

SECOND REGULAR SESSION

HOUSE BILL NO. 2076

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRISAMORE (Sponsor), PORTWOOD, PRATT, TILLEY, MOORE, YATES, THOMSON, SMITH (150), DOUGHERTY, GRILL, RUZICKA, ROORDA, HUGHES, SATER, MCGHEE, RUESTMAN, WILSON (119), DEEKEN, FUNDERBURK, FAITH, BRUNS AND BAKER (25) (Co-sponsors).

Read 1st time February 7, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4715L.01I

AN ACT

To repeal sections 630.003, 630.635, 633.005, 633.010, 633.029, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.160, 633.180, 633.185, and 633.190, RSMo, and to enact in lieu thereof seventeen new sections relating to the term "mental retardation" as used by the division of mental retardation and developmental disabilities.

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

Section A. Sections 630.003, 630.635, 633.005, 633.010, 633.029, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.160, 633.180, 633.185, and 633.190, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 630.003, 630.635, 633.005, 633.010, 633.029, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.160, 633.180, 633.185, and 633.190, to read as follows:

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

2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former state mental health commission and it has all the powers, duties and

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.

9 responsibilities of the former commission. All members of the commission shall be appointed
10 by the governor, by and with the advice and consent of the senate. None of the members shall
11 otherwise be employed by the state of Missouri.

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

16 (3) At least two of the members of the commission shall be physicians, one of whom
17 shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and
18 one of whom shall be recognized as an expert in the field of [mental retardation or of other]
19 developmental disabilities. At least two of the members of the commission shall be
20 representative of persons or groups who are consumers having substantial interest in the services
21 provided by the division, one of whom shall represent the mentally retarded or developmentally
22 disabled and one of whom shall represent those persons being treated for nervous and mental
23 diseases. Of the other three members at least one must be recognized for his **or her** expertise
24 in general business management procedures, and two shall be recognized for their interest and
25 expertise in dealing with alcohol/drug abuse problems, or community mental health services.

26 3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160,
27 191.170, 191.180, 191.190, 191.200, 191.210, RSMo, and others as they relate to the division
28 of mental health not previously reassigned by executive reorganization plan number 2 of 1973
29 as submitted by the governor under chapter 26, RSMo, are transferred by specific type transfer
30 from the department of public health and welfare to the department of mental health. The
31 division of mental health, department of health and welfare, chapter 202, RSMo, and others are
32 abolished and all powers, duties and functions now assigned by law to the division, the director
33 of the divisions of mental health or any of the institutions or officials of the division are
34 transferred by type I transfer to the department of mental health.

35 4. The Missouri institute of psychiatry, which is under the board of curators of the
36 University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health".
37 The purpose of the institute will be that of conducting research into improving services for
38 persons served by the department of mental health for fostering the training of psychiatric
39 residents in public psychiatry and for fostering excellence in mental health services through
40 employee training and the study of mental health policy and ethics. To assist in this training,
41 hospitals operated by and providers contracting with the department of mental health may be
42 used for the same purposes and under the same arrangements as the board of curators of the
43 University of Missouri utilizes with other hospitals in the state in supervising residency training
44 for medical doctors. Appropriations requests for the Missouri institute of mental health shall be

45 jointly developed by the University of Missouri and the department of mental health. All
46 appropriations for the Missouri institute of mental health shall be made to the curators of the
47 University of Missouri but shall be submitted separately from the appropriations of the curators
48 of the University of Missouri.

49 5. There is hereby established within the department of mental health a division of
50 [mental retardation and] developmental disabilities. The director of the division shall be
51 appointed by the director of the department. The division shall administer all state facilities
52 under the direction and authority of the department director. The Marshall Habilitation Center,
53 the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada
54 Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the
55 regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar
56 Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be
57 established, are transferred by type I transfer to the division of [mental retardation and]
58 developmental disabilities. **Any alteration of the title of the division established in this**
59 **subsection shall not be construed to change the criteria by which the division makes**
60 **eligibility determinations for its programs and services.**

61 6. All the duties, powers and functions of the advisory council on [mental retardation
62 and] community health centers, sections 202.664 to 202.666, RSMo, are hereby transferred by
63 type I transfer to the division of [mental retardation and] developmental disabilities of the
64 department of mental health. The advisory council on [mental retardation and] community
65 health centers shall be appointed by the division director.

