

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

Reported from the Committee on Seniors, Families and Pensions, May 16, 2013, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1482S.06C

AN ACT

To repeal sections 208.146, 208.152, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, RSMo, and to enact in lieu thereof eleven new sections relating to individuals with disabilities, with a penalty provision, an expiration date for a certain section, and an emergency clause for certain sections.

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

Section A. Sections 208.146, 208.152, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 161.870, 208.146, 208.152, 208.1050, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, 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;**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 13 (4) Pre-employment skills training;
- 14 (5) Vocational training;
- 15 (6) Student wages for try-out employment;
- 16 (7) Placement in unsubsidized employment; and
- 17 (8) Other assistance with transition to a quality adult life.

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

25 3. The work group shall:

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

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

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

39 (4) Report its findings to the director.

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

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

50 **6. The department of elementary and secondary education may**
51 **promulgate all necessary rules and regulations for the administration**
52 **of this section. Any rule or portion of a rule, as that term is defined in**
53 **section 536.010, that is created under the authority delegated in this**
54 **section shall become effective only if it complies with and is subject to**
55 **all of the provisions of chapter 536 and, if applicable, section**
56 **536.028. This section and chapter 536 are nonseverable and if any of**
57 **the powers vested with the general assembly pursuant to chapter 536**
58 **to review, to delay the effective date, or to disapprove and annul a rule**
59 **are subsequently held unconstitutional, then the grant of rulemaking**
60 **authority and any rule proposed or adopted after August 28, 2013, shall**
61 **be invalid and void.**

208.146. 1. The program established under this section shall be known
2 as the "Ticket to Work Health Assurance Program". Subject to appropriations
3 and in accordance with the federal Ticket to Work and Work Incentives
4 Improvement Act of 1999 (TWWIIA), Public Law 106-170, the medical assistance
5 provided for in section 208.151 may be paid for a person who is employed and
6 who:

7 (1) Except for earnings, meets the definition of disabled under the
8 Supplemental Security Income Program or meets the definition of an employed
9 individual with a medically improved disability under TWWIIA;

10 (2) Has earned income, as defined in subsection 2 of this section;

11 (3) Meets the asset limits in subsection 3 of this section;

12 (4) Has net income, as defined in subsection 3 of this section, that does
13 not exceed the limit for permanent and totally disabled individuals to receive
14 nonspenddown MO HealthNet under subdivision (24) of subsection 1 of section
15 208.151; and

16 (5) Has a gross income of two hundred fifty percent or less of the federal
17 poverty level, excluding any earned income of the worker with a disability
18 between two hundred fifty and three hundred percent of the federal poverty
19 level. For purposes of this subdivision, "gross income" includes all income of the
20 person and the person's spouse that would be considered in determining MO
21 HealthNet eligibility for permanent and totally disabled individuals under
22 subdivision (24) of subsection 1 of section 208.151. Individuals with gross
23 incomes in excess of one hundred percent of the federal poverty level shall pay a
24 premium for participation in accordance with subsection 4 of this section.

25 2. For income to be considered earned income for purposes of this section,
26 the department of social services shall document that Medicare and Social
27 Security taxes are withheld from such income. Self-employed persons shall
28 provide proof of payment of Medicare and Social Security taxes for income to be
29 considered earned.

30 3. (1) For purposes of determining eligibility under this section, the
31 available asset limit and the definition of available assets shall be the same as
32 those used to determine MO HealthNet eligibility for permanent and totally
33 disabled individuals under subdivision (24) of subsection 1 of section 208.151
34 except for:

35 (a) Medical savings accounts limited to deposits of earned income and
36 earnings on such income while a participant in the program created under this
37 section with a value not to exceed five thousand dollars per year; and

38 (b) Independent living accounts limited to deposits of earned income and
39 earnings on such income while a participant in the program created under this
40 section with a value not to exceed five thousand dollars per year. For purposes
41 of this section, an "independent living account" means an account established and
42 maintained to provide savings for transportation, housing, home modification, and
43 personal care services and assistive devices associated with such person's
44 disability.

