



MISSOURI HOUSE OF REPRESENTATIVES  
**WITNESS APPEARANCE FORM**

BILL NUMBER: <b>HB 2516</b>		DATE: <b>2/24/2026</b>	
COMMITTEE: <b>Legislative Review</b>			
<b>TESTIFYING:</b> <input type="checkbox"/> IN SUPPORT OF <input checked="" type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>SARAH BERRY</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/24/2026 9:31 AM</b>	
<b>THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.</b>			

I oppose HB 2516 as drafted due to constitutional, due process, and federal preemption concerns.

**1. Automatic Presumption of Incapacity**

Section 632.322 creates a rebuttable presumption of incapacity automatically upon detention under section 632.305.

Civil detention for evaluation does not equal legal incapacity.

Capacity determinations are highly individualized and constitutionally significant.

Automatically presuming incapacity upon detention risks:  
 Due process violations  
 Conflict with guardianship statutes under Chapter 475  
 Equal Protection challenges

Liberty interests are at stake in Chapter 632 proceedings. Presumptions affecting decision-making authority must be narrowly tailored and judicially grounded.

**2. Mandatory Family Access Over Confidentiality Protections**

The bill requires automatic access for a “qualified family advocate” to:  
 Treatment information  
 Medication decisions  
 Risk assessments  
 Discharge planning

This access attaches without additional capacity findings and overrides confidentiality limitations.

This raises conflict with:  
 HIPAA (45 C.F.R. Parts 160 & 164)  
 Federal mental health confidentiality standards  
 Existing Missouri confidentiality framework

A state statute cannot compel disclosures inconsistent with federal privacy law.

### **3. Broad Definition of Qualified Family Advocate**

**The definition includes:**

**Any first-degree relative**

**Who lived in the same household 30 days prior**

**Not subject to an active protection order**

**That threshold does not require:**

**Alignment with patient wishes**

**Historical caregiving role**

**Best-interest determination**

**Neutral review**

**This creates potential for family conflict intrusion during psychiatric crisis.**

### **4. Rapid Appeal Language**

**The bill creates a “rapid appeal process” for involuntary detention, denial of family access, and discharge decisions — but does not define procedure, timeline, or jurisdiction.**

**Unspecified appeal rights create ambiguity and invite litigation.**

### **5. Licensing-Based Enforcement**

**The bill makes violations grounds for administrative sanctions against facilities.**

**Facilities will face compliance uncertainty between:**

**Federal confidentiality law**

**State-mandated family disclosure**

**Clinical judgment standards**

**That tension will produce defensive medicine and litigation.**

**Conclusion:**

**While family involvement in mental health care is important, HB 2516 restructures capacity presumptions and confidentiality rules in ways that risk constitutional challenge and federal conflict.**

**Capacity determinations should remain individualized and judicially reviewed — not automatically presumed by statute.**

**For these reasons, I respectfully oppose the bill unless amended to remove the automatic incapacity presumption and clarify compliance with federal privacy law.**

**Legislative Notice:**

**The General Assembly is on notice that HB 2516 creates an automatic presumption of incapacity upon detention and mandates disclosure of protected mental health information to designated family members without individualized judicial findings. These provisions foreseeably implicate procedural due process protections under the Fourteenth Amendment and may conflict with federal privacy law, creating substantial litigation risk for facilities and the state.**