

SECOND REGULAR SESSION

HOUSE BILL NO. 1914

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SATER (Sponsor), WALSH, McGHEE,
SANDER AND GRISAMORE (Co-sponsors).

Read 1st time January 30, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4541L.02I

AN ACT

To repeal sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 630.165, 630.167, and 633.005, RSMo, and to enact in lieu thereof fifteen new sections relating to mental health services, with penalty provisions.

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

Section A. Sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927,
2 630.165, 630.167, and 633.005, RSMo, are repealed and fifteen new sections enacted in lieu
3 thereof, to be known as sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921,
4 210.927, 630.165, 630.167, 633.005, 633.300, 633.303, 633.306, 633.309, and 633.400, to read
5 as follows:

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

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

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

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.

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

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

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

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

23 (6) ["Patrol", the Missouri state highway patrol;

24 (7)] "Employer", any child-care provider, elder-care provider, or personal-care provider
25 as defined in this section;

26 (7) **"Mental health provider", any mental retardation facility or group home as**
27 **defined in section 633.005, RSMo;**

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

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

31 [(8)] (10) "Personal-care attendant" or "personal-care worker", a person who performs
32 routine services or supports necessary for a person with a physical or mental disability to enter
33 and maintain employment or to live independently;

34 [(9)] (11) "Personal-care provider", any person, corporation, or association who provides
35 personal-care services or supports under contract with the department of mental health, the
36 division of aging, the department of health and senior services or the department of elementary
37 and secondary education;

38 [(10)] (12) "Related child care", child care provided only to a child or children by such
39 child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a
40 residence separate from the child or children;

41 [(11)] (13) "Related elder care", care provided only to an elder by an adult child, a
42 spouse, a grandchild, a great-grandchild or a sibling of such elder.

210.903. 1. To protect children, the elderly, [and] **the disabled, including the**
2 **developmentally disabled** individuals in this state, and to promote family and community safety
3 by providing information concerning family caregivers, there is hereby established within the

4 department of health and senior services a "Family Care Safety Registry and Access Line" which
5 shall be available by January 1, 2001.

6 2. The family care safety registry shall contain information on child-care workers',
7 elder-care workers', **mental health workers'**, and personal-care workers' background and on
8 child-care, elder-care, **mental health**, and personal-care providers through:

9 (1) The patrol's criminal record check system pursuant to section 43.540, RSMo,
10 including state and national information, to the extent possible;

11 (2) Probable cause findings of abuse and neglect prior to August 28, 2004, or findings
12 of abuse and neglect by a preponderance of the evidence after August 28, 2004, pursuant to
13 sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or
14 disabled, pursuant to section 570.145, RSMo;

15 (3) The division of aging's employee disqualification list pursuant to section 660.315,
16 RSMo;

17 (4) As of January 1, 2003, the department of mental health's employee disqualification
18 registry;

19 (5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to
20 section 210.496;

21 (6) Child-care facility license denials, revocations and suspensions pursuant to sections
22 210.201 to 210.259;

23 (7) Residential living facility and nursing home license denials, revocations, suspensions
24 and probationary status pursuant to chapter 198, RSMo; and

25 (8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement
26 system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1,
2 2001, [or] personal-care worker hired on or after January 1, 2002, **or mental health worker**
3 **hired on or after January 1, 2009**, shall complete a registration form provided by the
4 department. The department shall make such forms available no later than January 1, 2001, and
5 may, by rule, determine the specific content of such form, but every form shall:

6 (1) Request the valid Social Security number of the applicant;

7 (2) Include information on the person's right to appeal the information contained in the
8 registry pursuant to section 210.912;

9 (3) Contain the signed consent of the applicant for the background checks required
10 pursuant to this section; and

11 (4) Contain the signed consent for the release of information contained in the
12 background check for employment purposes only.

13 2. Every child-care worker or elder-care worker hired on or after January 1, 2001, [and]
14 every personal-care worker hired on or after January 1, 2002, **and every mental health worker**
15 **hired on or after January 1, 2009**, shall complete a registration form within fifteen days of the
16 beginning of such person's employment. Any person employed as a child-care, elder-care,
17 **mental health**, or personal-care worker who fails to submit a completed registration form to the
18 department of health and senior services as required by sections 210.900 to 210.936 without
19 good cause, as determined by the department, is guilty of a class B misdemeanor.

