

SS HB 1318 -- EMPLOYEE IDENTITY AND MENTAL HEALTH

This bill changes the laws regarding the use of a Social Security number as an employee number and the laws regarding mental health.

EMPLOYEE IDENTITY (Section 407.1355, RSMo)

The bill prohibits a person or entity, other than a state or local agency, from requiring an individual to use the last four digits of his or her Social Security number as an employee number for any type of employment-related activity in addition to the current provision that prohibits a person or entity from requiring an individual to use his or her entire Social Security number as an employee number.

The provision will only apply to this use after December 31, 2015.

MENTAL HEALTH ASSESSMENT PILOT PROGRAM (Section 559.117)

The bill authorizes the Director of the Department of Corrections to establish a three-year pilot program regarding a mental health assessment process. A judge in a participating county may, upon a motion filed by the prosecutor, request that a criminal offender be placed in the department for 120 days for a mental health assessment and for treatment if it appears that the offender has a mental disorder or illness that may qualify him or her for probation, including community psychiatric rehabilitation programs, and the probation is appropriate and not inconsistent with public safety. The victim must be given notice of the motion and an opportunity to be heard before the judge rules on the motion. Upon the court's recommendation, the department must determine the offender's eligibility for the assessment process. At the end of the 120 days, the department must send an assessment report to the sentencing court which may, if appropriate, release the offender on probation. The offender must be supervised by a state probation and parole officer who must work with the Department of Mental Health to enroll eligible offenders into community psychiatric rehabilitation programs.

An offender is not eligible for probation if he or she has been found guilty of or pled guilty to second-degree murder, forcible or first-degree statutory rape, forcible or first-degree statutory sodomy, first-degree child molestation that is classified as a class A felony, or any other offense that does not allow for probation or parole or if he or she has been found to be a predatory sexual offender.

The directors of the Department of Corrections and the Department

of Mental Health must jointly submit recommendations to the Governor and the General Assembly by December 31, 2015, on whether to expand the process statewide.

PERSONS ON AN EMPLOYMENT DISQUALIFICATION LIST (Section 630.170)

Currently, a person who is listed on the Department of Mental Health, Department of Social Services, or the Department of Health and Senior Services employee disqualification list or registry or who has been convicted of or pled guilty or nolo contendere to a specified felony is disqualified from holding a specified position in any public or private facility or day program funded or licensed by the Department of Mental Health or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained. The bill also disqualifies the person from holding a specified position in any residential facility or specialized service operated, licensed, certified, accredited, or in possession of deemed status.

Currently, a person disqualified from specified employment may seek an exception to the disqualification through a written request to the department director, or his or her designee, no more than once every 12 months. The bill allows a person to make a request no more than once every six months.

Any person placed on the Department of Mental Health Employment Disqualification Registry prior to August 28, 2012, may be removed from the registry by the department director or designee if in the judgment of the department director or designee a clear showing has been made, by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified or any other acts that would be harmful to a patient, resident, or client of a facility, program, or service.

Currently, an applicant for a direct care position in specified mental health facilities must sign a consent form for a criminal record review and a form to disclose any previous criminal history or employment disqualification. The bill requires an applicant for any position in specified facilities to sign the forms.

A mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained and a specialized service operated, accredited, or in possession of deemed status of the department are added to the list of facilities and programs that are required, no later than two working days after hiring a person, to request a criminal background check and to inquire whether the person is listed on

the employee disqualification list or registry of the departments of Mental Health, Health and Senior Services, or Social Services for new employees who will have contact with clients, residents, or patients.

A provider is guilty of a class A misdemeanor if he or she hires a person to hold any position knowing that the person has been disqualified under these provisions. Any of these facilities that decline to employ or discharge a person who is disqualified under the provisions of the bill must be immune from suit by that person for the failure to employ or for the discharge of the person due to disqualification. Any employer who is required to discharge an employee because the employee was placed on the Department of Mental Health Employment Disqualification Registry after the date of hire cannot be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge.

Currently, the Department of Mental Health may maintain the disqualification registry. The bill requires the department to maintain the registry. The bill specifies the procedure for appealing a decision to have a person placed on the registry and how the department determines the length of time the person's name must appear on the registry.

The department must provide the disqualification registry to other state and federal agencies upon request. The department may provide the registry to any of the mental health facilities or programs covered under these provisions and to a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations are included in the registry.

MENTAL HEALTH FACILITY EMPLOYEES (Section 630.945)

The bill specifies that beginning July 1, 2013, no state employee, regardless of job classification, working in a maximum or intermediate security mental health facility or any portion of a mental health facility with maximum or intermediate security can be mandated to work more than 12 hours in any 24-hour period unless the Department of Mental Health declares an emergency workforce shortage.

RELEASE OF SEXUALLY VIOLENT PREDATORS (Section 632.501)

The prosecutor of the jurisdiction into which a person who has been committed as a sexually violent predator is to be released from the Department of Mental Health is added to the list of individuals to whom a petition for release must be served when the department director determines that the person's mental

abnormality has so changed that he or she is not likely to commit acts of sexual violence if released.