45 (2) To determine net income, the following shall be disregarded:

46 (a) All earned income of the disabled worker;

47 (b) The first sixty-five dollars and one-half of the remaining earned
48 income of a nondisabled spouse's earned income;

49 (c) A twenty dollar standard deduction;

50 (d) Health insurance premiums;

51 (e) A seventy-five dollar a month standard deduction for the disabled
52 worker's dental and optical insurance when the total dental and optical insurance
53 premiums are less than seventy-five dollars;

54 (f) All Supplemental Security Income payments, and the first fifty dollars
55 of SSDI payments;

56 (g) A standard deduction for impairment-related employment expenses
57 equal to one-half of the disabled worker's earned income.

58 4. Any person whose gross income exceeds one hundred percent of the
59 federal poverty level shall pay a premium for participation in the medical
60 assistance provided in this section. Such premium shall be:

61 (1) For a person whose gross income is more than one hundred percent
62 but less than one hundred fifty percent of the federal poverty level, four percent
63 of income at one hundred percent of the federal poverty level;

64 (2) For a person whose gross income equals or exceeds one hundred fifty
65 percent but is less than two hundred percent of the federal poverty level, four
66 percent of income at one hundred fifty percent of the federal poverty level;

67 (3) For a person whose gross income equals or exceeds two hundred
68 percent but less than two hundred fifty percent of the federal poverty level, five
69 percent of income at two hundred percent of the federal poverty level;

70 (4) For a person whose gross income equals or exceeds two hundred fifty
71 percent up to and including three hundred percent of the federal poverty level,
72 six percent of income at two hundred fifty percent of the federal poverty level.

73 5. Recipients of services through this program shall report any change in
74 income or household size within ten days of the occurrence of such change. An
75 increase in premiums resulting from a reported change in income or household
76 size shall be effective with the next premium invoice that is mailed to a person
77 after due process requirements have been met. A decrease in premiums shall be
78 effective the first day of the month immediately following the month in which the
79 change is reported.

80 6. If an eligible person's employer offers employer-sponsored health
81 insurance and the department of social services determines that it is more cost
82 effective, such person shall participate in the employer-sponsored insurance. The
83 department shall pay such person's portion of the premiums, co-payments, and
84 any other costs associated with participation in the employer-sponsored health
85 insurance.

86 7. The provisions of this section shall expire [six years after] August 28,
87 [2007] **2019**.

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

7 (1) Inpatient hospital services, except to persons in an institution for
8 mental diseases who are under the age of sixty-five years and over the age of
9 twenty-one years; provided that the MO HealthNet division shall provide through

10 rule and regulation an exception process for coverage of inpatient costs in those
11 cases requiring treatment beyond the seventy-fifth percentile professional
12 activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay
13 schedule; and provided further that the MO HealthNet division shall take into
14 account through its payment system for hospital services the situation of
15 hospitals which serve a disproportionate number of low-income patients;

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

25 (3) Laboratory and X-ray services;

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

41 (5) Nursing home costs for participants receiving benefit payments under
42 subdivision (4) of this subsection for those days, which shall not exceed twelve per
43 any period of six consecutive months, during which the participant is on a
44 temporary leave of absence from the hospital or nursing home, provided that no
45 such participant shall be allowed a temporary leave of absence unless it is

46 specifically provided for in his plan of care. As used in this subdivision, the term
47 "temporary leave of absence" shall include all periods of time during which a
48 participant is away from the hospital or nursing home overnight because he is
49 visiting a friend or relative;

50 (6) Physicians' services, whether furnished in the office, home, hospital,
51 nursing home, or elsewhere;

52 (7) Drugs and medicines when prescribed by a licensed physician, dentist,
53 or podiatrist; except that no payment for drugs and medicines prescribed on and
54 after January 1, 2006, by a licensed physician, dentist, or podiatrist may be made
55 on behalf of any person who qualifies for prescription drug coverage under the
56 provisions of P.L. 108-173;

57 (8) Emergency ambulance services and, effective January 1, 1990,
58 medically necessary transportation to scheduled, physician-prescribed nonelective
59 treatments;