20 3. The costs of the criminal background check may be paid by the individual applicant,
21 or by the provider if the applicant is so employed, or for those applicants receiving public
22 assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325,
23 RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall
24 be deposited to the credit of the criminal record system fund as required by section 43.530,
25 RSMo.

26 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically
27 registered in the family care safety registry at no additional cost other than the costs required
28 pursuant to sections 210.481 to 210.565.

29 5. Any person not required to register pursuant to the provisions of sections 210.900 to
30 210.936 may also be included in the registry if such person voluntarily applies to the department
31 for registration and meets the requirements of this section and section 210.909, including
32 submitting to the background checks in subsection 1 of section 210.909.

33 6. The provisions of sections 210.900 to 210.936 shall not extend to related child care,
34 related elder care or related personal care.

 210.909. 1. Upon submission of a completed registration form by a child-care worker,
2 elder-care worker, **mental health worker**, or personal-care attendant, the department shall:

3 (1) Determine if a probable cause finding of child abuse or neglect prior to August 28,
4 2004, or a finding of child abuse or neglect by a preponderance of the evidence after August 28,
5 2004, involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and,
6 as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly
7 or disabled pursuant to section 570.145, RSMo;

8 (2) Determine if the applicant has been refused licensure or has experienced involuntary
9 licensure suspension or revocation pursuant to section 210.496;

10 (3) Determine if the applicant has been placed on the employee disqualification list
11 pursuant to section 660.315, RSMo;

12 (4) As of January 1, 2003, determine if the applicant is listed on the department of
13 mental health's employee disqualification registry;

14 (5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether
15 the applicant has any criminal history record for a felony or misdemeanor or any offense for
16 which the person has registered pursuant to sections 589.400 to 589.425, RSMo; and

17 (6) If the background check involves a provider, determine if a facility has been refused
18 licensure or has experienced licensure suspension, revocation or probationary status pursuant to
19 sections 210.201 to 210.259 or chapter 198, RSMo; and

20 (7) As of January 1, 2004, determine through a request to the patrol if the applicant is
21 a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform
22 law enforcement system (MULES).

23 2. Upon completion of the background check described in subsection 1 of this section,
24 the department shall include information in the registry for each registrant as to whether any
25 convictions, employee disqualification listings, registry listings, probable cause findings, pleas
26 of guilty or nolo contendere, or license denial, revocation or suspension have been documented
27 through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

28 3. The department shall notify such registrant in writing of the results of the
29 determination recorded on the registry pursuant to this section.

210.915. The department of corrections, the department of public safety, the department
2 of social services and the department of mental health shall collaborate with the department to
3 compare records on child-care, elder-care, **mental health**, and personal-care workers, and the
4 records of persons with criminal convictions and the background checks pursuant to subdivisions
5 (1) to [(6)] (8) of subsection 2 of section 210.903, and to enter into any interagency agreements
6 necessary to facilitate the receipt of such information and the ongoing updating of such
7 information. The department shall promulgate rules and regulations concerning such updating,
8 including subsequent background reviews as listed in subsection 1 of section 210.909.

210.921. 1. The department shall not provide any registry information pursuant to this
2 section unless the department obtains the name and address of the person calling, and determines
3 that the inquiry is for employment purposes only. For purposes of sections 210.900 to 210.936,
4 "employment purposes" includes direct employer-employee relationships, prospective
5 employer-employee relationships, and screening and interviewing of persons or facilities by
6 those persons contemplating the placement of an individual in a child-care, elder-care, **mental**
7 **health**, or personal-care setting. Disclosure of background information concerning a given
8 applicant recorded by the department in the registry shall be limited to:

9 (1) Confirming whether the individual is listed in the registry; and

10 (2) Indicating whether the individual has been listed or named in any of the background
11 checks listed in subsection 2 of section 210.903. If such individual has been so listed, the
12 department of health and senior services shall only disclose the name of the background check

13 in which the individual has been identified. With the exception of any agency licensed by the
14 state to provide child care, elder care, **mental health services**, or personal care which shall
15 receive specific information immediately if requested, any specific information related to such
16 background check shall only be disclosed after the department has received a signed request from
17 the person calling, with the person's name, address and reason for requesting the information.