66 7. The advisory council on [mental retardation and] developmental disabilities heretofore
67 established by executive order and all of the duties, powers and functions of the advisory council
68 including the responsibilities of the provision of the council in regard to the Federal
69 Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type
70 I transfer to the division of [mental retardation and] developmental disabilities. The advisory
71 council on [mental retardation and] developmental disabilities shall be appointed by the director
72 of the division of [mental retardation and] developmental disabilities.

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

630.635. 1. If a resident in a [mental retardation facility] **habilitation center**, or [his]
2 **the resident's** parent if he **or she** is a minor, or his **or her** legal guardian refuses to consent to
3 the proposed placement, the head of the [mental retardation facility] **habilitation center** may
4 petition, under the procedures in section 633.135, RSMo, the director of the division of [mental

5 retardation and] developmental disabilities to determine whether the proposed placement is
6 appropriate under chapter 633, RSMo.

7 2. If a patient in a mental health facility, or [his] **the patient's** parent if he **or she** is a
8 minor, or his **or her** legal guardian refuses to consent to the proposed placement, the head of the
9 mental health facility may petition the director of the division of comprehensive psychiatric
10 services to determine whether the proposed placement is appropriate under sections 630.610,
11 630.615 and 630.620.

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

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

30 5. If the patient, or [his] **the patient's** parent if he **or she** is a minor, or his **or her**
31 guardian disagrees with the decision of the director, he **or she** may appeal the decision, within
32 thirty days after notice of the decision is sent, to the circuit court of the county where the patient
33 or resident, or [his] **the patient's or resident's** parent if he **or she** is a minor, or his **or her**
34 guardian resides. The court shall review the record, proceedings and decision of the director not
35 only under the provisions of chapter 536, RSMo, but also as to whether or not the head of the
36 facility or the department sustained its burden of proof that the proposed placement is appropriate
37 under sections [630.110, 630.115 and 630.120] **630.610, 630.615, and 630.620**. The court shall
38 expedite this review in all respects. Notwithstanding the provisions of section 536.140, RSMo,
39 a court may, for good cause shown, hear and consider additional competent and material
40 evidence.

41 6. The notice and procedure for the hearing by the panel shall be in accordance with
42 chapter 536, RSMo.

43 7. In all proceedings either before the panel or before the circuit court, the burden of
44 proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that
45 the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615
46 and [630.120] **630.620**.

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

51 9. There shall be no retaliation against any state employee as the result of a good faith
52 decision to place the patient which is appealed and who testifies during a hearing or otherwise
53 provides information or evidence in regard to a proposed placement.

 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) "[Mental retardation facility] **Habilitation center**", a private or department facility,
12 other than a regional center, which admits persons who are mentally retarded or developmentally
13 disabled for residential habilitation and other services and which is qualified or licensed as such
14 by the department pursuant to chapter 630, RSMo. Such terms shall include, but shall not be
15 limited to, habilitation centers and private or public residential facilities for persons who are
16 developmentally disabled;

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

20 (6) "Respite care", temporary and short-term residential care, sustenance and supervision
21 of a mentally retarded or developmentally disabled person who otherwise resides in a family
22 home;

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

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

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

10 (1) Provision of funds for the planning and implementation of accessible programs to
11 serve persons affected by [mental retardation or] developmental disabilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) Agencies serving persons not diagnosed as mentally retarded or developmentally
5 disabled in which the client would be eligible to receive available services or in which the
6 services could be made available to the client through the purchase of assistive or supportive
7 services;

8 (2) Agencies serving mentally retarded or developmentally disabled persons in which
9 the client would be eligible to receive available services or in which services could be made
10 available to the client through the purchase of assistive or supportive services;

11 (3) The regional center on a day-program basis;

12 (4) The regional center for short-term residential services, not to exceed six months,
13 unless expressly authorized for a longer period by the division director;

14 (5) A residential facility licensed through the department placement program, but not
15 operated by the department;

16 (6) A [mental retardation facility] **habilitation center** operated by the department for
17 clients who are developmentally disabled or mentally retarded.

