

SECOND REGULAR SESSION

HOUSE BILL NO. 2512

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BYRNES.

6244H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 632, RSMo, by adding thereto nine new sections relating to humane access to emergency psychiatric treatment, with penalty provisions.

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

Section A. Chapter 632, RSMo, is amended by adding thereto nine new sections, to 2 be known as sections 632.700, 632.701, 632.702, 632.703, 632.704, 632.705, 632.706, 3 632.707, and 632.708, to read as follows:

632.700. Sections 632.700 to 632.708 shall be known as "The Care Before 2 Predictable Harm Act".

632.701. 1. The general assembly finds that:

2 (1) The closure of long-term psychiatric institutions without adequate 3 community treatment has resulted in individuals with severe mental illness being 4 untreated until crisis and too often treated only through the criminal justice system;

5 (2) Incarceration is not treatment and forcing individuals to receive mental 6 health care only after arrest is inhumane and inconsistent with the duty of the state to 7 provide care for vulnerable citizens;

8 (3) Families and caregivers are frequently the first to observe deterioration in 9 individuals with severe mental illness, but current procedures prevent early intervention 10 until after imminent danger has occurred;

11 (4) Missouri has a compelling interest in creating a humane and timely pathway 12 to evaluation and treatment for individuals unable to recognize the need for care, while 13 respecting due process and using the least restrictive means necessary;

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.

14 **(5) Individuals with severe mental illness may experience repeated cycles of**
15 **homelessness and emergency care resulting from untreated symptoms, which present a**
16 **predictable risk of serious harm; early, evidence-based intervention prevents harm,**
17 **supports family stability, and reduces the burden on law enforcement and emergency**
18 **medical systems; and**

19 **(6) Missouri becomes the first state to replace the "imminent danger" test with a**
20 **"predictable harm" standard that allows intervention when a cycle of homelessness and**
21 **psychosis creates a clear and preventable risk to life.**

22 **2. It is the intent of the general assembly that treatment under sections 632.700**
23 **to 632.708 shall be provided in clinical settings and not through the criminal justice**
24 **system, that no Missourian should be forced to enter a jail cell in order to access mental**
25 **health treatment, and that sections 632.700 to 632.708 establish a statewide structure for**
26 **early intervention, including assisted outpatient treatment, short-term stabilization, and**
27 **the use of evidence-based long-acting medication when clinically justified.**

632.702. As used in sections 632.700 to 632.708, the following terms mean:

2 **(1) "Assisted outpatient treatment", individualized care ordered by a court that**
3 **may include therapy, community supports, case management, and medication, including**
4 **long-acting injectable antipsychotic medication when medically justified;**

5 **(2) "Danger to self or others", a substantial risk of physical harm to the**
6 **individual or another person, including inability to provide for basic human needs due**
7 **to symptoms of mental illness;**

8 **(3) "Least restrictive", the medically appropriate treatment environment that**
9 **constitutes the minimum necessary intrusion on the individual's liberty while ensuring**
10 **safety;**

11 **(4) "Qualified community petitioner":**

12 **(a) A licensed social worker, case manager, outreach worker, or hospital social**
13 **worker who is employed by a homeless services provider, substance use disorder**
14 **treatment program, hospital emergency department, or community mental health**
15 **center; or**

16 **(b) A member of a mobile crisis response team, street medicine team, or**
17 **emergency medical services provider with documented interactions with the individual;**

18 **(5) "Qualified petitioner", a spouse, parent, adult child, sibling, legal guardian,**
19 **or co-resident caregiver who has provided substantial support to the individual for at**
20 **least six months preceding the petition;**

21 **(6) "Severe mental illness", schizophrenia spectrum disorder, bipolar disorder**
22 **with psychotic features, or other psychiatric disorders resulting in impaired insight and**

23 inability to make informed decisions regarding treatment, as documented by a licensed
24 psychiatrist;

25 (7) "Severe substance use disorder", a substance use disorder as defined in the
26 most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, where
27 symptoms result in impaired judgment, inability to recognize danger, repeated
28 overdose, or inability to provide for basic needs including shelter and safety.

29 632.703. 1. A qualified petitioner or qualified community petitioner may file a
30 verified petition for emergency psychiatric evaluation with the circuit court in the
31 county where the individual resides.

32 2. The petition shall include:

33 (1) (a) Facts indicating the presence of severe mental illness; or
34 (b) Facts indicating the presence of severe substance use disorder;

35 (2) Facts that present a predictable risk of serious harm due to homelessness
36 caused by untreated addiction, including:

37 (a) Repeated exposure to unsafe conditions; or

38 (b) A pattern of cycling between homelessness, emergency medical intervention,
39 and untreated addiction that presents a significant risk of harm due to impaired
40 judgment or inability to recognize danger;

41 (3) Facts supporting a finding of danger to self or others or a predictable harm
42 pattern;

43 (4) Known history of treatment or hospitalization; and

44 (5) Supporting documentation, if available.

45 3. The court shall review the petition within twenty-four hours of filing.

46 4. If the court finds that the individual meets the criteria under this section, the
47 court may order the individual to undergo a ninety-six-hour psychiatric evaluation
48 under section 632.305.

49 632.704. 1. An evaluation ordered under section 632.703 shall be conducted by a
50 licensed psychiatrist and shall include appropriate medical testing to rule out
51 underlying medical or physiological conditions that may mimic psychiatric disorders.

