

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 555

96TH GENERAL ASSEMBLY

0920S.10T

2011

AN ACT

To repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-six new sections relating to health care policies, with existing penalty provisions.

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

Section A. Sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968,
2 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206,
3 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015,
4 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120,
5 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605,
6 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120,
7 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110,

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.

8 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160,
9 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, are repealed and
10 eighty-six new sections enacted in lieu thereof, to be known as sections 8.241, 162.946, 178.900,
11 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.105,
12 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021,
13 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003,
14 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192,
15 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715,
16 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010,
17 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130,
18 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210,
19 633.300, 633.303, and 633.309, to read as follows:

8.241. 1. In addition to other provisions of law relating to title to and conveyance of real
2 property by the state, and notwithstanding any provisions of chapter 8 to the contrary, if the state
3 should ever purchase or otherwise acquire ownership of real property located in a city not within
4 a county as described in subsection 2 of this section, the state shall:

5 (1) Use, operate and maintain such property in full compliance with all applicable deed
6 restrictions encumbering the property;

7 (2) Operate, maintain and use the property exclusively by the department of mental
8 health for the purpose of housing no more than six employed and employable [mentally retarded
9 or developmentally disabled] adults **with an intellectual disability or developmental**
10 **disability**, and for no other purpose and by no other state agency, in whole or in part;

11 (3) Not sell or otherwise transfer ownership of the property, unless such property is sold
12 or transferred solely for private, single-family residential use, which shall not be deemed to
13 include, without limitation, any sale, transfer or conveyance of ownership of the property to any
14 other state agency or department or program.

15 2. The property subject to the provisions of this section is more particularly described
16 as follows: A parcel of real estate situated in Lot 20 in Block A of Compton Heights and in
17 Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8 inches on the North line of
18 Longfellow Boulevard by a depth Northwardly on the east line of a 160 square foot and 159 feet
19 5 inches on the West line to the North line of said lot on which there is a frontage of 100 feet
20 bounded East by Compton Avenue together with all improvements thereon, known as and
21 numbered 3205 Longfellow Boulevard.

162.946. 1. Each district school board may require schools within the district to
2 **provide disability history and awareness instruction in all K-12 public schools during the**
3 **month of October of each year. The month of October shall be designated "Disability**
4 **History and Awareness Month".**

5 **2. During disability history and awareness month, students may be provided**
6 **instruction to expand their knowledge, understanding, and awareness of individuals with**
7 **disabilities, the history of disability, and the disability rights movement.**

8 **3. Disability history may include the events and time lines of the development and**
9 **evolution of services to, and the civil rights of, individuals with disabilities. Disability**
10 **history may also include the contributions of specific individuals with disabilities, including**
11 **the contributions of acknowledged national leaders. The instruction may be integrated**
12 **into the existing school curriculum in ways including, but not limited to, supplementing**
13 **lesson plans, inviting classroom and assembly speakers with experience or expertise on**
14 **disabilities, or providing other school-related activities. The instruction may be delivered**
15 **by qualified school personnel or by knowledgeable guest speakers.**

16 **4. The goals of the disability history and awareness instruction include:**

17 **(1) Instilling in students sensitivity for fellow students with disabilities and**
18 **encouraging educational cultures that nurture safe and inclusive environments for students**
19 **with disabilities in which bullying is discouraged and respect and appreciation for students**
20 **with disabilities is encouraged;**

21 **(2) An understanding that disability is a natural part of the human experience; we**
22 **are all more alike than different; and regardless of disability, every citizen is afforded the**
23 **same rights and responsibilities as that of any other;**

24 **(3) The creation of a more inclusive school community, where students with**
25 **disabilities are included in every aspect of society, and every student is acknowledged for**
26 **their unique gifts, talents, and contributions; and**

27 **(4) Reaffirmation of the local, state, and federal commitment to the full inclusion**
28 **in society of, and the equal opportunity for, all individuals with disabilities.**

29

30 **The department of elementary and secondary education may identify and adopt**
31 **preliminary guidelines for each district school board to use to develop its curriculum that**
32 **incorporates these goals for the disability history and awareness instruction. In respect of**
33 **local control, school districts are encouraged to exercise innovation that accomplishes the**
34 **above-stated goals.**

35 **5. Institutions of higher education within the state are encouraged to conduct and**
36 **promote activities on individual campuses that provide education, understanding, and**
37 **awareness of individuals with disabilities.**