633.120. 1. A regional center may refer a client for admission to a [mental retardation
2 facility] **habilitation center** only if determined by a comprehensive evaluation that:

3 (1) The person has a developmental disability;

4 (2) Protective services are required to guarantee the health, safety or mental well-being
5 of the person;

6 (3) Placement in a [mental retardation facility] **habilitation center** is in the best interests
7 of the person; and

8 (4) All other less restrictive services, including but not limited to family support and
9 supported living, have been explored and found inadequate to prevent placement in a [mental
10 retardation facility] **habilitation center**.

11 2. The regional center shall forward its comprehensive evaluation containing the
12 determination under subsection 1 of this section and such other records as are necessary to enable
13 the [mental retardation facility] **habilitation center** to determine whether to accept or reject the
14 referral.

15 3. The head of a private [mental retardation facility] **habilitation center** may, and the
16 head of a department [mental retardation facility] **habilitation center** shall, admit the person if,
17 as a result of reviewing the evaluation, the head of the [mental retardation facility] **habilitation**
18 **center** determines that the client is appropriate for admission as a resident and suitable
19 accommodations are available. If the head of a department [mental retardation facility]
20 **habilitation center** rejects the referral, the regional center may appeal the rejection to the
21 division director. After consulting with the head of the referring regional center and the head of
22 the department [mental retardation facility] **habilitation center**, the division director shall
23 determine the appropriate disposition of the client.

24 4. The person to be admitted, if competent, his **or her** parent or legal custodian, if [he]
25 **the person** is a minor, or his **or her** guardian, as authorized by a court, shall consent to the
26 admission unless otherwise ordered by a court.

27 5. The head of a [mental retardation facility] **habilitation center** shall have an
28 individualized habilitation plan for each resident within thirty days of the resident's admission.
29 Such plan shall include a statement regarding the resident's anticipated length of stay in the
30 [facility] **habilitation center** and the feasibility of least restrictive alternatives.

31 6. If procedures are initiated under chapter 475, RSMo, for the appointment of a guardian
32 for a resident of a department [mental retardation facility] **habilitation center**, the referral
33 procedure under this section shall not apply.

633.125. 1. A resident admitted to a [mental retardation facility pursuant to]
2 **habilitation center under** section 633.120 shall be discharged immediately when the person
3 who applied for his **or her** admission requests the release orally, in writing or otherwise from
4 the head of the [mental retardation facility] **habilitation center**; except, that if the head of the
5 [mental retardation facility] **habilitation center** regards the resident as presenting a likelihood
6 of serious harm to himself **or herself** or others, the head of the [facility] **habilitation center** may
7 initiate involuntary detention procedures pursuant to chapter 632, RSMo, if appropriate, or any
8 individual, including the head of the [facility] **habilitation center** or the mental health

9 coordinator may initiate guardianship proceedings and, if appropriate, obtain an emergency
10 commitment order pursuant to chapter 475, RSMo.

11 2. A resident shall be discharged from a department [mental retardation facility]
12 **habilitation center** if it is determined in a comprehensive evaluation or periodic review that the
13 person is not mentally retarded or developmentally disabled, and if the resident, parent, if a
14 minor, or guardian consents to the discharge. If consent is not obtained, the head of the [facility]
15 **habilitation center** shall initiate appeal proceedings under section 633.135, before a resident can
16 be discharged.

17 3. A resident shall either be discharged from a department [mental retardation facility]
18 **habilitation center** or shall be referred to a regional center for placement in a least restrictive
19 environment pursuant to section 630.610, RSMo, if it is determined in a comprehensive
20 evaluation or periodic review that the following criteria exist:

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

23 (2) The [mental retardation facility] **habilitation center** does not offer a program which
24 best meets the resident's needs; or

25 (3) The [mental retardation facility] **habilitation center** does not provide the least
26 restrictive environment feasible. A resident may not be discharged without his **or her** consent
27 or the consent of his **or her** parent, if [he] **the resident** is a minor, or guardian unless
28 proceedings have been completed under section 633.135.

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

633.130. 1. At least once every one hundred eighty days, the head of each [mental
2 retardation facility] **habilitation center** shall cause the condition and status of each resident to
3 be reviewed and evaluated for the purpose of determining whether the resident needs further
4 residential habilitation, placement in the least restrictive environment or discharge.

