
43 pregnancy resource center.

44 3. The amount of the tax credit claimed shall not exceed the amount of the
45 taxpayer's state tax liability for the taxable year for which the credit is claimed,
46 and such taxpayer shall not be allowed to claim a tax credit in excess of fifty
47 thousand dollars per taxable year. However, any tax credit that cannot be
48 claimed in the taxable year the contribution was made may be carried over to the

49 next four succeeding taxable years until the full credit has been claimed.

50 4. Except for any excess credit which is carried over pursuant to
51 subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit
52 unless the total amount of such taxpayer's contribution or contributions to a
53 pregnancy resource center or centers in such taxpayer's taxable year has a value
54 of at least one hundred dollars.

55 5. The director shall determine, at least annually, which facilities in this
56 state may be classified as pregnancy resource centers. The director may require
57 of a facility seeking to be classified as a pregnancy resource center whatever
58 information which is reasonably necessary to make such a determination. The
59 director shall classify a facility as a pregnancy resource center if such facility
60 meets the definition set forth in subsection 1 of this section.

61 6. The director shall establish a procedure by which a taxpayer can
62 determine if a facility has been classified as a pregnancy resource
63 center. Pregnancy resource centers shall be permitted to decline a contribution
64 from a taxpayer. The cumulative amount of tax credits which may be claimed by
65 all the taxpayers contributing to pregnancy resource centers in any one fiscal year
66 shall not exceed two million dollars. Tax credits shall be issued in the order
67 contributions are received.

68 7. The director shall establish a procedure by which, from the beginning
69 of the fiscal year until some point in time later in the fiscal year to be determined
70 by the director, the cumulative amount of tax credits are equally apportioned
71 among all facilities classified as pregnancy resource centers. If a pregnancy
72 resource center fails to use all, or some percentage to be determined by the
73 director, of its apportioned tax credits during this predetermined period of time,
74 the director may reapportion these unused tax credits to those pregnancy
75 resource centers that have used all, or some percentage to be determined by the
76 director, of their apportioned tax credits during this predetermined period of
77 time. The director may establish more than one period of time and reapportion
78 more than once during each fiscal year. To the maximum extent possible, the
79 director shall establish the procedure described in this subsection in such a
80 manner as to ensure that taxpayers can claim all the tax credits possible up to
81 the cumulative amount of tax credits available for the fiscal year.

82 8. Each pregnancy resource center shall provide information to the
83 director concerning the identity of each taxpayer making a contribution to the
84 pregnancy resource center who is claiming a tax credit pursuant to this section

85 and the amount of the contribution. The director shall provide the information
86 to the director of revenue. The director shall be subject to the confidentiality and
87 penalty provisions of section 32.057 relating to the disclosure of tax information.

88 9. [Notwithstanding any other law to the contrary, any tax credits granted
89 under this section may be assigned, transferred, sold, or otherwise conveyed
90 without consent or approval. Such taxpayer, hereinafter the assignor for
91 purposes of this section, may sell, assign, exchange, or otherwise transfer earned
92 tax credits:

93 (1) For no less than seventy-five percent of the par value of such credits;
94 and

95 (2) In an amount not to exceed one hundred percent of annual earned
96 credits.

97 10.] Pursuant to section 23.253 of the Missouri sunset act:

98 (1) [Any new program authorized under this section shall automatically
99 sunset six years after August 28, 2006, unless reauthorized by an act of the
100 general assembly; and

101 (2) If such program is reauthorized,] The program authorized under this
102 section shall [automatically sunset twelve years after the effective date of the
103 reauthorization of this section] **expire on December 31, 2013, unless**
104 **reauthorized by the general assembly;** and

105 [(3)] (2) This section shall terminate on September first of the calendar
106 year immediately following the calendar year in which a program authorized
107 under this section is sunset; **and**

108 (3) **The provisions of this subsection shall not be construed to**
109 **limit or in any way impair the department's ability to issue tax credits**
110 **authorized on or before the date the program authorized under this**
111 **section expires or a taxpayer's ability to redeem such tax credits.**

135.1150. 1. This section shall be known and may be cited as the
2 "Residential Treatment Agency Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Certificate", a tax credit certificate issued under this section;

5 (2) **"Children's home", a professional home for children who are**
6 **victims of abuse or neglect, that provides licensed counseling and**
7 **professional social work services, physical support, and education, and**
8 **that:**

9 (a) **Is registered as a nonprofit organization under Section**

10 **501(c)(3) of the Internal Revenue Code of 1986, as amended;**

11 **(b) Is a residential care facility licensed under section 210.484;**

12 **(c) Is under contract with the department to provide treatment**
13 **services for children who are residents or wards of residents of this**
14 **state; and**

15 **(d) Receives eligible donations.**

16 **Any home that operates more than one facility or at more than one**
17 **location shall be eligible for the tax credit under this section only for**
18 **any eligible donation made to facilities or locations of the home that**
19 **are licensed;**

20 **(3) "Department", the Missouri department of social services;**

21 **[(3)] (4) "Eligible donation", donations received from a taxpayer by an**
22 **agency or children's home** that are used solely to provide direct care services
23 to children who are residents of this state. Eligible donations may include cash,
24 publicly traded stocks and bonds, and real estate that will be valued and
25 documented according to rules promulgated by the department of social
26 services. For purposes of this section, "direct care services" include but are not
27 limited to increasing the quality of care and service for children through improved
28 employee compensation and training;

29 **[(4)] (5) "Qualified residential treatment agency" or "agency", a**
30 **residential care facility that is licensed under section 210.484, accredited by the**
31 **Council on Accreditation (COA), the Joint Commission on Accreditation of**
32 **Healthcare Organizations (JCAHO), or the Commission on Accreditation of**
33 **Rehabilitation Facilities (CARF), and is under contract with the Missouri**
34 **department of social services to provide treatment services for children who are**
35 **residents or wards of residents of this state, and that receives eligible**
36 **donations. Any agency that operates more than one facility or at more than one**
37 **location shall be eligible for the tax credit under this section only for any eligible**
38 **donation made to facilities or locations of the agency which are licensed and**
39 **accredited;**

40 **[(5)] (6) "Taxpayer", any of the following individuals or entities who**
41 **make an eligible donation to an agency or children's home:**

42 **(a) A person, firm, partner in a firm, corporation, or a shareholder in an**
43 **S corporation doing business in the state of Missouri and subject to the state**
44 **income tax imposed in chapter 143;**

45 **(b) A corporation subject to the annual corporation franchise tax imposed**

46 in chapter 147;

47 (c) An insurance company paying an annual tax on its gross premium
48 receipts in this state;

49 (d) Any other financial institution paying taxes to the state of Missouri
50 or any political subdivision of this state under chapter 148;

51 (e) An individual subject to the state income tax imposed in chapter 143;

52 (f) Any charitable organization which is exempt from federal income tax
53 and whose Missouri unrelated business taxable income, if any, would be subject
54 to the state income tax imposed under chapter 143.

