

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 727**  
**97TH GENERAL ASSEMBLY**

1482H.05C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 208.152, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, RSMo, and to enact in lieu thereof ten new sections relating to individuals with disabilities, with a penalty provision, an expiration date for a certain section, and an emergency clause.

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

Section A. Sections 208.152, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 161.870, 208.152, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, 630.170, and 1, to read as follows:

**161.870. 1. By September 1, 2013, the department of elementary and secondary education shall establish a work group to assess the available resources needed for effective work experiences for students and young adults with disabilities. The work group shall review all interagency coordination of services that match young adults who have disabilities with employers who need employees to ensure that these services are adequately meeting the following needs of students and young adults with disabilities who seek employment and need assistance with job placement:**

- (1) Recruitment;**
- (2) Assessment;**
- (3) Counseling;**
- (4) Pre-employment skills training;**
- (5) Vocational training;**
- (6) Student wages for try-out employment;**
- (7) Placement in unsubsidized employment; 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.

15           **(8) Other assistance with transition to a quality adult life.**

16           **2. The goal of the work group shall be to evaluate the current efforts and available**  
17 **resources and to promote the involvement of key stakeholders including students, families,**  
18 **educators, employers and other agencies in planning and implementing an array of services**  
19 **that will culminate in successful student transition to employment, lifelong learning, and**  
20 **quality of life. The work group shall focus on secondary students and young adults with**  
21 **disabilities.**

22           **3. The work group shall:**

23           **(1) Assess the strengths and need for improvement in services for transition services,**  
24 **instruction, and experiences that reinforce core curriculum concepts and skills leading to**  
25 **gainful employment for students and young adults with disabilities;**

26           **(2) Determine whether any additional state partnerships provided through**  
27 **nonfinancial interagency agreements among the department of health and senior services,**  
28 **the department of economic development, the department of mental health, and the**  
29 **department of social services, or in the private sector, are needed to enhance the**  
30 **employment potential of students and young adults with disabilities;**

31           **(3) Focus its efforts in developing careers for students and young adults with**  
32 **disabilities, to prevent economic and social dependence on state and community agencies**  
33 **and resources; and**

34           **(4) Report its findings to the director.**

35           **4. The department of elementary and secondary education shall make**  
36 **recommendations based on the findings of the work group and report them to the general**  
37 **assembly prior to January 1, 2014.**

38           **5. The work group shall be administered and its members chosen by the**  
39 **commissioner of education. Work group members shall include existing personnel and**  
40 **human resources available to the department of elementary and secondary education,**  
41 **including but not limited to representatives from state agencies and local advocacy groups**  
42 **and community members with valuable input regarding the needs of disabled students and**  
43 **individuals, or members of the general assembly.**

44           **6. The department of elementary and secondary education may promulgate all**  
45 **necessary rules and regulations for the administration of this section. Any rule or portion**  
46 **of a rule, as that term is defined in section 536.010, that is created under the authority**  
47 **delegated in this section shall become effective only if it complies with and is subject to all**  
48 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**  
49 **chapter 536 are nonseverable and if any of the powers vested with the general assembly**  
50 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**

51 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**  
52 **any rule proposed or adopted after August 28, 2013, shall be invalid and void.**

208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy  
2 persons as defined in section 208.151 who are unable to provide for it in whole or in part, with  
3 any payments to be made on the basis of the reasonable cost of the care or reasonable charge for  
4 the services as defined and determined by the MO HealthNet division, unless otherwise  
5 hereinafter provided, for the following:

6 (1) Inpatient hospital services, except to persons in an institution for mental diseases who  
7 are under the age of sixty-five years and over the age of twenty-one years; provided that the MO  
8 HealthNet division shall provide through rule and regulation an exception process for coverage  
9 of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile  
10 professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay  
11 schedule; and provided further that the MO HealthNet division shall take into account through  
12 its payment system for hospital services the situation of hospitals which serve a disproportionate  
13 number of low-income patients;

14 (2) All outpatient hospital services, payments therefor to be in amounts which represent  
15 no more than eighty percent of the lesser of reasonable costs or customary charges for such  
16 services, determined in accordance with the principles set forth in Title XVIII A and B, Public  
17 Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the  
18 MO HealthNet division may evaluate outpatient hospital services rendered under this section and  
19 deny payment for services which are determined by the MO HealthNet division not to be  
20 medically necessary, in accordance with federal law and regulations;

21 (3) Laboratory and X-ray services;

22 (4) Nursing home services for participants, except to persons with more than five  
23 hundred thousand dollars equity in their home or except for persons in an institution for mental  
24 diseases who are under the age of sixty-five years, when residing in a hospital licensed by the  
25 department of health and senior services or a nursing home licensed by the department of health  
26 and senior services or appropriate licensing authority of other states or government-owned and  
27 -operated institutions which are determined to conform to standards equivalent to licensing  
28 requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as  
29 amended, for nursing facilities. The MO HealthNet division may recognize through its payment  
30 methodology for nursing facilities those nursing facilities which serve a high volume of MO  
31 HealthNet patients. The MO HealthNet division when determining the amount of the benefit  
32 payments to be made on behalf of persons under the age of twenty-one in a nursing facility may  
33 consider nursing facilities furnishing care to persons under the age of twenty-one as a  
34 classification separate from other nursing facilities;

