

HOUSE _____ AMENDMENT NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 579, Section A, Page 1, Line 4, by inserting after all of said
2 Section and Line the following:

3 "8.241. 1. In addition to other provisions of law relating to title to and conveyance of real property by the
4 state, and notwithstanding any provisions of chapter 8 to the contrary, if the state should ever purchase or otherwise
5 acquire ownership of real property located in a city not within a county as described in subsection 2 of this section, the
6 state shall:

7 (1) Use, operate and maintain such property in full compliance with all applicable deed restrictions
8 encumbering the property;

9 (2) Operate, maintain and use the property exclusively by the department of mental health for the purpose of
10 housing no more than six employed and employable [mentally retarded or] developmentally disabled adults, and for
11 no other purpose and by no other state agency, in whole or in part;

12 (3) Not sell or otherwise transfer ownership of the property, unless such property is sold or transferred solely
13 for private, single-family residential use, which shall not be deemed to include, without limitation, any sale, transfer or
14 conveyance of ownership of the property to any other state agency or department or program.

15 2. The property subject to the provisions of this section is more particularly described as follows: A parcel
16 of real estate situated in Lot 20 in Block A of Compton Heights and in Block No. 1365 of the City of St. Louis,
17 fronting 100 feet 0-3/8 inches on the North line of Longfellow Boulevard by a depth Northwardly on the east line of a
18 160 square foot and 159 feet 5 inches on the West line to the North line of said lot on which there is a frontage of 100
19 feet bounded East by Compton Avenue together with all improvements thereon, known as and numbered 3205
20 Longfellow Boulevard.

21 178.900. For the purposes of sections 178.900 to [178.970] 178.960 the following words mean:

22 (1) "Department", the department of elementary and secondary education;

23 (2) "[Handicapped] Disabled persons", a lower range educable or upper range trainable [mentally retarded]
24 developmentally disabled or other [handicapped] disabled person sixteen years of age or over who has had school
25 training and has a productive work capacity in a sheltered environment adapted to the abilities of the [mentally
26 retarded] developmentally disabled but whose limited capabilities make him nonemployable in competitive business
27 and industry and unsuited for vocational rehabilitation training;

28 (3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit corporation, which,
29 except for its staff, employs only [handicapped] disabled persons and has a minimum enrollment of at least fifteen
30 employable [handicapped] disabled persons;

31 (4) "Staff", employees of a sheltered workshop engaged in management, work procurement, purchasing,
32 supervision, sales, bookkeeping, and secretarial and clerical functions.

33 189.010. 1. As used in sections 189.010 to 189.085, unless the context clearly indicates otherwise, the
34 following terms mean:

35 (1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or facilities meeting
36 standards to be established under the provisions of sections 189.010 to 189.085;

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

Action Taken _____ Date _____ 1

1 (3) "Director", the director of the department of social services of the state of Missouri or his duly
2 authorized representative;

3 (4) "High risk patient", a woman of childbearing age who has any condition, or is at risk of developing some
4 condition, medically or otherwise known to predispose to premature birth or to produce [mental retardation]
5 developmental disability; or any infant or child who has any condition, or is at risk of developing some condition,
6 medically known to predispose to [mental retardation] developmental disability;

7 (5) "Person", any individual, firm, partnership, association, corporation, company, group of individuals
8 acting together for a common purpose or organization of any kind, including any governmental agency other than the
9 United States or the state of Missouri;

10 (6) "Region", contiguous geographic areas of the state larger than single counties where health programs
11 including special services for high risk patients can be developed efficiently and economically;

12 (7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization, and related activity
13 to correct high risk conditions including all things reasonably incident and necessary to make the service available to
14 the high risk patient;

15 (8) "Special services", diagnostic and treatment services which may not be efficiently or economically
16 developed as a regular component of a hospital or clinic either because of high cost or infrequent demand but which
17 may be required for high risk patients; such services would include, but not be limited to, intensive care units for the
18 care of premature infants and intra-uterine fetal monitoring.

19 2. Expenditures for the operation of a hospital include, but are not limited to, amounts paid in connection
20 with inpatient care in the hospital; ambulatory or emergency care provided by the hospital; ambulance services used in
21 the transportation of patients to the hospital or among hospitals; administration of the hospital; maintenance and
22 repairs of the hospital; depreciation of hospital capital assets; food, drugs, equipment and other supplies used by the
23 hospital; and recruitment, selection and training of physician, nursing, allied health and other hospital personnel.

24 3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted for paying certain
25 operating costs, or groups of costs, but are intended to supplement the appropriations from the local governmental
26 agency for poor patients. Patients eligible for Medicare, Medicaid and other third party insurance are not eligible
27 under this chapter.

28 189.065. The department is authorized and directed to work with public and private institutions and
29 agencies or persons to insure that special services will be available in all regions of the state, both rural and
30 metropolitan. Whenever services or special services required for the purposes of sections 189.010 to 189.085 are not
31 available, the department is authorized to use up to ten percent of the funds appropriated for the purposes of sections
32 189.010 to 189.085 to assist in establishing the facilities and professional staff required. For the purposes of
33 implementing this section, the department and the advisory committees shall give special consideration to those areas
34 of the state or population groups which demonstrate the highest incidence of [mental retardation] developmental
35 disability or where accessibility to services or special services may be limited because of distance.”; and
36

37
38 Further amend said Bill, Section 191.310, Page 4, Line 57, by inserting after all of said Section and Line the
39 following:

40 “192.005. There is hereby created and established as a department of state government the "Department of
41 Health and Senior Services". The department of health and senior services shall supervise and manage all public
42 health functions and programs. The department shall be governed by the provisions of the Omnibus State
43 Reorganization Act of 1974, Appendix B, RSMo, unless otherwise provided in sections 192.005 to 192.014. The

1 division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited
2 to, such agencies and functions as the state health planning and development agency, the crippled children's service,
3 chapter 201, the bureau and the program for the prevention of [mental retardation] developmental disability, the
4 hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections
5 191.500 to 191.550, the family practice residency program, [sections 191.575 to 191.590,] the licensure and
6 certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby transferred
7 to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission,
8 chapter 200, is hereby transferred to the department of health and senior services by a type III transfer as such
9 transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984.
10 The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984,
11 relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this
12 section. The division of health of the department of social services is abolished.”; and
13

14
15 Further amend said Bill, Section 197.100, Page 7, Line 31, by inserting after all of said Section and Line the
16 following:

17 “198.012. 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the following entities:

18 (1) Any hospital, facility or other entity operated by the state or the United States;

19 (2) Any facility or other entity otherwise licensed by the state and operating exclusively under such license
20 and within the limits of such license, unless the activities and services are or are held out as being activities or services
21 normally provided by a licensed facility under sections 198.003 to 198.186, 198.200, 208.030, and 208.159, except
22 hospitals licensed under the provisions of chapter 197;

23 (3) Any hospital licensed under the provisions of chapter 197, provided that the assisted living facility,
24 intermediate care facility or skilled nursing facility are physically attached to the acute care hospital; and provided
25 further that the department of health and senior services in promulgating rules, regulations and standards pursuant to
26 section 197.080, with respect to such facilities, shall establish requirements and standards for such hospitals consistent
27 with the intent of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall apply
28 to every assisted living facility, intermediate care facility or skilled nursing facility regardless of physical proximity to
29 any other health care facility;

30 (4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care, treatment,
31 habilitation and rehabilitation exclusively to persons who have a primary diagnosis of mental disorder, mental illness,
32 [mental retardation or] developmental disabilities, as defined in section 630.005;

33 (5) Any provider of care under a life care contract, except to any portion of the provider's premises on which
34 the provider offers services provided by an intermediate care facility or skilled nursing facility as defined in section
35 198.006. For the purposes of this section, "provider of care under a life care contract" means any person contracting
36 with any individual to furnish specified care and treatment to the individual for the life of the individual, with
37 significant prepayment for such care and treatment.

38 2. Nothing in this section shall prohibit any of these entities from applying for a license under sections
39 198.003 to 198.136.

40 205.968. 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of
41 any county or city not within a county of this state shall establish a board of directors. The board of directors shall be
42 a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence
43 facilities, or related services, for the care or employment, or both, of [handicapped] disabled persons. The facility

1 may operate at one or more locations in the county or city not within a county. Once established, the board may, in its
2 own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law,
3 necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is
4 created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange,
5 transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated
6 and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri
7 division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in
8 section 70.600 for the purposes of sections 70.600 to 70.755.

9 2. Services may only be provided for those persons defined as [handicapped] disabled persons in section
10 178.900 and those persons defined as [handicapped persons] disabled in this section whether or not employed at the
11 facility or in the community, and for persons who are [handicapped] disabled due to developmental disability.
12 Persons having substantial functional limitations due to a mental illness as defined in section 630.005 shall not be
13 eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in
14 services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services
15 under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops
16 must be at least sixteen years of age. The board may, in its discretion, impose limitations with respect to individuals
17 to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of
18 the persons and community to be served as assessed by the board, and the appropriateness and efficiency of
19 combining services to persons with various types of [handicaps or] disabilities.

20 3. For the purposes of sections 205.968 to 205.972, the term

21 (1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

22 (a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning
23 disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related
24 to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

25 a. Which originated before age eighteen; and

26 b. Which can be expected to continue indefinitely;

27 (b) A developmental disability as defined in section 630.005;

28 (2) "[Handicapped] Disabled person" shall mean a person who is lower range educable or upper range
29 trainable mentally retarded or a person who has a developmental disability.

30 208.151. 1. Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the
31 purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the
32 federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible
33 to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

34 (1) All participants receiving state supplemental payments for the aged, blind and disabled;

35 (2) All participants receiving aid to families with dependent children benefits, including all persons under
36 nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of
37 subsection 1 of section 208.040. Participants eligible under this subdivision who are participating in drug court, as
38 defined in section 478.001, shall have their eligibility automatically extended sixty days from the time their dependent
39 child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid
40 Services;

41 (3) All participants receiving blind pension benefits;

42 (4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total
43 disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less

1 restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and
2 are patients in state institutions for mental diseases or tuberculosis;

3 (5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent
4 children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an
5 intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in
6 42 U.S.C. 1396d, as amended;

7 (6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent
8 children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of
9 subsection 1 of section 208.040;

10 (7) All persons eligible to receive nursing care benefits;

11 (8) All participants receiving family foster home or nonprofit private child-care institution care, subsidized
12 adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

13 (9) All persons who were participants receiving old age assistance benefits, aid to the permanently and
14 totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility
15 requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of
16 the implementation of Title XVI of the federal Social Security Act, as amended;

17 (10) Pregnant women who meet the requirements for aid to families with dependent children, except for the
18 existence of a dependent child in the home;

19 (11) Pregnant women who meet the requirements for aid to families with dependent children, except for the
20 existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1
21 of section 208.040;

22 (12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an
23 income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and
24 amended by the federal Department of Health and Human Services, or its successor agency;

25 (13) Children who have attained one year of age but have not attained six years of age who are eligible for
26 medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The family support
27 division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level
28 established by the Department of Health and Human Services, or its successor agency;

29 (14) Children who have attained six years of age but have not attained nineteen years of age. For children
30 who have attained six years of age but have not attained nineteen years of age, the family support division shall use an
31 income assessment methodology which provides for eligibility when family income is equal to or less than equal to
32 one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its
33 successor agency. As necessary to provide MO HealthNet coverage under this subdivision, the department of social
34 services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to
35 children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2)
36 of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by
37 paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

38 (15) The family support division shall not establish a resource eligibility standard in assessing eligibility for
39 persons under subdivision (12), (13) or (14) of this subsection. The MO HealthNet division shall define the amount
40 and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of
41 this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

42 (16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made
43 available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as

1 amended;

2 (17) A child born to a woman eligible for and receiving MO HealthNet benefits under this section on the
3 date of the child's birth shall be deemed to have applied for MO HealthNet benefits and to have been found eligible
4 for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of
5 time determined in accordance with applicable federal and state law and regulations so long as the child is a member
6 of the woman's household and either the woman remains eligible for such assistance or for children born on or after
7 January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of
8 such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the
9 child so that claims may be submitted and paid under such child's identification number;

10 (18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or
11 (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to
12 families with dependent children. The family support division shall utilize an application for eligibility for such
13 persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits.
14 The division shall provide such application forms to applicants whose preliminary income information indicates that
15 they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under
16 subdivision (12), (13) or (14) of this subsection shall be informed of the aid to families with dependent children
17 program and that they are entitled to apply for such benefits. Any forms utilized by the family support division for
18 assessing eligibility under this chapter shall be as simple as practicable;

19 (19) Subject to appropriations necessary to recruit and train such staff, the family support division shall
20 provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at
21 the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and
22 reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone,
23 supplies, and equipment, of such eligibility specialists. The division may provide a health care provider with a
24 part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the
25 placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to
26 the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division
27 may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or
28 former welfare participants. The division may consider training such current or former welfare participants as
29 eligibility specialists for this program;

30 (20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under
31 subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related
32 and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period
33 beginning on the last day of their pregnancy;

34 (21) Case management services for pregnant women and young children at risk shall be a covered service.
35 To the greatest extent possible, and in compliance with federal law and regulations, the department of health and
36 senior services shall provide case management services to pregnant women by contract or agreement with the
37 department of social services through local health departments organized under the provisions of chapter 192 or
38 chapter 205 or a city health department operated under a city charter or a combined city-county health department or
39 other department of health and senior services designees. To the greatest extent possible the department of social
40 services and the department of health and senior services shall mutually coordinate all services for pregnant women
41 and children with the crippled children's program, the prevention of [mental retardation] developmental disability
42 program and the prenatal care program administered by the department of health and senior services. The department
43 of social services shall by regulation establish the methodology for reimbursement for case management services

1 provided by the department of health and senior services. For purposes of this section, the term "case management"
2 shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk
3 mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health
4 departments who provide prenatal care under physician protocol and who participate in the MO HealthNet program
5 for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for
6 which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

7 (22) By January 1, 1988, the department of social services and the department of health and senior services
8 shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the
9 subject, including projected costs and the time needed for implementation, to the general assembly. The department
10 of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation
11 promulgated pursuant to chapter 207;

12 (23) All participants who would be eligible for aid to families with dependent children benefits except for
13 the requirements of paragraph (d) of subdivision (1) of section 208.150;

14 (24) (a) All persons who would be determined to be eligible for old age assistance benefits under the
15 eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive
16 methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1,
17 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change
18 the income limit if authorized by annual appropriation;

19 (b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility
20 standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies
21 as contained in the MO HealthNet state plan as of January 1, 2005, except that less restrictive income methodologies,
22 as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the
23 federal poverty level;

24 (c) All persons who would be determined to be eligible for permanent and total disability benefits under the
25 eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive
26 methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1,
27 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change
28 the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability
29 benefits shall not be limited by age;

30 (25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage
31 pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive
32 eligibility in accordance with 42 U.S.C. 1396r-1;

33 (26) Persons who are independent foster care adolescents, as defined in 42 U.S.C. Section 1396d, or who
34 are within reasonable categories of such adolescents who are under twenty-one years of age as specified by the state,
35 are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

36 2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064
37 and chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
38 authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions
39 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
40 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to
41 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
42 rule proposed or adopted after August 28, 2002, shall be invalid and void.

