

SECOND REGULAR SESSION

HOUSE BILL NO. 1969

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor), FISCHER (107),
GRISAMORE AND SCHAD (Co-sponsors).

4519L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 630.170, RSMo, and to enact in lieu thereof two new sections relating to department of mental health protection measures, with penalty provisions.

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

Section A. Section 630.170, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 565.086 and 630.170, to read as follows:

565.086. 1. An offender commits the crime of endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender if he or she attempts to cause or knowingly causes such individual to come into contact with blood, seminal fluid, urine, feces, or saliva.

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

(1) "Department of mental health employee", a person who is an employee of the department of mental health, an employee or contracted employee of a subcontractor of the department of mental health, or an employee or contracted employee of a subcontractor of an entity responsible for confining offenders as authorized by section 632.495;

(2) "Offender", persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons ordered to the department of mental health after a finding of probable cause under section 632.489, and persons committed for control, care, and treatment by the department of mental health under sections 632.480 to 632.513;

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.

16 (3) "Secure facility", a facility operated by the department of mental health or an
17 entity responsible for confining offenders as authorized by section 632.495.

18 3. Endangering a department of mental health employee, a visitor or other person
19 at a secure facility, or another offender is a class D felony unless the substance is
20 unidentified, in which case it is a class A misdemeanor. If an offender is knowingly
21 infected with the human immunodeficiency virus (HIV), hepatitis B, or hepatitis C and
22 exposes another individual to HIV or hepatitis B or hepatitis C by committing the crime
23 of endangering a department of mental health employee, a visitor or other person at a
24 mental health facility, or another offender, it is a class C felony.

 630.170. 1. A person who is listed on the department of mental health disqualification
2 registry pursuant to this section, who is listed on the department of social services or the
3 department of health and senior services employee disqualification list pursuant to section
4 660.315, RSMo, or who has been [convicted] **found guilty** of or [pled] **pleaded** guilty or nolo
5 contendere to any crime pursuant to section 565.210, 565.212, or 565.214, RSMo, or section
6 630.155 or 630.160 shall be disqualified from holding any position in any public or private
7 facility or day program operated, funded or licensed by the department or in any mental health
8 facility or mental health program in which people are admitted on a voluntary or involuntary
9 basis or are civilly detained pursuant to chapter 632, RSMo.

10 2. A person who has been [convicted] **found guilty** of or [pled] **pleaded** guilty or nolo
11 contendere to **any felony offense as defined in chapter 195, ; any felony offense against**
12 **persons as defined in chapter 565, RSMo; any felony [sexual] offense as defined in chapter 566,**
13 **RSMo; any felony offense defined in section 568.020, 568.045, 568.050, 568.060, 568.175,**
14 **569.020, 569.025, 569.030, 569.035, 569.040, 569.050, 569.070, [or] 569.160, 570.030,**
15 **570.040, 570.090, 570.145, 570.223, 575.230, or 576.080, RSMo, or of an equivalent felony**
16 **offense, or who has been [convicted] found guilty of or [pled] pleaded guilty or nolo contendere**
17 **to any violation of subsection 3 of section 198.070, RSMo, or who has been found guilty of**
18 **or pleaded guilty or nolo contendere to a violation of section 577.010 or section 577.012 and**
19 **who is alleged and found by the court to be an aggravated or chronic offender under**
20 **section 577.023, or has been [convicted] found guilty of or [pled] pleaded guilty or nolo**
21 **contendere to any offense requiring registration under section 589.400, RSMo, shall be**
22 **disqualified from holding any direct-care position in any public or private facility, day program,**
23 **residential facility or specialized service operated, funded or licensed by the department or any**
24 **mental health facility or mental health program in which people are admitted on a voluntary basis**
25 **or are civilly detained pursuant to chapter 632, RSMo.**

26 3. A person who has received a suspended imposition of sentence or a suspended
27 execution of sentence following a plea of guilty to any of the disqualifying crimes listed in
28 subsection 1 or 2 of this section shall remain disqualified.

29 4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section
30 may seek an exception to the disqualification from the director of the department or the director's
31 designee. The request shall be written and may not be made more than once every twelve
32 months. The request may be granted by the director or designee if in the judgment of the director
33 or designee a clear showing has been made by written submission only, that the person will not
34 commit any additional acts for which the person had originally been disqualified for or any other
35 acts that would be harmful to a patient, resident or client of a facility, program or service. The
36 director or designee may grant an exception subject to any conditions deemed appropriate and
37 failure to comply with such terms may result in the person again being disqualified. Decisions
38 by the director or designee pursuant to the provisions of this subsection shall not be subject to
39 appeal. The right to request an exception pursuant to this subsection shall not apply to persons
40 who are disqualified due to being listed on the department of social services or department of
41 health and senior services employee disqualification list pursuant to section 660.315, RSMo, nor
42 to persons disqualified from employment due to any crime pursuant to the provisions of chapter
43 566, RSMo, or section 565.020, 565.021, 568.020, 568.060, 569.025, or 569.070, RSMo.

44 5. An applicant for a direct care position in any public or private facility, day program,
45 residential facility, or specialized service operated, funded, or licensed by the department or any
46 mental health facility or mental health program in which people are admitted on a voluntary basis
47 or are civilly detained pursuant to chapter 632, RSMo, shall:

48 (1) Sign a consent form as required [by] **under** section 43.540, RSMo, to provide written
49 consent for a criminal record review;

50 (2) Disclose the applicant's criminal history. For the purposes of this subdivision
51 "criminal history" includes any suspended imposition of sentence, any suspended execution of
52 sentence, or any period of probation or parole; and

53 (3) Disclose if the applicant is listed on the employee disqualification list as provided
54 in section 660.315, RSMo, or the department of mental health disqualification registry as
55 provided for in this section.

56 6. Any person who has received a good cause waiver issued by the division of senior
57 services or its predecessor under subsection 9 of section 660.317, RSMo, shall not require an
58 additional exception under this section in order to be employed in a long-term care facility
59 licensed under chapter 198, RSMo.

60 7. Any public or private residential facility, day program, or specialized service licensed,
61 certified, or funded by the department shall, not later than two working days after hiring any

62 person for a full-time, part-time, or temporary position that will have contact with clients,
63 residents, or patients:

64 (1) Request a criminal background check as provided in section 43.540, RSMo;

65 (2) Make an inquiry to the department of social services and department of health and
66 senior services to determine whether the person is listed on the employee disqualification list as
67 provided in section 660.315, RSMo; and

68 (3) Make an inquiry to the department of mental health to determine whether the person
69 is listed on the disqualification registry as provided in this section.

70 8. An applicant who knowingly fails to disclose his or her criminal history as required
71 in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class
72 A misdemeanor if the provider hires a person to hold a direct-care position knowing that such
73 person has been disqualified pursuant to the provisions of subsection 1 or 2 of this section.

74 9. The department may maintain a disqualification registry and place on the registry the
75 names of any persons who have been finally determined by the department to be disqualified
76 pursuant to this section, or who have had administrative substantiations made against them for
77 abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from
78 holding any position in any public or private facility or day program operated, funded or licensed
79 by the department, or any mental health facility or mental health program in which persons are
80 admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

✓