 178.900. For the purposes of sections 178.900 to [178.970] **178.960** the following words
2 mean:

3 (1) "Department", the department of elementary and secondary education;

4 (2) "[Handicapped] **Disabled** persons", a lower range educable or upper range trainable
5 [mentally retarded] **developmentally disabled** or other [handicapped] **disabled** person sixteen
6 years of age or over who has had school training and has a productive work capacity in a
7 sheltered environment adapted to the abilities of [the mentally retarded] **persons with a**
8 **developmental disability** but whose limited capabilities make him **or her** nonemployable in
9 competitive business and industry and unsuited for vocational rehabilitation training;

10 (3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit
11 corporation, which, except for its staff, employs only [handicapped] persons **with disabilities**
12 and has a minimum enrollment of at least fifteen employable [handicapped] persons **with**
13 **disabilities**;

14 (4) "Staff", employees of a sheltered workshop engaged in management, work
15 procurement, purchasing, supervision, sales, bookkeeping, and secretarial and clerical functions.

189.010. 1. As used in sections 189.010 to 189.085, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or
4 facilities meeting standards to be established under the provisions of sections 189.010 to
5 189.085;

6 (2) "Department", the department of social services of the state of Missouri;

7 (3) "Director", the director of the department of social services of the state of Missouri
8 or his duly authorized representative;

9 (4) "High risk patient", a woman of childbearing age who has any condition, or is at risk
10 of developing some condition, medically or otherwise known to predispose to premature birth
11 or to produce [mental retardation] **developmental disability**; or any infant or child who has any
12 condition, or is at risk of developing some condition, medically known to predispose to [mental
13 retardation] **developmental disability**;

14 (5) "Person", any individual, firm, partnership, association, corporation, company, group
15 of individuals acting together for a common purpose or organization of any kind, including any
16 governmental agency other than the United States or the state of Missouri;

17 (6) "Region", contiguous geographic areas of the state larger than single counties where
18 health programs including special services for high risk patients can be developed efficiently and
19 economically;

20 (7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization,
21 and related activity to correct high risk conditions including all things reasonably incident and
22 necessary to make the service available to the high risk patient;

23 (8) "Special services", diagnostic and treatment services which may not be efficiently
24 or economically developed as a regular component of a hospital or clinic either because of high

25 cost or infrequent demand but which may be required for high risk patients; such services would
26 include, but not be limited to, intensive care units for the care of premature infants and
27 intra-uterine fetal monitoring.

28 2. Expenditures for the operation of a hospital include, but are not limited to, amounts
29 paid in connection with inpatient care in the hospital; ambulatory or emergency care provided
30 by the hospital; ambulance services used in the transportation of patients to the hospital or among
31 hospitals; administration of the hospital; maintenance and repairs of the hospital; depreciation
32 of hospital capital assets; food, drugs, equipment and other supplies used by the hospital; and
33 recruitment, selection and training of physician, nursing, allied health and other hospital
34 personnel.

35 3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted
36 for paying certain operating costs, or groups of costs, but are intended to supplement the
37 appropriations from the local governmental agency for poor patients. Patients eligible for
38 Medicare, Medicaid and other third party insurance are not eligible under this chapter.

 189.065. The department is authorized and directed to work with public and private
2 institutions and agencies or persons to insure that special services will be available in all regions
3 of the state, both rural and metropolitan. Whenever services or special services required for the
4 purposes of sections 189.010 to 189.085 are not available, the department is authorized to use
5 up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to
6 assist in establishing the facilities and professional staff required. For the purposes of
7 implementing this section, the department and the advisory committees shall give special
8 consideration to those areas of the state or population groups which demonstrate the highest
9 incidence of [mental retardation] **developmental disability** or where accessibility to services or
10 special services may be limited because of distance.

 192.005. There is hereby created and established as a department of state government
2 the "Department of Health and Senior Services". The department of health and senior services
3 shall supervise and manage all public health functions and programs. The department shall be
4 governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B,
5 RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the
6 department of social services, chapter 191, this chapter, and others, including, but not limited to,
7 such agencies and functions as the state health planning and development agency, the crippled
8 children's service, chapter 201, the bureau and the program for the prevention of [mental
9 retardation] **developmental disability**, the hospital subsidy program, chapter 189, the state board
10 of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family
11 practice residency program, [sections 191.575 to 191.590,] the licensure and certification of
12 hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby

13 transferred to the department of health and senior services by a type I transfer, and the state
14 cancer center and cancer commission, chapter 200, is hereby transferred to the department of
15 health and senior services by a type III transfer as such transfers are defined in section 1 of the
16 Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions
17 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984,
18 relating to the manner and procedures for transfers of state agencies shall apply to the transfers
19 provided in this section. The division of health of the department of social services is abolished.

