

FIRST REGULAR SESSION

HOUSE BILL NO. 435

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), WALLACE, SATER,
SANDER AND FLOOK (Co-sponsors).

Read 1st time January 17, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1307L.01I

AN ACT

To repeal sections 630.005, 630.155, 630.165, 630.167, and 630.755, RSMo, and to enact in lieu thereof fifteen new sections relating to mental health, with penalty provisions.

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

Section A. Sections 630.005, 630.155, 630.165, 630.167, and 630.755, RSMo, are
2 repealed and fifteen new sections enacted in lieu thereof, to be known as sections 565.210,
3 565.212, 565.214, 630.005, 630.163, 630.165, 630.167, 630.755, 630.925, 630.927, 630.950,
4 630.975, 630.1100, 630.1102, and 630.1104, to read as follows:

**565.210. 1. A person commits the crime of vulnerable person abuse in the first
2 degree if he or she attempts to kill or knowingly causes or attempts to cause serious
3 physical injury to, a vulnerable person, as defined in section 630.005, RSMo.**

4 2. Vulnerable person abuse in the first degree is a class A felony.

**565.212. 1. A person commits the crime of vulnerable person abuse in the second
2 degree if he or she:**

**3 (1) Knowingly causes or attempts to cause physical injury to a vulnerable person,
4 as defined in section 630.005, RSMo, by means of a deadly weapon or dangerous
5 instrument; or**

**6 (2) Recklessly causes serious physical injury to any vulnerable person, as defined
7 in section 630.005, RSMo.**

8 2. Vulnerable person abuse in the second degree is a class B felony.

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.

565.214. 1. A person commits the crime of vulnerable person abuse in the third degree if he or she:

(1) Knowingly causes or attempts to cause physical contact with any vulnerable person as defined in section 630.005, RSMo, knowing the other person will regard the contact as harmful or provocative; or

(2) Purposely engages in conduct involving more than one incident that causes grave emotional distress to a vulnerable person, as defined in section 630.005, RSMo. The course of conduct shall be such as would cause a reasonable vulnerable person, as defined in section 630.005, RSMo, to suffer substantial emotional distress; or

(3) Purposely or knowingly places a vulnerable person, as defined in section 630.005, RSMo, in apprehension of immediate physical injury; or

(4) Intentionally fails to provide care, goods or services to a vulnerable person, as defined in section 630.005, RSMo. The cause of the conduct shall be such as would cause a reasonable vulnerable person, as defined in section 630.005, RSMo, to suffer physical or emotional distress; or

(5) Knowingly acts or knowingly fails to act in a manner that results in a grave risk to the life, body or health of a vulnerable person, as defined in section 630.005, RSMo.

2. Vulnerable person abuse in the third degree is a class A misdemeanor.

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

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

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

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

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

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

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

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

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

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

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

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

29 (a) Which is attributable to:

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

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

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

35 (c) Is likely to continue indefinitely; and

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

38 a. Self-care;

39 b. Receptive and expressive language development and use;

40 c. Learning;

41 d. Self-direction;

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

43 f. Mobility; and

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

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

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

52 (12) "Drug abuse", the use of any drug without compelling medical reason, which use
53 results in a temporary mental, emotional or physical impairment and causes socially
54 dysfunctional behavior, or in psychological or physiological dependency resulting from

55 continued use, which dependency induces a mental, emotional or physical impairment and causes
56 socially dysfunctional behavior;

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

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

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

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

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

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

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

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

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

88 (22) "Mental disorder", any organic, mental or emotional impairment which has
89 substantial adverse effects on a person's cognitive, volitional or emotional function and which

90 constitutes a substantial impairment in a person's ability to participate in activities of normal
91 living;

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

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

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

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

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

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

104 (a) Originates before age eighteen; and

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

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

107 (26) "Patient", an individual under observation, care, treatment or rehabilitation by any
108 hospital or other mental health facility or mental health program pursuant to the provisions of
109 chapter 632, RSMo;

110 (27) "Psychosurgery",

111 (a) Surgery on the normal brain tissue of an individual not suffering from physical
112 disease for the purpose of changing or controlling behavior; or