60 (9) Early and periodic screening and diagnosis of individuals who are
61 under the age of twenty-one to ascertain their physical or mental defects, and
62 health care, treatment, and other measures to correct or ameliorate defects and
63 chronic conditions discovered thereby. Such services shall be provided in
64 accordance with the provisions of Section 6403 of P.L. 101-239 and federal
65 regulations promulgated thereunder;

66 (10) Home health care services;

67 (11) Family planning as defined by federal rules and regulations;
68 provided, however, that such family planning services shall not include abortions
69 unless such abortions are certified in writing by a physician to the MO HealthNet
70 agency that, in his professional judgment, the life of the mother would be
71 endangered if the fetus were carried to term;

72 (12) Inpatient psychiatric hospital services for individuals under age
73 twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C.
74 1396d, et seq.);

75 (13) Outpatient surgical procedures, including presurgical diagnostic
76 services performed in ambulatory surgical facilities which are licensed by the
77 department of health and senior services of the state of Missouri; except, that
78 such outpatient surgical services shall not include persons who are eligible for
79 coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the
80 federal Social Security Act, as amended, if exclusion of such persons is permitted
81 under Title XIX, Public Law 89-97, 1965 amendments to the federal Social

82 Security Act, as amended;

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

116 (15) Mental health services. The state plan for providing medical
117 assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended,

118 shall include the following mental health services when such services are
119 provided by community mental health facilities operated by the department of
120 mental health or designated by the department of mental health as a community
121 mental health facility or as an alcohol and drug abuse facility or as a
122 child-serving agency within the comprehensive children's mental health service
123 system established in section 630.097. The department of mental health shall
124 establish by administrative rule the definition and criteria for designation as a
125 community mental health facility and for designation as an alcohol and drug
126 abuse facility. Such mental health services shall include:

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

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

139 (c) Rehabilitative mental health and alcohol and drug abuse services
140 including home and community-based preventive, diagnostic, therapeutic,
141 rehabilitative, and palliative interventions rendered to individuals in an
142 individual or group setting by a mental health or alcohol and drug abuse
143 professional in accordance with a plan of treatment appropriately established,
144 implemented, monitored, and revised under the auspices of a therapeutic team
145 as a part of client services management. As used in this section, mental health
146 professional and alcohol and drug abuse professional shall be defined by the
147 department of mental health pursuant to duly promulgated rules. With respect
148 to services established by this subdivision, the department of social services, MO
149 HealthNet division, shall enter into an agreement with the department of mental
150 health. Matching funds for outpatient mental health services, clinic mental
151 health services, and rehabilitation services for mental health and alcohol and
152 drug abuse shall be certified by the department of mental health to the MO
153 HealthNet division. The agreement shall establish a mechanism for the joint

154 implementation of the provisions of this subdivision. In addition, the agreement
155 shall establish a mechanism by which rates for services may be jointly developed;

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

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

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

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

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

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

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

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

183 (d) The provisions of this subdivision shall not apply unless the nursing
184 home receives notice from the participant or the participant's responsible party
185 that the participant intends to return to the nursing home following the hospital
186 stay. If the nursing home receives such notification and all other provisions of
187 this subsection have been satisfied, the nursing home shall provide notice to the
188 participant or the participant's responsible party prior to release of the reserved
189 bed;

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

194 (20) **Subject to appropriations, comprehensive day rehabilitation**
195 **services beginning early post-trauma as part of a coordinated system**
196 **of care for individuals with disabling impairments. Rehabilitation**
197 **services must be based on an individualized, goal-oriented,**
198 **comprehensive, and coordinated treatment plan developed,**
199 **implemented, and monitored through an interdisciplinary assessment**
200 **designed to restore an individual to optimal levels of physical,**
201 **cognitive, and behavioral function. The MO HealthNet division shall**
202 **establish, by administrative rule, the definition and criteria for**
203 **designation of a comprehensive day rehabilitation service facility,**
204 **benefit limitations, and payment mechanism utilizing the expertise of**
205 **brain injury rehabilitation service providers and the Missouri head**
206 **injury advisory council created under section 192.745. Such services**
207 **shall be provided in a community-based facility and be authorized on**
208 **tier levels based on the services the patient requires and the frequency**
209 **of the services as guided by a qualified rehabilitation professional**
210 **associated with a health care home. Any rule or portion of a rule, as**
211 **that term is defined in section 536.010, that is created under the**
212 **authority delegated in this subdivision shall become effective only if it**
213 **complies with and is subject to all of the provisions of chapter 536 and,**
214 **if applicable, section 536.028. This section and chapter 536 are**
215 **nonseverable and if any of the powers vested with the general assembly**
216 **pursuant to chapter 536 to review, to delay the effective date, or to**
217 **disapprove and annul a rule are subsequently held unconstitutional,**
218 **then the grant of rulemaking authority and any rule proposed or**
219 **adopted after August 28, 2013, shall be invalid and void;**

