

FIRST REGULAR SESSION

HOUSE BILL NO. 463

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (118) (Sponsor), JOHNSON (61), SMITH (14), BYRD,
FRASER, YAEGER, SCHOEMEHL AND WHORTON (Co-sponsors).

Read 1st time February 3, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1378L.01

AN ACT

To repeal section 630.140, RSMo, and to enact in lieu thereof one new section relating to disclosure of mental health information.

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

Section A. Section 630.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 630.140, to read as follows:

630.140. 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

- (1) The parent of a minor patient, resident or client;
- (2) The guardian or other person having legal custody of the patient, resident or client;
- (3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;
- (4) An attorney or personal physician as authorized by the patient, resident or client;
- (5) Law enforcement officers and agencies, information about patients, residents or

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

16 clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out
17 the responsibilities of their office, and all such law enforcement officers shall be obligated to
18 keep such information confidential;

19 (6) The entity or agency authorized to implement a system to protect and advocate the
20 rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections
21 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person
22 with developmental disabilities who is a client of the entity or agency if such person has
23 authorized the entity or agency to have such access; and the records of any person with
24 developmental disabilities who, by reason of mental or physical condition is unable to authorize
25 the entity or agency to have such access, if such person does not have a legal guardian,
26 conservator or other legal representative, and a complaint has been received by the entity or
27 agency with respect to such person or there is probable cause to believe that such person has been
28 subject to abuse or neglect. The entity or agency obtaining access to a person's records shall
29 meet all requirements for confidentiality as set out in this section;

30 (7) The entity or agency authorized to implement a system to protect and advocate the
31 rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to
32 obtain access to the records of a patient, resident or client who by reason of mental or physical
33 condition is unable to authorize the system to have such access, who does not have a legal
34 guardian, conservator or other legal representative and with respect to whom a complaint has
35 been received by the system or there is probable cause to believe that such individual has been
36 subject to abuse or neglect. The entity or agency obtaining access to a person's records shall
37 meet all requirements for confidentiality as set out in this section. The provisions of this
38 subdivision shall apply to a person who has a significant mental illness or impairment as
39 determined by a mental health professional qualified under the laws and regulations of the state;

40 (8) To mental health coordinators, but only to the extent necessary to carry out their
41 duties under chapter 632, RSMo.

42 3. The facilities or services may disclose information and records under any of the
43 following:

44 (1) As authorized by the patient, resident or client;

45 (2) To persons or agencies responsible for providing health care services to such patients,
46 residents or clients;

47 (3) To the extent necessary for a recipient to make a claim or for a claim to be made on
48 behalf of a recipient for aid or insurance;

49 (4) To qualified personnel for the purpose of conducting scientific research, management
50 audits, financial audits, program evaluations or similar studies; provided, that such personnel
51 shall not identify, directly or indirectly, any individual patient, resident or client in any report of

52 such research, audit or evaluation, or otherwise disclose patient, resident or client identities in
53 any manner;

54 (5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo,
55 552, RSMo, or 632, RSMo;

56 (6) To law enforcement officers or public health officers, but only to the extent necessary
57 to carry out the responsibilities of their office, and all such law enforcement and public health
58 officers shall be obligated to keep such information confidential;

59 (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

60 (8) To the attorney representing petitioners, but only to the extent necessary to carry out
61 their duties under chapter 632, RSMo;

62 (9) To the department of social services or the department of health and senior services
63 as necessary to report or have investigated abuse, neglect, or rights violations of patients,
64 residents, or clients;

65 (10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986,
66 but only to the extent necessary to carry out their statutory responsibilities. The county board
67 shall not identify, directly or indirectly, any individual patient, resident or client;

68 **(11) To parents, legal guardians, treatment professionals, law enforcement officers,**
69 **and other individuals who by having such information could reasonably determine that**
70 **such information would assist them in reducing the likelihood of a suicide being attempted.**

71 4. The facility or program shall document the dates, nature, purposes and recipients of
72 any records disclosed under this section and sections 630.145 and 630.150.

73 5. The records and files maintained in any court proceeding under chapter 632, RSMo,
74 shall be confidential and available only to the patient, the patient's attorney, guardian, or, in the
75 case of a minor, to a parent or other person having legal custody of the patient, and to the
76 petitioner and the petitioner's attorney. In addition, the court may order the release or use of such
77 records or files only upon good cause shown, and the court may impose such restrictions as the
78 court deems appropriate.

79 6. Nothing contained in this chapter shall limit the rights of discovery in judicial or
80 administrative procedures as otherwise provided for by statute or rule.

81 7. The fact of admission of a voluntary or involuntary patient to a mental health facility
82 under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this
83 section.