

FIRST REGULAR SESSION

HOUSE BILL NO. 78

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LAMPE (Sponsor),
BURNETT, PACE AND NORR (Co-sponsors).

0479L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 632.370 and 633.145, RSMo, and to enact in lieu thereof two new sections relating to transfer of patients in mental health facilities.

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

Section A. Sections 632.370 and 633.145, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 632.370 and 633.145, to read as follows:

632.370. 1. The department may transfer, or authorize the transfer of, an involuntary
2 patient detained under this chapter, chapter 211, RSMo, chapter 475, RSMo, or chapter 552,
3 RSMo, from one mental health program to another if the department determines that it would
4 be consistent with the medical needs of the patient to do so; **except that, notwithstanding any**
5 **other provision of law to the contrary, no patient shall be transferred from one mental**
6 **health program to another without the written consent of the patient or the patient's**
7 **parent or legal guardian if a minor or the patient's nearest known relative if an adult.** If
8 a minor is transferred from a ward for minors to an adult ward, the department shall conduct a
9 due process hearing within six days of such transfer during which hearing the head of the
10 program shall have the burden to show that the transfer is appropriate for the medical needs of
11 the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining
12 the consent of the patient, [his] **the patient's** parent if [he] **the patient** is a minor or [his] **the**
13 **patient's** legal guardian to [his] **the patient's** legal guardian, parents and spouse, or, if none be
14 known, [his] **the patient's** nearest known relative or friend. In all such transfers, due
15 consideration shall be given to the relationship of the patient to his **or her** family, legal guardian
16 or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head

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.

17 of the mental health program shall notify the court ordering detention or commitment, the
18 patient's last known attorney of record and the mental health coordinator for the region, and if
19 the person was committed pursuant to chapter 552, RSMo, to the prosecuting attorney of the
20 jurisdiction where the person was tried and acquitted, of any transfer from one mental health
21 facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted
22 shall use their best efforts to notify the victims of dangerous felonies. Notification by the
23 appropriate person or agency by certified mail to the most current address provided by the victim
24 shall constitute compliance with the victim notification requirement of this section. In the case
25 of a patient committed under chapter 211, RSMo, the court, on its own motion, may hold a
26 hearing on the transfer to determine whether such transfer is appropriate to the medical needs of
27 the patient.

28 2. Upon receipt of a certificate of an agency of the United States that facilities are
29 available for the care or treatment of any individual heretofore ordered involuntarily detained,
30 treated and evaluated pursuant to this chapter in any facility for the care or treatment of the
31 mentally ill, mentally retarded or developmentally disabled and that such individual is eligible
32 for care or treatment in a hospital or institution of such agency, the department may cause his **or**
33 **her** transfer to such agency of the United States for hospitalization. Upon effecting any such
34 transfer, the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be
35 known, his **or her** nearest known relative or friend shall be notified thereof immediately by the
36 department. No person shall be transferred to an agency of the United States if [he] **such person**
37 is confined pursuant to a conviction for any felony or misdemeanor or if [he] **such person** has
38 been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior
39 to transfer the court originally ordering confinement of such person enters an order for the
40 transfer after appropriate motion and hearing. Any person transferred to an agency of the United
41 States shall be deemed to be hospitalized by such agency pursuant to the original order of
42 hospitalization.

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

6 2. Transfers may only be made to a private mental retardation facility pursuant to section
7 630.610, 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] **the resident's**
10 guardian or next of kin of such determination. The department shall not transfer any resident

- 11 unless it receives the consent of the resident, [his] **the resident's** guardian or [his] parent, if the
- 12 resident is a minor, **or the nearest known relative of the resident, if the resident is an adult.**

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