198.012. 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the
2 following entities:

3 (1) Any hospital, facility or other entity operated by the state or the United States;

4 (2) Any facility or other entity otherwise licensed by the state and operating exclusively
5 under such license and within the limits of such license, unless the activities and services are or
6 are held out as being activities or services normally provided by a licensed facility under sections
7 198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the
8 provisions of chapter 197;

9 (3) Any hospital licensed under the provisions of chapter 197, provided that the assisted
10 living facility, intermediate care facility or skilled nursing facility are physically attached to the
11 acute care hospital; and provided further that the department of health and senior services in
12 promulgating rules, regulations and standards pursuant to section 197.080, with respect to such
13 facilities, shall establish requirements and standards for such hospitals consistent with the intent
14 of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall
15 apply to every assisted living facility, intermediate care facility or skilled nursing facility
16 regardless of physical proximity to any other health care facility;

17 (4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care,
18 treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis
19 of mental disorder, mental illness, [mental retardation] or developmental disabilities, as defined
20 in section 630.005;

21 (5) Any provider of care under a life care contract, except to any portion of the provider's
22 premises on which the provider offers services provided by an intermediate care facility or
23 skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider
24 of care under a life care contract" means any person contracting with any individual to furnish
25 specified care and treatment to the individual for the life of the individual, with significant
26 prepayment for such care and treatment.

27 2. Nothing in this section shall prohibit any of these entities from applying for a license
28 under sections 198.003 to 198.136.

205.968. 1. As set forth in section 205.971, when a levy is approved by the voters, the
2 governing body of any county or city not within a county of this state shall establish a board of

3 directors. The board of directors shall be a legal entity empowered to establish and/or operate
4 a sheltered workshop as defined in section 178.900, residence facilities, or related services, for
5 the care or employment, or both, of [handicapped] persons **with a disability**. The facility may
6 operate at one or more locations in the county or city not within a county. Once established, the
7 board may, in its own name engage in and contract for any and all types of services, actions or
8 endeavors, not contrary to the law, necessary to the successful and efficient prosecution and
9 continuation of the business and purposes for which it is created, and may purchase, receive,
10 lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and
11 otherwise dispose of real and personal property, or any interest therein, or other assets wherever
12 situated and may incur liability and may borrow money at rates of interest up to the market rate
13 published by the Missouri division of finance. The board shall be taken and considered as a
14 "political subdivision" as the term is defined in section 70.600 for the purposes of sections
15 70.600 to 70.755.

16 2. Services may only be provided for those persons defined as [handicapped] persons
17 **with a disability** in section 178.900 and those persons defined as [handicapped] persons **with**
18 **a disability** in this section whether or not employed at the facility or in the community, and for
19 persons who are [handicapped] **disabled** due to developmental disability. Persons having
20 substantial functional limitations due to a mental illness as defined in section 630.005 shall not
21 be eligible for services under the provisions of sections 205.968 to 205.972 except that those
22 persons may participate in services under the provisions of sections 205.968 to 205.972. All
23 persons otherwise eligible for facilities or services under this section shall be eligible regardless
24 of their age; except that, individuals employed in sheltered workshops must be at least sixteen
25 years of age. The board may, in its discretion, impose limitations with respect to individuals to
26 be served and services to be provided. Such limitations shall be reasonable in the light of
27 available funds, needs of the persons and community to be served as assessed by the board, and
28 the appropriateness and efficiency of combining services to persons with various types of
29 [handicaps or] disabilities.

30 3. For the purposes of sections 205.968 to 205.972, the term

31 (1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this
32 subsection:

33 (a) A disability which is attributable to mental retardation, cerebral palsy, autism,
34 epilepsy, a learning disability related to a brain dysfunction or a similar condition found by
35 comprehensive evaluation to be closely related to such conditions, or to require habilitation
36 similar to that required for mentally retarded persons; and

37 a. Which originated before age eighteen; and

38 b. Which can be expected to continue indefinitely;

39 (b) A developmental disability as defined in section 630.005;

40 (2) "[Handicapped] Person **with a disability**" shall mean a person who is lower range
41 educable or upper range trainable mentally retarded or a person who has a developmental
42 disability.