220 (21) Hospice care. As used in this subdivision, the term "hospice care"
221 means a coordinated program of active professional medical attention within a
222 home, outpatient and inpatient care which treats the terminally ill patient and
223 family as a unit, employing a medically directed interdisciplinary team. The
224 program provides relief of severe pain or other physical symptoms and supportive
225 care to meet the special needs arising out of physical, psychological, spiritual,
226 social, and economic stresses which are experienced during the final stages of

227 illness, and during dying and bereavement and meets the Medicare requirements
228 for participation as a hospice as are provided in 42 CFR Part 418. The rate of
229 reimbursement paid by the MO HealthNet division to the hospice provider for
230 room and board furnished by a nursing home to an eligible hospice patient shall
231 not be less than ninety-five percent of the rate of reimbursement which would
232 have been paid for facility services in that nursing home facility for that patient,
233 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus
234 Budget Reconciliation Act of 1989);

235 ~~[(21)]~~ **(22)** Prescribed medically necessary dental services. Such services
236 shall be subject to appropriations. An electronic web-based prior authorization
237 system using best medical evidence and care and treatment guidelines consistent
238 with national standards shall be used to verify medical need;

239 ~~[(22)]~~ **(23)** Prescribed medically necessary optometric services. Such
240 services shall be subject to appropriations. An electronic web-based prior
241 authorization system using best medical evidence and care and treatment
242 guidelines consistent with national standards shall be used to verify medical
243 need;

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

249 ~~[(23)]~~ **(25)** Blood clotting products-related services. For persons
250 diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood
251 clotting products, as defined in section 338.400, such services include:

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

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

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

260 ~~[(24)]~~ **(26)** The MO HealthNet division shall, by January 1, 2008, and
261 annually thereafter, report the status of MO HealthNet provider reimbursement
262 rates as compared to one hundred percent of the Medicare reimbursement rates

263 and compared to the average dental reimbursement rates paid by third-party
264 payors licensed by the state. The MO HealthNet division shall, by July 1, 2008,
265 provide to the general assembly a four-year plan to achieve parity with Medicare
266 reimbursement rates and for third-party payor average dental reimbursement
267 rates. Such plan shall be subject to appropriation and the division shall include
268 in its annual budget request to the governor the necessary funding needed to
269 complete the four-year plan developed under this subdivision.

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

275 (1) Dental services;

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

277 (3) Optometric services as defined in section 336.010;

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

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

295 (6) Comprehensive day rehabilitation services beginning early posttrauma
296 as part of a coordinated system of care for individuals with disabling
297 impairments. Rehabilitation services must be based on an individualized,
298 goal-oriented, comprehensive and coordinated treatment plan developed,

299 implemented, and monitored through an interdisciplinary assessment designed
300 to restore an individual to optimal level of physical, cognitive, and behavioral
301 function. The MO HealthNet division shall establish by administrative rule the
302 definition and criteria for designation of a comprehensive day rehabilitation
303 service facility, benefit limitations and payment mechanism. Any rule or portion
304 of a rule, as that term is defined in section 536.010, that is created under the
305 authority delegated in this subdivision shall become effective only if it complies
306 with and is subject to all of the provisions of chapter 536 and, if applicable,
307 section 536.028. This section and chapter 536 are nonseverable and if any of the
308 powers vested with the general assembly pursuant to chapter 536 to review, to
309 delay the effective date, or to disapprove and annul a rule are subsequently held
310 unconstitutional, then the grant of rulemaking authority and any rule proposed
311 or adopted after August 28, 2005, shall be invalid and void.