43 3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42

1 U.S.C. 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which
2 such family became ineligible for such assistance because of increased income from employment shall, while a
3 member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following
4 the month in which such family would otherwise be determined to be ineligible for such assistance because of income
5 and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601, et seq., as amended,
6 in at least three of the six months immediately preceding the month in which such family becomes ineligible for such
7 aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for
8 MO HealthNet benefits for six calendar months following the month of such ineligibility as long as such family
9 includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the
10 entire six-month period described in this section and which meets reporting requirements and income tests established
11 by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits
12 without fee for an additional six months. The MO HealthNet division may provide by rule and as authorized by
13 annual appropriation the scope of MO HealthNet coverage to be granted to such families.

14 4. When any individual has been determined to be eligible for MO HealthNet benefits, such medical
15 assistance will be made available to him or her for care and services furnished in or after the third month before the
16 month in which he made application for such assistance if such individual was, or upon application would have been,
17 eligible for such assistance at the time such care and services were furnished; provided, further, that such medical
18 expenses remain unpaid.

19 5. The department of social services may apply to the federal Department of Health and Human Services for
20 a MO HealthNet waiver amendment to the Section 1115 demonstration waiver or for any additional MO HealthNet
21 waivers necessary not to exceed one million dollars in additional costs to the state, unless subject to appropriation or
22 directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural
23 health clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the payment
24 requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver
25 application is approved by the oversight committee created in section 208.955.

26
27 A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days
28 after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved
29 within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of
30 the respective elected members thereof, unless the request for such a waiver is made subject to appropriation or
31 directed by statute.

32 6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made
33 eligible for MO HealthNet benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible
34 if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed
35 in 42 U.S.C. Section 1396a(a)(10)(A)(I)."; and

36
37
38 Further amend said Bill, Section 208.240, Page 7, Line 5 by inserting after all of said Section and Line the following:

39 "208.275. 1. As used in this section, unless the context otherwise indicates, the following terms mean:

40 (1) "Elderly", any person who is sixty years of age or older;

41 (2) "[Handicapped] Disabled", any person having a physical or mental condition, either permanent or
42 temporary, which would substantially impair ability to operate or utilize available transportation.

43 2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri

1 department of transportation. The members of the council shall be: two members of the senate appointed by the
2 president pro tem, who shall be from different political parties; two members of the house of representatives
3 appointed by the speaker, who shall be from different political parties; the assistant for transportation of the Missouri
4 department of transportation, or his designee; the assistant commissioner of the department of elementary and
5 secondary education, responsible for special transportation, or his designee; the director of the division of aging of the
6 department of social services, or his designee; the deputy director for [mental retardation/] developmental disabilities
7 and the deputy director for administration of the department of mental health, or their designees; the executive
8 secretary of the governor's committee on the employment of the [handicapped] disabled; and seven consumer
9 representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer
10 representatives shall represent the elderly and three shall represent the [handicapped] disabled. Two of such three
11 members representing [handicapped] disabled persons shall represent those with physical [handicaps] disabilities.
12 Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is
13 appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be
14 selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or
15 resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which
16 such member had been appointed.

17 3. State agency personnel shall serve on the council without additional appropriations or compensation. The
18 consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and
19 necessary expenses incurred in the performance of their duties on the council from funds appropriated to the
20 department of transportation. Legislative members shall be reimbursed by their respective appointing bodies out of
21 the contingency fund for such body for necessary expenses incurred in the performance of their duties.

22 4. Staff for the council shall be provided by the Missouri department of transportation. The department shall
23 designate a special transportation coordinator who shall have had experience in the area of special transportation, as
24 well as such other staff as needed to enable the council to perform its duties.

25 5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice
26 chairman.

27 6. The coordinating council on special transportation shall:

28 (1) Recommend and periodically review policies for the coordinated planning and delivery of special
29 transportation when appropriate;

30 (2) Identify special transportation needs and recommend agency funding allocations and resources to meet
31 these needs when appropriate;

32 (3) Identify legal and administrative barriers to effective service delivery;

33 (4) Review agency methods for distributing funds within the state and make recommendations when
34 appropriate;

35 (5) Review agency funding criteria and make recommendations when appropriate;

36 (6) Review area transportation plans and make recommendations for plan format and content;

37 (7) Establish measurable objectives for the delivery of transportation services;

38 (8) Review annual performance data and make recommendations for improved service delivery, operating
39 procedures or funding when appropriate;

40 (9) Review local disputes and conflicts on special transportation and recommend solutions.”; and

41
42 Further amend said Bill, Section 208.798, Page 7, Line 6, by inserting after all of said Section and Line the following:

43 “210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety

1 Act".

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

3 (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt
4 child-care center, child-placing agency, residential care facility for children, group home, foster family group home,
5 foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section
6 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed
7 primarily for recreational or educational purposes;

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

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

11 (4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or
12 association who provides in-home services under contract with the division of aging, or any employer of nurses or
13 nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants
14 employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3)
15 of subsection 1 of section 198.012 applies;

16 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or
17 federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

18 (6) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this
19 section;

20 (7) "Mental health provider", any [mental retardation] developmental disability facility or group home as
21 defined in section 633.005;

22 (8) "Mental health worker", any person employed by a mental health provider to provide personal care
23 services and supports;

24 (9) "Patrol", the Missouri state highway patrol;

25 (10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or
26 supports necessary for a person with a physical or mental disability to enter and maintain employment or to live
27 independently;

28 (11) "Personal-care provider", any person, corporation, or association who provides personal-care services
29 or supports under contract with the department of mental health, the division of aging, the department of health and
30 senior services or the department of elementary and secondary education;

31 (12) "Related child care", child care provided only to a child or children by such child's or children's
32 grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

33 (13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a
34 great-grandchild or a sibling of such elder.

35 211.202. 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other
36 than [mentally retarded or] developmentally disabled, the court, on its own motion or on the motion or petition of any
37 interested party, may order the department of mental health to evaluate the child.

38 2. A mental health facility designated by the department of mental health shall perform within twenty days
39 an evaluation of the child, on an outpatient basis if practicable, for the purpose of determining whether inpatient
40 admission is appropriate because the following criteria are met:

41 (1) The child has a mental disorder other than mental retardation or developmental disability, as all these
42 terms are defined in chapter 630;

43 (2) The child requires inpatient care and treatment for the protection of himself or others;

1 (3) A mental health facility offers a program suitable for the child's needs;

2 (4) A mental health facility is the least restrictive environment as the term "least restrictive environment" is
3 defined in chapter 630.

4 3. If the facility determines, as a result of the evaluation, that it is appropriate to admit the child as an
5 inpatient, the head of the mental health facility, or his designee, shall recommend the child for admission, subject to
6 the availability of suitable accommodations, and send the juvenile court notice of the recommendation and a copy of
7 the evaluation. Should the department evaluation recommend inpatient care, the child, his parent, guardian or counsel
8 shall have the right to request an independent evaluation of the child. Within twenty days of the receipt of the notice
9 and evaluation by the facility, or within twenty days of the receipt of the notice and evaluation from the independent
10 examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental
11 health for inpatient care and treatment, or may otherwise dispose of the matter; except, that no child shall be
12 committed to a mental health facility under this section for other than care and treatment.

13 4. If the facility determines, as a result of the evaluation, that inpatient admission is not appropriate, the head
14 of the mental health facility, or his designee, shall not recommend the child for admission as an inpatient. The head of
15 the facility, or his designee, shall send to the court a notice that inpatient admission is not appropriate, along with a
16 copy of the evaluation, within twenty days of completing the evaluation. If the child was evaluated on an inpatient
17 basis, the juvenile court shall transfer the child from the department of mental health within twenty days of receipt of
18 the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director
19 of the facility as well as all others required by law.

20 5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and
21 treatment for the child committed by the juvenile court, but that such child appears to qualify for placement under
22 section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an
23 appropriate placement, the department of mental health shall place any child who qualifies for placement under
24 section 630.610. If no appropriate placement is available, the department of mental health shall discharge the child or
25 make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice
26 of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

27 6. The committing juvenile court shall conduct an annual review of the child's need for continued placement
28 in the mental health facility.

29 211.203. 1. If a child under the jurisdiction of the juvenile court appears to be mentally retarded or
30 developmentally disabled, as these terms are defined in chapter 630, the court, on its own motion or on the motion or
31 petition of any interested party, may order the department of mental health to evaluate the child.

32 2. A regional center designated by the department of mental health shall perform within twenty days a
33 comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of
34 determining the appropriateness of a referral to a [mental retardation] developmental disability facility operated or
35 funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to
36 be appropriate to refer such child to a department [mental retardation] developmental disability facility under section
37 633.120 or a private [mental retardation] developmental disability facility under section 630.610, the regional center
38 shall refer the evaluation to the appropriate [mental retardation] developmental disability facility.

39 3. If, as a result of reviewing the evaluation, the head of the [mental retardation] developmental disability
40 facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the [mental
41 retardation] developmental disability facility, or his or her designee, shall recommend the child for admission, subject
42 to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile
43 court notice of the recommendation for admission by the [mental retardation] developmental disability facility and a

1 copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his
2 parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days
3 of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and
4 evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the
5 custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the
6 matter; except, that no child shall be committed to the department of mental health for other than residential care and
7 habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that
8 designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of
9 such placement or transfer during which the head of the initiating facility shall have the burden to show that the
10 placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court
11 ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

12 4. If, as a result of the evaluation, the regional center determines that it is not appropriate to admit such child
13 as a resident in a [mental retardation] developmental disability facility, the regional center shall send a notice to the
14 court that it is inappropriate to admit such child, along with a copy of the evaluation. If the child was evaluated on a
15 residential basis, the juvenile court shall transfer the child from the department within five days of receiving the notice
16 and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the
17 facility as well as all others required by law.

18 5. If at any time the [mental retardation] developmental disability facility determines that it is no longer
19 appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child
20 appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement.
21 Subject to the availability of an appropriate placement, the department shall place any child who qualifies for
22 placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or
23 make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice
24 of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

25 6. The committing court shall conduct an annual review of the child's need for continued placement at the
26 [mental retardation] developmental disability facility.

27 211.206. 1. For each child committed to the department of mental health by the juvenile court, the director
28 of the department of mental health, or his designee, shall prepare an individualized treatment or habilitation plan, as
29 defined in chapter 630, within thirty days of the admission for treatment or habilitation. The status of each child shall
30 be reviewed at least once every thirty days. Copies of all individualized treatment plans, habilitation plans, and
31 periodic reviews shall be sent to the committing juvenile court.

32 2. The department of mental health shall discharge a child committed to it by the juvenile court pursuant to
33 sections 211.202 and 211.203 if the head of a mental health facility or [mental retardation] developmental disability
34 facility, or his designee, determines, in an evaluation or a periodic review, that any of the following conditions are
35 true:

36 (1) A child committed to a mental health facility no longer has a mental disorder other than [mental
37 retardation or] developmental disability;

38 (2) A child committed to a [mental retardation] developmental disability facility is not [mentally retarded or]
39 developmentally disabled;

40 (3) The condition of the child is no longer such that, for the protection of the child or others, the child
41 requires inpatient hospitalization or residential habilitation;

42 (4) The mental health facility or [mental retardation] developmental disability facility does not offer a
43 program which best meets the child's needs;

1 (5) The mental health facility or [mental retardation] developmental disability facility does not provide the
2 least restrictive environment, as defined in section 630.005, which is consistent with the child's welfare and safety.

3 3. If the committing court specifically retained jurisdiction of the child by the terms of its order committing
4 the child to the department of mental health, notice of the discharge, accompanied by a diagnosis and
5 recommendations for placement of the child, shall be forwarded to the court at least twenty days before such
6 discharge date. Unless within twenty days of receipt of notice of discharge the juvenile court orders the child to be
7 brought before it for appropriate proceedings, jurisdiction of that court over the child shall terminate at the end of
8 such twenty days.

9 211.207. 1. If a child is committed to the division of youth services and subsequently appears to be mentally
10 disordered, as defined in chapter 630, the division shall refer the child to the department of mental health for
11 evaluation. The evaluation shall be performed within twenty days by a mental health facility or regional center
12 operated by the department of mental health and, if practicable, on an outpatient basis, for the purpose of determining
13 whether inpatient care at a mental health facility or residential habilitation in a [mental retardation] developmental
14 disability facility is appropriate because the child meets the criteria specified in subsection 2 of section 211.202 or in
15 section 633.120, respectively.

16 2. If, as a result of the evaluation, the director of the department of mental health, or his designee,
17 determines that the child is not mentally disordered so as to require inpatient care and treatment in a mental health
18 facility or residential habilitation in a [mental retardation] developmental disability facility, the director, or his
19 designee, shall so notify the director of the division of youth services. If the child was evaluated on an inpatient or
20 residential basis, the child shall be returned to the division of youth services.

21 3. If the director of the department of mental health, or his designee, determines that the child requires
22 inpatient care and treatment at a mental health facility operated by the department of mental health or residential
23 habilitation in a [mental retardation] developmental disability facility operated by the department of mental health, the
24 director, or his designee, shall notify the director of the division of youth services that admission is appropriate. The
25 director of the division may transfer the physical custody of the child to the department of mental health for admission
26 to a department of mental health facility and the department of mental health shall accept the transfer subject to the
27 availability of suitable accommodations.

28 4. The director of the department of mental health, or his designee, shall cause an individualized treatment
29 or habilitation plan to be prepared by the mental health facility or [mental retardation] developmental disability
30 facility for each child. The mental health facility or [mental retardation] developmental disability facility shall review
31 the status of the child at least once every thirty days. If, as a result of any such review, it is determined that inpatient
32 care and treatment at a mental health facility or residential habilitation in a [mental retardation] developmental
33 disability facility is no longer appropriate for the child because the child does not meet the criteria specified in
34 subsection 2 of section 211.202 or in section 633.120, respectively, the director of the department of mental health, or
35 his designee, shall so notify the director of the division of youth services and shall return the child to the custody of
36 the division.

37 5. If a child for any reason ceases to come
38 under the jurisdiction of the division of youth services, he may be retained in a mental health facility or [mental
39 retardation] developmental disability facility only as otherwise provided by law.

40 402.210. 1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body
41 corporate and an instrumentality of the state. The board of trustees shall consist of nine persons appointed by the
42 governor with the advice and consent of the senate. The members' terms of office shall be three years and until their
43 successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by sections
105.450 to 105.482 and who are not otherwise employed by the department of mental health. The board of trustees

1 shall be composed of the following:

2 (1) Three members of the immediate family of persons who have a disability or are the recipients of services
3 provided by the department in the treatment of mental illness. The advisory council for comprehensive psychiatric
4 services, created pursuant to section 632.020, shall submit a panel of nine names to the governor, from which he shall
5 appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter,
6 as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall
7 submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall
8 appoint one trustee from such panel for a term of three years;

9 (2) Three members of the immediate family of persons who are recipients of services provided by the
10 department in the habilitation of the [mentally retarded or] developmentally disabled. The Missouri advisory council
11 on [mental retardation and] developmental disabilities, created pursuant to section 633.020, shall submit a panel of
12 nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years
13 and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council on
14 [mental retardation and] developmental disabilities shall submit to the governor a panel of not less than three nor
15 more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

16 (3) Three persons who are recognized for their expertise in general business matters and procedures. Of the
17 three business people to be appointed by the governor, one shall be appointed for one year, one for two years and one
18 for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person
19 as trustee for a term of three years.