55 3. For all taxable years beginning on or after January 1, 2007, any
56 taxpayer shall be allowed a credit against the taxes otherwise due under chapter
57 147, 148, or 143, excluding withholding tax imposed by sections 143.191 to
58 143.265, in an amount equal to fifty percent of the amount of an eligible donation,
59 subject to the restrictions in this section. The amount of the tax credit claimed
60 shall not exceed the amount of the taxpayer's state income tax liability in the tax
61 year for which the credit is claimed. Any amount of credit that the taxpayer is
62 prohibited by this section from claiming in a tax year shall not be refundable, but
63 may be carried forward to any of the taxpayer's four subsequent taxable years.

64 4. To claim the credit authorized in this section, an agency **or children's**
65 **home** may submit to the department an application for the tax credit authorized
66 by this section on behalf of taxpayers. The department shall verify that the
67 agency **or children's home** has submitted the following items accurately and
68 completely:

69 (1) A valid application in the form and format required by the department;

70 (2) A statement attesting to the eligible donation received, which shall
71 include the name and taxpayer identification number of the individual making
72 the eligible donation, the amount of the eligible donation, and the date the
73 eligible donation was received by the agency **or children's home**; and

74 (3) Payment from the agency **or children's home** equal to the value of
75 the tax credit for which application is made. If the agency **or children's home**
76 applying for the tax credit meets all criteria required by this subsection, the
77 department shall issue a certificate in the appropriate amount.

78 5. An agency **or children's home** may apply for tax credits in an
79 aggregate amount that does not exceed [forty percent of] the payments made by
80 the department to the agency **or children's home** in the preceding twelve
81 months.

82 6. Tax credits issued under this section may be assigned, transferred,
83 sold, or otherwise conveyed, and the new owner of the tax credit shall have the
84 same rights in the credit as the taxpayer. Whenever a certificate is assigned,
85 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed
86 with the department specifying the name and address of the new owner of the tax
87 credit or the value of the credit.

88 7. The department shall promulgate rules to implement the provisions of
89 this section. Any rule or portion of a rule, as that term is defined in section
90 536.010, that is created under the authority delegated in this section shall
91 become effective only if it complies with and is subject to all of the provisions of
92 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
93 nonseverable and if any of the powers vested with the general assembly pursuant
94 to chapter 536 to review, to delay the effective date, or to disapprove and annul
95 a rule are subsequently held unconstitutional, then the grant of rulemaking
96 authority and any rule proposed or adopted after August 28, 2006, shall be
97 invalid and void.

98 8. Under section 23.253 of the Missouri sunset act:

99 (1) [The provisions of the new program authorized under this section shall
100 automatically sunset six years after August 28, 2006, unless reauthorized by an
101 act of the general assembly; and

102 (2) If such program is reauthorized,] The program authorized under this
103 section shall [automatically sunset twelve years after the effective date of the
104 reauthorization of this section] **expire on December 31, 2013, unless**
105 **reauthorized by the general assembly; and**

106 [(3)] (2) This section shall terminate on September first of the calendar
107 year immediately following the calendar year in which the program authorized
108 under this section is sunset; **and**

109 (3) **The provisions of this subsection shall not be construed to**
110 **limit or in any way impair the department's ability to issue tax credits**
111 **authorized on or before the date the program authorized under this**
112 **section expires or a taxpayer's ability to redeem such tax credits.**

 135.1180. 1. This section shall be known and may be cited as the
2 "Developmental Disability Care Provider Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Certificate", a tax credit certificate issued under this section;

5 (2) "Department", the Missouri department of social services;

6 (3) "Eligible donation", donations received, by a provider, from
7 a taxpayer that are used solely to provide direct care services to
8 persons with developmental disabilities who are residents of this
9 state. Eligible donations may include cash, publicly traded stocks and
10 bonds, and real estate that will be valued and documented according
11 to rules promulgated by the department of social services. For
12 purposes of this section, "direct care services" include, but are not
13 limited to, increasing the quality of care and service for persons with
14 developmental disabilities through improved employee compensation
15 and training;

16 (4) "Qualified developmental disability care provider" or
17 "provider", a care provider that provides assistance to persons with
18 developmental disabilities and is accredited by the Council on
19 Accreditation (COA), the Joint Commission on Accreditation of
20 Healthcare Organizations (JCAHO), or the Commission on Accreditation
21 of Rehabilitation Facilities (CARF), or is under contract with the
22 Missouri department of social services or department of mental health
23 to provide treatment services for such persons, and that receives
24 eligible donations. Any provider that operates more than one facility
25 or at more than one location shall be eligible for the tax credit under
26 this section only for any eligible donation made to facilities or
27 locations of the provider which are licensed or accredited;

28 (5) "Taxpayer", any of the following individuals or entities who
29 make an eligible donation to a provider:

30 (a) A person, firm, partner in a firm, corporation, or a
31 shareholder in an S corporation doing business in the state of Missouri
32 and subject to the state income tax imposed in chapter 143;

33 (b) A corporation subject to the annual corporation franchise tax
34 imposed in chapter 147;

35 (c) An insurance company paying an annual tax on its gross
36 premium receipts in this state;

37 (d) Any other financial institution paying taxes to the state of
38 Missouri or any political subdivision of this state under chapter 148;

39 (e) An individual subject to the state income tax imposed in
40 chapter 143;

41 (f) Any charitable organization which is exempt from federal
42 income tax and whose Missouri unrelated business taxable income, if

43 any, would be subject to the state income tax imposed under chapter
44 143.

45 3. For all taxable years beginning on or after January 1, 2012,
46 any taxpayer shall be allowed a credit against the taxes otherwise due
47 under chapter 143, 147, or 148 excluding withholding tax imposed by
48 sections 143.191 to 143.265 in an amount equal to fifty percent of the
49 amount of an eligible donation, subject to the restrictions in this
50 section. The amount of the tax credit claimed shall not exceed the
51 amount of the taxpayer's state income tax liability in the tax year for
52 which the credit is claimed. Any amount of credit that the taxpayer is
53 prohibited by this section from claiming in a tax year shall not be
54 refundable, but may be carried forward to any of the taxpayer's four
55 subsequent taxable years.