312 3. The MO HealthNet division may require any participant receiving MO
313 HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an
314 additional payment after July 1, 2008, as defined by rule duly promulgated by the
315 MO HealthNet division, for all covered services except for those services covered
316 under subdivisions (14) and (15) of subsection 1 of this section and sections
317 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the
318 federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations
319 thereunder. When substitution of a generic drug is permitted by the prescriber
320 according to section 338.056, and a generic drug is substituted for a name-brand
321 drug, the MO HealthNet division may not lower or delete the requirement to
322 make a co-payment pursuant to regulations of Title XIX of the federal Social
323 Security Act. A provider of goods or services described under this section must
324 collect from all participants the additional payment that may be required by the
325 MO HealthNet division under authority granted herein, if the division exercises
326 that authority, to remain eligible as a provider. Any payments made by
327 participants under this section shall be in addition to and not in lieu of payments
328 made by the state for goods or services described herein except the participant
329 portion of the pharmacy professional dispensing fee shall be in addition to and
330 not in lieu of payments to pharmacists. A provider may collect the co-payment
331 at the time a service is provided or at a later date. A provider shall not refuse
332 to provide a service if a participant is unable to pay a required payment. If it is
333 the routine business practice of a provider to terminate future services to an
334 individual with an unclaimed debt, the provider may include uncollected

335 co-payments under this practice. Providers who elect not to undertake the
336 provision of services based on a history of bad debt shall give participants
337 advance notice and a reasonable opportunity for payment. A provider,
338 representative, employee, independent contractor, or agent of a pharmaceutical
339 manufacturer shall not make co-payment for a participant. This subsection shall
340 not apply to other qualified children, pregnant women, or blind persons. If the
341 Centers for Medicare and Medicaid Services does not approve the Missouri MO
342 HealthNet state plan amendment submitted by the department of social services
343 that would allow a provider to deny future services to an individual with
344 uncollected co-payments, the denial of services shall not be allowed. The
345 department of social services shall inform providers regarding the acceptability
346 of denying services as the result of unpaid co-payments.

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

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

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

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

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

370 9. Reimbursement rates to long-term care providers with respect to a total

371 change in ownership, at arm's length, for any facility previously licensed and
372 certified for participation in the MO HealthNet program shall not increase
373 payments in excess of the increase that would result from the application of
374 Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

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

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

208.1050. 1. There is hereby created in the state treasury the
2 "Missouri Senior Services Protection Fund", which shall consist of
3 money collected under subsection 2 of this section. The state treasurer
4 shall be custodian of the fund. In accordance with sections 30.170 and
5 30.180, the state treasurer may approve disbursements. The fund shall
6 be a dedicated fund and, upon appropriation, money in the fund shall
7 be used solely for the administration of subsection 2 of this
8 section. Notwithstanding the provisions of section 33.080 to the
9 contrary, any moneys remaining in the fund at the end of the biennium
10 shall not revert to the credit of the general revenue fund. The state
11 treasurer shall invest moneys in the fund in the same manner as other
12 funds are invested. Any interest and moneys earned on such
13 investments shall be credited to the fund.

14 2. The state treasurer shall deposit from moneys that otherwise
15 would have been deposited into the general revenue fund an amount
16 equal to fifty-five million one hundred thousand dollars into the
17 Missouri senior services protection fund. At least one-quarter of such
18 amount shall be deposited on or before July 15, 2013, an additional one-
19 quarter by October 15, 2013, and an additional one-quarter by January
20 15, 2014. The remaining amount shall be deposited by March 15,
21 2014. Moneys in the fund shall be allocated for services for low-income
22 seniors and people with disabilities.

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

5 and other public places.

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

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

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

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

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

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

5 (2) "Service dog", a dog that is being or has been specially trained to do
6 work or perform tasks which benefit a particular person with a disability. Service

7 dog includes **but is not limited to:**

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

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

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

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

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

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

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

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

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

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

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

- 31 (1) Violates the provisions of subsection 1 or 2 of this section; or
32 (2) Steals a service dog resulting in the loss of the services of the service
33 dog.