18 2. Any person requesting registry information shall be informed that the registry
19 information provided pursuant to this section consists only of information relative to the state
20 of Missouri and does not include information from other states or information that may be
21 available from other states.

22 3. Any person who uses the information obtained from the registry for any purpose other
23 than that specifically provided for in sections 210.900 to 210.936 is guilty of a class B
24 misdemeanor.

25 4. When any registry information is disclosed pursuant to subdivision (2) of subsection
26 1 of this section, the department shall notify the registrant of the name and address of the person
27 making the inquiry.

28 5. The department of health and senior services staff providing information pursuant to
29 sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that
30 otherwise might result by reason of such actions; provided, however, any department of health
31 and senior services staff person who releases registry information in bad faith or with ill intent
32 shall not have immunity from any liability, civil or criminal. Any such person shall have the
33 same immunity with respect to participation in any judicial proceeding resulting from the release
34 of registry information. The department is prohibited from selling the registry or any portion of
35 the registry for any purpose including "employment purposes" as defined in subsection 1 of this
36 section.

210.927. The department of health and senior services shall make an annual report, no
2 later than July first of each year, to the speaker of the house of representatives and the president
3 pro tem of the senate on the operation of the family care safety registry and toll-free telephone
4 service, including data on the number of information requests received from the public,
5 identification of any barriers encountered in administering the provisions of sections 210.900 to
6 210.936, recommendations for removing or minimizing the barriers so identified, and any
7 recommendations for improving the delivery of information on child-care, elder-care, **mental**
8 **health**, and personal-care workers to the public.

630.165. 1. When any physician, physician assistant, dentist, chiropractor, optometrist,
2 podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed
3 professional counselor, certified substance abuse counselor, psychologist, other health
4 practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical

5 therapist, facility administrator, nurse's aide [or] , orderly, **or any other direct care staff** in a
6 residential facility, day program, **group home or mental retardation facility as defined in**
7 **section 633.005, RSMo**, or specialized service operated, **licensed, certified, or** funded [or
8 licensed] by the department or in a mental health facility or mental health program in which
9 people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632,
10 RSMo, or employee of the departments of social services, mental health, or health and senior
11 services; or home health agency or home health agency employee; hospital and clinic personnel
12 engaged in examination, care, or treatment of persons; in-home services owner, provider,
13 operator, or employee; law enforcement officer, long-term care facility administrator or
14 employee; mental health professional, probation or parole officer, or other nonfamilial person
15 with responsibility for the care of a patient, resident, or client of a facility, program, or service
16 has reasonable cause to suspect that a patient, resident or client of a facility, program or service
17 has been subjected to abuse or neglect or observes such person being subjected to conditions or
18 circumstances that would reasonably result in abuse or neglect, he or she shall immediately
19 report or cause a report to be made to the department in accordance with section 630.163.

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

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

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

39 5. Every person who has been previously convicted of or pled guilty to making a false
40 report to the department and who is subsequently convicted of making a false report under

41 subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five
42 thousand dollars. Penalties collected for violations of this subsection shall be transferred to the
43 state school moneys fund as established in section 166.051, RSMo, and distributed to the public
44 schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not
45 considered charitable for tax purposes.

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

49 7. Any residential facility, day program, or specialized service operated, funded, or
50 licensed by the department that prevents or discourages a patient, resident, [or] client, employee,
51 or other person from reporting that a patient, resident, or client of a facility, program, or service
52 has been abused or neglected shall be subject to loss of their license issued pursuant to sections
53 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or
54 discourage reporting.