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

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

633.135. 1. If a resident, or his **or her** parent if [he] **the resident** is a minor, or his **or**
2 **her** legal guardian refuses to consent to the proposed placement or to discharge from the
3 [facility] **habilitation center**, the head of the [mental retardation facility] **habilitation center**
4 may petition the director of the division to determine whether the proposed placement is

5 appropriate under sections 630.610, 630.615 and 630.620, RSMo, or whether the proposed
6 discharge is appropriate under sections 633.120, 633.125 and 633.130.

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

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

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

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

41 6. The notice and procedure for the hearing by the panel shall be in accordance with
42 chapter 536, RSMo.

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

48 8. Pending a convening of the hearing panel and the final decision of the director or the
49 court, if the director's decision is appealed, the department shall not place or discharge the
50 resident from a [facility] **habilitation center** except that the department may temporarily transfer
51 such resident in the case of a medical emergency.

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

 633.140. 1. If any resident leaves a [mental retardation facility] **habilitation center**
2 without authorization, the sheriff of the county where the resident is found shall apprehend and
3 return [him] **the resident** to the center if requested to do so by the head of the [facility]
4 **habilitation center**.

5 2. The head of the [facility] **habilitation center** may request the return of an absent
6 resident pursuant to subsection 1 of this section only when one of the following circumstances
7 exists:

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

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

11 (3) The resident has been declared legally incapacitated and his **or her** guardian has not
12 requested his **or her** release; or

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

 633.145. 1. The department may transfer a resident from one department [mental
2 retardation facility] **habilitation center** to another if the division director determines that such
3 transfer is desirable to provide the resident improved habilitation or other services, to better
4 [insure his] **ensure the resident's** safety and welfare, or to locate [him] **the resident** in closer
5 proximity to his **or her** family and friends.

6 2. Transfers may only be made to a private [mental retardation facility pursuant to]
7 **habilitation center under** section 630.610, RSMo.

8 3. Determinations by the division director pursuant to this section shall be written and
9 noted in the resident's records. The division director shall notify the resident, his **or her** guardian
10 or next of kin of such determination. The department shall not transfer any resident unless it
11 receives the consent of the resident, his **or her** guardian or his **or her** parent, if the resident is
12 a minor.

 633.150. The head of a [mental retardation facility] **habilitation center** may transfer a
2 resident to a [mental health facility] **habilitation center** only under the provisions of chapter
3 632, RSMo. The director shall order that such resident be returned to the [mental retardation
4 facility] **habilitation center** when the resident is no longer in need of psychiatric care and
5 treatment.

 633.160. If a person presents himself **or herself**, or is presented, to a regional center or
2 department [mental retardation facility] **habilitation center** and is determined to be mentally
3 retarded or developmentally disabled and, as a result, presents an imminent likelihood of serious
4 harm to himself **or herself** or others as defined in chapter 632, RSMo, the regional center or
5 [mental retardation facility] **habilitation center** may accept the person for detention for
6 evaluation and treatment for a period not to exceed ninety-six hours under the same procedures
7 contained in chapter 632, RSMo. The head of the regional center or [mental retardation facility]
8 **habilitation center** may initiate guardianship proceedings to have the person detained beyond
9 the ninety-six hours under chapter 475, RSMo, or may refer the person to a mental health facility,
10 if the person is mentally ill, for further detention under the procedures in chapter 632, RSMo.

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

- 10 (1) Respite care;
11 (2) Personal and attendant care;
12 (3) Architectural and vehicular modifications;
13 (4) Health- and mental health-related costs not otherwise covered;
14 (5) Equipment and supplies;

- 15 (6) Specialized nutrition and clothing;
- 16 (7) Homemaker services;
- 17 (8) Transportation;
- 18 (9) Integrated community activities;
- 19 (10) Training and technical assistance; and
- 20 (11) Individual, family and group counseling.

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

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

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

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

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

15 4. There is hereby created in the state treasury for use by the department of mental health
16 a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund
17 shall be appropriated to the director of the department of mental health to be used for loans
18 pursuant to this section. The fund shall consist of moneys appropriated by the general assembly
19 for starting the fund and money otherwise deposited according to law. Any unexpended balance
20 in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to
21 this act in the previous fiscal year, is exempt from the provisions of section 33.080, RSMo,
22 relating to the transfer of unexpended balances to the ordinary revenue fund.

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

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

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

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