208.151. 1. Medical assistance on behalf of needy persons shall be known as "MO
2 HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX,
3 Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301,
4 et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet
5 benefits to the extent and in the manner hereinafter provided:

6 (1) All participants receiving state supplemental payments for the aged, blind and
7 disabled;

8 (2) All participants receiving aid to families with dependent children benefits, including
9 all persons under nineteen years of age who would be classified as dependent children except for
10 the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible
11 under this subdivision who are participating in drug court, as defined in section 478.001, shall
12 have their eligibility automatically extended sixty days from the time their dependent child is
13 removed from the custody of the participant, subject to approval of the Centers for Medicare and
14 Medicaid Services;

15 (3) All participants receiving blind pension benefits;

16 (4) All persons who would be determined to be eligible for old age assistance benefits,
17 permanent and total disability benefits, or aid to the blind benefits under the eligibility standards
18 in effect December 31, 1973, or less restrictive standards as established by rule of the family
19 support division, who are sixty-five years of age or over and are patients in state institutions for
20 mental diseases or tuberculosis;

21 (5) All persons under the age of twenty-one years who would be eligible for aid to
22 families with dependent children except for the requirements of subdivision (2) of subsection 1
23 of section 208.040, and who are residing in an intermediate care facility, or receiving active
24 treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as
25 amended;

26 (6) All persons under the age of twenty-one years who would be eligible for aid to
27 families with dependent children benefits except for the requirement of deprivation of parental
28 support as provided for in subdivision (2) of subsection 1 of section 208.040;

29 (7) All persons eligible to receive nursing care benefits;

30 (8) All participants receiving family foster home or nonprofit private child-care
31 institution care, subsidized adoption benefits and parental school care wherein state funds are
32 used as partial or full payment for such care;

33 (9) All persons who were participants receiving old age assistance benefits, aid to the
34 permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who
35 continue to meet the eligibility requirements, except income, for these assistance categories, but
36 who are no longer receiving such benefits because of the implementation of Title XVI of the
37 federal Social Security Act, as amended;

38 (10) Pregnant women who meet the requirements for aid to families with dependent
39 children, except for the existence of a dependent child in the home;

40 (11) Pregnant women who meet the requirements for aid to families with dependent
41 children, except for the existence of a dependent child who is deprived of parental support as
42 provided for in subdivision (2) of subsection 1 of section 208.040;

43 (12) Pregnant women or infants under one year of age, or both, whose family income
44 does not exceed an income eligibility standard equal to one hundred eighty-five percent of the
45 federal poverty level as established and amended by the federal Department of Health and
46 Human Services, or its successor agency;

47 (13) Children who have attained one year of age but have not attained six years of age
48 who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget
49 Reconciliation Act of 1989). The family support division shall use an income eligibility standard
50 equal to one hundred thirty-three percent of the federal poverty level established by the
51 Department of Health and Human Services, or its successor agency;

52 (14) Children who have attained six years of age but have not attained nineteen years of
53 age. For children who have attained six years of age but have not attained nineteen years of age,
54 the family support division shall use an income assessment methodology which provides for
55 eligibility when family income is equal to or less than equal to one hundred percent of the federal
56 poverty level established by the Department of Health and Human Services, or its successor
57 agency. As necessary to provide MO HealthNet coverage under this subdivision, the department
58 of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C.
59 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained
60 nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using
61 a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r)
62 of 42 U.S.C. 1396a;

63 (15) The family support division shall not establish a resource eligibility standard in
64 assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO
65 HealthNet division shall define the amount and scope of benefits which are available to
66 individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in
67 accordance with the requirements of federal law and regulations promulgated thereunder;

68 (16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal
69 care shall be made available to pregnant women during a period of presumptive eligibility
70 pursuant to 42 U.S.C. Section 1396r-1, as amended;

71 (17) A child born to a woman eligible for and receiving MO HealthNet benefits under
72 this section on the date of the child's birth shall be deemed to have applied for MO HealthNet
73 benefits and to have been found eligible for such assistance under such plan on the date of such
74 birth and to remain eligible for such assistance for a period of time determined in accordance
75 with applicable federal and state law and regulations so long as the child is a member of the
76 woman's household and either the woman remains eligible for such assistance or for children
77 born on or after January 1, 1991, the woman would remain eligible for such assistance if she
78 were still pregnant. Upon notification of such child's birth, the family support division shall
79 assign a MO HealthNet eligibility identification number to the child so that claims may be
80 submitted and paid under such child's identification number;