20 2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for
21 necessary expenses actually incurred in the performance of their duties. 3. As used in this section, the term

22 "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

23 4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120. 5. The
24 board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a
25 copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of
26 representatives.

27 6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to
28 implement the provisions of sections 402.199 to 402.220.

29 475.121. 1. Pursuant to an application alleging that the admission of the ward to a particular mental health
30 or [mental retardation] developmental disability facility is appropriate and in the best interest of the ward, the court
31 may authorize the guardian or limited guardian to admit the ward to such facility. Such application shall be
32 accompanied by a physician's statement setting forth the factual basis for the need for continued admission including a
33 statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the
34 admission.

35 2. If the court finds that the application establishes the need for inpatient care, habilitation or treatment of
36 the ward in a mental health or [mental retardation] developmental disability facility without the adduction of further
37 evidence, it shall issue an order authorizing the guardian to admit the ward to such facility in accordance with the
38 provisions of section 632.120 or section 633.120.

39 3. The court may, in its discretion, appoint an attorney to represent the ward. The attorney shall meet with
40 the ward and may request a hearing on the application. If a hearing is requested, the court shall set the application for
41 hearing. If there is no request for hearing, the court may rule on the application without a hearing. The attorney for
42 the ward shall be allowed a reasonable fee for his services rendered to be assessed as costs under section 475.085.

43 4. Proceedings under this section may be combined with adjudication proceedings under section 475.075.

1 475.355. 1. If, upon the filing of a petition for the adjudication of incapacity or disability it appears that the
2 respondent, by reason of a mental disorder or [mental retardation] developmental disability, presents a likelihood of
3 serious physical harm to himself or others, he may be detained in accordance with the provisions of chapter 632 if
4 suffering from a mental disorder, or chapter 633 if [mentally retarded] developmentally disabled, pending a hearing
5 on the petition for adjudication.

6 2. As used in this section, the terms "mental disorder" and "mental retardation" shall be as defined in chapter
7 630 and the term "likelihood of serious physical harm to himself or others" shall be as defined in chapter 632.

8 3. The procedure for obtaining an order of temporary emergency detention shall be as prescribed by chapter
9 632, relating to prehearing detention of mentally disordered persons.

10 476.537. In the event that any judge leaving no surviving spouse or any surviving spouse receiving benefits
11 under section 476.535 as a beneficiary dies leaving dependents who are unable to care for or support themselves
12 because of any [mental retardation] developmental disability, disease or disability, or any physical [handicap or]
13 disability, the benefits that would be received by a surviving spouse on the judge's death if there were a surviving
14 spouse or the benefits received by such surviving spouse, as the case may be, shall be paid to such surviving
15 dependent for the remainder of such dependent's life. If the judge or such surviving spouse leaves more than one
16 dependent who would be eligible for benefits under this section, then each eligible dependent shall receive a pro rata
17 share of the amount that would be paid to a surviving spouse under section 476.535.”; and

18
19 Further amend said Bill, Section 536.031, Page 8, Line 35, by inserting after all of said Section and Line the
20 following:

21 “552.015. 1. Evidence that the defendant did or did not suffer mental disease or defect shall not be
22 admissible in a criminal prosecution except as provided in this section.

23 2. Evidence that the defendant did or did not suffer from a mental disease or defect shall be admissible in a
24 criminal proceeding:

25 (1) To determine whether the defendant lacks capacity to understand the proceedings against him or to assist
26 in his own defense as provided in section 552.020;

27 (2) To determine whether the defendant is criminally responsible as provided in section 552.030;

28 (3) To determine whether a person committed to the director of the department of mental health pursuant to
29 this chapter shall be released as provided in section 552.040;

30 (4) To determine if a person in the custody of any correctional institution needs care in a mental hospital as
31 provided in section 552.050;

32 (5) To determine whether a person condemned to death shall be executed as provided in sections 552.060
33 and 552.070;

34 (6) To determine whether or not the defendant, if found guilty, should be sentenced to death as provided in
35 chapter 558;

36 (7) To determine the appropriate disposition of a defendant, if guilty, as provided in sections 557.011 and
37 557.031;

38 (8) To prove that the defendant did or did not have a state of mind which is an element of the offense;

39 (9) To determine if the defendant, if found not guilty by reason of mental disease or defect, should be
40 immediately conditionally released by the court under the provisions of section 552.040 to the community or
41 committed to a mental health or [mental retardation] developmental disability facility. This question shall not be
42 asked regarding defendants charged with any of the dangerous felonies as defined in section 556.061, or with those
43 crimes set forth in subsection 11 of section 552.040, or the attempts thereof.

1 552.020. 1. No person who as a result of mental disease or defect lacks capacity to understand the
2 proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an
3 offense so long as the incapacity endures.

4 2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he
5 shall, upon his own motion or upon motion filed by the state or by or on behalf of the accused, by order of record,
6 appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a
7 minimum of one year training or experience in providing treatment or services to [mentally retarded] developmentally
8 disabled or mentally ill individuals, who are neither employees nor contractors of the department of mental health for
9 purposes of performing the examination in question, to examine the accused; or shall direct the director to have the
10 accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with
11 a minimum of one year training or experience in providing treatment or services to [mentally retarded]
12 developmentally disabled or mentally ill individuals. The order shall direct that a written report or reports of such
13 examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed
14 by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under
15 such conditions as the court deems proper; except that, if the order directs the director of the department to have the
16 accused examined, the director, or his designee, shall determine the time, place and conditions under which the
17 examination shall be conducted. The order may include provisions for the interview of witnesses and may require the
18 provision of police reports to the department for use in evaluations. The department shall establish standards and
19 provide training for those individuals performing examinations pursuant to this section and section 552.030. No
20 individual who is employed by or contracts with the department shall be designated to perform an examination
21 pursuant to this chapter unless the individual meets the qualifications so established by the department. Any
22 examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the
23 order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed
24 to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be
25 provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the
26 party requesting the evaluation.

27 3. A report of the examination made under this section shall include:

28 (1) Detailed findings;

29 (2) An opinion as to whether the accused has a mental disease or defect;

30 (3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the
31 accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or to assist
32 in his own defense;

33 (4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for
34 treatment pending determination, by the court, of mental fitness to proceed; and

35 (5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should
36 be detained in such hospital facility pending further proceedings.

37 4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written
38 notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted
39 pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as
40 to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not
41 know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was
42 incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or
43 defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense.

1 In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a
2 dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the
3 attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the
4 accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or
5 should be committed to a mental health or [mental retardation] developmental disability facility. If such an evaluation
6 is conducted at the direction of the director of the department of mental health, the court shall also order the report of
7 the examination to include an opinion as to the conditions of release which are consistent with the needs of the
8 accused and the interest of public safety, including, but not limited to, the following factors:

- 9 (1) Location and degree of necessary supervision of housing;
- 10 (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services,
11 including the frequency of such services;
- 12 (3) Medication follow-up, including necessary testing to monitor medication compliance;
- 13 (4) At least monthly contact with the department's forensic case monitor;
- 14 (5) Any other conditions or supervision as may be warranted by the circumstances of the case.

15 5. If the report contains the recommendation that the accused should be committed to or held in a suitable
16 hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to
17 bail or released on other conditions, the court may order that the accused be committed to or held in a suitable
18 hospital facility pending determination of the issue of mental fitness to proceed.

19 6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the
20 accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing
21 of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an
22 examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a
23 minimum of one year training or experience in providing treatment or services to [mentally retarded] developmentally
24 disabled or mentally ill individuals, of their own choosing and at their own expense. An examination performed
25 pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is
26 received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders
27 otherwise. A copy shall be furnished the opposing party.

28 7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to
29 proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a
30 determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such
31 opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness
32 to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be
33 received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to
34 summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

35 8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the
36 mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a
37 preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue.
38 The burden of going forward shall be on the state if the court raises the issue.

39 9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be
40 suspended and the court shall commit him to the director of the department of mental health.

41 10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ of habeas
42 corpus upon proper petition to the court that committed him. The issue of the mental fitness to proceed after
43 commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department

1 of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of
2 the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his
3 counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he is ordered
4 discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

5 11. The following provisions shall apply after a commitment as provided in this section:

6 (1) Six months after such commitment, the court which ordered the accused committed shall order an
7 examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain
8 whether the accused is mentally fit to proceed and if not, whether there is a substantial probability that the accused
9 will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or
10 reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to
11 the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection
12 shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an
13 opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused
14 will attain the mental fitness to proceed in the foreseeable future;

15 (2) Within ten days after the filing of the report, both the accused and the state shall, upon written request,
16 be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in
17 section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services
18 to [mentally retarded] developmentally disabled or mentally ill individuals, of their own choosing and at their own
19 expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within
20 thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

21 (3) If neither the state nor the accused nor his counsel requests a second examination relative to fitness to
22 proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a
23 determination and finding on the basis of the report filed, or may hold a hearing on its own motion. If any such
24 opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at
25 any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right
26 to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

27 (4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

28 (5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the
29 accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment
30 for a period not longer than six months, after which the court shall reinstitute the proceedings required under
31 subdivision (1) of this subsection;

32 (6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that
33 the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges
34 without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter
35 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit
36 court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the
37 accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared
38 incapacitated under chapter 475, and approved for admission by the guardian under section 632.120 or 633.120, to a
39 mental health or retardation facility. When such proceedings are filed, the criminal charges shall be dismissed without
40 prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and
41 should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during
42 the period that the accused lacks mental fitness to proceed.

43 12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the

1 issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or
2 orders the accused committed for an examination pursuant to this section, the court may declare a mistrial.
3 Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this
4 section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same
5 offense after he has been found restored to competency.

6 13. The result of any examinations made pursuant to this section shall not be a public record or open to the
7 public.

8 14. No statement made by the accused in the course of any examination or treatment pursuant to this section
9 and no information received by any examiner or other person in the course thereof, whether such examination or
10 treatment was made with or without the consent of the accused or upon his motion or upon that of others, shall be
11 admitted in evidence against the accused on the issue of guilt in any criminal proceeding then or thereafter pending in
12 any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice
13 the accused in a defense to the crime charged on the ground that at the time thereof he was afflicted with a mental
14 disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue
15 nor otherwise be brought to the notice of the jury.

16 552.030. 1. A person is not responsible for criminal conduct if, at the time of such conduct, as a result of
17 mental disease or defect such person was incapable of knowing and appreciating the nature, quality, or wrongfulness
18 of such person's conduct.

19 2. Evidence of mental disease or defect excluding responsibility shall not be admissible at trial of the
20 accused unless the accused, at the time of entering such accused's plea to the charge, pleads not guilty by reason of
21 mental disease or defect excluding responsibility, or unless within ten days after a plea of not guilty, or at such later
22 date as the court may for good cause permit, the accused files a written notice of such accused's purpose to rely on
23 such defense. Such a plea or notice shall not deprive the accused of other defenses. The state may accept a defense
24 of mental disease or defect excluding responsibility, whether raised by plea or written notice, if the accused has no
25 other defense and files a written notice to that effect. The state shall not accept a defense of mental disease or defect
26 excluding responsibility in the absence of any pretrial evaluation as described in this section or section 552.020.
27 Upon the state's acceptance of the defense of mental disease or defect excluding responsibility, the court shall proceed
28 to order the commitment of the accused as provided in section 552.040 in cases of persons acquitted on the ground of
29 mental disease or defect excluding responsibility, and further proceedings shall be had regarding the confinement and
30 release of the accused as provided in section 552.040.

31 3. Whenever the accused has pleaded mental disease or defect excluding responsibility or has given the
32 written notice provided in subsection 2 of this section, and such defense has not been accepted as provided in
33 subsection 2 of this section, the court shall, after notice and upon motion of either the state or the accused, by order of
34 record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a
35 minimum of one year training or experience in providing treatment or services to [mentally retarded] developmentally
36 disabled or mentally ill individuals, who are neither employees nor contractors of the department of mental health for
37 purposes of performing the examination in question, to examine the accused, or shall direct the director of the
38 department of mental health, or the director's designee, to have the accused so examined by one or more psychiatrists
39 or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in
40 providing treatment or services to [mentally retarded] developmentally disabled or mentally ill individuals designated
41 by the director, or the director's designee, as qualified to perform examinations pursuant to this chapter. The order
42 shall direct that written report or reports of such examination be filed with the clerk of the court. No private
43 psychiatrist, psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist or

1 physician has consented to act. The examinations ordered shall be made at such time and place and under such
2 conditions as the court deems proper; except that, if the order directs the director of the department of mental health to
3 have the accused examined, the director, or the director's designee, shall determine the time, place and conditions
4 under which the examination shall be conducted. The order may include provisions for the interview of witnesses and
5 may require the provision of police reports to the department for use in evaluation. If an examination provided in
6 section 552.020 was made and the report of such examination included an opinion as to whether, at the time of the
7 alleged criminal conduct, the accused, as a result of mental disease or defect, did not know or appreciate the nature,
8 quality or wrongfulness of such accused's conduct or as a result of mental disease or defect was incapable of
9 conforming such accused's conduct to the requirements of law, such report may be received in evidence, and no new
10 examination shall be required by the court unless, in the discretion of the court, another examination is necessary. If
11 an examination is ordered pursuant to this section, the report shall contain the information required in subsections 3
12 and 4 of section 552.020. Within ten days after receiving a copy of such report, both the accused and the state shall,
13 upon written request, be entitled to an order granting them an examination of the accused by an examiner of such
14 accused's or its own choosing and at such accused's or its expense. The clerk of the court shall deliver copies of the
15 report or reports to the prosecuting or circuit attorney and to the accused or his counsel. No reports required by this
16 subsection shall be public records or be open to the public. Any examination performed pursuant to this subsection
17 shall be completed and the results shall be filed with the court within sixty days of the date it is received by the
18 department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise.

19 4. If the report contains the recommendation that the accused should be held in custody in a suitable hospital
20 facility pending trial, and if the accused is not admitted to bail, or released on other conditions, the court may order
21 that the accused be committed to or held in a suitable hospital facility pending trial.

22 5. No statement made by the accused in the course of any such examination and no information received by
23 any physician or other person in the course thereof, whether such examination was made with or without the consent
24 of the accused or upon the accused's motion or upon that of others, shall be admitted in evidence against the accused
25 on the issue of whether the accused committed the act charged against the accused in any criminal proceeding then or
26 thereafter pending in any court, state or federal. The statement or information shall be admissible in evidence for or
27 against the accused only on the issue of the accused's mental condition, whether or not it would otherwise be deemed
28 to be a privileged communication. If the statement or information is admitted for or against the accused on the issue
29 of the accused's mental condition, the court shall, both orally at the time of its admission and later by instruction,
30 inform the jury that it must not consider such statement or information as any evidence of whether the accused
31 committed the act charged against the accused.