- 35           (5) Nursing home costs for participants receiving benefit payments under subdivision  
36 (4) of this subsection for those days, which shall not exceed twelve per any period of six  
37 consecutive months, during which the participant is on a temporary leave of absence from the  
38 hospital or nursing home, provided that no such participant shall be allowed a temporary leave  
39 of absence unless it is specifically provided for in his plan of care. As used in this subdivision,  
40 the term "temporary leave of absence" shall include all periods of time during which a participant  
41 is away from the hospital or nursing home overnight because he is visiting a friend or relative;
- 42           (6) Physicians' services, whether furnished in the office, home, hospital, nursing home,  
43 or elsewhere;
- 44           (7) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;  
45 except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a  
46 licensed physician, dentist, or podiatrist may be made on behalf of any person who qualifies for  
47 prescription drug coverage under the provisions of P.L. 108-173;
- 48           (8) Emergency ambulance services and, effective January 1, 1990, medically necessary  
49 transportation to scheduled, physician-prescribed nonelective treatments;
- 50           (9) Early and periodic screening and diagnosis of individuals who are under the age of  
51 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other  
52 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such  
53 services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and  
54 federal regulations promulgated thereunder;
- 55           (10) Home health care services;
- 56           (11) Family planning as defined by federal rules and regulations; provided, however, that  
57 such family planning services shall not include abortions unless such abortions are certified in  
58 writing by a physician to the MO HealthNet agency that, in his professional judgment, the life  
59 of the mother would be endangered if the fetus were carried to term;
- 60           (12) Inpatient psychiatric hospital services for individuals under age twenty-one as  
61 defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);
- 62           (13) Outpatient surgical procedures, including presurgical diagnostic services performed  
63 in ambulatory surgical facilities which are licensed by the department of health and senior  
64 services of the state of Missouri; except, that such outpatient surgical services shall not include  
65 persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965  
66 amendments to the federal Social Security Act, as amended, if exclusion of such persons is  
67 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security  
68 Act, as amended;
- 69           (14) Personal care services which are medically oriented tasks having to do with a  
70 person's physical requirements, as opposed to housekeeping requirements, which enable a person

71 to be treated by his physician on an outpatient rather than on an inpatient or residential basis in  
72 a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be  
73 rendered by an individual not a member of the participant's family who is qualified to provide  
74 such services where the services are prescribed by a physician in accordance with a plan of  
75 treatment and are supervised by a licensed nurse. Persons eligible to receive personal care  
76 services shall be those persons who would otherwise require placement in a hospital,  
77 intermediate care facility, or skilled nursing facility. Benefits payable for personal care services  
78 shall not exceed for any one participant one hundred percent of the average statewide charge for  
79 care and treatment in an intermediate care facility for a comparable period of time. Such  
80 services, when delivered in a residential care facility or assisted living facility licensed under  
81 chapter 198 shall be authorized on a tier level based on the services the resident requires and the  
82 frequency of the services. A resident of such facility who qualifies for assistance under section  
83 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the  
84 fewest services. The rate paid to providers for each tier of service shall be set subject to  
85 appropriations. Subject to appropriations, each resident of such facility who qualifies for  
86 assistance under section 208.030 and meets the level of care required in this section shall, at a  
87 minimum, if prescribed by a physician, be authorized up to one hour of personal care services  
88 per day. Authorized units of personal care services shall not be reduced or tier level lowered  
89 unless an order approving such reduction or lowering is obtained from the resident's personal  
90 physician. Such authorized units of personal care services or tier level shall be transferred with  
91 such resident if her or she transfers to another such facility. Such provision shall terminate upon  
92 receipt of relevant waivers from the federal Department of Health and Human Services. If the  
93 Centers for Medicare and Medicaid Services determines that such provision does not comply  
94 with the state plan, this provision shall be null and void. The MO HealthNet division shall notify  
95 the revisor of statutes as to whether the relevant waivers are approved or a determination of  
96 noncompliance is made;

97 (15) Mental health services. The state plan for providing medical assistance under Title  
98 XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental  
99 health services when such services are provided by community mental health facilities operated  
100 by the department of mental health or designated by the department of mental health as a  
101 community mental health facility or as an alcohol and drug abuse facility or as a child-serving  
102 agency within the comprehensive children's mental health service system established in section  
103 630.097. The department of mental health shall establish by administrative rule the definition  
104 and criteria for designation as a community mental health facility and for designation as an  
105 alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(17) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(18) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

142           a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO  
143 HealthNet certified licensed beds, according to the most recent quarterly census provided to the  
144 department of health and senior services which was taken prior to when the participant is  
145 admitted to the hospital; and

146           b. The patient is admitted to a hospital for a medical condition with an anticipated stay  
147 of three days or less;

148           (b) The payment to be made under this subdivision shall be provided for a maximum of  
149 three days per hospital stay;

150           (c) For each day that nursing home costs are paid on behalf of a participant under this  
151 subdivision during any period of six consecutive months such participant shall, during the same  
152 period of six consecutive months, be ineligible for payment of nursing home costs of two  
153 otherwise available temporary leave of absence days provided under subdivision (5) of this  
154 subsection; and