81 (18) Pregnant women and children eligible for MO HealthNet benefits pursuant to
82 subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO
83 HealthNet benefits be required to apply for aid to families with dependent children. The family
84 support division shall utilize an application for eligibility for such persons which eliminates
85 information requirements other than those necessary to apply for MO HealthNet benefits. The
86 division shall provide such application forms to applicants whose preliminary income
87 information indicates that they are ineligible for aid to families with dependent children.
88 Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection**
89 shall be informed of the aid to families with dependent children program and that they are
90 entitled to apply for such benefits. Any forms utilized by the family support division for
91 assessing eligibility under this chapter shall be as simple as practicable;

92 (19) Subject to appropriations necessary to recruit and train such staff, the family support
93 division shall provide one or more full-time, permanent eligibility specialists to process
94 applications for MO HealthNet benefits at the site of a health care provider, if the health care
95 provider requests the placement of such eligibility specialists and reimburses the division for the
96 expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and
97 equipment, of such eligibility specialists. The division may provide a health care provider with
98 a part-time or temporary eligibility specialist at the site of a health care provider if the health care
99 provider requests the placement of such an eligibility specialist and reimburses the division for
100 the expenses, including but not limited to the salary, benefits, travel, training, telephone,
101 supplies, and equipment, of such an eligibility specialist. The division may seek to employ such
102 eligibility specialists who are otherwise qualified for such positions and who are current or
103 former welfare participants. The division may consider training such current or former welfare
104 participants as eligibility specialists for this program;

105 (20) Pregnant women who are eligible for, have applied for and have received MO
106 HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to
107 be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided
108 under section 208.152 until the end of the sixty-day period beginning on the last day of their
109 pregnancy;

110 (21) Case management services for pregnant women and young children at risk shall be
111 a covered service. To the greatest extent possible, and in compliance with federal law and
112 regulations, the department of health and senior services shall provide case management services
113 to pregnant women by contract or agreement with the department of social services through local
114 health departments organized under the provisions of chapter 192 or chapter 205 or a city health
115 department operated under a city charter or a combined city-county health department or other
116 department of health and senior services designees. To the greatest extent possible the
117 department of social services and the department of health and senior services shall mutually
118 coordinate all services for pregnant women and children with the crippled children's program,
119 the prevention of [mental retardation] **intellectual disability and developmental disability**
120 program and the prenatal care program administered by the department of health and senior
121 services. The department of social services shall by regulation establish the methodology for
122 reimbursement for case management services provided by the department of health and senior
123 services. For purposes of this section, the term "case management" shall mean those activities
124 of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers
125 and enroll them in the state's MO HealthNet program, refer them to local physicians or local
126 health departments who provide prenatal care under physician protocol and who participate in
127 the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive
128 support from all private and public programs for which they are eligible and shall not include
129 involvement in any MO HealthNet prepaid, case-managed programs;

130 (22) By January 1, 1988, the department of social services and the department of health
131 and senior services shall study all significant aspects of presumptive eligibility for pregnant
132 women and submit a joint report on the subject, including projected costs and the time needed
133 for implementation, to the general assembly. The department of social services, at the direction
134 of the general assembly, may implement presumptive eligibility by regulation promulgated
135 pursuant to chapter 207;

136 (23) All participants who would be eligible for aid to families with dependent children
137 benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

138 (24) (a) All persons who would be determined to be eligible for old age assistance
139 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.
140 Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan
141 as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income

142 methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the
143 income limit if authorized by annual appropriation;

144 (b) All persons who would be determined to be eligible for aid to the blind benefits
145 under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section
146 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of
147 January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C.
148 Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal
149 poverty level;

150 (c) All persons who would be determined to be eligible for permanent and total disability
151 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.
152 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of
153 January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as
154 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if
155 authorized by annual appropriations. Eligibility standards for permanent and total disability
156 benefits shall not be limited by age;

157 (25) Persons who have been diagnosed with breast or cervical cancer and who are
158 eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be
159 eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

160 (26) Persons who are independent foster care adolescents, as defined in 42 U.S.C.
161 Section 1396d, or who are within reasonable categories of such adolescents who are under
162 twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C.
163 Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

164 2. Rules and regulations to implement this section shall be promulgated in accordance
165 with section 431.064 and chapter 536. Any rule or portion of a rule, as that term is defined in
166 section 536.010, that is created under the authority delegated in this section shall become
167 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
168 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
169 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
170 date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
171 rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid
172 and void.