56 4. To claim the credit authorized in this section, a provider may
57 submit to the department an application for the tax credit authorized
58 by this section on behalf of taxpayers. The department shall verify that
59 the provider has submitted the following items accurately and
60 completely:

61 (1) A valid application in the form and format required by the
62 department;

63 (2) A statement attesting to the eligible donation received, which
64 shall include the name and taxpayer identification number of the
65 individual making the eligible donation, the amount of the eligible
66 donation, and the date the eligible donation was received by the
67 provider; and

68 (3) Payment from the provider equal to the value of the tax
69 credit for which application is made. If the provider applying for the
70 tax credit meets all criteria required by this subsection, the department
71 shall issue a certificate in the appropriate amount.

72 5. Tax credits issued under this section may be assigned,
73 transferred, sold, or otherwise conveyed, and the new owner of the tax
74 credit shall have the same rights in the credit as the
75 taxpayer. Whenever a certificate is assigned, transferred, sold, or
76 otherwise conveyed, a notarized endorsement shall be filed with the
77 department specifying the name and address of the new owner of the
78 tax credit or the value of the credit.

79 6. The department shall promulgate rules to implement the

80 provisions of this section. Any rule or portion of a rule, as that term is
81 defined in section 536.010, that is created under the authority delegated
82 in this section shall become effective only if it complies with and is
83 subject to all of the provisions of chapter 536, and, if applicable, section
84 536.028. This section and chapter 536, are nonseverable and if any of
85 the powers vested with the general assembly pursuant to chapter 536,
86 to review, to delay the effective date, or to disapprove and annul a rule
87 are subsequently held unconstitutional, then the grant of rulemaking
88 authority and any rule proposed or adopted after August 28, 2012, shall
89 be invalid and void.

90 7. Under section 23.253 of the Missouri sunset act:

91 (1) The provisions of the new program authorized under this
92 section shall automatically sunset on December 31, 2016, unless
93 reauthorized by an act of the general assembly; and

94 (2) If such program is reauthorized, the program authorized
95 under this section shall automatically sunset on December thirty-first
96 four years after the effective date of the reauthorization of this section;
97 and

98 (3) This section shall terminate on September first of the
99 calendar year immediately following the calendar year in which the
100 program authorized under this section is sunset; and

101 (4) The provisions of this subsection shall not be construed to
102 limit or in any way impair the department's ability to issue tax credits
103 authorized on or before the date the program authorized under this
104 section expires or a taxpayer's ability to redeem such tax credits.

161.870. 1. By September 1, 2012, the department of elementary
2 and secondary education shall establish a work group to assess the
3 available resources needed for effective work experiences for students
4 and young adults with disabilities. The work group shall review all
5 interagency coordination of services that match young adults who have
6 disabilities with employers who need employees to ensure that these
7 services are adequately meeting the following needs of students and
8 young adults with disabilities who seek employment and need
9 assistance with job placement:

10 (1) Recruitment;

11 (2) Assessment;

12 (3) Counseling;

- 13 (4) Pre-employment skills training;
- 14 (5) Vocational training;
- 15 (6) Student wages for try-out employment;
- 16 (7) Placement in unsubsidized employment; and
- 17 (8) Other assistance with transition to a quality adult life.

18 2. The goal of the work group shall be to evaluate the current
19 efforts and available resources and to promote the involvement of key
20 stakeholders including students, families, educators, employers and
21 other agencies in planning and implementing an array of services that
22 will culminate in successful student transition to employment, lifelong
23 learning, and quality of life. The work group shall focus on secondary
24 students and young adults with disabilities.

25 3. The work group shall:

26 (1) Assess the strengths and need for improvement in services for
27 transition services, instruction, and experiences that reinforce core
28 curriculum concepts and skills leading to gainful employment for
29 students and young adults with disabilities;

30 (2) Determine if any additional state partnerships provided
31 through nonfinancial interagency agreements between the department
32 of health and senior services, the department of economic development,
33 the department of mental health, or the department of social services,
34 or in the private sector, are needed to enhance the employment
35 potential of students and young adults with disabilities;

36 (3) Focus its efforts in developing careers for students and young
37 adults with disabilities, in order to prevent economic and social
38 dependency on state and community agencies and resources; and

39 (4) Report its findings to the director.

40 4. The department of elementary and secondary education shall
41 make recommendations based on the findings of the work group and
42 report them to the general assembly prior to January 1, 2013.

43 5. The work group shall be administered and its members chosen
44 by the commissioner of education. Work group members shall include
45 existing personnel and human resources available to the department of
46 elementary and secondary education including but not limited to
47 representatives from state agencies, local advocacy groups and
48 community members with valuable input regarding the needs of
49 disabled students and individuals, or members of the general assembly.

50 **6. The department of elementary and secondary education may**
51 **promulgate all necessary rules and regulations for the administration**
52 **of this section. Any rule or portion of a rule, as that term is defined in**
53 **section 536.010, that is created under the authority delegated in this**
54 **section shall become effective only if it complies with and is subject to**
55 **all of the provisions of chapter 536 and, if applicable, section**
56 **536.028. This section and chapter 536 are nonseverable and if any of**
57 **the powers vested with the general assembly pursuant to chapter 536**
58 **to review, to delay the effective date, or to disapprove and annul a rule**
59 **are subsequently held unconstitutional, then the grant of rulemaking**
60 **authority and any rule proposed or adopted after August 28, 2012, shall**
61 **be invalid and void.**

 209.200. As used in sections 209.200 to 209.204, the following terms shall
2 mean:

3 (1) "Disability", as defined in section 213.010;

4 (2) "Service dog", a dog that is being or has been specially trained to do
5 work or perform tasks which benefit a particular person with a disability. Service
6 dog includes:

7 (a) "Guide dog", a dog that is being or has been specially trained to assist
8 a particular blind or visually impaired person;

9 (b) "Hearing dog", a dog that is being or has been specially trained to
10 assist a particular deaf or hearing-impaired person;

11 (c) "Medical alert or [respond] **response** dog", a dog that is being or has
12 been trained to alert a person with a disability that a particular medical event
13 is about to occur or to respond to a medical event that has occurred;

14 (d) "Mobility dog", a dog that is being or has been specially trained to
15 assist a person with a disability caused by physical impairments;

16 **(e) "Professional therapy dog", a dog which is selected, trained,**
17 **and tested to provide specific physical therapeutic functions, under the**
18 **direction and control of a qualified handler who works with the dog as**
19 **a team as a part of the handler's occupation or profession. Such dogs,**
20 **with their handlers, perform such functions in institutional settings,**
21 **community-based group settings, or when providing services to specific**
22 **persons who have disabilities. Professional therapy dogs do not**
23 **include dogs, certified or not, which are used by volunteers in**
24 **visitation therapy.**

209.202. 1. Any person who [knowingly, intentionally, or recklessly
2 causes substantial physical injury to or the death of a service dog], **with**
3 **reckless disregard, injures or kills or permits a dog that he or she owns**
4 **or is in the immediate control of to injure or kill a service animal** is
5 guilty of a class A misdemeanor. [The provisions of this subsection shall not
6 apply to the destruction of a service dog for humane purposes.]