52 2. During the period of emergency detention and evaluation under sections
53 632.700 to 632.708, the treating psychiatrist may administer medically appropriate
54 antipsychotic medication, including long-acting injectable antipsychotic medication,
55 only if the psychiatrist determines and documents in the medical record that:

56 (1) The individual presents an imminent danger to self or others, or is gravely
57 disabled as a result of symptoms of severe mental illness;

58 (2) The medication is necessary to prevent predictable serious harm, including
59 circumstances in which the individual:

12 (a) Is threatening to cause harm to self or others; or
13 (b) Has a history of being unhoused during dangerous circumstances, or a
14 pattern of cycling between homelessness and emergency care, which presents a
15 significant risk of harm to self due to impaired judgment, inability to provide for basic
16 needs, or inability to recognize danger;

17 (3) The medication represents the least restrictive clinical alternative available to
18 ensure safety; and

19 (4) The individual lacks the capacity to make an informed decision regarding
20 treatment at the time of administration.

21 3. For purposes of paragraph (b) of subdivision (2) of subsection 2 of this section,
22 "significant risk of harm" includes conditions where the individual's judgment is
23 impaired by symptoms of severe mental illness such that the individual:

24 (1) Is unable to recognize unsafe or life-threatening circumstances;

25 (2) Is unable to provide for basic needs including shelter, clothing, or protection
26 from the elements;

27 (3) Is unable to seek medical care or safety without assistance; or

28 (4) Has repeatedly refused treatment, resulting in a cycle of homelessness and
29 emergency intervention due to untreated symptoms.

30 4. Medication administered under this section shall be recorded in the
31 individual's medical record, including:

32 (1) Clinical findings supporting dangerousness or grave disability;

33 (2) Attempts made to obtain voluntary consent;

34 (3) The basis for determining incapacity;

35 (4) The name and dosage of the medication administered; and

36 (5) The clinical rationale for the selection of a long-acting injectable formulation,
37 if used.

38 5. The administration of medication under this section shall not extend beyond
39 the ninety-six-hour emergency detention period, except pursuant to a treatment order
40 issued under section 632.705.

41 6. As soon as practicable after admission, the individual shall be advised of the
42 right to counsel and to communicate with an attorney, family member, or guardian.

43 7. Medication administered under this section shall not be used as punishment,
44 for convenience of staff, or as a substitute for appropriate therapeutic interventions.

45 8. The evaluating psychiatrist shall submit a written report to the court stating
46 whether the individual:

47 (1) Has a severe mental illness;

48 (2) Presents a danger to self or others or a predictable harm pattern;

49 (3) Requires treatment to prevent deterioration; and
50 (4) Cannot be safely treated through less restrictive means.

632.705. 1. The court shall hold a hearing within seven days of receiving the
2 evaluation.

3 2. The individual subject to the petition shall have the right to counsel, to present
4 evidence, to call witnesses, and to obtain an independent psychiatric evaluation.

5 3. Upon clear and convincing evidence that the individual meets the criteria
6 described in section 632.704, the court may order assisted outpatient treatment for a
7 period not to exceed one hundred eighty days.

8 4. A treatment order issued under this section may include:

9 (1) Community mental health services;
10 (2) Therapy and case management;
11 (3) Substance use disorder treatment;
12 (4) Supportive housing placement; and

13 (5) Administration of long-acting injectable antipsychotic medication, when
14 medically justified and documented in the clinical record.

15 5. A treatment order issued under this section shall be the least restrictive means
16 necessary to address the individual's condition. The order may be renewed only upon a
17 new hearing and findings under this section.

18 6. A treatment order issued under this section shall identify the community
19 treatment provider or clinic responsible for administering court-ordered services,
20 including long-acting injectable medication when medically justified, and such provider
21 or clinic shall administer treatment in accordance with section 632.706.

632.706. 1. The department of mental health shall establish a statewide network
2 of community mental health clinics authorized to administer court-ordered psychiatric
3 treatment under sections 632.700 to 632.708, including the administration of long-acting
4 injectable antipsychotic medication.

5 2. A clinic participating in the statewide network shall not refuse to administer
6 court-ordered long-acting injectable antipsychotic medication, if the individual lacks
7 capacity to consent at the time of administration and the medication is medically
8 justified and represents the least restrictive means available to prevent predictable
9 serious harm.

10 3. A clinic administering treatment under this section shall be immune from civil
11 liability for actions taken in good faith pursuant to a valid court order and in
12 compliance with the standards established by the department of mental health under
13 this section.

14 **4. Refusal of a clinic to comply with court-ordered treatment under this section**
15 **shall be grounds for removal from the statewide network and may result in suspension**
16 **or withholding of state funds.**

17 **5. The department shall adopt standardized clinical protocols governing the**
18 **administration of court-ordered medication under this section, including documentation**
19 **and post-administration monitoring.**

2 **632.707. 1. False material statements in a petition under section 632.703 shall be**
2 **punishable as perjury under section 575.040.**

3 **2. Any person who knowingly interferes with the execution of a valid court order**
4 **issued under sections 632.700 to 632.708 shall be guilty of a class B misdemeanor.**

2 **632.708. The department of mental health shall submit an annual report to the**
2 **general assembly summarizing implementation of sections 632.700 to 632.708,**
3 **including:**

4 **(1) The number of petitions filed;**
5 **(2) The number of emergency evaluations ordered;**
6 **(3) The number of court-ordered assisted outpatient treatment plans issued and**
7 **renewed;**
8 **(4) The number of long-acting injectable administrations performed under court**
9 **order;**

10 **(5) Outcomes demonstrating reductions in repeated emergency interventions;**
11 **and**

12 **(6) Data demonstrating the number of cases in which intervention prevented**
13 **predictable serious harm, including hospitalization, incarceration, or death due to**
14 **exposure, starvation, or violence.**

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