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

- 36 (1) The replacement value of an equally trained service dog, without any
37 differentiation for the age or experience of the service dog;
38 (2) The cost and expenses incurred by the owner of a service dog or the
39 person with a disability who used the service dog, including:
40 (a) The cost of temporary replacement services, whether provided by
41 another service dog or by a person;
42 (b) The reasonable costs incurred in efforts to recover a stolen service dog;
43 and
44 (c) Court costs and attorney's fees incurred in bringing a civil action under
45 subsection 5 of this section.

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

- 49 (1) Violates the provisions of subsections 1 to 4 of this section resulting
50 in injury from which the service dog recovers to an extent that the dog is able to
51 function as a service dog for the person with a disability; or
52 (2) Steals a service dog and the service dog is recovered resulting in the
53 service dog being able to function as a service dog for the person with a disability.

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

- 56 (1) Veterinary medical expenses;
57 (2) Retraining expenses;
58 (3) The cost of temporary replacement services, whether provided by
59 another service dog or by a person;
60 (4) Reasonable costs incurred in the recovery of the service dog; and
61 (5) Court costs and attorney's fees incurred in bringing the civil action
62 under subsection 7 of this section]

63 **4. (1) In addition to any other penalty, a person who is convicted**
64 **of a violation of this section shall make full restitution for all damages**
65 **that arise out of or are related to the offense, including, but not limited**
66 **to, incidental and consequential damages incurred by the service**
67 **animal's user.**

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

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

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

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

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

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

77 [9.] **5.** The provisions of this section shall not apply:

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

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

81 [10.] **6.** Nothing in this section shall be construed to preclude any other
82 remedies available at law.

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

4 2. Political subdivisions of the state may by ordinance or resolution
5 designate parking spaces for the exclusive use of vehicles which display a
6 distinguishing license plate or [card] **placard** issued pursuant to section 301.071
7 or 301.142. Owners of private property used for public parking shall also
8 designate parking spaces for the exclusive use of vehicles which display a
9 distinguishing license plate or [card] **placard** issued pursuant to section 301.071

10 or 301.142. Whenever a political subdivision or owner of private property so
11 designates a parking space, the space shall be indicated by a sign upon which
12 shall be inscribed the international symbol of accessibility and may also include
13 any appropriate wording such as "Accessible Parking" to indicate that the space
14 is reserved for the exclusive use of vehicles which display a distinguishing license
15 plate or [card] **placard**. The sign described in this subsection shall also state,
16 or an additional sign shall be posted below or adjacent to the sign stating, the
17 following: "\$50 to \$300 fine.". [Beginning August 28, 2011, When any political
18 subdivision or owner of private property restripes a parking lot or constructs a
19 new parking lot, one in every four accessible spaces, but not less than one, shall
20 be served by an access aisle a minimum of ninety-six inches wide and shall be
21 designated "lift van accessible only" with signs that meet the requirements of the
22 federal Americans with Disabilities Act, as amended, and any rules or regulations
23 established pursuant thereto.] **When any political subdivision or owner of**
24 **private property restripes a parking lot or constructs a new parking lot**
25 **with twenty-five or more parking spaces, the parking lot and accessible**
26 **signs shall meet the minimum requirements of the federal Americans**
27 **with Disabilities Act, as amended, and any rules or regulations**
28 **established pursuant thereto, for the number of required accessible**
29 **parking spaces, which shall not be less than one, shall be served by an**
30 **access aisle a minimum of ninety-six inches wide and shall be**
31 **designated "van accessible". If any accessible space is one hundred**
32 **thirty-two inches wide or wider, then the adjacent access aisle shall be**
33 **a minimum of sixty inches wide. If any accessible space is less than one**
34 **hundred thirty-two inches wide, then the adjacent access aisle shall be**
35 **a minimum of ninety-six inches wide.**

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

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

62 5. Spaces designated for use by vehicles displaying the distinguishing
63 "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet
64 the requirements of the federal Americans with Disabilities Act, as amended, and
65 any rules or regulations established pursuant thereto. Notwithstanding the other
66 provisions of this section, on-street parking spaces designated by political
67 subdivisions in residential areas for the exclusive use of vehicles displaying a
68 distinguishing license plate or **[card] placard** issued pursuant to section 301.071
69 or 301.142 shall meet the requirements of the federal Americans with Disabilities
70 Act pursuant to this subsection and any such space shall have clearly and visibly
71 painted upon it the international symbol of accessibility [and any curb adjacent
72 to the space shall be clearly and visibly painted blue].