7 2. Any person who [knowingly or intentionally fails to exercise sufficient
8 control over an animal such person owns, keeps, harbors, or exercises control over
9 to prevent the animal from causing the substantial physical injury to or death of
10 a service dog, or the subsequent inability to function as a service dog as a result
11 of the animal's attacking, chasing, or harassing the service dog], **with reckless**
12 **disregard, interferes with or permits a dog that he or she owns or is in**
13 **the immediate control of to interfere with the use of a service animal**
14 **by obstructing, intimidating, or otherwise jeopardizing the safety of the**
15 **service animal or its user is guilty of a class B misdemeanor. Any**
16 **second or subsequent violation of this section** is guilty of a class A
17 misdemeanor.

18 3. Any person who [harasses or chases a dog known to such person to be
19 a service dog is guilty of a class B misdemeanor.

20 4. Any person who owns, keeps, harbors, or exercises control over an
21 animal and who knowingly or intentionally fails to exercise sufficient control over
22 the animal to prevent such animal from chasing or harassing a service dog while
23 such dog is carrying out the dog's function as a service dog, to the extent that the
24 animal temporarily interferes with the service dog's ability to carry out the dog's
25 function is guilty of a class B misdemeanor] **intentionally injures or kills or**
26 **permits a dog that he or she owns or is in the immediate control of to**
27 **injure or kill a service animal is guilty of a class D felony.**

28 5. [An owner of a service dog or a person with a disability who uses a
29 service dog may file a cause of action to recover civil damages against any person
30 who:

- 31 (1) Violates the provisions of subsection 1 or 2 of this section; or
32 (2) Steals a service dog resulting in the loss of the services of the service
33 dog.

34 6. Any civil damages awarded under subsection 5 of this section shall be
35 based on the following:

- 36 (1) The replacement value of an equally trained service dog, without any

37 differentiation for the age or experience of the service dog;

38 (2) The cost and expenses incurred by the owner of a service dog or the
39 person with a disability who used the service dog, including:

40 (a) The cost of temporary replacement services, whether provided by
41 another service dog or by a person;

42 (b) The reasonable costs incurred in efforts to recover a stolen service dog;
43 and

44 (c) Court costs and attorney's fees incurred in bringing a civil action under
45 subsection 5 of this section.

46 7. An owner of a service dog or a person with a disability who uses a
47 service dog may file a cause of action to recover civil damages against a person
48 who:

49 (1) Violates the provisions of subsections 1 to 4 of this section resulting
50 in injury from which the service dog recovers to an extent that the dog is able to
51 function as a service dog for the person with a disability; or

52 (2) Steals a service dog and the service dog is recovered resulting in the
53 service dog being able to function as a service dog for the person with a disability.

54 8. Any civil damages awarded under subsection 7 of this section shall be
55 based on the following:

56 (1) Veterinary medical expenses;

57 (2) Retraining expenses;

58 (3) The cost of temporary replacement services, whether provided by
59 another service dog or by a person;

60 (4) Reasonable costs incurred in the recovery of the service dog; and

61 (5) Court costs and attorney's fees incurred in bringing the civil action
62 under subsection 7 of this section.] **(1) In addition to any other penalty, a
63 person who is convicted of a violation of this section shall make full
64 restitution for all damages that arise out of or are related to the
65 offense, including but not limited to incidental and consequential
66 damages incurred by the service animal's user.**

67 **(2) Restitution includes, but is not limited to:**

68 **(a) The value of the animal;**

69 **(b) Replacement and training or retraining expenses for the
70 service animal and the user;**

71 **(c) Veterinary and other medical and boarding expenses for the
72 service animal;**

73 **(d) Medical expenses for the user; and**
74 **(e) Lost wages or income incurred by the user during any period**
75 **that the user is without the services of the service animal.**

76 [9.] 6. The provisions of this section shall not apply:

77 **(1) If a person with a disability, an owner, or a person having custody or**
78 **supervision of a service dog commits criminal or civil trespass; or**

79 **(2) To the destruction of a service dog for humane purposes.**

80 [10.] 7. Nothing in this section shall be construed to preclude any other
81 remedies available at law.

 288.034. 1. "Employment" means service, including service in interstate
2 commerce, performed for wages or under any contract of hire, written or oral,
3 express or implied, and notwithstanding any other provisions of this section,
4 service with respect to which a tax is required to be paid under any federal
5 unemployment tax law imposing a tax against which credit may be taken for
6 contributions required to be paid into a state unemployment fund or which, as a
7 condition for full tax credit against the tax imposed by the Federal
8 Unemployment Tax Act, is required to be covered under this law.

9 2. The term "employment" shall include an individual's entire service,
10 performed within or both within and without this state if:

11 (1) The service is localized in this state; or

12 (2) The service is not localized in any state but some of the service is
13 performed in this state and the base of operations, or, if there is no base of
14 operations, then the place from which such service is directed or controlled, is in
15 this state; or the base of operations or place from which such service is directed
16 or controlled is not in any state in which some part of the service is performed
17 but the individual's residence is in this state.

18 3. Service performed by an individual for wages shall be deemed to be
19 employment subject to this law:

20 (1) If covered by an election filed and approved pursuant to subdivision
21 (2) of subsection 3 of section 288.080;

22 (2) If covered by an arrangement pursuant to section 288.340 between the
23 division and the agency charged with the administration of any other state or
24 federal unemployment insurance law, pursuant to which all services performed
25 by an individual for an employing unit are deemed to be performed entirely
26 within this state.

27 4. Service shall be deemed to be localized within a state if the service is

28 performed entirely within such state; or the service is performed both within and
29 without such state, but the service performed without such state is incidental to
30 the individual's service within the state; for example, is temporary or transitory
31 in nature or consists of isolated transactions.

32 5. Service performed by an individual for remuneration shall be deemed
33 to be employment subject to this law unless it is shown to the satisfaction of the
34 division that such services were performed by an independent contractor. In
35 determining the existence of the independent contractor relationship, the common
36 law of agency right to control shall be applied. The common law of agency right
37 to control test shall include but not be limited to: if the alleged employer retains
38 the right to control the manner and means by which the results are to be
39 accomplished, the individual who performs the service is an employee. If only the
40 results are controlled, the individual performing the service is an independent
41 contractor.