155           (d) The provisions of this subdivision shall not apply unless the nursing home receives  
156 notice from the participant or the participant's responsible party that the participant intends to  
157 return to the nursing home following the hospital stay. If the nursing home receives such  
158 notification and all other provisions of this subsection have been satisfied, the nursing home shall  
159 provide notice to the participant or the participant's responsible party prior to release of the  
160 reserved bed;

161           (19) Prescribed medically necessary durable medical equipment. An electronic  
162 web-based prior authorization system using best medical evidence and care and treatment  
163 guidelines consistent with national standards shall be used to verify medical need;

164           **(20) Subject to appropriations, comprehensive day rehabilitation services beginning**  
165 **early post-trauma as part of a coordinated system of care for individuals with disabling**  
166 **impairments. Rehabilitation services must be based on an individualized, goal-oriented,**  
167 **comprehensive, and coordinated treatment plan developed, implemented, and monitored**  
168 **through an interdisciplinary assessment designed to restore an individual to optimal levels**  
169 **of physical, cognitive, and behavioral function. The MO HealthNet division shall establish,**  
170 **by administrative rule, the definition and criteria for designation of a comprehensive day**  
171 **rehabilitation service facility, benefit limitations, and payment mechanism utilizing the**  
172 **expertise of brain injury rehabilitation service providers and the Missouri head injury**  
173 **advisory council created under section 192.745. Such services shall be provided in a**  
174 **community-based facility and be authorized on tier levels based on the services the patient**  
175 **requires and the frequency of the services as guided by a qualified rehabilitation**  
176 **professional associated with a health care home. Any rule or portion of a rule, as that term**  
177 **is defined in section 536.010, that is created under the authority delegated in this**

subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void;

(21) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

[(21)] (22) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

[(22)] (23) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(24) Prescribed medically necessary hearing aids. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

[(23)] (25) Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:

(a) Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;



(b) Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and

(c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;

[(24)] **(26)** The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

(1) Dental services;

(2) Services of podiatrists as defined in section 330.010;

(3) Optometric services as defined in section 336.010;

(4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient,

249 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget  
250 Reconciliation Act of 1989);

251 (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a  
252 coordinated system of care for individuals with disabling impairments. Rehabilitation services  
253 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment  
254 plan developed, implemented, and monitored through an interdisciplinary assessment designed  
255 to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO  
256 HealthNet division shall establish by administrative rule the definition and criteria for  
257 designation of a comprehensive day rehabilitation service facility, benefit limitations and  
258 payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010,  
259 that is created under the authority delegated in this subdivision shall become effective only if it  
260 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
261 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
262 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
263 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
264 and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

265 3. The MO HealthNet division may require any participant receiving MO HealthNet  
266 benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July  
267 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered  
268 services except for those services covered under subdivisions (14) and (15) of subsection 1 of  
269 this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title  
270 XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder.  
271 When substitution of a generic drug is permitted by the prescriber according to section 338.056,  
272 and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not  
273 lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of  
274 the federal Social Security Act. A provider of goods or services described under this section  
275 must collect from all participants the additional payment that may be required by the MO  
276 HealthNet division under authority granted herein, if the division exercises that authority, to  
277 remain eligible as a provider. Any payments made by participants under this section shall be in  
278 addition to and not in lieu of payments made by the state for goods or services described herein  
279 except the participant portion of the pharmacy professional dispensing fee shall be in addition  
280 to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time  
281 a service is provided or at a later date. A provider shall not refuse to provide a service if a  
282 participant is unable to pay a required payment. If it is the routine business practice of a provider  
283 to terminate future services to an individual with an unclaimed debt, the provider may include  
284 uncollected co-payments under this practice. Providers who elect not to undertake the provision

285 of services based on a history of bad debt shall give participants advance notice and a reasonable  
286 opportunity for payment. A provider, representative, employee, independent contractor, or agent  
287 of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection  
288 shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for  
289 Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan  
290 amendment submitted by the department of social services that would allow a provider to deny  
291 future services to an individual with uncollected co-payments, the denial of services shall not be  
292 allowed. The department of social services shall inform providers regarding the acceptability  
293 of denying services as the result of unpaid co-payments.

294 4. The MO HealthNet division shall have the right to collect medication samples from  
295 participants in order to maintain program integrity.

296 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of  
297 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers  
298 so that care and services are available under the state plan for MO HealthNet benefits at least to  
299 the extent that such care and services are available to the general population in the geographic  
300 area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations  
301 promulgated thereunder.

302 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded  
303 health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404  
304 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations  
305 promulgated thereunder.

306 7. Beginning July 1, 1990, the department of social services shall provide notification  
307 and referral of children below age five, and pregnant, breast-feeding, or postpartum women who  
308 are determined to be eligible for MO HealthNet benefits under section 208.151 to the special  
309 supplemental food programs for women, infants and children administered by the department  
310 of health and senior services. Such notification and referral shall conform to the requirements  
311 of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

312 8. Providers of long-term care services shall be reimbursed for their costs in accordance  
313 with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as  
314 amended, and regulations promulgated thereunder.