32 6. All persons are presumed to be free of mental disease or defect excluding responsibility for their conduct,
33 whether or not previously adjudicated in this or any other state to be or to have been sexual or social psychopaths, or
34 incompetent; provided, however, the court may admit evidence presented at such adjudication based on its probative
35 value. The issue of whether any person had a mental disease or defect excluding responsibility for such person's
36 conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack of such
37 responsibility. But, in the absence of such evidence, the presumption shall be conclusive. Upon the introduction of
38 substantial evidence of lack of such responsibility, the presumption shall not disappear and shall alone be sufficient to
39 take that issue to the trier of fact. The jury shall be instructed as to the existence and nature of such presumption when
40 requested by the state and, where the issue of such responsibility is one for the jury to decide, the jury shall be told
41 that the burden rests upon the accused to show by a preponderance or greater weight of the credible evidence that the
42 defendant was suffering from a mental disease or defect excluding responsibility at the time of the conduct charged
43 against the defendant. At the request of the defense the jury shall be instructed by the court as to the contents of

1 subsection 2 of section 552.040.

2 7. When the accused is acquitted on the ground of mental disease or defect excluding responsibility, the
3 verdict and the judgment shall so state as well as state the offense for which the accused was acquitted. The clerk of
4 the court shall furnish a copy of any judgment or order of commitment to the department of mental health pursuant to
5 this section to the criminal records central repository pursuant to section 43.503.

6 552.040. 1. For the purposes of this section, the following words mean:

7 (1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not
8 within a county;

9 (2) "Secure facility", a state mental health facility, state [mental retardation] developmental disability
10 facility, private facility under contract with the department of mental health, or a section within any of these facilities,
11 in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to
12 move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by
13 the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and
14 the person's treatment, habilitation or rehabilitation plan;

15 (3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are
16 accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the
17 proceedings set forth in section 552.030.

18 2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility,
19 the court shall order such person committed to the director of the department of mental health for custody. The court
20 shall also order custody and care in a state mental health or retardation facility unless an immediate conditional
21 release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in
22 section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section
23 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately
24 conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate
25 conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of
26 this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's
27 designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of
28 section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an
29 immediate conditional release and the director shall honor the immediate conditional release as granted by the court.
30 If the court determines that an immediate conditional release is warranted, the court shall order the person committed
31 to the director of the department of mental health before ordering such a release. The court granting the immediate
32 conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not
33 limit the authority of the director of the department of mental health or the director's designee to revoke the
34 conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the
35 accused is committed to a mental health or [mental retardation] developmental disability facility, the director of the
36 department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

37 3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150,
38 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435 shall apply to
39 persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or
40 rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from
41 commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of
42 mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030
43 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon

1 request by an indigent committed person, the appropriate court may appoint the office of the public defender to
2 represent such person in any conditional or unconditional release proceeding under this section.

3 4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of this section shall be
4 kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or
5 unconditional release to a nonsecure facility.

6 5. The committed person or the head of the facility where the person is committed may file an application in
7 the court that committed the person seeking an order releasing the committed person unconditionally; except that any
8 person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not
9 be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a
10 person who was immediately conditionally released after being committed to the department of mental health, the
11 released person or the director of the department of mental health, or the director's designee, may file an application in
12 the same court that released the committed person seeking an order releasing the committed person unconditionally.
13 Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head
14 of the facility files the application, the committed person unless the committed person files the application, or unless
15 the committed person was immediately conditionally released, the director of the department of mental health, and the
16 prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the
17 proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any
18 written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the
19 court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the
20 department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing
21 any of the parties, upon written application, shall be entitled to an examination of the committed person, by a
22 psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or
23 experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and
24 at its expense. The report of the mental condition of the committed person shall accompany the application. By
25 agreement of all parties to the proceeding any report of the mental condition of the committed person which may
26 accompany the application for release or which is filed in objection thereto may be received by evidence, but the party
27 contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such
28 opinion and to offer evidence upon the issue.

29 6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order
30 granting an unconditional release shall be entered in accordance with subsection 8 of this section.

31 7. At a hearing to determine if the committed person should be unconditionally released, the court shall
32 consider the following factors in addition to any other relevant evidence:

- 33 (1) Whether or not the committed person presently has a mental disease or defect;
- 34 (2) The nature of the offense for which the committed person was committed;
- 35 (3) The committed person's behavior while confined in a mental health facility;
- 36 (4) The elapsed time between the hearing and the last reported unlawful or dangerous act;
- 37 (5) Whether the person has had conditional releases without incident; and
- 38 (6) Whether the determination that the committed person is not dangerous to himself or others is dependent
39 on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental
40 health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding
41 responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the
42 person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a
43 mental disease or defect rendering the person dangerous to the safety of himself or others.

1 8. The court shall enter an order either denying the application for unconditional release or granting an
2 unconditional release. An order denying the application shall be without prejudice to the filing of another application
3 after the expiration of one year from the denial of the last application.

4 9. No committed person shall be unconditionally released unless it is determined through the procedures in
5 this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect
6 rendering the person dangerous to the safety of himself or others.

7 10. The committed person or the head of the facility where the person is committed may file an application
8 in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine
9 whether the committed person shall be released conditionally. In the case of a person committed to a mental health
10 facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as
11 defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to
12 section 566.040, any such application shall be filed in the court that committed the person. In such cases, jurisdiction
13 over the application for conditional release shall be in the committing court. In the case of a person who was
14 immediately conditionally released after being committed to the department of mental health, the released person or
15 the director of the department of mental health, or the director's designee, may file an application in the same court
16 that released the person seeking to amend or modify the existing release. The procedures for application for
17 unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

18 (1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is
19 being detained, unless the released person was immediately conditionally released after being committed to the
20 department of mental health, or unless the application was required to be filed in the court that committed the person
21 in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was
22 tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

23 (2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to
24 notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the
25 most current address provided by the victim shall constitute compliance with the victim notification requirement of
26 this section;

27 (3) The application shall specify the conditions and duration of the proposed release;

28 (4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety
29 interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to
30 appear to represent the public safety interest. If the application for release was required to be filed in the committing
31 court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety
32 interest. In the case of a person who was immediately conditionally released after being committed to the department
33 of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent
34 the public safety interest.

35 11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional
36 release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance
37 with subsection 13 of this section.

38 12. At a hearing to determine if the committed person should be conditionally released, the court shall
39 consider the following factors in addition to any other relevant evidence:

40 (1) The nature of the offense for which the committed person was committed;

41 (2) The person's behavior while confined in a mental health facility;

42 (3) The elapsed time between the hearing and the last reported unlawful or dangerous act;

43 (4) The nature of the person's proposed release plan;

1 (5) The presence or absence in the community of family or others willing to take responsibility to help the
2 defendant adhere to the conditions of the release; and

3 (6) Whether the person has had previous conditional releases without incident. The burden of persuasion
4 for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds
5 of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and
6 convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on
7 conditional release.

8 13. The court shall enter an order either denying the application for a conditional release or granting
9 conditional release. An order denying the application shall be without prejudice to the filing of another application
10 after the expiration of one year from the denial of the last application.

11 14. No committed person shall be conditionally released until it is determined that the committed person is
12 not likely to be dangerous to others while on conditional release.

13 15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be
14 released without danger to others, that person may be released from the facility for a trial release of up to ninety-six
15 hours under the following procedure:

16 (1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction
17 where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed
18 person is to be released at least thirty days before the date of the proposed trial release;

19 (2) The notice shall specify the conditions and duration of the release;

20 (3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be
21 released according to conditions and duration specified in the notice;

22 (4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court
23 having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in
24 subsections 5 and 10 of this section with the following additional requirements:

25 (a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the
26 committed person is to be released; and

27 (b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest
28 at the hearing; and

29 (5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

30 16. The department shall provide or shall arrange for follow-up care and monitoring for all persons
31 conditionally released under this section and shall make or arrange for reviews and visits with the client at least
32 monthly, or more frequently as set out in the release plan, and whether the client is receiving care, treatment,
33 habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the
34 facilities, programs or specialized services operated or funded by the department which shall provide necessary levels
35 of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

36 17. The director of the department of mental health, or the director's designee, may revoke the conditional
37 release or the trial release and request the return of the committed person if such director or coordinator has
38 reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the
39 director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall
40 apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the
41 committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending
42 or transporting such patient to the facility so long as such duties were performed in good faith and without negligence.
43 If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be
44 held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person

1 violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive
2 alternative consistent with the person's needs and public safety. The director of the department of mental health, or
3 the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in
4 advance of the hearing and shall have the right to have an advocate present.

5 18. At any time during the period of a conditional release or trial release, the court which ordered the release
6 may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the
7 court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person.
8 The warrant shall authorize the return of the released person to the custody of the court or to the custody of the
9 director of mental health or the director's designee.

10 19. The head of a mental health facility, upon any notice that a committed person has escaped confinement,
11 or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the
12 county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor
13 and sheriff of the county where the person was tried and acquitted.

14 20. Any person committed to a mental health facility under the provisions of this section upon acquittal on
15 the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061,
16 murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040 shall not be
17 eligible for conditional or unconditional release under the provisions of this section unless, in addition to the
18 requirements of this section, the court finds that the following criteria are met:

19 (1) Such person is not now and is not likely in the reasonable future to commit another violent crime against
20 another person because of such person's mental illness; and

21 (2) Such person is aware of the nature of the violent crime committed against another person and presently
22 possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to
23 conform such person's conduct to the requirements of law in the future.

24 630.003. 1. There is hereby created a department of mental health to be headed by a mental health
25 commission who shall appoint a director, by and with the advice and consent of the senate. The director shall be the
26 administrative head of the department and shall serve at the pleasure of the commission and be compensated as
27 provided by law for the director, division of mental health. All employees of the department shall be selected in
28 accordance with chapter 36.

29 2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former
30 state mental health commission and it has all the powers, duties and responsibilities of the former commission. All
31 members of the commission shall be appointed by the governor, by and with the advice and consent of the senate.
32 None of the members shall otherwise be employed by the state of Missouri.

33 (2) Three of the commission members first appointed shall be appointed for terms of four years, and two
34 shall be appointed for terms of three years, and two shall be appointed for a term of two years. The governor shall
35 designate, at the time the appointments are made, the length of the term of each member so appointed. Thereafter all
36 terms shall be for four years.

37 (3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as
38 an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an
39 expert in the field of [mental retardation or of other] developmental disabilities. At least two of the members of the
40 commission shall be representative of persons or groups who are consumers having substantial interest in the services
41 provided by the division, one of whom shall represent the [mentally retarded or] developmentally disabled and one of
42 whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at
43 least one must be recognized for his expertise in general business management procedures, and two shall be
44 recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health

1 services.

2 3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160, 191.170, 191.180,
3 191.190, 191.200, 191.210 and others as they relate to the division of mental health not previously reassigned by
4 executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 are transferred by
5 specific type transfer from the department of public health and welfare to the department of mental health. The
6 division of mental health, department of health and welfare, chapter 202 and others are abolished and all powers,
7 duties and functions now assigned by law to the division, the director of the divisions of mental health or any of the
8 institutions or officials of the division are transferred by type I transfer to the department of mental health.

9 4. The Missouri institute of psychiatry, which is under the board of curators of the University of Missouri is
10 hereafter to be known as the "Missouri Institute of Mental Health". The purpose of the institute will be that of
11 conducting research into improving services for persons served by the department of mental health for fostering the
12 training of psychiatric residents in public psychiatry and for fostering excellence in mental health services through
13 employee training and the study of mental health policy and ethics. To assist in this training, hospitals operated by
14 and providers contracting with the department of mental health may be used for the same purposes and under the same
15 arrangements as the board of curators of the University of Missouri utilizes with other hospitals in the state in
16 supervising residency training for medical doctors. Appropriations requests for the Missouri institute of mental health
17 shall be jointly developed by the University of Missouri and the department of mental health. All appropriations for
18 the Missouri institute of mental health shall be made to the curators of the University of Missouri but shall be
19 submitted separately from the appropriations of the curators of the University of Missouri.

20 5. There is hereby established within the department of mental health a division of [mental retardation and]
21 developmental disabilities. The director of the division shall be appointed by the director of the department. The
22 division shall administer all state facilities under the direction and authority of the department director. The Marshall
23 Habilitation Center, the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada
24 Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the regional centers located at
25 Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and Springfield
26 and other similar facilities as may be established, are transferred by type I transfer to the division of [mental
27 retardation and] developmental disabilities.

28 6. All the duties, powers and functions of the advisory council on mental retardation and community health
29 centers, sections 202.664 to 202.666, are hereby transferred by type I transfer to the division of mental retardation and
30 developmental disabilities of the department of mental health. The advisory council on mental retardation and
31 community health centers shall be appointed by the division director.

32 7. The advisory council on mental retardation and developmental disabilities heretofore established by
33 executive order and all of the duties, powers and functions of the advisory council including the responsibilities of the
34 provision of the council in regard to the Federal Development Disabilities Law (P.L. 91-517) and all amendments
35 thereto are transferred by type I transfer to the division of mental retardation and developmental disabilities. The
36 advisory council on mental retardation and developmental disabilities shall be appointed by the director of the
37 division of mental retardation and developmental disabilities.

38 8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type II transfer to the
39 department of mental health and the members of the advisory council shall be appointed by the mental health director.