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

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

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

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

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

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

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

27 4. **The department of health and senior services, in cooperation**
28 **with the department of social services, shall seek waivers from the**

29 federal Centers for Medicare and Medicaid Services to allow moneys
30 from the brain injury fund to be used under the MO HealthNet program
31 to provide services under this section. Upon the granting of such
32 waiver, forty percent of all moneys in the fund shall be designated as
33 MO HealthNet federal match moneys under the waiver. The waivers
34 under this subsection shall be designed so that parity is established in
35 funding for each of the eligible MO HealthNet home- and community-
36 based services for adults with brain injuries.

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

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

13 2. A person who has been [convicted] **found guilty** of or [pled] **pleaded**

14 guilty or nolo contendere to **any felony offense as defined in chapter 195;**
15 any felony offense against persons as defined in chapter 565; any felony [sexual]
16 offense as defined in chapter 566; any felony offense defined in section 568.020,
17 568.045, 568.050, 568.060, **568.175**, 569.020, 569.025, 569.030, 569.035, 569.040,
18 569.050, 569.070, [or] 569.160, **570.030, 570.040, 570.090, 570.145, 570.223,**
19 **575.230, or 576.080**, or of an equivalent felony offense **in another state, or an**
20 **equivalent federal felony offense, or an equivalent offense under the**
21 **Uniform Code of Military Justice**, or who has been [convicted] **found guilty**
22 of or [pled] **pleaded** guilty or nolo contendere to any violation of subsection 3 of
23 section 198.070, or has been [convicted] **found guilty** of or [pled] **pleaded** guilty
24 or nolo contendere to any offense requiring registration under section 589.400, **or**
25 **any employee hired after January 1, 2014, who has been found guilty of**
26 **or pleaded guilty or nolo contendere to a violation of section 577.010 or**
27 **section 577.012 and who is alleged and found by the court to be an**
28 **aggravated or chronic offender under section 577.023**, shall be disqualified
29 from holding any direct-care position in any public or private facility, day
30 program, residential facility or specialized service operated, licensed, certified,
31 accredited, in possession of deemed status, or funded by the department or any
32 mental health facility or mental health program in which people are admitted on
33 a voluntary basis or are civilly detained pursuant to chapter 632.

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

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

50 being disqualified. Any person placed on the disqualification registry prior to
51 August 28, 2012, may be removed from the registry by the director or designee
52 if in the judgment of the director or designee a clear showing has been made, by
53 written submission only, that the person will not commit any additional acts for
54 which the person had originally been disqualified for or any other acts that would
55 be harmful to a patient, resident, or client of a facility, program, or
56 service. Decisions by the director or designee pursuant to the provisions of this
57 subsection shall not be subject to appeal. The right to request an exception
58 pursuant to this subsection shall not apply to persons who are disqualified due
59 to being listed on the department of social services or department of health and
60 senior services employee disqualification list pursuant to section 660.315, nor to
61 persons disqualified from employment due to any crime pursuant to the
62 provisions of chapter 566 or section 565.020, 565.021, 568.020, 568.060, 569.025,
63 or 569.070.

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

69 (1) Sign a consent form as required by section 43.540 to provide written
70 consent for a criminal record review;

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

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

77 6. Any person who has received a good cause waiver issued by the
78 department of health and senior services or its predecessor under subsection [9]
79 10 of section 660.317 shall not require an additional exception under this section
80 in order to be employed in a long-term care facility licensed under chapter 198.