42 6. The term "employment" shall include service performed for wages as
43 an agent-driver or commission-driver engaged in distributing meat products,
44 vegetable products, fruit products, bakery products, beverages (other than milk),
45 or laundry or dry-cleaning services, for his or her principal; or as a traveling or
46 city salesman, other than as an agent-driver or commission-driver, engaged upon
47 a full-time basis in the solicitation on behalf of, and the transmission to, his or
48 her principal (except for sideline sales activities on behalf of some other person)
49 of orders from wholesalers, retailers, contractors, or operators of hotels,
50 restaurants, or other similar establishments for merchandise for resale or
51 supplies for use in their business operations, provided:

52 (1) The contract of service contemplates that substantially all of the
53 services are to be performed personally by such individual; and

54 (2) The individual does not have a substantial investment in facilities
55 used in connection with the performance of the services (other than in facilities
56 for transportation); and

57 (3) The services are not in the nature of a single transaction that is not
58 part of a continuing relationship with the person for whom the services are
59 performed.

60 7. Service performed by an individual in the employ of this state or any
61 political subdivision thereof or any instrumentality of any one or more of the
62 foregoing which is wholly owned by this state and one or more other states or
63 political subdivisions, or any service performed in the employ of any

64 instrumentality of this state or of any political subdivision thereof, and one or
65 more other states or political subdivisions, provided that such service is excluded
66 from employment as defined in the Federal Unemployment Tax Act by Section
67 3306(c)(7) of that act and is not excluded from employment pursuant to subsection
68 9 of this section, shall be employment subject to this law.

69 8. Service performed by an individual in the employ of a corporation or
70 any community chest, fund, or foundation organized and operated exclusively for
71 religious, charitable, scientific, testing for public safety, literary, or educational
72 purposes, or for the prevention of cruelty to children or animals, no part of the
73 net earnings of which inures to the benefit of any private shareholder or
74 individual, or other organization described in Section 501(c)(3) of the Internal
75 Revenue Code which is exempt from income tax under Section 501(a) of that code
76 if the organization had four or more individuals in employment for some portion
77 of a day in each of twenty different weeks whether or not such weeks were
78 consecutive within a calendar year regardless of whether they were employed at
79 the same moment of time shall be employment subject to this law.

80 9. For the purposes of subsections 7 and 8 of this section, the term
81 "employment" does not apply to service performed:

82 (1) In the employ of a church or convention or association of churches, or
83 an organization which is operated primarily for religious purposes and which is
84 operated, supervised, controlled, or principally supported by a church or
85 convention or association of churches; or

86 (2) By a duly ordained, commissioned, or licensed minister of a church in
87 the exercise of such minister's ministry or by a member of a religious order in the
88 exercise of duties required by such order; or

89 (3) In the employ of a governmental entity referred to in subdivision (3)
90 of subsection 1 of section 288.032 if such service is performed by an individual in
91 the exercise of duties:

92 (a) As an elected official;

93 (b) As a member of a legislative body, or a member of the judiciary, of a
94 state or political subdivision;

95 (c) As a member of the state national guard or air national guard;

96 (d) As an employee serving on a temporary basis in case of fire, storm,
97 snow, earthquake, flood or similar emergency;

98 (e) In a position which, under or pursuant to the laws of this state, is
99 designated as (i) a major nontenured policy-making or advisory position, or (ii)

100 a policy-making or advisory position the performance of the duties of which
101 ordinarily does not require more than eight hours per week; or

102 (4) In a facility conducted for the purpose of carrying out a program of
103 rehabilitation for individuals whose earning capacity is impaired by age or
104 physical or mental deficiency or injury or providing remunerative work for
105 individuals who because of their impaired physical or mental capacity cannot be
106 readily absorbed in the competitive labor market, by an individual receiving such
107 rehabilitation or remunerative work; or

108 (5) As part of an unemployment work-relief or work-training program
109 assisted or financed in whole or in part by any federal agency or an agency of a
110 state or political subdivision thereof, by an individual receiving such work relief
111 or work training; or

112 (6) By an inmate of a custodial or penal institution; or

113 (7) In the employ of a school, college, or university, if such service is
114 performed (i) by a student who is enrolled and is regularly attending classes at
115 such school, college, or university, or (ii) by the spouse of such a student, if such
116 spouse is advised, at the time such spouse commences to perform such service,
117 that (I) the employment of such spouse to perform such service is provided under
118 a program to provide financial assistance to such student by such school, college,
119 or university, and (II) such employment will not be covered by any program of
120 unemployment insurance.

121 10. The term "employment" shall include the service of an individual who
122 is a citizen of the United States, performed outside the United States (except in
123 Canada), if:

124 (1) The employer's principal place of business in the United States is
125 located in this state; or

126 (2) The employer has no place of business in the United States, but:

127 (a) The employer is an individual who is a resident of this state; or

128 (b) The employer is a corporation which is organized under the laws of
129 this state; or

130 (c) The employer is a partnership or a trust and the number of the
131 partners or trustees who are residents of this state is greater than the number
132 who are residents of any one other state; or

133 (3) None of the criteria of subdivisions (1) and (2) of this subsection is met
134 but the employer has elected coverage in this state or, the employer having failed
135 to elect coverage in any state, the individual has filed a claim for benefits, based

136 on such service, under the law of this state;

137 (4) As used in this subsection and in subsection 11 of this section, the
138 term "United States" includes the states, the District of Columbia and the
139 Commonwealth of Puerto Rico.

140 11. An "American employer", for the purposes of subsection 10 of this
141 section, means a person who is:

142 (1) An individual who is a resident of the United States; or

143 (2) A partnership, if two-thirds or more of the partners are residents of
144 the United States; or

145 (3) A trust, if all of the trustees are residents of the United States; or

146 (4) A corporation organized under the laws of the United States or of any
147 state.

148 12. The term "employment" shall not include:

149 (1) Service performed by an individual in agricultural labor;

150 (a) For the purposes of this subdivision, the term "agricultural labor"
151 means remunerated service performed:

152 a. On a farm, in the employ of any person, in connection with cultivating
153 the soil, or in connection with raising or harvesting any agricultural or
154 horticultural commodity, including the raising, shearing, feeding, caring for,
155 training, and management of livestock, bees, poultry, and furbearing animals and
156 wildlife;

157 b. In the employ of the owner or tenant or other operator of a farm, in
158 connection with the operation, management, conservation, improvement, or
159 maintenance of such farm and its tools and equipment, or in salvaging timber or
160 clearing land of brush and other debris left by a hurricane, if the major part of
161 such service is performed on a farm;

162 c. In connection with the production or harvesting of any commodity
163 defined as an agricultural commodity in Section 15(g) of the Federal Agricultural
164 Marketing Act, as amended (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in
165 connection with the ginning of cotton, or in connection with the operation or
166 maintenance of ditches, canals, reservoirs, or waterways, not owned or operated
167 for profit, used exclusively for supplying and storing water for farming purposes;