630.167. 1. Upon receipt of a report, the department [or its agents, contractors or
2 vendors] or the department of health and senior services, if such facility or program is licensed
3 pursuant 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 630.165
15 and the investigative reports referred to in this section shall be confidential, shall not be deemed
16 a public record, and shall not be subject to the provisions of section 109.180, RSMo, or chapter
17 610, RSMo. Investigative reports pertaining to abuse and neglect shall remain confidential until
18 a final report is complete, subject to the conditions contained in this section. Final reports of
19 substantiated abuse or neglect issued on or after August 28, 2007, are open and shall be available
20 for release in accordance with chapter 610, RSMo. The names and all other identifying
21 information in such final substantiated reports, including diagnosis and treatment information
22 about the patient, resident, or client who is the subject of such report, shall be confidential and

23 may only be released to the patient, resident, or client who has not been adjudged incapacitated
24 under chapter 475, RSMo, the custodial parent or guardian parent, or other guardian of the
25 patient, resident or client. The names and other descriptive information of the complainant,
26 witnesses, or other persons for whom findings are not made against in the final substantiated
27 report shall be confidential and not deemed a public record. Final reports of unsubstantiated
28 allegations of abuse and neglect shall remain closed records and shall only be released to the
29 parents or other guardian of the patient, resident, or client who is the subject of such report,
30 patient, resident, or client and the department vendor, provider, agent, or facility where the
31 patient, resident, or client was receiving department services at the time of the unsubstantiated
32 allegations of abuse and neglect, but the names and any other descriptive information of the
33 complainant or any other person mentioned in the reports shall not be disclosed unless such
34 complainant or person specifically consents to such disclosure. Requests for final reports of
35 substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not
36 been adjudged incapacitated under chapter 475, RSMo, may be denied or withheld if the director
37 of the department or his or her designee determines that such release would jeopardize the
38 person's therapeutic care, treatment, habilitation, or rehabilitation, or the safety of others and
39 provided that the reasons for such denial or withholding are submitted in writing to the patient,
40 resident or client who has not been adjudged incapacitated under chapter 475, RSMo. All reports
41 referred to in this section shall be admissible in any judicial proceedings or hearing in accordance
42 with section 36.390, RSMo, or any administrative hearing before the director of the department
43 of mental health, or the director's designee. All such reports may be disclosed by the department
44 of mental health to law enforcement officers and public health officers, but only to the extent
45 necessary to carry out the responsibilities of their offices, and to the department of social
46 services, and the department of health and senior services, and to boards appointed pursuant to
47 sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or client
48 as necessary to report or have investigated abuse, neglect, or rights violations of patients,
49 residents or clients provided that all such law enforcement officers, public health officers,
50 department of social services' officers, department of health and senior services' officers, and
51 boards shall be obligated to keep such information confidential;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) "Division", the division of mental retardation and developmental disabilities of the
8 department of mental health;

9 (3) "Division director", the director of the division of mental retardation and
10 developmental disabilities of the department of mental health, or his designee;

11 (4) **"Group home", a residential facility serving nine or fewer residents, similar in**
12 **appearance to a single-family dwelling and providing basic health supervision, habilitation**
13 **training in skills of daily and independent living and community integration, and social**
14 **support. Group homes do not include family living arrangements or individualized**
15 **supported living;**

16 (5) "Mental retardation facility", a private or department facility, other than a regional
17 center, which admits persons who are mentally retarded or developmentally disabled for
18 residential habilitation and other services and which is qualified or licensed as such by the

19 department pursuant to chapter 630, RSMo. Such terms shall include, but shall not be limited
20 to, habilitation centers and private or public residential facilities for persons who are
21 developmentally disabled;

22 [(5)] (6) "Regional center", an entity so designated by the department to provide, directly
23 or indirectly, for comprehensive mental retardation and developmental disability services under
24 this chapter in a particular region;

25 [(6)] (7) "Respite care", temporary and short-term residential care, sustenance and
26 supervision of a mentally retarded or developmentally disabled person who otherwise resides in
27 a family home;

28 [(7)] (8) "State advisory council", the Missouri advisory council on mental retardation
29 and developmental disabilities as created in section 633.020.