81 7. Any public or private residential facility, day program, or specialized
82 service operated, licensed, certified, accredited, in possession of deemed status,
83 or funded by the department or any mental health facility or mental health
84 program in which people are admitted on a voluntary basis or are civilly detained
85 pursuant to chapter 632 shall, not later than two working days after hiring any

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

- 88 (1) Request a criminal background check as provided in section 43.540;
- 89 (2) Make an inquiry to the department of social services and department
90 of health and senior services to determine whether the person is listed on the
91 employee disqualification list as provided in section 660.315; and
- 92 (3) Make an inquiry to the department of mental health to determine
93 whether the person is listed on the disqualification registry as provided in this
94 section.

95 8. An applicant who knowingly fails to disclose his or her criminal history
96 as required in subsection 5 of this section is guilty of a class A misdemeanor. A
97 provider is guilty of a class A misdemeanor if the provider hires a person to hold
98 a direct-care position knowing that such person has been disqualified pursuant
99 to the provisions of subsection 2 of this section. A provider is guilty of a class A
100 misdemeanor if the provider hires a person to hold any position knowing that
101 such person has been disqualified pursuant to the provisions of subsection 1 of
102 this section.

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

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

117 11. The department shall maintain a disqualification registry and place
118 on the registry the names of any persons who have been finally determined by the
119 department to be disqualified based upon administrative substantiations made
120 against them for abuse or neglect pursuant to department rule or
121 regulation. Such list shall reflect that the person is barred from holding any

122 position in any public or private facility, day program, residential facility, or
123 specialized service operated, licensed, certified, accredited, in possession of
124 deemed status, or funded by the department, or any mental health facility or
125 mental health program in which persons are admitted on a voluntary basis or are
126 civilly detained pursuant to chapter 632. The length of time the person's name
127 shall appear on the disqualification registry shall be determined by the director
128 or the director's designee, based upon the criteria contained in subsection 13 of
129 this section.

130 12. Persons notified that their name will be placed on the disqualification
131 registry may appeal such determination pursuant to department rule or
132 regulation. If the person appeals, the hearing tribunal shall not modify the
133 length of time the person's name shall appear on the disqualification registry if
134 the hearing tribunal upholds all of the administrative substantiations made by
135 the director or the director's designee. If the hearing tribunal overturns part of
136 the administrative substantiations made by the director or the director's designee,
137 the hearing tribunal may consider modifying the length of time the person's name
138 shall appear on the disqualification registry based upon testimony and evidence
139 received during the hearing.

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

143 (1) Whether the person acted recklessly or knowingly, as defined in
144 chapter 562;

145 (2) The degree of actual or potential injury or harm to the patient,
146 resident, or client;

147 (3) The degree of actual or potential danger to the health, safety, or
148 welfare of the patient, resident, or client;

149 (4) The degree of misappropriation or conversion of patient, resident, or
150 client funds or property;

151 (5) Whether the person has previously been listed on the department's
152 disqualification registry;

153 (6) Any mitigating circumstances; and

154 (7) Any aggravating circumstances.

155 14. The department shall provide the disqualification registry maintained
156 pursuant to this section to other state and federal agencies upon request. The
157 department may provide the disqualification registry maintained pursuant to this

158 section to any public or private facility, day program, residential facility, or
159 specialized service operated, licensed, certified, accredited, in possession of
160 deemed status, or funded by the department or to any mental health facility or
161 mental health program in which people are admitted on a voluntary or
162 involuntary basis or are civilly detained pursuant to chapter 632. The
163 department may also provide the disqualification registry to a recognized school
164 of nursing, medicine, or other health profession for the purpose of determining
165 whether students scheduled to participate in clinical rotations are included in the
166 employee disqualification registry.

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

Section C. Because immediate action is necessary to ensure compliance
2 with the federal Americans With Disabilities Act and to protect low-income
3 seniors and disabled persons, the enactment of section 208.1050 and the repeal
4 and reenactment of section 301.143 of this act is deemed necessary for the
5 immediate preservation of the public health, welfare, peace, and safety, and is
6 hereby declared to be an emergency act within the meaning of the constitution,
7 and the enactment of section 208.1050 and the repeal and reenactment of section
8 301.143 of this act shall be in full force and effect upon its passage and approval.

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