40 630.005. As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires
41 otherwise, the following terms shall mean:

42 (1) "Administrative entity", a provider of specialized services other than transportation to clients of the
43 department on behalf of a division of the department;

44 (2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a

1 psychological or physiological dependency from continued use, which dependency induces a mental, emotional or
2 physical impairment and which causes socially dysfunctional behavior;

3 (3) "Chemical restraint", medication administered with the primary intent of restraining a patient who
4 presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical
5 condition;

6 (4) "Client", any person who is placed by the department in a facility or program licensed and funded by the
7 department or who is a recipient of services from a regional center, as defined in section 633.005;

8 (5) "Commission", the state mental health commission;

9 (6) "Consumer", a person:

10 (a) Who qualifies to receive department services; or

11 (b) Who is a parent, child or sibling of a person who receives department services; or

12 (c) Who has a personal interest in services provided by the department. A person who provides services to
13 persons affected by [mental retardation,] developmental disabilities, mental disorders, mental illness, or alcohol or
14 drug abuse shall not be considered a consumer;

15 (7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as
16 providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders,
17 mental illness, [mental retardation,] developmental disabilities or alcohol or drug abuse for less than the full
18 twenty-four hours comprising each daily period;

19 (8) "Department", the department of mental health of the state of Missouri;

20 (9) "Developmental disability", a disability:

21 (a) Which is attributable to:

22 a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a
23 brain dysfunction; or

24 b. Any other mental or physical impairment or combination of mental or physical impairments; and

25 (b) Is manifested before the person attains age twenty- two; and

26 (c) Is likely to continue indefinitely; and

27 (d) Results in substantial functional limitations in two or more of the following areas of major life activities:

28 a. Self-care;

29 b. Receptive and expressive language development and use;

30 c. Learning;

31 d. Self-direction;

32 e. Capacity for independent living or economic self- sufficiency;

33 f. Mobility; and

34 (e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care,
35 habilitation or other services which may be of lifelong or extended duration and are individually planned and
36 coordinated;

37 (10) "Director", the director of the department of mental health, or his designee;

38 (11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri,
39 which is more than mere residence in the state; it may be established by the individual being physically present in
40 Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

41 (12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary
42 mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or
43 physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical
44 impairment and causes socially dysfunctional behavior;

1 (13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and
2 maximize the [mentally retarded or] developmentally disabled person's abilities to cope with the environment and to
3 live as normally as possible;

4 (14) "Habilitation center", a residential facility operated by the department and serving only persons who are
5 [mentally retarded, including] developmentally disabled;

6 (15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

7 (16) "Head of the program", the chief administrative officer, or his designee, of any day program;

8 (17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for
9 [mentally retarded or] developmentally disabled residents and clients, and which details the habilitation program as
10 required by law, rules and funding sources;

11 (18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation
12 goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation
13 program as required by law, rules and funding sources;

14 (19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation
15 goals and objectives for mentally disordered or mentally ill patients and clients, and which details the treatment
16 program as required by law, rules and funding sources;

17 (20) "Investigator", an employee or contract agent of the department of mental health who is performing an
18 investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the
19 department of mental health or his designee;

20 (21) "Least restrictive environment", a reasonably available setting or mental health program where care,
21 treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to
22 implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize
23 his functioning potential to participate as freely as feasible in normal living activities, giving due consideration to
24 potentially harmful effects on the person and the safety of other facility or program clients and public safety. For
25 some mentally disordered or [mentally retarded] developmentally disabled persons, the least restrictive environment
26 may be a facility operated by the department, a private facility, a supported community living situation, or an
27 alternative community program designed for persons who are civilly detained for outpatient treatment or who are
28 conditionally released pursuant to chapter 632;

29 (22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects
30 on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's
31 ability to participate in activities of normal living;

32 (23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a
33 person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and
34 interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term
35 "mental illness" does not include the following conditions unless they are accompanied by a mental illness as
36 otherwise defined in this subdivision:

37 (a) Mental retardation, developmental disability or narcolepsy;

38 (b) Simple intoxication caused by substances such as alcohol or drugs;

39 (c) Dependence upon or addiction to any substances such as alcohol or drugs;

40 (d) Any other disorders such as senility, which are not of an actively psychotic nature;

41 (24) "Mental retardation", significantly subaverage general intellectual functioning which:

42 (a) Originates before age eighteen; and

43 (b) Is associated with a significant impairment in adaptive behavior;

44 (25) "Minor", any person under the age of eighteen years;

1 (26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other
2 mental health facility or mental health program pursuant to the provisions of chapter 632;
3 (27) "Psychosurgery",
4 (a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of
5 changing or controlling behavior; or
6 (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or
7 affect behavioral disturbances, except seizure disorders;
8 (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum
9 health or constructive activity through care, treatment, training, counseling or specialized attention;
10 (29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a
11 minor, where his family has so lodged; except, that admission or detention in any facility of the department shall not
12 be deemed an absence from the place of residence and shall not constitute a change in residence;
13 (30) "Resident", a person receiving residential services from a facility, other than mental health facility,
14 operated, funded or licensed by the department;
15 (31) "Residential facility", any premises where residential prevention, evaluation, care, treatment,
16 habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, [mental retardation,]
17 developmental disabilities or alcohol or drug abuse; except the person's dwelling;
18 (32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment,
19 habilitation or rehabilitation services to persons affected by mental disorders, mental illness, [mental retardation,]
20 developmental disabilities or alcohol or drug abuse;
21 (33) "Vendor", a person or entity under contract with the department, other than as a department employee,
22 who provides services to patients, residents or clients;
23 (34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving
24 services from an operated, funded, licensed, or certified program.

25 630.010. 1. The state mental health commission, established by the omnibus reorganization act of 1974,
26 section 9, appendix B, RSMo, shall be composed of seven members appointed by the governor, by and with the
27 advice and consent of the senate. The terms of members appointed under the reorganization act before August 13,
28 1980, shall continue until the terms under which the members were regularly appointed expire. The terms shall be for
29 four years. Each commissioner shall hold office until his successor has been appointed and qualified. 2. The
30 commission shall be comprised of members who are not prohibited from serving by sections 105.450 to 105.482, as
31 amended, and who are not otherwise employed by the state. The commission shall be composed of the following:
32 (1) A physician recognized as an expert in the treatment of mental illness;
33 (2) A physician recognized as an expert in the evaluation or habilitation of the [mentally retarded and]
34 developmentally disabled;
35 (3) A representative of groups who are consumers or families of consumers interested in the services
36 provided by the department in the treatment of mental illness;
37 (4) A representative of groups who are consumers or families of consumers interested in the services
38 provided by the department in the habilitation of the [mentally retarded] developmentally disabled;
39 (5) A person recognized for his expertise in general business matters and procedures;
40 (6) A person recognized for his interest and expertise in dealing with alcohol or drug abuse; and
41 (7) A person recognized for his interest or expertise in community mental health services.
42 3. Vacancies occurring on the commission shall be filled by appointment by the governor, by and with the
43 advice and consent of the senate, for the unexpired terms. In case of a vacancy when the senate is not in session, the
44 governor shall make a temporary appointment until the next session of the general assembly, when he shall nominate

1 someone to fill the office.

2 members a chairman and a secretary. Meetings shall be held at least once a month, and special meetings may be held
3 at the call of the chairman.

4 members one hundred dollars per day for each day, or portion thereof, they actually spend in transacting the business
5 of the commission and shall reimburse the commission members for necessary expenses actually incurred in the
6 performance of their official duties.

7 630.097. 1. The department of mental health shall develop, in partnership with all departments represented
8 on the children's services commission, a unified accountable comprehensive children's mental health service system.
9 The department of mental health shall establish a state interagency comprehensive children's mental health service
10 system team comprised of representation from:

- 11 (1) Family-run organizations and family members;
- 12 (2) Child advocate organizations;
- 13 (3) The department of health and senior services;
- 14 (4) The department of social services' children's division, division of youth services, and the division of
15 medical services;
- 16 (5) The department of elementary and secondary education;
- 17 (6) The department of mental health's division of alcohol and drug abuse, division of [mental retardation
18 and] developmental disabilities, and the division of comprehensive psychiatric services;
- 19 (7) The department of public safety;
- 20 (8) The office of state courts administrator;
- 21 (9) The juvenile justice system; and
- 22 (10) Local representatives of the member organizations of the state team to serve children with emotional
23 and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be
24 called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide
25 input to the comprehensive system management team to assist the departments in developing strategies and to ensure
26 positive outcomes for children are being achieved. The department of mental health shall obtain input from
27 appropriate consumer and family advocates when selecting family members for the comprehensive system
28 management team, in consultation with the departments that serve on the children's services commission. The
29 implementation of a comprehensive system shall include all state agencies and system partner organizations involved
30 in the lives of the children served. These system partners may include private and not-for-profit organizations and
31 representatives from local system of care teams and these partners may serve on the stakeholder advisory committee.
32 The department of mental health shall promulgate rules for the implementation of this section in consultation with all
33 of the departments represented on the children's services commission.

34 2. The department of mental health shall, in partnership with the departments serving on the children's
35 services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health
36 service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's
37 services commission by December, 2004. There shall be subsequent annual reports that include progress toward
38 outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

- 39 (1) Describe the mental health service and support needs of Missouri's children and their families, including
40 the specialized needs of specific segments of the population;
- 41 (2) Define the comprehensive array of services including services such as intensive home-based services,
42 early intervention services, family support services, respite services, and behavioral assistance services;
- 43 (3) Establish short- and long-term goals, objectives, and outcomes;
- 44 (4) Describe and define the parameters for local implementation of comprehensive children's mental health

1 system teams;

2 (5) Describe and emphasize the importance of family involvement in all levels of the system;

3 (6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of

4 services;

5 (7) Describe the coordination of services across child- serving agencies and at critical transition points, with

6 emphasis on the involvement of local schools;

7 (8) Describe methods for service, program, and system evaluation;

8 (9) Describe the need for, and approaches to, training and technical assistance; and

9 (10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the

10 comprehensive children's mental health care system.

11 3. The comprehensive system management team shall collaborate to develop uniform language to be used in

12 intake and throughout the provision of services.

13 4. The comprehensive children's mental health services system shall:

14 (1) Be child centered, family focused, strength based, and family driven, with the needs of the child and

15 family dictating the types and mix of services provided, and shall include the families as full participants in all aspects

16 of the planning and delivery of services;

17 (2) Provide community-based mental health services to children and their families in the context in which

18 the children live and attend school;

19 (3) Respond in a culturally competent and responsive manner;

20 (4) Emphasize prevention, early identification, and intervention;

21 (5) Assure access to a continuum of services that:

22 (a) Educate the community about the mental health needs of children;

23 (b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of

24 children;

25 (c) Are coordinated with the range of social and human services provided to children and their families by

26 local school districts, the departments of social services, health and senior services, and public safety, juvenile offices,

27 and the juvenile and family courts;

28 (d) Provide a comprehensive array of services through an integrated service plan;

29 (e) Provide services in the least restrictive most appropriate environment that meets the needs of the child;

30 and

31 (f) Are appropriate to the developmental needs of children;

32 (6) Include early screening and prompt intervention to:

33 (a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to

34 their needs; and

35 (b) Prevent further deterioration;

36 (7) Address the unique problems of paying for mental health services for children, including:

37 (a) Access to private insurance coverage;

38 (b) Public funding, including:

39 a. Assuring that funding follows children across departments; and

40 b. Maximizing federal financial participation;

41 (c) Private funding and services;

42 (8) Assure a smooth transition from child to adult mental health services when needed;

43 (9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and

44 youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the

1 state comprehensive children's management team; and

2 (10) Be outcome based.

3 5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and
4 distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive
5 children's mental health care system, including an assessment of family satisfaction and the progress of achieving
6 outcomes.

7 630.120. No patient or resident, either voluntary or involuntary, shall be presumed to be incompetent, to
8 forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise
9 prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation or rehabilitation for a mental
10 disorder, mental illness, [mental retardation,] developmental disability, alcohol problem or drug problem.

11 630.165. 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern,
12 resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified
13 substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace
14 officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a
15 residential facility, day program, group home or [mental retardation] developmental disability facility as defined in
16 section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health
17 facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained
18 pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior
19 services; or home health agency or home health agency employee; hospital and clinic personnel engaged in
20 examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement
21 officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or
22 other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or
23 service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been
24 subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would
25 reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the
26 department in accordance with section 630.163.

27 2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a
28 class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of
29 this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to
30 the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered
31 charitable for tax purposes.

32 3. Every person who has been previously convicted of or pled guilty to failing to make a report as required
33 in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this
34 section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for
35 violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and
36 distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not
37 considered charitable for tax purposes.

38 4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A
39 misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this
40 subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the
41 public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable
42 for tax purposes.

43 5. Every person who has been previously convicted of or pled guilty to making a false report to the
44 department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a

1 class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this
2 subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the
3 public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable
4 for tax purposes.

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

7 7. Any residential facility, day program, or specialized service operated, funded, or licensed by the
8 department that prevents or discourages a patient, resident, [or] client, employee, or other person from reporting that a
9 patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of
10 their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each
11 attempt to prevent or discourage reporting.

12 630.183. Subject to other provisions of this chapter, the head of a mental health or [mental retardation]
13 developmental disability facility may authorize the medical and surgical treatment of a patient or resident under the
14 following circumstances:

15 (1) Upon consent of a patient or resident who is competent;

16 (2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or legally
17 incapacitated;

18 (3) Pursuant to the provisions of chapter 431;

19 (4) Pursuant to an order of a court of competent jurisdiction.

20 630.192. No biomedical or pharmacological research shall be conducted in any mental health facility or
21 mental health program in which people may be civilly detained pursuant to chapter 632 or in any public or private
22 residential facilities or day programs operated, funded or licensed by the department for persons affected by [mental
23 retardation,] developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research
24 is intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct therapeutic benefit
25 to the participants. Without a specific court order, no involuntary patient shall consent to participate in any
26 biomedical or pharmacological research. The application for the order shall be filed in the court having probate
27 jurisdiction in the county in which the mental health facility is located, provided, however, that if the patient requests
28 that the hearing be held by the court which has committed the patient, or if the court having probate jurisdiction deems
29 it appropriate, the hearing on the application shall be transferred to the committing court.

30 630.210. 1. The director shall determine the maximum amount for services which shall be charged in each
31 of the residential facilities, day programs or specialized services operated or funded by the department for full-time or
32 part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service
33 rendered to persons affected by mental disorder, mental illness, [mental retardation,] developmental disability or drug
34 or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation
35 or other service costs of each facility, program or service, which may vary from one locality to another. The director
36 shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs
37 and services operated or funded by the department in determining the amount to be charged to persons receiving
38 services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the
39 evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for
40 any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

41 2. The director shall apply the standard means test annually and may make application of the test upon his
42 own initiative or upon request of an interested party whenever evidence is offered tending to show that the current
43 support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive
44 to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080

1 refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on
2 behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or
3 request for review. The decision of the director in determining the amount to be charged for services to a patient,
4 resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or
5 the county where the person responsible for payment resides in the manner provided by chapter 536.

6 3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in
7 Missouri unless the state is fully reimbursed for the services; except that the department may pay for services provided
8 to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up
9 to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state
10 of any patient, resident or client receiving services from a facility, program or service operated or funded by the
11 department.

12 4. Whenever a patient, resident or client is receiving services from a residential facility, day program or
13 specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or
14 other person responsible for support of the patient, resident or client fails to pay any installment required to be paid
15 for support, the department or the residential facility, day program or specialized service may discharge the patient,
16 resident or client as provided by chapter 31. The patient, resident or client shall not be discharged under this
17 subsection until the final disposition of any appeal filed under subsection 2 of this section.

18 5. The standard means test may be waived for a child in need of mental health services to avoid
19 inappropriate custody transfers to the children's division. The department of mental health shall notify the child's
20 parent or custodian that the standard means test may be waived. The department of mental health shall promulgate
21 rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, that
22 is created under the authority delegated in this section shall become effective only if it complies with and is subject to
23 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable
24 and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
25 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
26 and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

27 630.335. 1. With the approval of the director, the head of any of the department's mental health or [mental
28 retardation] developmental disability facilities or regional centers may establish and operate a canteen or commissary
29 for the use and benefit of patients, residents and employees.