315 9. Reimbursement rates to long-term care providers with respect to a total change in  
316 ownership, at arm's length, for any facility previously licensed and certified for participation in  
317 the MO HealthNet program shall not increase payments in excess of the increase that would  
318 result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C.  
319 1396a (a)(13)(C).

320 10. The MO HealthNet division, may enroll qualified residential care facilities and  
321 assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

322 11. Any income earned by individuals eligible for certified extended employment at a  
323 sheltered workshop under chapter 178 shall not be considered as income for purposes of  
324 determining eligibility under this section.

209.150. 1. Every person with a visual, aural or [physical] **other** disability **including**  
2 **diabetes, as defined in section 213.010**, shall have the same rights afforded to a person with no  
3 such disability to the full and free use of the streets, highways, sidewalks, walkways, public  
4 buildings, public facilities, and other public places.

5 2. Every person with a visual, aural or [physical] **other** disability **including diabetes,**  
6 **as defined in section 213.010**, is entitled to full and equal accommodations, advantages,  
7 facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor  
8 buses, taxis, streetcars, boats or any other public conveyances or modes of transportation, hotels,  
9 lodging places, places of public accommodation, amusement or resort, and other places to which  
10 the general public is invited, subject only to the conditions and limitations established by law and  
11 applicable alike to all persons.

12 3. Every person with a visual, aural or [physical] **other** disability **including diabetes,**  
13 **as defined in section 213.010**, shall have the right to be accompanied by a guide dog, hearing  
14 dog, or service dog, which is especially trained for the purpose, in any of the places listed in  
15 subsection 2 of this section without being required to pay an extra charge for the guide dog,  
16 hearing dog or service dog; provided that such person shall be liable for any damage done to the  
17 premises or facilities by such dog.

18 4. As used in sections 209.150 to 209.190, the term "service dog" means any dog  
19 specifically trained to assist a person with a physical **or mental** disability by performing  
20 necessary [physical] tasks **or doing work** which the person cannot perform. Such tasks shall  
21 include, but not be limited to, pulling a wheelchair, retrieving items, [and] carrying supplies, **and**  
22 **search and rescue of an individual with a disability.**

209.152. **Not to exceed the provisions of the Americans With Disabilities Act**, any  
2 trainer, from a recognized training center, of a guide dog, hearing assistance dog or service dog,  
3 **or any member of a service dog team, as defined in section 209.200**, shall have the right to  
4 be accompanied by such dog in or upon any of the premises listed in section 209.150 while  
5 engaged in the training of the dog without being required to pay an extra charge for such dog.  
6 Such trainer **or service dog team member** shall be liable for any damage done to the premise  
7 of facilities by such dog.

209.200. As used in sections 209.200 to 209.204, **not to exceed the provisions of the**  
2 **Americans With Disabilities Act**, the following terms shall mean:

3 (1) "Disability", as defined in section 213.010 **including diabetes;**

4 (2) "Service dog", a dog that is being or has been specially trained to do work or perform  
5 tasks which benefit a particular person with a disability. Service dog includes **but is not limited**  
6 **to:**

7 (a) "Guide dog", a dog that is being or has been specially trained to assist a particular  
8 blind or visually impaired person;

9 (b) "Hearing dog", a dog that is being or has been specially trained to assist a particular  
10 deaf or hearing-impaired person;

11 (c) "Medical alert or respond dog", a dog that is being or has been trained to alert a  
12 person with a disability that a particular medical event is about to occur or to respond to a  
13 medical event that has occurred;

14 (d) "Mobility dog", a dog that is being or has been specially trained to assist a person  
15 with a disability caused by physical impairments;

16 (e) **"Search and rescue dog", a dog that is being or has been trained to search for**  
17 **or prevent a person with a mental disability, including but not limited to verbal and**  
18 **nonverbal autism, from becoming lost;**

19 (3) **"Service dog team", a team consisting of a trained service dog, a disabled**  
20 **person or child, and a person who is an adult and who has been trained to handle the**  
21 **service dog.**

209.202. 1. Any person who [knowingly, intentionally, or recklessly causes substantial  
2 physical injury to or the death of a service dog] , **with reckless disregard, injures, kills, or**  
3 **permits a dog that he or she owns or is in the immediate control of to injure or kill a service**  
4 **animal** is guilty of a class A misdemeanor. [The provisions of this subsection shall not apply  
5 to the destruction of a service dog for humane purposes.]

6 2. Any person who [knowingly or intentionally fails to exercise sufficient control over  
7 an animal such person owns, keeps, harbors, or exercises control over to prevent the animal from  
8 causing the substantial physical injury to or death of a service dog, or the subsequent inability  
9 to function as a service dog as a result of the animal's attacking, chasing, or harassing the service  
10 dog] , **with reckless disregard, interferes with or permits a dog that he or she owns or is in**  
11 **the immediate control of to interfere with the use of a service animal by obstructing,**  
12 **intimidating, or otherwise jeopardizing the safety of the service animal or its user is guilty**  
13 **of a class B misdemeanor. Any second or subsequent violation of this section is [guilty of]**  
14 **a class A misdemeanor.**

15 3. Any person who [harasses or chases a dog known to such person to be a service dog  
16 is guilty of a class B misdemeanor.

