

FIRST REGULAR SESSION

HOUSE BILL NO. 1152

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILSON (130) (Sponsor), STEVENSON, FISHER, RUESTMAN, SMITH (150), HUNTER, RICHARD, EMERY, MAY AND KINGERY (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

2640L.01I

AN ACT

To repeal section 660.050, RSMo, and to enact in lieu thereof one new section relating to the division of aging.

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

Section A. Section 660.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 192.1200, to read as follows:

[660.050.] **192.1200.** 1. The "Division of Aging" is hereby transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974. **All references in the revised statutes of Missouri to the division of aging shall include any division or divisions established by the department as a successor division or divisions to the division of aging.** The division shall aid and assist the elderly and low-income handicapped adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The division shall regulate adult long-term care facilities pursuant to the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated pursuant to other provisions of law, the division shall:

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.

- 13 (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service
14 program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73,
15 (42 U.S.C. 3001, et seq.), as amended;
- 16 (2) Assure that an information and referral system is developed and operated for the
17 elderly, including information on the Missouri care options program;
- 18 (3) Provide technical assistance, planning and training to local area agencies on aging;
- 19 (4) Contract with the federal government to conduct surveys of long-term care facilities
20 certified for participation in the Title XVIII program;
- 21 (5) Serve as liaison between the department of health and senior services and the Federal
22 Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the
23 United States Department of Health and Human Services;
- 24 (6) Conduct medical review (inspections of care) activities such as utilization reviews,
25 independent professional reviews, and periodic medical reviews to determine medical and social
26 needs for the purpose of eligibility for Title XIX, and for level of care determination;
- 27 (7) Certify long-term care facilities for participation in the Title XIX program;
- 28 (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for
29 Supplemental Security Income recipients in long-term care facilities and serve as the liaison
30 between the Social Security Administration and the department of health and senior services
31 concerning Supplemental Security Income beneficiaries;
- 32 (9) Review plans of proposed long-term care facilities before they are constructed to
33 determine if they meet applicable state and federal construction standards;
- 34 (10) Provide consultation to long-term care facilities in all areas governed by state and
35 federal regulations;
- 36 (11) Serve as the central state agency with primary responsibility for the planning,
37 coordination, development, and evaluation of policy, programs, and services for elderly persons
38 in Missouri consistent with the provisions of subsection 1 of this section and serve as the
39 designated state unit on aging, as defined in the Older Americans Act of 1965;
- 40 (12) With the advice of the governor's advisory council on aging, develop long-range
41 state plans for programs, services, and activities for elderly and handicapped persons. State plans
42 should be revised annually and should be based on area agency on aging plans, statewide
43 priorities, and state and federal requirements;
- 44 (13) Receive and disburse all federal and state funds allocated to the division and solicit,
45 accept, and administer grants, including federal grants, or gifts made to the division or to the
46 state for the benefit of elderly persons in this state;
- 47 (14) Serve, within government and in the state at large, as an advocate for elderly
48 persons by holding hearings and conducting studies or investigations concerning matters

49 affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to
50 assure their rights to apply for and receive services and to be given fair hearings when such
51 services are denied;

52 (15) Provide information and technical assistance to the governor's advisory council on
53 aging and keep the council continually informed of the activities of the division;

54 (16) After consultation with the governor's advisory council on aging, make
55 recommendations for legislative action to the governor and to the general assembly;

56 (17) Conduct research and other appropriate activities to determine the needs of elderly
57 persons in this state, including, but not limited to, their needs for social and health services, and
58 to determine what existing services and facilities, private and public, are available to elderly
59 persons to meet those needs;

60 (18) Maintain and serve as a clearinghouse for up-to-date information and technical
61 assistance related to the needs and interests of elderly persons and persons with Alzheimer's
62 disease or related dementias, including information on the Missouri care options program,
63 dementia-specific training materials and dementia-specific trainers. Such dementia-specific
64 information and technical assistance shall be maintained and provided in consultation with
65 agencies, organizations and/or institutions of higher learning with expertise in dementia care;

66 (19) Provide area agencies on aging with assistance in applying for federal, state, and
67 private grants and identifying new funding sources;

68 (20) Determine area agencies on aging annual allocations for Title XX and Title III of
69 the Older Americans Act expenditures;

70 (21) Provide transportation services, home-delivered and congregate meals, in-home
71 services, counseling and other services to the elderly and low-income handicapped adults as
72 designated in the Social Services Block Grant Report, through contract with other agencies, and
73 shall monitor such agencies to ensure that services contracted for are delivered and meet
74 standards of quality set by the division;

75 (22) Monitor the process pursuant to the federal Patient Self-determination Act, 42
76 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients
77 concerning durable powers of attorney and living wills.