30 2. Each facility or center shall keep revenues received from the canteen or commissary established and
31 operated by the head of the facility in a separate account. The acquisition cost of goods sold and other expenses shall
32 be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating
33 expenses may be kept in this account. The remaining funds from sales of each commissary or canteen shall be
34 deposited monthly in the state treasury to the credit of the mental health trust fund. The money in the fund shall be
35 expended, upon appropriation, for the benefit of the patients in the improvement of the recreation, habilitation or
36 treatment services or equipment of the facility or center from which derived. The provisions of section 33.080 to the
37 contrary notwithstanding, the money in the mental health trust fund shall be retained for the purposes specified in this
38 section and shall not revert or be transferred to general revenue. The department of mental health shall keep accurate
39 records of the source of money deposited in the mental health trust fund and shall allocate appropriations from the
40 fund to the appropriate institution, facility or center.

41 630.405. 1. The department may purchase services for patients, residents or clients from private and public
42 vendors in this state with funds appropriated for this purpose.

43 2. Services that may be purchased may include prevention, diagnosis, evaluation, treatment, habilitation,
44 rehabilitation, transportation and other special services for persons affected by mental disorders, mental illness,

1 [mental retardation,] developmental disabilities or alcohol or drug abuse.

2 3. The commissioner of administration, in consultation with the director, shall promulgate rules establishing
3 procedures consistent with the usual state purchasing procedures pursuant to chapter 34 for the purchase of services
4 pursuant to this section. The commissioner may authorize the department to purchase any technical service which, in
5 his judgment, can best be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the
6 department to purchase timely services appropriate to the needs of the patients, residents or clients of the department.

7 4. The commissioner of administration may promulgate rules authorizing the department to review, suspend,
8 terminate, or otherwise take remedial measures with respect to contracts with vendors as defined in subsection 1 of
9 this section that fail to comply with the requirements of section 210.906.

10 5. The commissioner of administration may promulgate rules for a waiver of chapter 34 bidding procedures
11 for the purchase of services for patients, residents and clients with funds appropriated for that purpose if, in the
12 commissioner's judgment, such services can best be purchased directly by the department.

13 6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective
14 unless it has been promulgated pursuant to the provisions of chapter 536.

15 630.425. 1. The department may make incentive grants from funds specifically appropriated for this
16 purpose to private and public entities seeking to establish a residential facility, day program or specialized service for
17 persons affected by mental disorders, mental illness, [mental retardation,] developmental disabilities or alcohol or
18 drug abuse in unserved, underserved or inappropriately served areas of the state.

19 2. The department shall promulgate rules establishing procedures for monitoring and auditing such grants.

20 3. The grants shall be of limited duration of one year and renewable for only one additional year if the funds
21 are appropriated for this purpose.

22 630.510. At least once every three years, the department shall conduct a complete statewide inventory of its
23 existing facilities and a survey of needs for persons affected by mental disorders, mental illness, [mental retardation,]
24 developmental disabilities and alcohol or drug abuse, and shall make a public report of its inventory and survey and
25 recommend a state plan for the construction of additional facilities.

26 630.605. The department shall establish a placement program for persons affected by a mental disorder,
27 mental illness, [mental retardation,] developmental disability or alcohol or drug abuse. The department may utilize
28 residential facilities, day programs and specialized services which are designed to maintain a person who is accepted
29 in the placement program in the least restrictive environment in accordance with the person's individualized treatment,
30 habilitation or rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a
31 continuum of facilities, programs and services short of admission to a department facility to accomplish this purpose.

32 630.610. 1. If the head of a facility operated by the department determines that placement out of the facility
33 would be appropriate for any patient or resident, the head of the facility shall refer the patient or resident for
34 placement according to the department's rules. If a patient or resident is accepted and placed under this chapter, then
35 the patient or resident shall be considered as discharged as a patient or resident of the facility and reclassified as a
36 client of the department.

37 2. Any person, his authorized representative, his parent, if the person is a minor, his guardian, a court of
38 competent jurisdiction or a state or private facility or agency having custody of the person may apply for placement of
39 the person under this chapter.

40 3. If the department finds the application to be appropriate after review, it shall provide for or arrange for a
41 comprehensive evaluation, and the preparation of an individualized treatment, habilitation or rehabilitation plan of the
42 person seeking to be placed, whether from a department facility or directly, to determine if he meets the following
43 criteria:

44 (1) The person is affected by a mental disorder, mental illness, [mental retardation,] developmental

1 disability or alcohol or drug abuse; and

2 (2) The person is in need of special care, treatment, habilitation or rehabilitation services as described in this
3 chapter, including room or board, or both; provided, however, that no person shall be accepted for placement if the
4 sole reason for the application or referral is that residential placement is necessary for a school-aged child, as defined
5 in chapter 162, to receive an appropriate special education.

6 630.635. 1. If a resident in a [mental retardation] developmental disability facility, or his parent if he is a
7 minor, or his legal guardian refuses to consent to the proposed placement, the head of the [mental retardation]
8 developmental disability facility may petition, under the procedures in section 633.135, the director of the division of
9 [mental retardation and] developmental disabilities to determine whether the proposed placement is appropriate under
10 chapter 633.

11 2. If a patient in a mental health facility, or his parent if he is a minor, or his legal guardian refuses to
12 consent to the proposed placement, the head of the mental health facility may petition the director of the division of
13 comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections
14 630.610, 630.615 and 630.620.

15 3. The director of the division of comprehensive psychiatric services shall refer the petition to the chairman
16 of the state advisory council for his division who shall appoint and convene a review panel composed of three
17 members. At least one member of the panel shall be a family member or guardian of a patient who resides in a mental
18 health facility operated by the department. The remaining members of the panel shall be persons who are from
19 nongovernmental organizations or groups concerned with the prevention of mental disorders, evaluation, care,
20 treatment or rehabilitation of persons affected by the same conditions as the patient the department seeks to place and
21 who are familiar with services and service needs of persons in mental health facilities operated by the department. No
22 member of the panel shall be an officer or employee of the department.

23 4. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate
24 under sections 630.610, 630.615 and 630.620. The hearing shall be electronically recorded for purposes of obtaining
25 a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law, and
26 decision to the director who shall enter findings of fact, conclusions of law, and the final decision. Notice of the
27 director's decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered mail, return
28 receipt requested. The director shall expedite this review in all respects.

29 5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he
30 may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where
31 the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record,
32 proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the
33 head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under
34 sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the
35 provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and
36 material evidence.

37 6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

38 7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the
39 head of the facility to demonstrate by a preponderance of evidence that the proposed placement is appropriate under
40 the criteria set forth in sections 630.610, 630.615 and 630.120.

41 8. Pending the convening of the hearing panel and the final decision of the director or the court if the
42 director's decision is appealed, the department shall not place or discharge the patient from a facility except that the
43 department may temporarily transfer such patient in the case of a medical emergency.

44 9. There shall be no retaliation against any state employee as the result of a good faith decision to place the

1 patient which is appealed and who testifies during a hearing or otherwise provides information or evidence in regard
2 to a proposed placement.

3 630.705. 1. The department shall promulgate rules setting forth reasonable standards for residential
4 facilities and day programs for persons who are affected by a mental disorder, mental illness, [mental retardation] or
5 developmental disability.

6 2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client
7 population, size, type of services or other reasonable classification. The department shall design the rules to promote
8 and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation
9 of persons described in subsection 1 of this section.

10 3. The following residential facilities and day programs shall not be licensed by the department:

11 (1) Any facility or program which relies solely upon the use of prayer or spiritual healing;

12 (2) Any educational, special educational or vocational program operated, certified or approved by the state
13 board of education pursuant to chapters 161, 162 and 178, and regulations promulgated by the board;

14 (3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities
15 operated by the department shall meet these standards;

16 (4) Any hospital, facility or other entity, excluding those with persons who are [mentally retarded and]
17 developmentally disabled as defined in section 630.005 otherwise licensed by the state and operating under such
18 license and within the limits of such license, unless the majority of the persons served receive activities and services
19 normally provided by a licensed facility pursuant to this chapter;

20 (5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter
21 197;

22 (6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals, the American
23 Osteopathic Association, Accreditation Council for Services for Mentally Retarded or other Developmentally
24 Disabled Persons, Council on Accreditation of Services for Children and Families, Inc., or the Commission on
25 Accreditation of Rehabilitation Facilities;

26 (7) Any facility or program caring for less than four persons whose care is not funded by the department.

27 630.715. 1. The department shall establish a procedure for the licensing of residential facilities and day
28 programs for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a
29 temporary operating permit or a probationary license issued by the department of social services under sections
30 198.006 to 198.096 as regards the licensing requirements in the following areas:

31 (1) General medical and health care;

32 (2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;

33 (3) Food service facilities;

34 (4) Safety precautions;

35 (5) Drugs and medications;

36 (6) Uniform system of record keeping;

37 (7) Resident and client rights and grievance procedures.

38
39 However, the department shall require annually that any facilities and programs already licensed by the department of
40 social services under chapter 198 which desire to provide services to persons diagnosed as mentally disordered,
41 mentally ill, [mentally retarded] or developmentally disabled in accordance with sections 630.705 to 630.760 meet the
42 department's requirements in excess of those required for licensure or certification under chapter 198, which are
43 appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons. 2.
44 Applications for licenses shall be made to the department upon forms provided by it and shall contain such

1 information and documents as the department requires, including, but not limited to, affirmative evidence of ability to
2 comply with the rules adopted by the department. Each application for a license, except applications from a
3 governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by
4 a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars
5 from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to
6 the general revenue fund of the state treasury.

7 3. An applicant for a license shall submit an affidavit under oath that all documents required by the
8 department to be filed pursuant to this section are true and correct to the best of his knowledge and belief, that the
9 statements contained in the application are true and correct to the best of his knowledge and belief and that all
10 required documents are either included with the application or are currently on file with the department.

11 630.735. 1. No person or governmental unit, acting separately or jointly with any other person or
12 governmental unit, shall establish, conduct or maintain any residential facility in this state for the care, treatment,
13 habilitation or rehabilitation of [mentally retarded or] developmentally disabled persons without a valid license issued
14 by the department. Licenses in effect on August 13, 1982, shall continue in effect until they regularly expire unless
15 sooner revoked; except that in no case shall a license continue in effect beyond one year after August 13, 1982.

16 2. After October 1, 1983, no person or governmental unit, acting separately or jointly with any other person
17 or governmental unit, shall establish, conduct or maintain any residential facility or day program in this state for care,
18 treatment, habilitation or rehabilitation of persons diagnosed as mentally disordered or mentally ill or day program
19 for [mentally retarded or] developmentally disabled persons unless the facilities or programs are licensed by the
20 department.

21 632.005. As used in chapter 631 and this chapter, unless the context clearly requires otherwise, the
22 following terms shall mean:

23 (1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following
24 services to persons affected by mental disorders other than [mental retardation or] developmental disabilities:
25 inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison,
26 follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and
27 treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

28 (2) "Council", the Missouri advisory council for comprehensive psychiatric services;

29 (3) "Court", the court which has jurisdiction over the respondent or patient;

30 (4) "Division", the division of comprehensive psychiatric services of the department of mental health;

31 (5) "Division director", director of the division of comprehensive psychiatric services of the department of
32 mental health, or his designee;

33 (6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health
34 facility, or his designee;

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

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

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

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

44 (a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as

1 evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on
2 himself. Evidence of substantial risk may also include information about patterns of behavior that historically have
3 resulted in serious harm previously being inflicted by a person upon himself;

4 (b) A substantial risk that serious physical harm to a person will result or is occurring because of an
5 impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced
6 by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of
7 food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may
8 result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information
9 about patterns of behavior that historically have resulted in serious harm to the person previously taking place because
10 of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food,
11 clothing, shelter, safety or medical or mental health care; or

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

17 (11) "Mental health coordinator", a mental health professional who has knowledge of the laws relating to
18 hospital admissions and civil commitment and who is authorized by the director of the department, or his designee, to
19 serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities
20 provided in this chapter;

21 (12) "Mental health facility", any residential facility, public or private, or any public or private hospital,
22 which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental
23 illness and which is recognized as such by the department or any outpatient treatment program certified by the
24 department of mental health. No correctional institution or facility, jail, regional center or [mental retardation]
25 developmental disability facility shall be a mental health facility within the meaning of this chapter;

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

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

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

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

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

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

44 (19) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in

1 psychiatry approved by the American Medical Association, the American Osteopathic Association or other training
2 program certified as equivalent by the department;

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

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

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

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

12 632.105. 1. The head of a private mental health facility may, and the head of a department mental health
13 facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and
14 accommodations, accept for evaluation, on an outpatient basis if practicable, any person eighteen years of age or over
15 who applies for his admission. The department may require that a community-based service where the person resides
16 perform the evaluation pursuant to an affiliation agreement and contract with the department.

17 2. If a person is diagnosed as having a mental disorder, other than [mental retardation or] developmental
18 disability without another accompanying mental disorder, and is determined to be in need of inpatient treatment, the
19 person may be admitted by a private mental health facility and shall be admitted by a department mental health
20 facility, if suitable accommodations are available, for care and treatment as an inpatient for such periods and under
21 such conditions as authorized by law. The department may require that a community-based service where the patient
22 resides admit the person for inpatient care and treatment pursuant to an affiliation agreement and contract with the
23 department.

24 3. A person who is admitted under this section is a voluntary patient and shall have the right to consent to
25 evaluation, care, treatment and rehabilitation and shall not be medicated without his prior voluntary and informed
26 consent; except that medication may be given in emergency situations.

27 632.110. 1. The head of a private mental health facility may, and the head of a department mental health
28 facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and
29 accommodations, accept for evaluation, on an outpatient basis if practicable, any minor for whom an application for
30 voluntary admission is made by his parent or other legal custodian. The department may require that a
31 community-based service where the minor resides perform the evaluation pursuant to an affiliation agreement or
32 contract with the department.

33 2. If the minor is diagnosed as having a mental disorder, other than [mental retardation or] developmental
34 disability without another accompanying mental disorder, and found suitable for inpatient treatment as a result of the
35 evaluation, the minor may be admitted by a private mental health facility or shall be admitted by a department mental
36 health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for such
37 periods and under such conditions as authorized by law. The department may require that a community-based service
38 where the patient resides admit the person for inpatient care, treatment and rehabilitation pursuant to an affiliation
39 agreement and contract with the department.

40 3. The parent or legal custodian who applied for the admission of the minor shall have the right to authorize
41 his evaluation, care, treatment and rehabilitation and the right to refuse permission to medicate the minor; except that
42 medication may be given in emergency situations.

43 4. The parent or legal custodian may request
44 a peace officer to take a minor into custody and transport him to the mental health facility for evaluation if the parent
or legal custodian applies for such evaluation under subsection 1 of this section.

1 632.115. The head of a private mental health facility may, and the head of a public mental health facility
2 shall, except in the case of medical emergency and subject to the availability of suitable programs and
3 accommodations, admit any minor who has symptoms of mental disorder other than [mental retardation or]
4 developmental disability, who is under the jurisdiction of a juvenile court and who is committed to a facility not
5 operated by the state of Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201
6 to 211.207 for assignment by the director to an appropriate facility.