17           4. Any person who owns, keeps, harbors, or exercises control over an animal and who  
18 knowingly or intentionally fails to exercise sufficient control over the animal to prevent such  
19 animal from chasing or harassing a service dog while such dog is carrying out the dog's function  
20 as a service dog, to the extent that the animal temporarily interferes with the service dog's ability  
21 to carry out the dog's function is guilty of a class B misdemeanor] **intentionally injures, kills,**  
22 **or permits a dog that he or she owns or is in the immediate control of to injure or kill a**  
23 **service animal is guilty of a class D felony.**

24           [5. An owner of a service dog or a person with a disability who uses a service dog may  
25 file a cause of action to recover civil damages against any person who:

26           (1) Violates the provisions of subsection 1 or 2 of this section; or

27           (2) Steals a service dog resulting in the loss of the services of the service dog.

28           6. Any civil damages awarded under subsection 5 of this section shall be based on the  
29 following:

30           (1) The replacement value of an equally trained service dog, without any differentiation  
31 for the age or experience of the service dog;

32           (2) The cost and expenses incurred by the owner of a service dog or the person with a  
33 disability who used the service dog, including:

34           (a) The cost of temporary replacement services, whether provided by another service dog  
35 or by a person;

36           (b) The reasonable costs incurred in efforts to recover a stolen service dog; and

37           (c) Court costs and attorney's fees incurred in bringing a civil action under subsection  
38 5 of this section.

39           7. An owner of a service dog or a person with a disability who uses a service dog may  
40 file a cause of action to recover civil damages against a person who:

41           (1) Violates the provisions of subsections 1 to 4 of this section resulting in injury from  
42 which the service dog recovers to an extent that the dog is able to function as a service dog for  
43 the person with a disability; or

44           (2) Steals a service dog and the service dog is recovered resulting in the service dog  
45 being able to function as a service dog for the person with a disability.

46           8. Any civil damages awarded under subsection 7 of this section shall be based on the  
47 following:

48           (1) Veterinary medical expenses;

49           (2) Retraining expenses;

50           (3) The cost of temporary replacement services, whether provided by another service dog  
51 or by a person;

52           (4) Reasonable costs incurred in the recovery of the service dog; and

53 (5) Court costs and attorney's fees incurred in bringing the civil action under subsection  
54 7 of this section]

55 **4. (1) In addition to any other penalty, a person who is convicted of a violation of**  
56 **this section shall make full restitution for all damages that arise out of or are related to the**  
57 **offense, including, but not limited to, incidental and consequential damages incurred by**  
58 **the service animal's user.**

59 **(2) Restitution includes, but is not limited to:**

60 **(a) The value of the animal;**

61 **(b) Replacement and training or retraining expenses for the service animal and the**  
62 **user;**

63 **(c) Veterinary and other medical and boarding expenses for the service animal;**

64 **(d) Medical expenses for the user; and**

65 **(e) Lost wages or income incurred by the user during any period that the user is**  
66 **without the services of the service animal.**

67 [9.] **5.** The provisions of this section shall not apply:

68 **(1) If a person with a disability, an owner, or a person having custody or supervision of**  
69 **a service dog commits criminal or civil trespass; or**

70 **(2) To the destruction of a service dog for humane purposes.**

71 [10.] **6.** Nothing in this section shall be construed to preclude any other remedies  
72 available at law.

301.143. 1. As used in this section, the term "vehicle" shall have the same meaning  
2 given it in section 301.010, and the term "physically disabled" shall have the same meaning  
3 given it in section 301.142.

4 2. Political subdivisions of the state may by ordinance or resolution designate parking  
5 spaces for the exclusive use of vehicles which display a distinguishing license plate or [card]  
6 **placard** issued pursuant to section 301.071 or 301.142. Owners of private property used for  
7 public parking shall also designate parking spaces for the exclusive use of vehicles which display  
8 a distinguishing license plate or [card] **placard** issued pursuant to section 301.071 or 301.142.  
9 Whenever a political subdivision or owner of private property so designates a parking space, the  
10 space shall be indicated by a sign upon which shall be inscribed the international symbol of  
11 accessibility and may also include any appropriate wording such as "Accessible Parking" to  
12 indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing  
13 license plate or [card] **placard**. The sign described in this subsection shall also state, or an  
14 additional sign shall be posted below or adjacent to the sign stating, the following: "\$50 to \$300  
15 fine.". [Beginning August 28, 2011, When any political subdivision or owner of private property  
16 restripes a parking lot or constructs a new parking lot, one in every four accessible spaces, but

17 not less than one, shall be served by an access aisle a minimum of ninety-six inches wide and  
18 shall be designated "lift van accessible only" with signs that meet the requirements of the federal  
19 Americans with Disabilities Act, as amended, and any rules or regulations established pursuant  
20 thereto.] **When any political subdivision or owner of private property restripes a parking**  
21 **lot or constructs a new parking lot with twenty-five or more parking spaces, the parking**  
22 **lot and accessible signs shall meet the minimum requirements of the federal Americans**  
23 **with Disabilities Act, as amended, and any rules or regulations established pursuant**  
24 **thereto, for the number of required accessible parking spaces, which shall not be less than**  
25 **one, shall be served by an access aisle a minimum of ninety-six inches wide and shall be**  
26 **designated "van accessible". If any accessible space is one hundred thirty-two inches wide**  
27 **or wider, then the adjacent access aisle shall be a minimum of sixty inches wide. If any**  
28 **accessible space is less than one hundred thirty-two inches wide, then the adjacent access**  
29 **aisle shall be a minimum of ninety-six inches wide.**