113 (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is
114 to control, change or affect behavioral disturbances, except seizure disorders;

115 (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain
116 normal or optimum health or constructive activity through care, treatment, training, counseling
117 or specialized attention;

118 (29) "Residence", the place where the patient has last generally lodged prior to admission
119 or, in case of a minor, where his family has so lodged; except, that admission or detention in any
120 facility of the department shall not be deemed an absence from the place of residence and shall
121 not constitute a change in residence;

122 (30) "Resident", a person receiving residential services from a facility, other than mental
123 health facility, operated, funded or licensed by the department;

124 (31) "Residential facility", any premises where residential prevention, evaluation, care,
125 treatment, habilitation or rehabilitation is provided for persons affected by mental disorders,

126 mental illness, mental retardation, developmental disabilities or alcohol or drug abuse; except
127 the person's dwelling;

128 (32) "Specialized service", an entity which provides prevention, evaluation,
129 transportation, care, treatment, habilitation or rehabilitation services to persons affected by
130 mental disorders, mental illness, mental retardation, developmental disabilities or alcohol or drug
131 abuse;

132 (33) "Vendor", a person or entity under contract with the department, other than as a
133 department employee, who provides services to patients, residents or clients;

134 (34) **"Vulnerable person", any person who, because of developmental disability or**
135 **mental illness, is unable to protect his or her own interests or adequately perform or obtain**
136 **services that are necessary to meet his or her essential human needs.**

630.163. 1. Any person having reasonable cause to suspect that a vulnerable person
2 **presents a likelihood of suffering serious physical harm or is the victim of abuse or neglect**
3 **shall report such information to the department.**

4 **2. The report shall be made orally or in writing. It shall include, if known:**

5 **(1) The name, age, and address of the vulnerable person;**

6 **(2) The name and address of any person responsible for the vulnerable person's**
7 **care;**

8 **(3) The nature and extent of the vulnerable person's condition; and**

9 **(4) Other relevant information.**

10 **3. Reports regarding persons determined not to be vulnerable persons as defined**
11 **in section 630.005 shall be referred to the appropriate state or local authorities.**

12 **4. The department shall collaborate with the departments of health and senior**
13 **services and social services to maintain a statewide toll free phone number for receipt of**
14 **reports.**

630.165. 1. When any physician, dentist, chiropractor, optometrist, podiatrist, intern,
2 nurse, medical examiner, social worker, psychologist, minister, Christian Science practitioner,
3 peace officer, pharmacist, physical therapist, facility administrator, nurse's aide or orderly in a
4 residential facility, day program or specialized service operated, funded or licensed by the
5 department or in a mental health facility or mental health program in which people may be
6 admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, or employee
7 of the department has reasonable cause to believe that a patient, resident or client of a facility,
8 program or service has been abused or neglected, he or she shall immediately report or cause a
9 report to be made to the department or the department of health and senior services, if such
10 facility or program is licensed pursuant to chapter 197, RSMo.

11 2. The report shall contain the name and address of the residential facility, day program
12 or specialized service; the name of the patient, resident or client; information regarding the
13 nature of the abuse or neglect; the name of the complainant, and any other information which
14 might be helpful in an investigation.

15 3. Any person required in subsection 1 of this section to report or cause a report to be
16 made to the department who fails to do so within a reasonable time after the act of abuse or
17 neglect is guilty of [an infraction] **a class A misdemeanor and may be subject to a five**
18 **hundred dollar fine.**

19 4. In addition to those persons required to report under subsection 1 of this section, any
20 other person having reasonable cause to believe that a resident has been abused or neglected may
21 report such information to the department.

22 5. Any person who knowingly files a false report of abuse or neglect is guilty of a class
23 A misdemeanor.

24 6. Any person having a prior conviction of filing false reports and who subsequently files
25 a false report of abuse or neglect pursuant to this section or section 565.188, RSMo, is guilty of
26 a class D felony.