**633.300. 1. All group homes and mental retardation facilities, as defined in section
2 633.005, shall be subject to all applicable federal laws, and state laws and regulations and
3 monitoring, including but not limited to sections 630.705 to 630.805, RSMo.**

4 2. All mental health workers, as defined in section 210.900, RSMo, shall:

**5 (1) Be subject to the same training requirements established for state mental health
6 workers with comparable positions in public group homes and mental health facilities.
7 Such required training shall be paid for by the employer; and**

**8 (2) Subject to appropriations, be compensated by the employer in an amount at
9 least equal to the average hourly wage paid by the state to mental health workers with
10 comparable positions in nonstate operated mental health facilities.**

**11 3. Group homes and mental retardation facilities, as defined in section 633.005,
12 shall be subject to the same medical errors reporting requirements of other mental health
13 facilities and group homes.**

**14 4. The division shall promulgate rules or amend existing rules to implement the
15 provisions of this section. Any rule or portion of a rule, as that term is defined in section
16 536.010, RSMo, that is created under the authority delegated in this section shall become
17 effective only if it complies with and is subject to all of the provisions of chapter 536,
18 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
19 nonseverable and if any of the powers vested with the general assembly pursuant to
20 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
21 are subsequently held unconstitutional, then the grant of rulemaking authority and any
22 rule proposed or adopted after August 28, 2008, shall be invalid and void.**

**633.303. Any employee, including supervisory personnel, of a group home or
2 mental retardation facility, as defined in section 633.005, who has been placed on the
3 disqualification registry under section 630.170, RSMo, shall be terminated. Such**

4 requirements shall be specified in contracts between the department and providers under
5 this section.

633.306. 1. Beginning January 1, 2009, all mental health facilities shall, on a
2 quarterly basis, submit a comprehensive report to the department on any staff and
3 personnel turnover at the facility or group home. Such report shall include the number,
4 job description, salary, and duration of employment regarding such staff and personnel
5 turnover. Such reports shall be submitted no later than thirty days after the end of each
6 calendar quarter.

7 2. Beginning January 1, 2009, the department shall collect the information
8 submitted under subsection 1 of this section and submit an annual report to the general
9 assembly on or before March fifteenth of each year regarding the staff and personnel
10 turnover at mental health facilities. Such report shall include information that is specific
11 to each facility, as well as information inclusive of all such facilities.

633.309. The department of mental health shall not transfer any person to any
2 group home or mental retardation facility, as defined in section 633.005 that has received
3 a notice of noncompliance, until there is an approved plan of correction under sections
4 630.745 and 630.750, RSMo.

633.400. 1. Beginning July 1, 2008, in addition to all other fees and taxes required
2 or paid, each provider of services of intermediate care facilities for the mentally retarded
3 shall pay assessments on their net operating revenues for the privilege of engaging in the
4 business of providing health benefit services of the intermediate care facilities for the
5 mentally retarded or developmentally disabled.

6 2. For purposes of this section, the following terms mean:

7 (1) "Department", the department of mental health;

8 (2) "Engaging in the business of providing health benefit services", accepting
9 payment for health benefit services;

10 (3) "Mental retardation facility", a private or department of mental health facility,
11 other than a regional center, which admits persons who are mentally retarded or
12 developmentally disabled for residential habilitation and other services, and which is
13 qualified or licensed as such by the department under chapter 630, RSMo. Mental
14 retardation facilities include, but are not limited to, habilitation centers and private or
15 public intermediate care facilities-mentally retarded facilities for persons who are
16 developmentally disabled;

17 (4) "Net operating revenues from providing services of intermediate care facilities
18 for the mentally retarded", includes, without limitation, all moneys received on account of
19 such services pursuant to rates of reimbursement established and paid by the department

20 of social services, but shall not include charitable contributions, grants, donations,
21 bequests, and income from nonservice-related fund-raising activities and government
22 deficit financing, contractual allowance, discounts, or bad debt;

23 (5) "Provider of services", a provider of services of intermediate care facilities for
24 the mentally retarded;

25 (6) "Services of intermediate care facilities for the mentally retarded", the same
26 meaning as such term is used in 42 U.S.C. Section 1396b(w)(7)(A)(iv), as amended, and as
27 such qualifies as a class of health care services recognized in Public Law 102-234, the
28 Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

29 3. Each provider of services' assessment shall be based on a formula set forth in
30 rules promulgated by the department.

31 4. For purposes of determining rates of payment under the medical assistance
32 program for providers of services, the assessment imposed under this section on net
33 operating revenues shall be a reimbursable cost to be reflected as timely as practicable in
34 rates of payment applicable within the assessment period, contingent for payments by
35 governmental agencies, on all federal approvals required under federal law and regulation
36 for federal financial participation in payments made for beneficiaries eligible for medical
37 assistance under Title XIX of the federal Social Security Act.