7 632.120. 1. The head of a private mental health facility may, and the head of a department facility shall,
8 except in the case of a medical emergency and subject to the availability of suitable programs and accommodations,
9 accept for evaluation and treatment, on an outpatient basis if practicable, any person who has been declared
10 incapacitated by a court of competent jurisdiction and for whom an application for voluntary admission is made by his
11 guardian. The department may require that a community-based service where the person resides perform the
12 evaluation pursuant to an affiliation agreement and contract with the department.

13 2. If the person is diagnosed as having a mental disorder, other than [mental retardation or] developmental
14 disability without another accompanying mental disorder, and the person is found suitable for inpatient treatment as a
15 result of the evaluation, the person may be admitted by a private mental health facility or shall be admitted by a public
16 mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient
17 for up to thirty days after admission for evaluation and treatment.

18 3. If further inpatient services are recommended, the person may remain in the facility only if his guardian is
19 authorized by the court to continue the inpatient hospitalization. The court may authorize the guardian to consent to
20 evaluation, care, treatment, including medication, and rehabilitation on an inpatient basis.

21 632.370. 1. The department may transfer, or authorize the transfer of, an involuntary patient detained under
22 this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department
23 determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a
24 ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer
25 during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the
26 medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the
27 consent of the patient, his parent if he is a minor or his legal guardian to his legal guardian, parents and spouse, or, if
28 none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the
29 relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits
30 beneficial to the patient. The head of the mental health program shall notify the court ordering detention or
31 commitment, the patient's last known attorney of record and the mental health coordinator for the region, and if the
32 person was committed pursuant to chapter 552, to the prosecuting attorney of the jurisdiction where the person was
33 tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction
34 where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies.
35 Notification by the appropriate person or agency by certified mail to the most current address provided by the victim
36 shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed
37 under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer
38 is appropriate to the medical needs of the patient.

39 2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or
40 treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in
41 any facility for the care or treatment of the mentally ill, [mentally retarded or] developmentally disabled and that such
42 individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his
43 transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering
44 hospitalization, the legal guardian, spouse and parents, or, if none be known, his nearest known relative or friend shall

1 be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if
2 he is confined pursuant to a conviction for any felony or misdemeanor or if he has been acquitted of any felony or
3 misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement
4 of such person enters an order for the transfer after appropriate motion and hearing. Any person transferred to an
5 agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of
6 hospitalization.

7 632.380. Persons who are [mentally retarded,] developmentally disabled, senile or impaired by alcoholism
8 or drug abuse shall not be detained judicially under this chapter, unless they are also mentally ill and as a result
9 present likelihood of serious harm to themselves or to others. Such persons may, however, be committed upon court
10 order under this chapter and the provisions of chapter 475 relating to incapacitated persons, pursuant to chapter 211
11 relating to juveniles, or may be admitted as voluntary patients under section 632.105 or 632.120.

12 633.005. As used in this chapter, unless the context clearly requires otherwise, the following terms shall
13 mean:

14 (1) "Comprehensive evaluation", a study, including a sequence of observations and examinations, of an
15 individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons
16 with special training and experience in the diagnosis and habilitation of the [mentally retarded and] developmentally
17 disabled;

18 (2) "Division", the division of [mental retardation and] developmental disabilities of the department of
19 mental health;

20 (3) "Division director", the director of the division of [mental retardation and] developmental disabilities of
21 the department of mental health, or his designee;

22 (4) "Group home", a residential facility serving nine or fewer residents, similar in appearance to a
23 single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent
24 living and community integration, and social support. Group homes do not include a family living arrangement or
25 individualized supported living;

26 (5) "[Mental retardation] Developmental disability facility", a private or department facility, other than a
27 regional center, which admits persons who are [mentally retarded or] developmentally disabled for residential
28 habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630.
29 Such terms shall include, but shall not be limited to, habilitation centers and private or public residential facilities for
30 persons who are developmentally disabled;

31 (6) "Regional center", an entity so designated by the department to provide, directly or indirectly, for
32 comprehensive [mental retardation and] developmental disability services under this chapter in a particular region;

33 (7) "Respite care", temporary and short-term residential care, sustenance and supervision of a [mentally
34 retarded or] developmentally disabled person who otherwise resides in a family home;

35 (8) "State advisory council", the Missouri advisory council on [mental retardation and] developmental
36 disabilities as created in section 633.020.

37 633.010. 1. The division of [mental retardation and] developmental disabilities, created by the omnibus
38 reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of the department. The division shall
39 have the responsibility of insuring that [mental retardation and] developmental disabilities prevention, evaluation,
40 care, habilitation and rehabilitation services are accessible, wherever possible. The division shall have and exercise
41 supervision of division residential facilities, day programs and other specialized services operated by the department,
42 and oversight over facilities, programs and services funded or licensed by the department.

43 2. The powers, functions and duties of the division shall include the following:

44 (1) Provision of funds for the planning and implementation of accessible programs to serve persons affected

1 by [mental retardation or] developmental disabilities;

2 (2) Review of [mental retardation and] developmental disabilities plans submitted to receive state and
3 federal funds allocated by the department;

4 (3) Provision of technical assistance and training to community-based programs to assist in the planning and
5 implementation of quality services;

6 (4) Assurance of program quality in compliance with such appropriate standards as may be established by
7 the department;

8 (5) Sponsorship and encouragement of research into the causes, effects, prevention, habilitation and
9 rehabilitation of [mental retardation and] developmental disabilities;

10 (6) Provision of public information relating to [mental retardation and] developmental disabilities and their
11 habilitation;

12 (7) Cooperation with nonstate governmental agencies and the private sector in establishing, conducting,
13 integrating and coordinating [mental retardation and] developmental disabilities programs and projects;

14 (8) Cooperation with other state agencies to encourage appropriate health facilities to serve, without
15 discrimination, persons who are [mentally retarded or] developmentally disabled who require medical care and to
16 provide them with adequate and appropriate services;

17 (9) Participation in developing and implementing a statewide plan to alleviate problems relating to [mental
18 retardation and] developmental disabilities and to overcome the barriers to their solutions;

19 (10) Encouragement of coordination of division services with other divisions of the department and other
20 state agencies;

21 (11) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons
22 affected by [mental retardation and] developmental disabilities to be accepted and integrated into normal community
23 activities;

24 (12) Evaluation, or the requirement of the evaluation, including the collection of appropriate necessary
25 information, of [mental retardation or] developmental disabilities programs to determine their cost-and-benefit
26 effectiveness;

27 (13) Participation in developing standards for residential facilities, day programs and specialized services
28 operated, funded or licensed by the department for persons affected by [mental retardation or] developmental
29 disabilities.

30 633.020. 1. The "Missouri Advisory Council on [Mental Retardation and] Developmental Disabilities",
31 consisting of up to twenty-five members, the number to be determined under the council bylaws, is hereby created to
32 advise the division and the division director.

33 2. The members of the Missouri planning council for developmental disabilities, created by executive order
34 of the governor on October 26, 1979, for the remainder of their appointed terms, and up to five persons to be
35 appointed by the director, for staggered terms of three years each, shall act as such advisory body. At the expiration
36 of the term of each member, the director shall appoint an individual who shall hold office for a term of three years. At
37 least one-half of the members shall be consumers. Other members shall have professional, research or personal
38 interest in [mental retardation and] developmental disabilities. At least one member shall be a manager of or a
39 member of the board of directors of a sheltered workshop as defined in section 178.900. No more than one-fourth of
40 the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their
41 spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that
42 members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of
43 vendors under this subsection.

44 3. Meetings shall be held at least every ninety days or at the call of the division director or the council

1 chairman, who shall be elected by the council.

2 4. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses,
3 pursuant to department travel regulations, actually incurred in the performance of his official duties.

4 5. The council may be divided into subcouncils in accordance with its bylaws.

5 6. The council shall collaborate with the department in developing and administering a state plan for [mental
6 retardation and] developmental disabilities services.

7 7. No member of a state advisory council may participate in or seek to influence a decision or vote of the
8 council if the member would be directly involved with the matter or if he would derive income from it. A violation of
9 the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the
10 director.

11 8. The council shall be advisory and shall:

12 (1) Promote meetings and programs for the discussion of reducing the debilitating effects of [mental
13 retardation and] developmental disabilities and disseminate information in cooperation with any other department,
14 agency or entity on the prevention, evaluation, care, treatment and habilitation for persons affected by [mental
15 retardation or] developmental disabilities;

16 (2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and
17 recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision
18 of services to [mentally retarded or] developmentally disabled persons through private and public residential facilities,
19 day programs and other specialized services;

20 (3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade
21 the department's [mental retardation and] developmental disabilities service delivery system for citizens of this state;

22 (4) Participate in developing and disseminating criteria and standards to qualify [mental retardation or]
23 developmental disability residential facilities, day programs and other specialized services in this state for funding or
24 licensing, or both, by the department.

25 633.029. All persons determined eligible for services provided by the division of [mental retardation and]
26 developmental disabilities prior to January 1, 1991, shall be eligible for services on the basis of their earlier
27 determination of eligibility without regard to their eligibility status under the definition of developmental disability
28 contained in section 630.005.

29 633.030. 1. The department shall prepare a state plan to secure coordinated [mental retardation and]
30 developmental disabilities habilitation services accessible to persons in need of them in defined geographic areas,
31 which plan shall be reviewed and revised annually.

32 2. The state plan shall include, but not be limited to, the following:

33 (1) A needs-assessment of the state to determine underserved, unserved and inappropriately served
34 populations and areas;

35 (2) Statements of short-term and long-term goals for meeting the needs of currently served, underserved,
36 unserved or inappropriately served populations and areas of the state;

37 (3) An inventory of existing private and public residential facilities, day programs and other service
38 providers offering [mental retardation or] developmental disability evaluation and habilitation services;

39 (4) Evaluations of the effects of habilitation programs;

40 (5) Descriptions of the following:

41 (a) Methods for assuring active consumer-oriented citizen participation throughout the system;

42 (b) Strategies and procedures for encouraging, coordinating and integrating community-based services,
43 wherever practicable, to avoid duplication by private, not-for-profit and public state and community-based providers
44 of services;

- 1 (c) Methods for monitoring the quality of evaluation and habilitation services funded by the state;
2 (d) Rules which set standards for construction, staffing, operations and programs, as appropriate, for any
3 public or private entity to meet for receiving state licensing, certification or funding; and
4 (e) Plans for addressing the particular [mentally retarded and] developmental disability service needs of
5 each region, including special strategies for rural and urban unserved, underserved or inappropriately served
6 populations in areas of the state.

7 3. In preparing the state plan, the department shall take into consideration its regional plans.

8 633.045. 1. Any regional advisory councils established under section 633.040 shall participate in the
9 preparation of regional plans and annually review, advise on and recommend them before they are transmitted to the
10 state advisory council and the division director. The plans shall include at least the following:

11 (1) An inventory of existing residential facilities, day programs and specialized services for the [mentally
12 retarded and] developmentally disabled;

13 (2) An assessment of needs, including any special target populations, of unserved, underserved or
14 inappropriately served persons;

15 (3) A statement of specific goals for the region.

16 2. Any staff of such regional advisory councils shall be provided only from funds appropriated specifically
17 for that purpose. This subsection shall become effective July 1, 1981.

18 633.050. 1. In addition to such other advisory functions as may be agreed upon with the division, the
19 regional advisory councils shall review and advise on programs and policies of the regional centers. The councils
20 shall review, advise on, and recommend regional program budgets and shall report to the division director their
21 findings as to their conformity with the regional plans before they are transmitted to the department to be considered
22 for inclusion in the department budget request.

23 2. The regional councils may advise the department, the division and the regional centers on methods of
24 operation and service delivery which will assure comprehensive services with the minimum amount of duplication,
25 fragmentation and unnecessary expenditures. In making such proposals, the councils shall consider the most
26 appropriate use of existing agencies and professional personnel providing residential facilities, day programs and
27 other specialized services for the [mentally retarded and] developmentally disabled in their regions.

28 3. The duties of the regional advisory councils shall include:

29 (1) Determining the disbursement of the cash stipend as established in section 633.180 and the family
30 support loan as established in section 633.185;

31 (2) Providing direction and assistance to the regional center in the development of a family support plan
32 based upon the needs in the region;

33 (3) Approval of the regional family support plan;

34 (4) Monitoring the implementation of the family support plan;

35 (5) Providing an annual written report to the department of mental health regarding the activities of the
36 family support council.

37 633.110. 1. Any person suspected to be [mentally retarded or] developmentally disabled shall be eligible
38 for initial diagnostic and counseling services through the regional centers.

39 2. If it is determined by a regional center through a comprehensive evaluation that a person is [mentally
40 retarded or] developmentally disabled so as to require the provision of services, and if such person, such person's
41 parent, if the person is a minor, or legal guardian, requests that he be registered as a client of a regional center, the
42 regional center shall, within the limits of available resources, secure a comprehensive program of any necessary
43 services for such person. Such services may include, but need not be limited to, the following:

44 (1) Diagnosis and evaluation;

- 1 (2) Counseling;
- 2 (3) Respite care;
- 3 (4) Recreation;
- 4 (5) Habilitation;
- 5 (6) Training;
- 6 (7) Vocational habilitation;
- 7 (8) Residential care;
- 8 (9) Homemaker services;
- 9 (10) Developmental day care;
- 10 (11) Sheltered workshops;
- 11 (12) Referral to appropriate services;
- 12 (13) Placement;
- 13 (14) Transportation.

14 3. In securing the comprehensive program of services, the regional centers shall involve the client, his family
15 or his legal guardian in decisions affecting his care, habilitation, placement or referral. Nothing in this chapter shall
16 be construed as authorizing the care, treatment, habilitation, referral or placement of any [mentally retarded or]
17 developmentally disabled person to any residential facility, day program or other specialized service without the
18 written consent of the client, his parent, if he is a minor, or his legal guardian, unless such care, treatment, habilitation,
19 referral, or placement is authorized pursuant to an order of the court under the provisions of chapter 475.

20 633.115. The regional center shall secure services for its clients in the least restrictive environment
21 consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall
22 utilize the following entities to secure services:

- 23 (1) Agencies serving persons not diagnosed as [mentally retarded or] developmentally disabled in which the
24 client would be eligible to receive available services or in which the services could be made available to the client
25 through the purchase of assistive or supportive services;
- 26 (2) Agencies serving [mentally retarded or] developmentally disabled persons in which the client would be
27 eligible to receive available services or in which services could be made available to the client through the purchase of
28 assistive or supportive services;
- 29 (3) The regional center on a day-program basis;
- 30 (4) The regional center for short-term residential services, not to exceed six months, unless expressly
31 authorized for a longer period by the division director;
- 32 (5) A residential facility licensed through the department placement program, but not operated by the
33 department;
- 34 (6) A [mental retardation] developmental disability facility operated by the department for clients who are
35 developmentally disabled [or mentally retarded].