30 3. Any political subdivision, by ordinance or resolution, and any person or corporation  
31 in lawful possession of a public off-street parking facility or any other owner of private property  
32 may designate reserved parking spaces for the exclusive use of vehicles which display a  
33 distinguishing license plate or [card] **placard** issued pursuant to section 301.071 or 301.142 as  
34 close as possible to the nearest accessible entrance. Such designation shall be made by posting  
35 immediately adjacent to, and visible from, each space, a sign upon which is inscribed the  
36 international symbol of accessibility, and may also include any appropriate wording to indicate  
37 that the space is reserved for the exclusive use of vehicles which display a distinguishing license  
38 plate or [card] **placard**.

39 4. The local police or sheriff's department may cause the removal of any vehicle not  
40 displaying a distinguishing license plate or [card] **placard** on which is inscribed the international  
41 symbol of accessibility and the word "disabled" issued pursuant to section 301.142 or a "disabled  
42 veteran" license plate issued pursuant to section 301.071 or a distinguishing license plate or  
43 [card] **placard** issued by any other state from a space designated for physically disabled persons  
44 if there is posted immediately adjacent to, and readily visible from, such space a sign on which  
45 is inscribed the international symbol of accessibility and may include any appropriate wording  
46 to indicate that the space is reserved for the exclusive use of vehicles which display a  
47 distinguishing license plate or [card] **placard**. Any person who parks in a space reserved for  
48 physically disabled persons and is not displaying distinguishing license plates or a [card] **placard**  
49 is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than  
50 fifty dollars nor more than three hundred dollars. Any vehicle which has been removed and  
51 which is not properly claimed within thirty days thereafter shall be considered to be an  
52 abandoned vehicle.



53           5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license  
54 plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal  
55 Americans with Disabilities Act, as amended, and any rules or regulations established pursuant  
56 thereto. Notwithstanding the other provisions of this section, on-street parking spaces designated  
57 by political subdivisions in residential areas for the exclusive use of vehicles displaying a  
58 distinguishing license plate or [card] **placard** issued pursuant to section 301.071 or 301.142 shall  
59 meet the requirements of the federal Americans with Disabilities Act pursuant to this subsection  
60 and any such space shall have clearly and visibly painted upon it the international symbol of  
61 accessibility [and any curb adjacent to the space shall be clearly and visibly painted blue].

62           6. Any person who, without authorization, uses a distinguishing license plate or [card]  
63 **placard** issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under  
64 authority of this section shall be guilty of a class B misdemeanor.

65           7. Law enforcement officials may enter upon private property open to public use to  
66 enforce the provisions of this section and section 301.142, including private property designated  
67 by the owner of such property for the exclusive use of vehicles which display a distinguishing  
68 license plate or [card] **placard** issued pursuant to section 301.071 or 301.142.

69           8. Nonconforming signs or spaces otherwise required pursuant to this section which are  
70 in use prior to August 28, 2011, shall not be in violation of this section during the useful life of  
71 such signs or spaces. Under no circumstances shall the useful life of the nonconforming signs  
72 or spaces be extended by means other than those means used to maintain any sign or space on  
73 the owner's property which is not used for vehicles displaying a disabled license plate.

74           9. Beginning August 28, 2011, all new signs erected under this section shall not contain  
75 the words "Handicap Parking" or "Handicapped Parking".

304.028. 1. There is hereby created in the state treasury for use by the department of  
2 health and senior services a fund to be known as the "Brain Injury Fund". All judgments  
3 collected pursuant to this section, federal grants, private donations and any other moneys  
4 designated for the brain injury fund shall be deposited in the fund. Moneys deposited in the fund  
5 shall, upon appropriation by the general assembly to the department of health and senior services,  
6 be received and expended by the department for the purpose of transition [and] , integration, **and**  
7 **provision of [medical,] consumer-based consumer services in comprehensive brain injury**  
8 **day rehabilitation therapy; vocational, home, and community support; and** social and  
9 educational [services or] activities for purposes of outreach and [supports] **support** to enable  
10 individuals with [traumatic] brain injury and their families to live in the community.  
11 Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the  
12 brain injury fund at the end of any biennium shall not be transferred to the general revenue fund.

13           2. In all criminal cases including violations of any county **or municipality** ordinance or  
14 any violation of criminal or traffic laws of this state, including an infraction, there shall be  
15 assessed as costs a surcharge in the amount of two dollars. No such surcharge shall be collected  
16 in any proceeding involving a violation of an ordinance or state law when the proceeding or  
17 defendant has been dismissed by the court or when costs are to be paid by the state, county or  
18 municipality.

19           3. Such surcharge shall be collected and distributed by the clerk of the court as provided  
20 in sections 488.010 to 488.020. The surcharge collected pursuant to this section shall be paid  
21 to the state treasury to the credit of the brain injury fund established in this section.