38 5. Assessments shall be submitted by or on behalf of each provider of services on
39 a monthly basis to the director of the department, or the director's designee, and shall be
40 made payable to the department of revenue.

41 6. In the alternative, a provider of services may direct that the department of social
42 services offset from the amount of any payment to be made by the state to the provider of
43 services the amount of the assessment payment owed for any month. The department of
44 social services shall transmit to the department of revenue any assessment amounts
45 withheld at the direction of providers of services. The office of administration and the state
46 treasurer may make any fund transfers necessary to implement such offset.

47 7. (1) Assessment payments shall be deposited in the state treasury to the credit of
48 the "Intermediate Care Facility-Mentally Retarded Reimbursement Allowance Fund"
49 which is hereby created in the state treasury. The state treasurer shall be custodian of the
50 fund. In accordance with sections 30.170 and 30.180, RSMo, the state treasurer may
51 approve disbursements. Upon appropriation, money in the fund shall be used solely for
52 the purposes set forth in this section.

53 (2) Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any
54 moneys remaining in the fund at the end of the biennium shall not revert to the credit of
55 the general revenue fund.

56 **(3) The state treasurer shall invest moneys in the fund in the same manner as other**
57 **funds are invested. Any interest and moneys earned on such investments shall be credited**
58 **to the fund.**

59 **8. Each provider of services shall maintain such records necessary to determine the**
60 **amount of the assessment for which the provider of services is liable under this section. On**
61 **or before the forty-fifth day after the end of each month commencing July 1, 2008, each**
62 **provider of services shall submit to the department of social services a report on a cash**
63 **basis that reflects such information as is necessary to determine the amount of the**
64 **assessment payable for such month.**

65 **9. Every provider of services shall submit a certified annual report of net operating**
66 **revenues from the furnishing of services of intermediate care facilities for the mentally**
67 **retarded. The report shall be in a form prescribed by the department by rule. Final**
68 **payments of the assessment for each year shall be due for all providers of services upon the**
69 **due date for submission of the certified annual report.**

70 **10. The department shall prescribe by rule the form and content of any document**
71 **required to be filed under this section.**

72 **11. Upon receipt of notification from the department of a provider of services'**
73 **delinquency in paying the assessments required under this section, the department of social**
74 **services shall withhold and remit to the department of revenue an assessment amount**
75 **estimated by the department of mental health from any payment to be made by the state**
76 **to the provider of services.**

77 **12. If a provider of services disputes the estimate described in subsection 11 of this**
78 **section, or any other decision of the department related to this section, the provider of**
79 **services may request a hearing. If a hearing is requested, the department shall provide the**
80 **provider of services an opportunity to be heard and to present evidence bearing on the**
81 **amount due for an assessment or other issue related to this section within thirty days after**
82 **collection of an amount due or receipt of a request for a hearing, whichever is later. The**
83 **department shall issue a final decision within forty-five days after the completion of the**
84 **hearing. After reconsideration of the assessment determination and a final decision by the**
85 **department, a provider of services' appeal of the department's final decision shall be to the**
86 **administrative hearing commission in accordance with sections 208.156 and 621.055,**
87 **RSMo.**

88 **13. Notwithstanding any other provision of law to the contrary, appeals regarding**
89 **such assessment shall be to the circuit court of Cole County or the circuit court in the**
90 **county in which the facility is located. The circuit court shall hear the matter as the court**
91 **of original jurisdiction.**

92 **14. Nothing in this section shall be construed to affect or in any way limit the tax-**
93 **exempt or nonprofit status of any intermediate care facility for the mentally retarded**
94 **authorized under state law.**

95 **15. The department of mental health may promulgate rules to implement the**
96 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
97 **536.010, RSMo, that is created under the authority delegated in this section shall become**
98 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
99 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
100 **nonseverable and if any of the powers vested with the general assembly pursuant to**
101 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
102 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
103 **rule proposed or adopted after the effective date of this section shall be invalid and void.**

104 **16. This section shall expire on June 30, 2009.**

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