168 d. (i) In the employ of the operator of a farm in handling, planting,
169 drying, packing, packaging, processing, freezing, grading, storing, or delivering
170 to storage or to market or to a carrier for transportation to market, in its
171 unmanufactured state, any agricultural or horticultural commodity; but only if

172 such operator produced more than one-half of the commodity with respect to
173 which such service is performed;

174 (ii) In the employ of a group of operators of farms (or a cooperative
175 organization of which such operators are members) in the performance of services
176 described in item (i) of this subparagraph, but only if such operators produced
177 more than one-half of the commodity with respect to which such service is
178 performed;

179 (iii) The provisions of items (i) and (ii) of this subparagraph shall not be
180 deemed to be applicable with respect to service performed in connection with
181 commercial canning or commercial freezing or in connection with any agricultural
182 or horticultural commodity after its delivery to a terminal market for distribution
183 for consumption; or

184 e. On a farm operated for profit if such service is not in the course of the
185 employer's trade or business. As used in this paragraph, the term "farm" includes
186 stock, dairy, poultry, fruit, furbearing animals, and truck farms, plantations,
187 ranches, nurseries, ranges, greenhouses or other similar structures, used
188 primarily for the raising of agricultural or horticultural commodities, and
189 orchards;

190 (b) The term "employment" shall include service performed after
191 December 31, 1977, by an individual in agricultural labor as defined in paragraph
192 (a) of this subdivision when such service is performed for a person who, during
193 any calendar quarter, paid remuneration in cash of twenty thousand dollars or
194 more to individuals employed in agricultural labor or for some portion of a day
195 in a calendar year in each of twenty different calendar weeks, whether or not
196 such weeks were consecutive, employed in agricultural labor ten or more
197 individuals, regardless of whether they were employed at the same moment of
198 time;

199 (c) For the purposes of this subsection any individual who is a member of
200 a crew furnished by a crew leader to perform service in agricultural labor for any
201 other person shall be considered as employed by such crew leader:

202 a. If such crew leader holds a valid certificate of registration under the
203 Farm Labor Contractor Registration Act of 1963; or substantially all the members
204 of such crew operate or maintain tractors, mechanized harvesting or crop-dusting
205 equipment, or any other mechanized equipment, which is provided by such crew
206 leader; and

207 b. If such individual is not in employment by such other person;

208 c. If any individual is furnished by a crew leader to perform service in
209 agricultural labor for any other person and that individual is not in the
210 employment of the crew leader:

211 (i) Such other person and not the crew leader shall be treated as the
212 employer of such individual; and

213 (ii) Such other person shall be treated as having paid cash remuneration
214 to such individual in an amount equal to the amount of cash remuneration paid
215 to such individual by the crew leader (either on his or her own behalf or on behalf
216 of such other person) for the service in agricultural labor performed for such other
217 person;

218 d. For the purposes of this subsection, the term "crew leader" means an
219 individual who:

220 (i) Furnishes individuals to perform service in agricultural labor for any
221 other person;

222 (ii) Pays (either on his or her own behalf or on behalf of such other
223 person) the individuals so furnished by him or her for the service in agricultural
224 labor performed by them; and

225 (iii) Has not entered into a written agreement with such other person
226 under which such individual is designated as in employment by such other
227 person;

228 (2) Domestic service in a private home except as provided in subsection
229 13 of this section;

230 (3) Service performed by an individual under the age of eighteen years in
231 the delivery or distribution of newspapers or shopping news but shall not include
232 delivery or distribution to any point for subsequent delivery or distribution;

233 (4) Service performed by an individual in, and at the time of, the sale of
234 newspapers or magazines to ultimate consumers under an arrangement under
235 which the newspapers or magazines are to be sold by him or her at a fixed price,
236 his or her compensation being based on the retention of the excess of such price
237 over the amount at which the newspapers or magazines are charged to him or
238 her, whether or not he or she is guaranteed a minimum amount of compensation
239 for such service, or is entitled to be credited with the unsold newspapers or
240 magazines turned back;

241 (5) Service performed by an individual in the employ of his or her son,
242 daughter, or spouse, and service performed by a child under the age of twenty-one
243 in the employ of his or her father or mother;

244 (6) Except as otherwise provided in this law, service performed in the
245 employ of a corporation, community chest, fund or foundation, organized and
246 operated exclusively for religious, charitable, scientific, literary, or educational
247 purposes, or for the prevention of cruelty to children or animals, no part of the
248 net earnings of which inures to the benefit of any private shareholder or
249 individual;

250 (7) Services with respect to which unemployment insurance is payable
251 under an unemployment insurance system established by an act of Congress;

252 (8) Service performed in the employ of a foreign government;

253 (9) Service performed in the employ of an instrumentality wholly owned
254 by a foreign government:

255 (a) If the service is of a character similar to that performed in foreign
256 countries by employees of the United States government or of an instrumentality
257 thereof; and

258 (b) If the division finds that the foreign government, with respect to whose
259 instrumentality exemption is claimed, grants an equivalent exemption with
260 respect to similar service performed in the foreign country by employees of the
261 United States government and of instrumentalities thereof. The certification of
262 the United States Secretary of State to the United States Secretary of Treasury
263 shall constitute prima facie evidence of such equivalent exemption;

264 (10) Service covered by an arrangement between the division and the
265 agency charged with the administration of any other state or federal
266 unemployment insurance law pursuant to which all services performed by an
267 individual for an employing unit during the period covered by the employing
268 unit's approved election are deemed to be performed entirely within the
269 jurisdiction of such other state or federal agency;

270 (11) Service performed in any calendar quarter in the employ of a school,
271 college or university not otherwise excluded, if such service is performed by a
272 student who is enrolled and regularly attending classes at such school, college,
273 or university, and the remuneration for such service does not exceed fifty dollars
274 (exclusive of board, room, and tuition);

275 (12) Service performed by an individual for a person as a licensed
276 insurance agent, a licensed insurance broker, or an insurance solicitor, if all such
277 service performed by such individual for such person is performed for
278 remuneration solely by way of commissions;

279 (13) Domestic service performed in the employ of a local college club or of

280 a local chapter of a college fraternity or sorority, except as provided in subsection
281 13 of this section;

282 (14) Services performed after March 31, 1982, in programs authorized and
283 funded by the Comprehensive Employment and Training Act by participants of
284 such programs, except those programs with respect to which unemployment
285 insurance coverage is required by the Comprehensive Employment and Training
286 Act or regulations issued pursuant thereto;

287 (15) Service performed by an individual who is enrolled at a nonprofit or
288 public educational institution which normally maintains a regular faculty and
289 curriculum and normally has a regularly organized body of students in
290 attendance at the place where its educational activities are carried on, as a
291 student in a full-time program, taken for credit at such institution, which
292 combines academic instruction with work experience, if such service is an integral
293 part of such program, and such institution has so certified to the employer;
294 except, that this subdivision shall not apply to service performed in a program
295 established for or on behalf of an employer or group of employers;

