

SECOND REGULAR SESSION

# HOUSE BILL NO. 1451

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MAY.

4960H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 630.130, RSMo, and to enact in lieu thereof one new section relating to electroconvulsive therapy, with penalty provisions.

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

Section A. Section 630.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 630.130, to read as follows:

630.130. 1. Every patient, whether voluntary or involuntary, in a public or private mental health facility shall have the right to refuse electroconvulsive therapy.

2. Before electroconvulsive therapy may be administered voluntarily to a patient, the patient shall be informed, both orally and in writing, of the risks of the therapy and shall give his express written voluntary consent to receiving the therapy.

3. Involuntary electroconvulsive therapy may be administered under a court order after a full evidentiary hearing where the patient refusing such treatment is represented by counsel who shall advocate his or her position. The therapy may be administered on an involuntary basis only if it is shown, by clear and convincing evidence, that the therapy is necessary under the following criteria:

(1) There is a strong likelihood that the therapy will significantly improve or cure the patient's mental disorder for a substantial period of time without causing him any serious functional harm; and

(2) There is no less drastic alternative form of therapy which could lead to substantial improvement in the patient's condition.

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EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 At the conclusion of such hearing, if the petitioner has sustained his burden of proof, the court  
18 may order up to a specified number of involuntary electroconvulsive therapy treatments to be  
19 performed over a specified period of time.

20 4. Parents of minor patients or legal guardians of incompetent patients shall be required  
21 to obtain court orders authorizing electroconvulsive therapy under the procedures specified in  
22 subsection 3 of this section.

23 5. Persons who are diagnosed solely as intellectually disabled shall not be subject to  
24 electroconvulsive therapy.

25 6. If the judge finds that the respondent is unable to pay attorney's fees for the services  
26 rendered in the proceedings the judge shall allow a reasonable attorney's fee for the services,  
27 which fee shall be assessed as costs and paid together with all the costs in the proceeding by the  
28 state, in accordance with rules and regulations promulgated by the state court administrator, from  
29 funds appropriated to the office of administration for such purposes provided that no attorney's  
30 fees shall be allowed for services rendered by any attorney who is a salaried employee of a public  
31 agency or a private agency which receives public funds.

32 **7. Electroconvulsive therapy shall not be administered to any individual under**  
33 **sixteen years of age. Any individual or mental health facility that violates the provisions**  
34 **of this subsection shall be subject to a fine not to exceed one hundred thousand dollars, a**  
35 **term of imprisonment of two years, or both. Any individual or mental health facility that**  
36 **violates the provisions of this subsection shall be liable for compensation to any individual**  
37 **upon whom electroconvulsive therapy was administered.**

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