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

630.167. 1. Upon receipt of a report, the department or its agents, contractors or vendors
2 or the department of health and senior services, if such facility or program is licensed pursuant
3 to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

4 2. If the investigation indicates possible abuse or neglect of a patient, resident or client,
5 the investigator shall refer the complaint together with the investigator's report to the department
6 director for appropriate action. If, during the investigation or at its completion, the department
7 has reasonable cause to believe that immediate removal from a facility not operated or funded
8 by the department is necessary to protect the residents from abuse or neglect, the department or
9 the local prosecuting attorney may, or the attorney general upon request of the department shall,
10 file a petition for temporary care and protection of the residents in a circuit court of competent
11 jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to
12 issue an ex parte order granting the department authority for the temporary care and protection
13 of the resident for a period not to exceed thirty days.

14 3. (1) **Except as otherwise provided in this section**, reports referred to in section
15 630.165 and the investigative reports referred to in this section shall be confidential, shall not
16 be deemed a public record, and shall not be subject to the provisions of section 109.180, RSMo,
17 or chapter 610, RSMo[; except that complete copies of all such reports shall be open and
18 available] . **Investigative reports pertaining to abuse and neglect shall remain confidential**
19 **until a final report is complete, subject to the conditions contained in this section. Final**
20 **reports of substantiated abuse or neglect are open and shall be available for release in**
21 **accordance with chapter 610, RSMo. The names and all other identifying information in**
22 **such final substantiated reports, including diagnosis and treatment information about the**
23 **patient, resident, or client who is the subject of such report, shall be confidential and may**
24 **only be released to the parent or other guardian of the patient, resident, or client. The**
25 **names and other descriptive information of the complainant, witnesses, or other persons**
26 **for whom findings are not made against in the final substantiated report shall be**
27 **confidential and not deemed a public record. Final reports of unsubstantiated allegations**
28 **of abuse and neglect shall remain closed records and shall only be released** to the parents
29 or other guardian of the patient, resident, or client who is the subject of such report, but the
30 names and any other descriptive information of the complainant or **any** other person mentioned
31 in the reports shall not be disclosed unless such complainant or person specifically consents to
32 such disclosure. All reports referred to in this section shall be admissible in any judicial
33 proceedings or hearing in accordance with section 36.390, RSMo, or any administrative hearing
34 before the director of the department of mental health, or the director's designee. All such reports
35 may be disclosed by the department of mental health to law enforcement officers and public
36 health officers, but only to the extent necessary to carry out the responsibilities of their offices,
37 and to the department of social services, and the department of health and senior services, and
38 to boards appointed pursuant to sections 205.968 to 205.990, RSMo, that are providing services
39 to the patient, resident or client as necessary to report or have investigated abuse, neglect, or
40 rights violations of patients, residents or clients provided that all such law enforcement officers,
41 public health officers, department of social services' officers, department of health and senior
42 services' officers, and boards shall be obligated to keep such information confidential;

43 (2) Except as otherwise provided in this section, the proceedings, findings, deliberations,
44 reports and minutes of committees of health care professionals as defined in section 537.035,
45 RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the
46 responsibility to evaluate, maintain, or monitor the quality and utilization of mental health
47 services are privileged and shall not be subject to the discovery, subpoena or other means of legal
48 compulsion for their release to any person or entity or be admissible into evidence into any
49 judicial or administrative action for failure to provide adequate or appropriate care. Such

50 committees may exist, either within department facilities or its agents, contractors, or vendors,
51 as applicable. Except as otherwise provided in this section, no person who was in attendance at
52 any investigation or committee proceeding shall be permitted or required to disclose any
53 information acquired in connection with or in the course of such proceeding or to disclose any
54 opinion, recommendation or evaluation of the committee or board or any member thereof;
55 provided, however, that information otherwise discoverable or admissible from original sources
56 is not to be construed as immune from discovery or use in any proceeding merely because it was
57 presented during proceedings before any committee or in the course of any investigation, nor is
58 any member, employee or agent of such committee or other person appearing before it to be
59 prevented from testifying as to matters within their personal knowledge and in accordance with
60 the other provisions of this section, but such witness cannot be questioned about the testimony
61 or other proceedings before any investigation or before any committee;