296 (16) Services performed by a licensed real estate salesperson or licensed
297 real estate broker if substantially all of the remuneration, whether or not paid in
298 cash, for the services performed, rather than to the number of hours worked, is
299 directly related to sales or other output, including the performance of services,
300 performed pursuant to a written contract between such individual and the person
301 for whom the services are performed and such contract provides that the
302 individual will not be treated as an employee with respect to such services for
303 federal tax purposes;

304 (17) Services performed as a direct seller who is engaged in the trade or
305 business of the delivering or distribution of newspapers or shopping news,
306 including any services directly related to such trade or business, or services
307 performed as a direct seller who is engaged in the trade or business of selling, or
308 soliciting the sale of, consumer products in the home or otherwise than in, or
309 affiliated with, a permanent, fixed retail establishment, if eighty percent or more
310 of the remuneration, whether or not paid in cash, for the services performed
311 rather than the number of hours worked is directly related to sales performed
312 pursuant to a written contract between such direct seller and the person for
313 whom the services are performed, and such contract provides that the individual
314 will not be treated as an employee with respect to such services for federal tax
315 purposes;

316 (18) Services performed as a volunteer research subject who is paid on a
317 per-study basis for scientific, medical or drug-related testing for any organization
318 other than one described in Section 501(c)(3) of the Internal Revenue Code or any
319 governmental entity.

320 13. The term "employment" shall include domestic service as defined in
321 subdivisions (2) and (13) of subsection 12 of this section performed after
322 December 31, 1977, if the employing unit for which such service is performed paid
323 cash wages of one thousand dollars or more for such services in any calendar
324 quarter after December 31, 1977.

325 14. The term "employment" shall include or exclude the entire service of
326 an individual for an employing unit during a pay period in which such
327 individual's services are not all excluded under the foregoing provisions, on the
328 following basis: if the services performed during one-half or more of any pay
329 period constitute employment as otherwise defined in this law, all the services
330 performed during such period shall be deemed to be employment; but if the
331 services performed during more than one-half of any such pay period do not
332 constitute employment as otherwise defined in this law, then none of the services
333 for such period shall be deemed to be employment. (As used in this subsection,
334 the term "pay period" means a period of not more than thirty-one consecutive
335 days for which a payment of remuneration is ordinarily made to the individual
336 by the employing unit employing such individual.) This subsection shall not be
337 applicable with respect to service performed in a pay period where any such
338 service is excluded pursuant to subdivision (8) of subsection 12 of this section.

339 15. The term "employment" shall not include the services of a full-time
340 student who performed such services in the employ of an organized summer camp
341 for less than thirteen calendar weeks in such calendar year.

342 16. For the purpose of subsection 15 of this section, an individual shall be
343 treated as a full-time student for any period:

344 (1) During which the individual is enrolled as a full-time student at an
345 educational institution; or

346 (2) Which is between academic years or terms if:

347 (a) The individual was enrolled as a full-time student at an educational
348 institution for the immediately preceding academic year or term; and

349 (b) There is a reasonable assurance that the individual will be so enrolled
350 for the immediately succeeding academic year or term after the period described
351 in paragraph (a) of this subdivision.

352 17. For the purpose of subsection 15 of this section, an "organized summer
353 camp" shall mean a summer camp which:

354 (1) Did not operate for more than seven months in the calendar year and
355 did not operate for more than seven months in the preceding calendar year; or

356 (2) Had average gross receipts for any six months in the preceding
357 calendar year which were not more than thirty-three and one-third percent of its
358 average gross receipts for the other six months in the preceding calendar year.

359 18. The term "employment" shall not mean service performed by a
360 remodeling salesperson acting as an independent contractor; however, if the
361 federal Internal Revenue Service determines that a contractual relationship
362 between a direct provider and an individual acting as an independent contractor
363 pursuant to the provisions of this subsection is in fact an employer-employee
364 relationship for the purposes of federal law, then that relationship shall be
365 considered as an employer-employee relationship for the purposes of this chapter.

366 **19. The term "employment" shall not mean in-home or**
367 **community-based services performed by a provider contracted to**
368 **provide such services for the clients of a county board for**
369 **developmental disability services organized and existing under sections**
370 **205.968 to 205.973, provided however, that the vendor shall perform the**
371 **payroll and fringe benefits accounting functions for the consumer.**

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

4 2. Political subdivisions of the state may by ordinance or resolution
5 designate parking spaces for the exclusive use of vehicles which display a
6 distinguishing license plate or [card] **placard** issued pursuant to section 301.071
7 or 301.142. Owners of private property used for public parking shall also
8 designate parking spaces for the exclusive use of vehicles which display a
9 distinguishing license plate or [card] **placard** issued pursuant to section 301.071
10 or 301.142. Whenever a political subdivision or owner of private property so
11 designates a parking space, the space shall be indicated by a sign upon which
12 shall be inscribed the international symbol of accessibility and may also include
13 any appropriate wording such as "Accessible Parking" to indicate that the space
14 is reserved for the exclusive use of vehicles which display a distinguishing license
15 plate or [card] **placard**. The sign described in this subsection shall also state,
16 or an additional sign shall be posted below or adjacent to the sign stating, the

17 following: "\$50 to \$300 fine.". [Beginning August 28, 2011, When any political
18 subdivision or owner of private property restripes a parking lot or constructs a
19 new parking lot, one in every four accessible spaces, but not less than one, shall
20 be served by an access aisle a minimum of ninety-six inches wide and shall be
21 designated "lift van accessible only" with signs that meet the requirements of the
22 federal Americans with Disabilities Act, as amended, and any rules or regulations
23 established pursuant thereto.] **When any political subdivision or owner of**
24 **private property restripes a parking lot or constructs a new parking lot**
25 **with twenty-five or more parking spaces, the parking lot and accessible**
26 **signs shall meet the minimum requirements of the federal Americans**
27 **with Disabilities Act, as amended, and any rules or regulations**
28 **established pursuant thereto, for the number of required accessible**
29 **parking spaces, which shall not be less than one, and shall be served by**
30 **an access aisle a minimum of ninety-six inches wide and shall be**
31 **designated "van accessible". If any accessible space is one hundred**
32 **thirty-two inches wide or wider, then the adjacent access aisle shall be**
33 **a minimum of sixty inches wide. If any accessible space is less than one**
34 **hundred thirty-two inches wide, then the adjacent access aisle shall be**
35 **a minimum of ninety-six inches wide.**

36 3. Any political subdivision, by ordinance or resolution, and any person
37 or corporation in lawful possession of a public off-street parking facility or any
38 other owner of private property may designate reserved parking spaces for the
39 exclusive use of vehicles which display a distinguishing license plate or [card]
40 **placard** issued pursuant to section 301.071 or 301.142 as close as possible to the
41 nearest accessible entrance. Such designation shall be made by posting
42 immediately adjacent to, and visible from, each space, a sign upon which is
43 inscribed the international symbol of accessibility, and may also include any
44 appropriate wording to indicate that the space is reserved for the exclusive use
45 of vehicles which display a distinguishing license plate or [card] **placard**.