22           **4. The department of health and senior services, in cooperation with the**  
23 **department of social services, shall seek waivers from the federal Centers for Medicare and**  
24 **Medicaid Services to allow moneys from the brain injury fund to be used under the MO**  
25 **HealthNet program to provide services under this section. Upon the granting of such**  
26 **waiver, forty percent of all moneys in the fund shall be designated as MO HealthNet**  
27 **federal match moneys under the waiver. The waivers under this subsection shall be**  
28 **designed so that parity is established in funding for each of the eligible MO HealthNet**  
29 **home- and community-based services for adults with brain injuries.**

30           **5. A committee shall be created to develop service descriptions, regulations, and**  
31 **parity of funding for eligible MO HealthNet service areas, as needed. The ten-member**  
32 **volunteer committee shall be organized by the department and shall be composed of two**  
33 **representatives from each of the following: Missouri Association of Rehabilitation**  
34 **Facilities, the Brain Injury Association, the Brain Injury Advisory Council, the department**  
35 **of social services, and the department of health and senior services. The committee**  
36 **composition shall include at least one individual with a brain injury. After services are**  
37 **established under this section, the committee shall, at a minimum, meet annually to review**  
38 **services using the most current department of health and senior services brain injury needs**  
39 **assessment. The review process shall require the ten-member volunteer committee to be**  
40 **responsible for addressing any modifications needed in the program services. Such review**  
41 **process shall ensure that services are meeting the needs of brain injury consumers.**

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, 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, or section 630.155  
6 or 630.160 shall be disqualified from holding any position in any public or private facility, day  
7 program, residential facility, or specialized service operated, licensed, certified, accredited, in

8 possession of deemed status, or funded by the department or in any mental health facility or  
9 mental health program in which people are admitted on a voluntary or involuntary basis or are  
10 civilly detained pursuant to chapter 632.

11 2. A person who has been [convicted] **found guilty** of or [pled] **pleaded** guilty or nolo  
12 contendere to **any felony offense as defined in chapter 195**; any felony offense against persons  
13 as defined in chapter 565; any felony sexual offense as defined in chapter 566; any felony offense  
14 defined in section 568.020, 568.045, 568.050, 568.060, **568.175**, 569.020, 569.025, 569.030,  
15 569.035, 569.040, 569.050, 569.070, [or] 569.160, **570.030, 570.040, 570.090, 570.145,**  
16 **570.223, 570.230, or 576.080**, or of an equivalent felony offense **in another state or an**  
17 **equivalent federal felony offense, or an equivalent offense under the Uniform Code of**  
18 **Military Justice**; [or who has been convicted of or pled guilty or nolo contendere to] any  
19 violation of subsection 3 of section 198.070; **a violation of section 577.010 or 577.012 and who**  
20 **is alleged and found by the court to be an aggravated or chronic offender under section**  
21 **577.023**; or [has been convicted of or pled guilty or nolo contendere to] any offense requiring  
22 registration under section 589.400, shall be disqualified from holding any direct-care position  
23 in any public or private facility, day program, residential facility or specialized service operated,  
24 licensed, certified, accredited, in possession of deemed status, or funded by the department or  
25 any mental health facility or mental health program in which people are admitted on a voluntary  
26 basis or are civilly detained pursuant to chapter 632.

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

30 4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section  
31 may seek an exception to the disqualification from the director of the department or the director's  
32 designee, **especially if the person is in recovery and the disqualifying felony offense was**  
33 **alcohol or drug related**. The request shall be written and may not be made more than once  
34 every six months. The request may be granted by the director or designee if in the judgment of  
35 the director or designee a clear showing has been made by written submission only, that the  
36 person will not commit any additional acts for which the person had originally been disqualified  
37 for or any other acts that would be harmful to a patient, resident or client of a facility, program  
38 or service. The director or designee may grant an exception subject to any conditions deemed  
39 appropriate and failure to comply with such terms may result in the person again being  
40 disqualified. Any person placed on the disqualification registry prior to August 28, 2012, may  
41 be removed from the registry by the director or designee if in the judgment of the director or  
42 designee a clear showing has been made, by written submission only, that the person will not  
43 commit any additional acts for which the person had originally been disqualified for or any other

44 acts that would be harmful to a patient, resident, or client of a facility, program, or service.  
45 Decisions by the director or designee pursuant to the provisions of this subsection shall not be  
46 subject to appeal. The right to request an exception pursuant to this subsection shall not apply  
47 to persons who are disqualified due to being listed on the department of social services or  
48 department of health and senior services employee disqualification list pursuant to section  
49 660.315, nor to persons disqualified from employment due to any crime pursuant to the  
50 provisions of chapter 566 or section 565.020, 565.021, 568.020, 568.060, 569.025, or 569.070.

51 5. An applicant for a position in any public or private facility, day program, residential  
52 facility, or specialized service operated, licensed, certified, accredited, in possession of deemed  
53 status, or funded by the department or any mental health facility or mental health program in  
54 which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632  
55 shall:

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

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

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

64 6. Any person who has received a good cause waiver issued by the department of health  
65 and senior services or its predecessor under subsection [9] **10** of section 660.317 shall not require  
66 an additional exception under this section in order to be employed in a long-term care facility  
67 licensed under chapter 198.