62 (3) Nothing in this section shall limit authority otherwise provided by law of a health
63 care licensing board of the state of Missouri to obtain information by subpoena or other
64 authorized process from investigation committees or to require disclosure of otherwise
65 confidential information relating to matters and investigations within the jurisdiction of such
66 health care licensing boards; provided, however, that such information, once obtained by such
67 board and associated persons, shall be governed in accordance with the provisions of this
68 subsection;

69 (4) Nothing in this section shall limit authority otherwise provided by law in
70 subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the
71 entity or agency authorized to implement a system to protect and advocate the rights of persons
72 with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and
73 the entity or agency authorized to implement a system to protect and advocate the rights of
74 persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this
75 section shall serve to negate assurances that have been given by the governor of Missouri to the
76 U.S. Administration on Developmental Disabilities, Office of Human Development Services,
77 Department of Health and Human Services concerning access to records by the agency
78 designated as the protection and advocacy system for the state of Missouri. However, such
79 information, once obtained by such entity or agency, shall be governed in accordance with the
80 provisions of this subsection.

81 4. Anyone who makes a report pursuant to this section or who testifies in any
82 administrative or judicial proceeding arising from the report shall be immune from any civil
83 liability for making such a report or for testifying unless such person acted in bad faith or with
84 malicious purpose.

85 5. Within five working days after a report required to be made pursuant to this section
86 is received, the person making the report shall be notified in writing of its receipt and of the
87 initiation of the investigation.

88 6. No person who directs or exercises any authority in a residential facility, day program
89 or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client
90 or employee because he or she or any member of his or her family has made a report of any
91 violation or suspected violation of laws, ordinances or regulations applying to the facility which
92 he or she has reasonable cause to believe has been committed or has occurred.

93 7. Any person who is discharged as a result of an administrative substantiation of
94 allegations contained in a report of abuse or neglect may, after exhausting administrative
95 remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county
96 in which such person resides within ninety days of such final administrative decision. The court
97 may accept an appeal up to twenty-four months after the party filing the appeal received notice
98 of the department's determination, upon a showing that:

99 (1) Good cause exists for the untimely commencement of the request for the review;

100 (2) If the opportunity to appeal is not granted it will adversely affect the party's
101 opportunity for employment; and

102 (3) There is no other adequate remedy at law.

 630.755. 1. An action may be brought by the department, or by the attorney general on
2 his own volition or at the request of the department or any other appropriate state agency, to
3 temporarily or permanently enjoin or restrain any violation of sections 630.705 to 630.760, to
4 enjoin the acceptance of new residents until substantial compliance with sections 630.705 to
5 630.760 is achieved, or to enjoin any specific action or practice of the residential facility or day
6 program. Any action brought under the provisions of this section shall be placed at the head of
7 the docket by the court and the court shall hold a hearing on any action brought under the
8 provisions of this section no less than fifteen days after the filing of the action.

9 2. Any facility or program which has received a notice of noncompliance as provided
10 by sections 630.745 to 630.750 is liable to the state for civil penalties of up to [one hundred] **ten**
11 **thousand** dollars for each day that noncompliance continues after the notice of noncompliance
12 is received. The attorney general shall, upon the request of the department, bring an action in
13 a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the
14 authority to determine the amount of civil penalty to be assessed **within the limits set out in this**
15 **section. Appeals may be taken from the judgment of the circuit court as in other civil**
16 **cases.**

17 3. **The imposition of any remedy provided for in sections 630.705 to 630.760 shall**
18 **not bar the imposition of any other remedy.**

19 **4. Penalties collected for violations of this section shall be transferred to the mental**
20 **health earnings fund established pursuant to section 630.053. Such penalties shall not be**
21 **considered a charitable contribution for tax purposes.**

22 **5. To recover any civil penalty, the moving party shall prove by a preponderance**
23 **of the evidence that the violation occurred.**

630.925 1. The director of the department shall establish a mental health fatality
2 **review panel to review deaths of all adults in the care and custody of the department. The**
3 **panel shall be formed and shall operate according to the rules, guidelines, and protocols**
4 **provided by the department of mental health.**