46 4. The local police or sheriff's department may cause the removal of any
47 vehicle not displaying a distinguishing license plate or [card] **placard** on which
48 is inscribed the international symbol of accessibility and the word "disabled"
49 issued pursuant to section 301.142 or a "disabled veteran" license plate issued
50 pursuant to section 301.071 or a distinguishing license plate or [card] **placard**
51 issued by any other state from a space designated for physically disabled persons
52 if there is posted immediately adjacent to, and readily visible from, such space a

53 sign on which is inscribed the international symbol of accessibility and may
54 include any appropriate wording to indicate that the space is reserved for the
55 exclusive use of vehicles which display a distinguishing license plate or [card]
56 **placard**. Any person who parks in a space reserved for physically disabled
57 persons and is not displaying distinguishing license plates or a [card] **placard**
58 is guilty of an infraction and upon conviction thereof shall be punished by a fine
59 of not less than fifty dollars nor more than three hundred dollars. Any vehicle
60 which has been removed and which is not properly claimed within thirty days
61 thereafter shall be considered to be an abandoned vehicle.

62 5. Spaces designated for use by vehicles displaying the distinguishing
63 "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet
64 the requirements of the federal Americans with Disabilities Act, as amended, and
65 any rules or regulations established pursuant thereto. Notwithstanding the other
66 provisions of this section, on-street parking spaces designated by political
67 subdivisions in residential areas for the exclusive use of vehicles displaying a
68 distinguishing license plate or [card] **placard** issued pursuant to section 301.071
69 or 301.142 shall meet the requirements of the federal Americans with Disabilities
70 Act pursuant to this subsection and any such space shall have clearly and visibly
71 painted upon it the international symbol of accessibility [and any curb adjacent
72 to the space shall be clearly and visibly painted blue].

73 6. Any person who, without authorization, uses a distinguishing license
74 plate or [card] **placard** issued pursuant to section 301.071 or 301.142 to park in
75 a parking space reserved under authority of this section shall be guilty of a class
76 B misdemeanor.

77 7. Law enforcement officials may enter upon private property open to
78 public use to enforce the provisions of this section and section 301.142, including
79 private property designated by the owner of such property for the exclusive use
80 of vehicles which display a distinguishing license plate or [card] **placard** issued
81 pursuant to section 301.071 or 301.142.

82 8. Nonconforming signs or spaces otherwise required pursuant to this
83 section which are in use prior to August 28, 2011, shall not be in violation of this
84 section during the useful life of such signs or spaces. Under no circumstances
85 shall the useful life of the nonconforming signs or spaces be extended by means
86 other than those means used to maintain any sign or space on the owner's
87 property which is not used for vehicles displaying a disabled license plate.

88 9. Beginning August 28, 2011, all new signs erected under this section

89 shall not contain the words "Handicap Parking" or "Handicapped Parking".

304.028. 1. (1) There is hereby created in the state treasury for use by
2 the department of health and senior services a fund to be known as the "Brain
3 Injury Fund". All judgments collected pursuant to this section, federal grants,
4 private donations and any other moneys designated for the brain injury fund
5 shall be deposited in the fund. Moneys deposited in the fund shall, upon
6 appropriation by the general assembly to the department of health and senior
7 services, be received and expended by the department for the purpose of
8 transition [and], integration, **and provision of [medical] community-based**
9 **consumer services in comprehensive brain injury day rehabilitation**
10 **therapy, vocational, home and community support**, social and educational
11 [services or] activities for purposes of outreach and supports to enable individuals
12 with [traumatic] brain injury and their families to live in the community.

13 (2) **The department of health and senior services, in cooperation**
14 **with the department of social services, shall seek waivers from the**
15 **federal Department of Health and Human Services to allow moneys**
16 **from the brain injury fund to be used under the MO HealthNet program**
17 **to provide services under this section. Upon the granting of such**
18 **waiver, fifty percent of all moneys in the fund shall be designated as**
19 **MO HealthNet federal match moneys under the waiver. The waivers**
20 **under this subdivision shall be designed so that parity is established in**
21 **funding for each of the eligible MO HealthNet service areas to create**
22 **a balance for access to all brain injury services.**

23 (3) **A committee shall be created to develop service descriptions,**
24 **regulations, and parity of funding for eligible MO HealthNet service**
25 **areas, as needed. The ten-member volunteer committee shall be**
26 **organized by the department and shall be comprised of two**
27 **representatives from each of the following: Missouri Association of**
28 **Rehabilitation Facilities, the Brain Injury Association, the Brain Injury**
29 **Advisory Council, the department of social services, and the**
30 **department of health and senior services. The committee composition**
31 **shall include at least one individual with a brain injury. Once services**
32 **are established under this section, the committee shall, at a minimum,**
33 **meet annually to review services using the most current department of**
34 **health and senior services brain injury needs assessment. The review**
35 **process shall require the ten-member volunteer committee to be**
36 **responsible for addressing any modifications needed in the program**

37 **services. Such review process shall ensure services are meeting the**
38 **needs of brain injury consumers.**

39 (4) Notwithstanding the provisions of section 33.080 to the contrary, any
40 unexpended balance in the brain injury fund at the end of any biennium shall not
41 be transferred to the general revenue fund.

42 2. In all criminal cases including violations of any county ordinance or any
43 violation of criminal or traffic laws of this state, including an infraction, there
44 shall be assessed as costs a surcharge in the amount of [two] **ten** dollars. No
45 such surcharge shall be collected in any proceeding involving a violation of an
46 ordinance or state law when the proceeding or defendant has been dismissed by
47 the court or when costs are to be paid by the state, county or municipality.

48 3. Such surcharge shall be collected and distributed by the clerk of the
49 court as provided in sections 488.010 to 488.020. The surcharge collected
50 pursuant to this section shall be paid to the state treasury to the credit of the
51 brain injury fund established in this section.

Section B. The provisions of section 161.870 of this act shall terminate on
2 January 1, 2013.

Section C. Because immediate action is necessary to ensure compliance
2 with the federal Americans With Disabilities Act, the repeal and reenactment of
3 section 301.143 of this act is deemed necessary for the immediate preservation of
4 the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the repeal and
6 reenactment of section 301.143 of this act shall be in full force and effect upon its
7 passage and approval.

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