36 633.120. 1. A regional center may refer a client for admission to a [mental retardation] developmental
37 disability facility only if determined by a comprehensive evaluation that:

- 38 (1) The person has a developmental disability;
- 39 (2) Protective services are required to guarantee the health, safety or mental well-being of the person;
- 40 (3) Placement in a [mental retardation] developmental disability facility is in the best interests of the person;

41 and

42 (4) All other less restrictive services, including but not limited to family support and supported living, have
43 been explored and found inadequate to prevent placement in a [mental retardation] developmental disability facility.

44 2. The regional center shall forward its comprehensive evaluation containing the determination under

1 subsection 1 of this section and such other records as are necessary to enable the [mental retardation] developmental
2 disability facility to determine whether to accept or reject the referral.

3 3. The head of a private [mental retardation] developmental disability facility may, and the head of a
4 department [mental retardation] developmental disability facility shall, admit the person if, as a result of reviewing the
5 evaluation, the head of the [mental retardation] developmental disability facility determines that the client is
6 appropriate for admission as a resident and suitable accommodations are available. If the head of a department
7 [mental retardation] developmental disability facility rejects the referral, the regional center may appeal the rejection
8 to the division director. After consulting with the head of the referring regional center and the head of the department
9 [mental retardation] developmental disability facility, the division director shall determine the appropriate disposition
10 of the client.

11 4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor, or his guardian, as
12 authorized by a court, shall consent to the admission unless otherwise ordered by a court.

13 5. The head of a [mental retardation] developmental disability facility shall have an individualized
14 habilitation plan for each resident within thirty days of the resident's admission. Such plan shall include a statement
15 regarding the resident's anticipated length of stay in the facility and the feasibility of least restrictive alternatives.

16 6. If procedures are initiated under chapter 475 for the appointment of a guardian for a resident of a
17 department [mental retardation] developmental disability facility, the referral procedure under this section shall not
18 apply.

19 633.125. 1. A resident admitted to a [mental retardation] developmental disability facility pursuant to
20 section 633.120 shall be discharged immediately when the person who applied for his admission requests the release
21 orally, in writing or otherwise from the head of the [mental retardation] developmental disability facility; except, that
22 if the head of the [mental retardation] developmental disability facility regards the resident as presenting a likelihood
23 of serious harm to himself or others, the head of the facility may initiate involuntary detention procedures pursuant to
24 chapter 632, if appropriate, or any individual, including the head of the facility or the mental health coordinator may
25 initiate guardianship proceedings and, if appropriate, obtain an emergency commitment order pursuant to chapter 475.

26 2. A resident shall be discharged from a department [mental retardation] developmental disability facility if
27 it is determined in a comprehensive evaluation or periodic review that the person is not [mentally retarded or]
28 developmentally disabled, and if the resident, parent, if a minor, or guardian consents to the discharge. If consent is
29 not obtained, the head of the facility shall initiate appeal proceedings under section 633.135, before a resident can be
30 discharged.

31 3. A resident shall either be discharged from a department [mental retardation] developmental disability
32 facility or shall be referred to a regional center for placement in a least restrictive environment pursuant to section
33 630.610, if it is determined in a comprehensive evaluation or periodic review that the following criteria exist:

34 (1) The resident's condition is not of such a nature that for the protection or adequate care of the resident or
35 others the resident needs department residential habilitation or other services;

36 (2) The [mental retardation] developmental disability facility does not offer a program which best meets the
37 resident's needs; or

38 (3) The [mental retardation] developmental disability facility does not provide the least restrictive
39 environment feasible. A resident may not be discharged without his consent or the consent of his parent, if he is a
40 minor, or guardian unless proceedings have been completed under section 633.135.

41 4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall be referred to an
42 appropriate regional center for assistance in obtaining any necessary services.

43 633.130. 1. At least once every one hundred eighty days, the head of each [mental retardation]
44 developmental disability facility shall cause the condition and status of each resident to be reviewed and evaluated for

1 the purpose of determining whether the resident needs further residential habilitation, placement in the least restrictive
2 environment or discharge.

3 2. The head of the facility shall initiate proceedings to discharge any resident whose continued residential
4 habilitation is no longer appropriate; except, that the head of the facility may refer the resident to the appropriate
5 regional center for placement pursuant to section 630.610.

6 3. A copy of the evaluation and individualized habilitation plan shall be sent to any court having jurisdiction
7 over the resident.

8 633.135. 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to consent to the
9 proposed placement or to discharge from the facility, the head of the [mental retardation] developmental disability
10 facility may petition the director of the division to determine whether the proposed placement is appropriate under
11 sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120,
12 633.125 and 633.130.

13 2. The division director shall refer the petition to the chairman of the state advisory council who shall
14 appoint and convene a review panel composed of three members. At least one member of the panel shall be a parent
15 or guardian of a resident who resides in a department [mental retardation] developmental disability facility. The
16 remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned
17 with the prevention of [mental retardation] developmental disability, evaluation, care and habilitation of [mentally
18 retarded] developmentally disabled persons and who are familiar with services and service needs of [mentally
19 retarded] developmentally disabled persons in facilities operated by the department. No member of the panel shall be
20 an officer or employee of the department.

21 3. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate
22 under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections
23 633.120, 633.125 and 633.130. The hearing shall be electronically recorded for purposes of obtaining a transcript.
24 The council shall forward the tape recording, recommended findings of fact, conclusions of law and decision to the
25 director who shall enter findings of fact, conclusions of law and the final decision. Notice of the director's decision
26 shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered mail, return receipt requested.
27 The director shall expedite this review in all respects.

28 4. If the resident, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he
29 may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where
30 the resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and
31 decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the
32 facility sustained his burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and
33 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The court shall
34 expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause
35 shown, hear and consider additional competent and material evidence.

36 5. Any resident of a [mental retardation] developmental disability facility who is age eighteen or older and
37 who does not have a legal guardian shall not be discharged unless probate division of the circuit court approval is
38 obtained to confirm that the resident is not in need of the care, treatment or programs now being received in the
39 [mental retardation] developmental disability facility.

40 6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

41 7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the
42 head of the facility to demonstrate by preponderance of evidence that the proposed placement is appropriate under the
43 criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed discharge is appropriate under the
44 criteria set forth in sections 633.120, 633.125 and 633.130.

1 8. Pending a convening of the hearing panel and the final decision of the director or the court, if the
2 director's decision is appealed, the department shall not place or discharge the resident from a facility except that the
3 department may temporarily transfer such resident in the case of a medical emergency.

4 9. There shall be no disciplinary action against any state employee who in good faith testifies or otherwise
5 provides information or evidence in regard to a proposed placement or discharge.

6 633.140. 1. If any resident leaves a [mental retardation] developmental disability facility without
7 authorization, the sheriff of the county where the resident is found shall apprehend and return him to the center if
8 requested to do so by the head of the facility.

9 2. The head of the facility may request the return of an absent resident pursuant to subsection 1 of this
10 section only when one of the following circumstances exists:

11 (1) The resident is a minor whose admission was applied for by his parent or legal custodian, and such
12 parent or guardian has not requested the resident's release;

13 (2) The resident is a minor under the jurisdiction of the juvenile court;

14 (3) The resident has been declared legally incapacitated and his guardian has not requested his release; or

15 (4) The resident's condition is of such a nature that, for the protection of the resident or others, the head of
16 the facility determines that the resident's return to the facility is necessary. Such determination shall be noted in the
17 resident's records.

18 633.145. 1. The department may transfer a resident from one department [mental retardation]
19 developmental disability facility to another if the division director determines that such transfer is desirable to provide
20 the resident improved habilitation or other services, to better insure his safety and welfare, or to locate him in closer
21 proximity to his family and friends.

22 2. Transfers may only be made to a private [mental retardation] developmental disability facility pursuant to
23 section 630.610.

24 3. Determinations by the division director pursuant to this section shall be written and noted in the resident's
25 records. The division director shall notify the resident, his guardian or next of kin of such determination.

26
27 The department shall not transfer any resident unless it receives the consent of the resident, his guardian or his parent,
28 if the resident is a minor.

29 633.150. The head of a [mental retardation] developmental disability facility may transfer a resident to a
30 mental health facility only under the provisions of chapter 632. The director shall order that such resident be returned
31 to the [mental retardation] developmental disability facility when the resident is no longer in need of psychiatric care
32 and treatment.

33 633.155. 1. The division may provide or obtain respite care for a [mentally retarded] developmentally
34 disabled or developmentally disabled person for respite care of up to twenty-one days which may be extended up to
35 an additional twenty-one days for good cause shown. Any additional respite care beyond forty-two days within a
36 one-year period shall be expressly approved by the director of the division.

37 2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional center may admit a
38 [mentally retarded] developmentally disabled or developmentally disabled person who has been declared legally
39 incapacitated for respite care without a court order authorizing the guardian of such person to obtain such care of up
40 to twenty-one days for good cause shown.

41 633.160. If a person presents himself, or is presented, to a regional center or department [mental retardation]
42 developmental disability facility and is determined to be [mentally retarded or] developmentally disabled and, as a
43 result, presents an imminent likelihood of serious harm to himself or others as defined in chapter 632, the regional
44 center or [mental retardation] developmental disability facility may accept the person for detention for evaluation and

1 treatment for a period not to exceed ninety-six hours under the same procedures contained in chapter 632. The head
2 of the regional center or [mental retardation] developmental disability facility may initiate guardianship proceedings
3 to have the person detained beyond the ninety-six hours under chapter 475, or may refer the person to a mental health
4 facility, if the person is mentally ill, for further detention under the procedures in chapter 632.

5 633.180. 1. A family with an annual income of sixty thousand dollars or less which has a child with a
6 developmental disability residing in the family home shall be eligible to apply for a cash stipend from the division of
7 [mental retardation and] developmental disabilities in an amount to be determined by the regional advisory council.
8 Such cash stipend amount shall not exceed the maximum monthly federal Supplemental Security Income payment for
9 an individual with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis and
10 shall be considered a benefit and not income to the family. The stipend shall be used to purchase goods and services
11 for the benefit of the family member with a developmental disability. Such goods and services may include, but are
12 not limited to:

- 13 (1) Respite care;
- 14 (2) Personal and attendant care;
- 15 (3) Architectural and vehicular modifications;
- 16 (4) Health- and mental health-related costs not otherwise covered;
- 17 (5) Equipment and supplies;
- 18 (6) Specialized nutrition and clothing;
- 19 (7) Homemaker services;
- 20 (8) Transportation;
- 21 (9) Integrated community activities;
- 22 (10) Training and technical assistance; and
- 23 (11) Individual, family and group counseling.

24 2. Application for such stipend shall be made to the appropriate regional center. The regional center shall
25 determine the eligibility of the individual to receive services from the division and the division shall forward the
26 application to the regional advisory council to determine the amount of the stipend which may be approved by the
27 council.

28 3. The family support program shall be funded by moneys appropriated by the general assembly; however,
29 the family support program shall not supplant other programs funded through the division of [mental retardation and]
30 developmental disabilities.

31 633.185. 1. The division of [mental retardation and] developmental disabilities, subject to appropriation by
32 the general assembly, is authorized to implement and administer, as part of the family support program, a family
33 support loan program, which shall provide a family with an annual income of sixty thousand dollars or less which has
34 an individual with a developmental disability residing in the home, with low-interest, short-term loans to purchase
35 goods and services for the family member with a developmental disability.

36 2. Interest rates on loans made pursuant to the provisions of this section shall be no more than one percent
37 above the prime interest rate as determined by the federal reserve system on the date the loan is approved. Loans may
38 be for a maximum period of sixty months and the outstanding loan amount to any family may be no more than ten
39 thousand dollars.

40 3. Applications for loans shall be made to the appropriate regional center. The regional center shall
41 determine the eligibility of the individual to receive services from the division and the division shall forward the
42 application to the regional advisory council to determine the amount of the loan which may be approved by the
43 council.

44 4. There is hereby created in the state treasury for use by the department of mental health a fund to be known

1 as the "Family Support Loan Program Fund". Moneys deposited in the fund shall be appropriated to the director of
2 the department of mental health to be used for loans pursuant to this section. The fund shall consist of moneys
3 appropriated by the general assembly for starting the fund and money otherwise deposited according to law. Any
4 unexpended balance in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to this
5 act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to the transfer of unexpended
6 balances to the ordinary revenue fund.

7 633.190. 1. The division of [mental retardation and] developmental disabilities, in cooperation with the
8 Missouri planning council for developmental disabilities, shall adopt policies and procedures and, when necessary,
9 shall promulgate rules and regulations regarding:

- 10 (1) Program guidelines and specifications;
- 11 (2) Additional duties of the regional advisory councils;
- 12 (3) Annual evaluation of services provided by each regional center, including an assessment of consumer
13 satisfaction;
- 14 (4) Coordination of the family support program and the use of its funds throughout the state and within each
15 region, with other publicly funded programs, including Medicaid;
- 16 (5) Methodology for allocating resources to families with the funds available;
- 17 (6) Resolution of grievances filed by families pertaining to actions of the family support program;
- 18 (7) Methodology for outreach and education.

19 2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless
20 it has been promulgated pursuant to the provisions of section 536.024.

21 633.210. 1. There is hereby established in the department of mental health within the division of [mental
22 retardation and] developmental disabilities, an "Office of Autism Services". The office of autism services, under the
23 supervision of the director of the division of [mental retardation and] developmental disabilities, shall provide
24 leadership in program development for children and adults with autism spectrum disorders, to include establishment
25 of program standards and coordination of program capacity.

26 2. For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard
27 diagnostic criteria for pervasive developmental disorder, to include: autistic disorder; Asperger's syndrome; pervasive
28 developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

29 633.300. 1. All group homes and [mental retardation] developmental disability facilities as defined in
30 section 633.005 shall be subject to all applicable federal and state laws, regulations, and monitoring, including but not
31 limited to sections 630.705 to 630.805.

32 2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be subject to the same
33 training requirements established for state mental health workers with comparable positions in public group homes
34 and mental health facilities. Such required training shall be paid for by the employer.

35 3. Group homes and [mental retardation] developmental disability facilities shall be subject to the same
36 medical errors reporting requirements of other mental health facilities and group homes.

37 4. The department shall promulgate rules or amend existing rules to implement the provisions of this section.
38 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in
39 this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
40 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
41 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
42 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
43 August 28, 2008, shall be invalid and void.

44 633.303. Any employee, including supervisory personnel, of a group home or [mental retardation]

1 developmental disability facility who has been placed on the disqualification registry pursuant to section 630.170 shall
2 be terminated. Such requirements shall be specified in contracts between the department and providers pursuant to
3 this section.

4 633.309. The department of mental health shall not transfer any person to any group home or [mental
5 retardation] developmental disability facility that has received a notice of noncompliance, until there is an approved
6 plan of correction pursuant to sections 630.745 and 630.750.

7 660.405. 1. The provisions of sections 199.025 and 660.403 to 660.420 shall not apply to the following:

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

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

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

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

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

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

21 2. Nothing in this section shall prohibit any person listed in subsection 1 of this section from applying for a
22 license or receiving a license if the adult day care program owned or operated by such person conforms to the
23 provisions of sections 199.025 and 660.403 to 660.420 and all applicable rules promulgated pursuant thereto.”; and

24
25 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.