5 **2. The panel shall include, but shall not be limited to, the following:**

6 **(1) A prosecuting or circuit attorney;**

7 **(2) A coroner or medical examiner;**

8 **(3) Law enforcement personnel;**

9 **(4) A representative from the departments of mental health, social services, health**
10 **and senior services, and public safety;**

11 **(5) A representative of the Missouri Protection and Advocacy.**

12 **3. The director of the department of mental health shall organize the panel and**
13 **shall call the first organizational meeting of the panel. The panel shall elect a chairman**
14 **who shall convene the panel to meet at least quarterly to review all deaths of clients who**
15 **are in the care and custody of the department of mental health, which meet guidelines for**
16 **review as set forth by the department of mental health. In addition, the panel may review**
17 **at its own discretion any death reported to it by the medical examiner or coroner, even if**
18 **it does not meet criteria for review as set forth by the department. The panel shall issue**
19 **a final report, which shall be a public record, of each investigation to the department of**
20 **mental health. The final report shall include a completed summary report form. The form**
21 **shall be developed by the director of the department of mental health. The department of**
22 **mental health shall analyze the mental health fatality review panel reports and periodically**
23 **prepare epidemiological reports which describe the incidence, causes, location, and other**
24 **factors. The department of mental health shall make recommendations and develop**
25 **programs to prevent client injuries and deaths.**

26 **4. The mental health fatality review panel shall enjoy such official immunity as**
27 **exists at common law.**

630.927. 1. The director of the department of mental health shall promulgate rules,
2 **guidelines, and protocols for the mental health fatality review panel established pursuant**
3 **to section 630.925.**

4 **2. The director shall promulgate guidelines and protocols for coroner and medical**
5 **examiners to use to help them to identify suspicious deaths of clients in the care and**
6 **custody of the department of mental health.**

7 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
8 **that is created under the authority delegated in this section shall become effective only if**
9 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
10 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
11 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
12 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
13 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
14 **adopted after August 28, 2007, shall be invalid and void.**

15 **4. All meetings conducted, all reports and records made and maintained pursuant**
16 **to sections 630.925 and 630.927 by the department of mental health, or other appropriate**
17 **persons, officials, or state mental health fatality review panel shall be confidential and shall**
18 **not be open to the general public except for the annual report pursuant to section 630.925.**

630.950. Any employee of a residential facility, day program, or specialized service
2 **operated, funded, or licensed by the department who reports on or discusses employee job**
3 **performance for the purposes of making employment decisions that affect the safety of**
4 **consumers and who does so in good faith and without malice shall not be subject to an**
5 **action for civil damages as a result thereof, and no cause of action shall arise against him**
6 **or her as a result of his or her conduct pursuant to this section. The attorney general shall**
7 **defend such persons in any such action or proceeding.**

630.975. 1. The director of the department of mental health shall promulgate rules,
2 **guidelines and protocols for hospitals and physicians to use to help them to identify**
3 **suspicious deaths of clients in the care and custody of the department of mental health.**

4 **2. The director of the department of mental health shall promulgate rules for the**
5 **certification of mental health death pathologists and shall develop protocols for such**
6 **pathologists. A certified mental health death pathologist shall be a board-certified forensic**
7 **pathologist or a board-certified pathologist who through special training or experience is**
8 **deemed qualified in the area of mental health fatalities by the department of mental health.**

9 **3. Any hospital, physician, medical professional, mental health professional, or**
10 **department of mental health facility shall disclose upon request all records, medical or**
11 **social, of any client in the care and custody of the department of mental health who has**
12 **died to the mental health fatality review panel established under section 630.925 to**
13 **investigate the person's death. Any legally recognized privileged communication, except**

14 that between attorney and client, shall not apply to situations involving the death of a client
15 in the care and custody of the department of mental health.