68 7. Any public or private residential facility, day program, or specialized service operated,  
69 licensed, certified, accredited, in possession of deemed status, or funded by the department or  
70 any mental health facility or mental health program in which people are admitted on a voluntary  
71 basis or are civilly detained pursuant to chapter 632 shall, not later than two working days after  
72 hiring any person for a full-time, part-time, or temporary position that will have contact with  
73 clients, residents, or patients:

74 (1) Request a criminal background check as provided in section 43.540;

75 (2) Make an inquiry to the department of social services and department of health and  
76 senior services to determine whether the person is listed on the employee disqualification list as  
77 provided in section 660.315; and

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

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

87           9. Any public or private residential facility, day program, or specialized service operated,  
88 licensed, certified, accredited, in possession of deemed status or funded by the department or any  
89 mental health facility or mental health program in which people are admitted on a voluntary basis  
90 or are civilly detained pursuant to chapter 632 that declines to employ or discharges a person  
91 who is disqualified pursuant to the provisions of subsection 1 or 2 of this section shall be  
92 immune from suit by that person or anyone else acting for or in behalf of that person for the  
93 failure to employ or for the discharge of the person due to disqualification.

94           10. Any employer who is required to discharge an employee because the employee was  
95 placed on a disqualification registry maintained by the department of mental health after the date  
96 of hire shall not be charged for unemployment insurance benefits based on wages paid to the  
97 employee for work prior to the date of discharge pursuant to section 288.100.

98           11. The department shall maintain a disqualification registry and place on the registry  
99 the names of any persons who have been finally determined by the department to be disqualified  
100 based upon administrative substantiations made against them for abuse or neglect pursuant to  
101 department rule or regulation. Such list shall reflect that the person is barred from holding any  
102 position in any public or private facility, day program, residential facility, or specialized service  
103 operated, licensed, certified, accredited, in possession of deemed status, or funded by the  
104 department, or any mental health facility or mental health program in which persons are admitted  
105 on a voluntary basis or are civilly detained pursuant to chapter 632. The length of time the  
106 person's name shall appear on the disqualification registry shall be determined by the director or  
107 the director's designee, based upon the criteria contained in subsection 13 of this section.

108           12. Persons notified that their name will be placed on the disqualification registry may  
109 appeal such determination pursuant to department rule or regulation. If the person appeals, the  
110 hearing tribunal shall not modify the length of time the person's name shall appear on the  
111 disqualification registry if the hearing tribunal upholds all of the administrative substantiations  
112 made by the director or the director's designee. If the hearing tribunal overturns part of the  
113 administrative substantiations made by the director or the director's designee, the hearing tribunal  
114 may consider modifying the length of time the person's name shall appear on the disqualification  
115 registry based upon testimony and evidence received during the hearing.

116 13. The length of time the person's name shall appear on the disqualification registry  
117 shall be determined by the director or the director's designee based upon the following:

- 118 (1) Whether the person acted recklessly or knowingly, as defined in chapter 562;  
119 (2) The degree of actual or potential injury or harm to the patient, resident, or client;  
120 (3) The degree of actual or potential danger to the health, safety, or welfare of the patient,  
121 resident, or client;  
122 (4) The degree of misappropriation or conversion of patient, resident, or client funds or  
123 property;  
124 (5) Whether the person has previously been listed on the department's disqualification  
125 registry;  
126 (6) Any mitigating circumstances; and  
127 (7) Any aggravating circumstances.

128 14. The department shall provide the disqualification registry maintained pursuant to this  
129 section to other state and federal agencies upon request. The department may provide the  
130 disqualification registry maintained pursuant to this section to any public or private facility, day  
131 program, residential facility, or specialized service operated, licensed, certified, accredited, in  
132 possession of deemed status, or funded by the department or to any mental health facility or  
133 mental health program in which people are admitted on a voluntary or involuntary basis or are  
134 civilly detained pursuant to chapter 632. The department may also provide the disqualification  
135 registry to a recognized school of nursing, medicine, or other health profession for the purpose  
136 of determining whether students scheduled to participate in clinical rotations are included in the  
137 employee disqualification registry.

**Section 1. The department of mental health, in conjunction with the department  
2 of health and senior services, shall establish, by rule, guidelines for the appropriate  
3 standard of care for diagnosis and treatment of persons with mental disabilities who  
4 receive care from mental health or health care facilities, personnel, or professionals in this  
5 state. Such appropriate standard of care shall include, but not be limited to, screening for  
6 and treatment of any physical injury, illness, or condition without regard to any mental  
7 illness, disease, or condition of such person prior to diagnosis and treatment of any  
8 physical injury, illness, or condition as solely resulting from a mental illness, disease, or  
9 condition of the person.**

Section B. The provisions of section 161.870 of this act shall terminate on January 1,  
2 2014.

Section C. Because immediate action is necessary to ensure compliance with the federal  
2 Americans With Disabilities Act, the repeal and reenactment of section 301.143 of section A of  
3 this act is deemed necessary for the immediate preservation of the public health, welfare, peace,

4 and safety, and is hereby declared to be an emergency act within the meaning of the constitution,  
5 and the repeal and reenactment of section 301.143 of section A of this act shall be in full force  
6 and effect upon its passage and approval.

✓