78 **3. The department shall determine area agencies on aging annual allocations for**
79 **all funding passed through the department as follows:**

80 (1) **The department shall review the current intrastate funding formula used to**
81 **allocate moneys to the area agencies on aging for effectiveness in targeting resources to**
82 **agencies with high concentrations of low-income and low-income minority individuals age**
83 **sixty and older. The review shall include each year since adoption of the formula;**

84 **(2) The department shall take appropriate steps as necessary to revise the intrastate**
85 **funding formula to achieve each of the following outcomes:**

86 **(a) Compliance with intrastate funding formula requirements of the federal Older**
87 **Americans Act, as amended;**

88 **(b) Provide for periodic update of demographic information;**

89 **(c) Provide for an adequate base funding for each area agency which is indexed to**
90 **an economic indicator and periodically adjusted; and**

91 **(d) Recognizes public resources are limited and must be effectively targeted to those**
92 **in greatest economic need; and**

93 **(3) The department director shall review the impact of each change in census**
94 **information, whether by census estimate or decennial census, to all funding formulas being**
95 **then used to allocate funding to the area agencies on aging. The department director may,**
96 **at the director's sole discretion, delay incorporating the new census information if**
97 **implementation would adversely impact those areas with high concentration of individuals**
98 **over the age of sixty in greatest social need or greatest economic need. In such instances,**
99 **the department director shall notify the area agency on aging network within forty-five**
100 **days of any such decision and shall initiate the process of revising any such formula within**
101 **forty-five days of notification to the area agency on aging network.**

102 **4.** The division director, subject to the supervision of the director of the department of
103 health and senior services, shall be the chief administrative officer of the division and shall
104 exercise for the division the powers and duties of an appointing authority pursuant to chapter 36,
105 RSMo, to employ such administrative, technical and other personnel as may be necessary for the
106 performance of the duties and responsibilities of the division.

107 **[4.] 5.** The division may withdraw designation of an area agency on aging only when it
108 can be shown the federal or state laws or rules have not been complied with, state or federal
109 funds are not being expended for the purposes for which they were intended, or the elderly are
110 not receiving appropriate services within available resources, and after consultation with the
111 director of the area agency on aging and the area agency board. Withdrawal of any particular
112 program of services may be appealed to the director of the department of health and senior
113 services and the governor. In the event that the division withdraws the area agency on aging
114 designation in accordance with the Older Americans Act, the division shall administer the
115 services to clients previously performed by the area agency on aging until a new area agency on
116 aging is designated.

117 **[5.] 6.** Any person hired by the department of health and senior services after August 13,
118 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198,
119 RSMo, shall complete at least one hundred hours of basic orientation regarding the inspection

120 process and applicable rules and statutes during the first six months of employment. Any such
121 person shall annually, on the anniversary date of employment, present to the department evidence
122 of having completed at least twenty hours of continuing education in at least two of the following
123 categories: communication techniques, skills development, resident care, or policy update. The
124 department of health and senior services shall by rule describe the curriculum and structure of
125 such continuing education.

126 [6.] 7. The division may issue and promulgate rules to enforce, implement and effectuate
127 the powers and duties established in this section [and sections 198.070] and **section** 198.090,
128 RSMo[, and sections 660.250 and 660.300 to 660.320] . Any rule or portion of a rule, as that
129 term is defined in section 536.010, RSMo, that is created under the authority delegated in this
130 section shall become effective only if it complies with and is subject to all of the provisions of
131 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
132 RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to
133 chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are
134 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
135 or adopted after August 28, 2001, shall be invalid and void.

136 [7.] 8. Missouri care options is a program, operated and coordinated by the division of
137 aging, which informs individuals of the variety of care options available to them when they may
138 need long-term care.

139 [8.] 9. The division shall, by January 1, 2002, establish minimum dementia-specific
140 training requirements for employees involved in the delivery of care to persons with Alzheimer's
141 disease or related dementias who are employed by skilled nursing facilities, intermediate care
142 facilities, residential care facilities, agencies providing in-home care services authorized by the
143 [division of aging] **department**, adult day-care programs, independent contractors providing
144 direct care to persons with Alzheimer's disease or related dementias and the [division of aging]
145 **department**. Such training shall be incorporated into new employee orientation and ongoing
146 in-service curricula for all employees involved in the care of persons with dementia. The
147 department of health and senior services shall, by January 1, 2002, establish minimum
148 dementia-specific training requirements for employees involved in the delivery of care to persons
149 with Alzheimer's disease or related dementias who are employed by home health and hospice
150 agencies licensed by chapter 197, RSMo. Such training shall be incorporated into the home
151 health and hospice agency's new employee orientation and ongoing in-service curricula for all
152 employees involved in the care of persons with dementia. The dementia training need not
153 require additional hours of orientation or ongoing in-service. Training shall include at a
154 minimum, the following:

155 (1) For employees providing direct care to persons with Alzheimer's disease or related
156 dementias, the training shall include an overview of Alzheimer's disease and related dementias,
157 communicating with persons with dementia, behavior management, promoting independence in
158 activities of daily living, and understanding and dealing with family issues;

159 (2) For other employees who do not provide direct care for, but may have daily contact
160 with, persons with Alzheimer's disease or related dementias, the training shall include an
161 overview of dementias and communicating with persons with dementia.

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163 As used in this subsection, the term "employee" includes persons hired as independent
164 contractors. The training requirements of this subsection shall not be construed as superceding
165 any other laws or rules regarding dementia-specific training.

166 **10. All powers, duties, and functions of the board of nursing home administrators**
167 **contained in chapter 344, RSMo, are transferred by type I transfer to the department of**
168 **health and senior services. The public members of the board shall be appointed by the**
169 **director of the department of health and senior services.**

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