630.1100. The department of mental health shall investigate incidents and reports
2 of vulnerable person abuse using the procedures established in sections 630.163 to 630.167,
3 and, upon substantiation of the report of vulnerable person abuse, shall promptly report
4 the incident to the appropriate law enforcement agency and prosecutor. If the department
5 is unable to substantiate whether abuse occurred due to the failure of the operator or any
6 of the operator's agents or employees to cooperate with the investigation, the incident shall
7 be promptly reported to appropriate law enforcement agencies.

630.1102. 1. When any physician, physician assistant, dentist, chiropractor,
2 optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social
3 worker, psychologist, physical therapist, podiatrist, pharmacist, other health practitioner,
4 minister, Christian Science practitioner, peace officer, facility administrator, nurse's aide
5 or orderly in a residential facility, day program or specialized service operated, funded or
6 licensed by the department or in a mental health facility or mental health program in
7 which people may be admitted on a voluntary basis or are civilly detained pursuant to
8 chapter 632, RSMo; or employee of the departments of social services, mental health, or
9 health and senior services; or home health agency or home health agency employee;
10 hospital and clinic personnel engaged in examination, care, or treatment of persons; in-
11 home services owner, provider, operator, or employee; law enforcement officer; long-term
12 care facility administrator or employee; mental health professional; peace officer;
13 probation or parole officer; or other person with responsibility for the care of a vulnerable
14 person, as defined by section 630.005, has reasonable cause to suspect that such a person
15 has been subjected to abuse or neglect or observes such a person being subjected to
16 conditions or circumstances that would reasonably result in abuse or neglect, he or she
17 shall immediately report or cause a report to be made to the department in accordance
18 with section 630.163. Any other person who becomes aware of circumstances which may
19 reasonably be expected to be the result of or result in abuse or neglect may report to the
20 department.

21 2. Any person who knowingly fails to make a report as required in subsection 1 of
22 this section is guilty of a class A misdemeanor.

23 3. Any person who knowingly files a false report of vulnerable person abuse or
24 neglect is guilty of a class A misdemeanor.

25 4. Every person who has been previously convicted of or pled guilty to making a
26 false report to the department and who is subsequently convicted of making a false report
27 under subsection 3 of this section is guilty of a class D felony.

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

31 **6. Any residential facility, day program or specialized service operated, funded or**
32 **licensed by the department that prevents or discourages a patient, resident or client,**
33 **employee or other person from reporting that a patient, resident or client of a facility,**
34 **program or service has been abused or neglected shall be subject to loss of their license**
35 **issued pursuant to sections 630.705 to 630.760, and civil fines of up to five thousand dollars**
36 **for each attempt to prevent or discourage reporting.**

630.1104. Any person, official or institution complying with the provisions of
2 **section 630.1102, in the making of a report, or in cooperating with the department in any**
3 **of its activities pursuant to sections 630.1100 and 630.1102, except any person, official, or**
4 **institution violating section 565.210, 565.212, or 565.214, RSMo, shall be immune from any**
5 **civil or criminal liability for making such a report, or in cooperating with the department,**
6 **unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.**

 [630.155. 1. A person commits the crime of "patient, resident or client
2 abuse or neglect" against any person admitted on a voluntary or involuntary basis
3 to any mental health facility or mental health program in which people may be
4 civilly detained pursuant to chapter 632, RSMo, or any patient, resident or client
5 of any residential facility, day program or specialized service operated, funded
6 or licensed by the department if he knowingly does any of the following:

- 7 (1) Beats, strikes or injures any person, patient, resident or client;
8 (2) Mistreats or maltreats, handles or treats any such person, patient,
9 resident or client in a brutal or inhuman manner;
10 (3) Uses any more force than is reasonably necessary for the proper
11 control, treatment or management of such person, patient, resident or client;
12 (4) Fails to provide services which are reasonable and necessary to
13 maintain the physical and mental health of any person, patient, resident or client
14 when such failure presents either an imminent danger to the health, safety or
15 welfare of the person, patient, resident or client, or a substantial probability that
16 death or serious physical harm will result.

17 2. Patient, resident or client abuse or neglect is a class A misdemeanor
18 unless committed under subdivision (2) or (4) of subsection 1 of this section in
19 which case such abuse or neglect shall be a class D felony.]

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