173 3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance
174 pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months
175 immediately preceding the month in which such family became ineligible for such assistance
176 because of increased income from employment shall, while a member of such family is
177 employed, remain eligible for MO HealthNet benefits for four calendar months following the
178 month in which such family would otherwise be determined to be ineligible for such assistance

179 because of income and resource limitation. After April 1, 1990, any family receiving aid
180 pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately
181 preceding the month in which such family becomes ineligible for such aid, because of hours of
182 employment or income from employment of the caretaker relative, shall remain eligible for MO
183 HealthNet benefits for six calendar months following the month of such ineligibility as long as
184 such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received
185 such medical assistance during the entire six-month period described in this section and which
186 meets reporting requirements and income tests established by the division and continues to
187 include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without
188 fee for an additional six months. The MO HealthNet division may provide by rule and as
189 authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such
190 families.

191 4. When any individual has been determined to be eligible for MO HealthNet benefits,
192 such medical assistance will be made available to him or her for care and services furnished in
193 or after the third month before the month in which he made application for such assistance if
194 such individual was, or upon application would have been, eligible for such assistance at the time
195 such care and services were furnished; provided, further, that such medical expenses remain
196 unpaid.

197 5. The department of social services may apply to the federal Department of Health and
198 Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration
199 waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars
200 in additional costs to the state, unless subject to appropriation or directed by statute, but in no
201 event shall such waiver applications or amendments seek to waive the services of a rural health
202 clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(1)(1) and (2) or the
203 payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and
204 1396a(bb) unless such waiver application is approved by the oversight committee created in
205 section 208.955. A request for such a waiver so submitted shall only become effective by
206 executive order not sooner than ninety days after the final adjournment of the session of the
207 general assembly to which it is submitted, unless it is disapproved within sixty days of its
208 submission to a regular session by a senate or house resolution adopted by a majority vote of the
209 respective elected members thereof, unless the request for such a waiver is made subject to
210 appropriation or directed by statute.

211 6. Notwithstanding any other provision of law to the contrary, in any given fiscal year,
212 any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of
213 subsection 1 of this section shall only be eligible if annual appropriations are made for such
214 eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section
215 1396a(a)(10)(A)(i).

208.275. 1. As used in this section, unless the context otherwise indicates, the following
2 terms mean:

3 (1) "Elderly", any person who is sixty years of age or older;

4 (2) "[Handicapped] **Person with a disability**", any person having a physical or mental
5 condition, either permanent or temporary, which would substantially impair ability to operate or
6 utilize available transportation.

7 2. There is hereby created the "Coordinating Council on Special Transportation" within
8 the Missouri department of transportation. The members of the council shall be: two members
9 of the senate appointed by the president pro tem, who shall be from different political parties;
10 two members of the house of representatives appointed by the speaker, who shall be from
11 different political parties; the assistant for transportation of the Missouri department of
12 transportation, or his designee; the assistant commissioner of the department of elementary and
13 secondary education, responsible for special transportation, or his designee; the director of the
14 division of aging of the department of social services, or his designee; the deputy director for
15 [mental retardation] developmental disabilities and the deputy director for administration of the
16 department of mental health, or their designees; the executive secretary of the governor's
17 committee on the employment of the [handicapped] **persons with a disability**; and seven
18 consumer representatives appointed by the governor by and with the advice and consent of the
19 senate, four of the consumer representatives shall represent the elderly and three shall represent
20 [the handicapped] **persons with a disability**. Two of such three members representing
21 [handicapped] persons **with a disability** shall represent those with physical [handicaps]
22 **disabilities**. Consumer representatives appointed by the governor shall serve for terms of three
23 years or until a successor is appointed and qualified. Of the members first selected, two shall be
24 selected for a term of three years, two shall be selected for a term of two years, and three shall
25 be selected for a term of one year. In the event of the death or resignation of any member, his
26 successor shall be appointed to serve for the unexpired period of the term for which such
27 member had been appointed.

28 3. State agency personnel shall serve on the council without additional appropriations
29 or compensation. The consumer representatives shall serve without compensation except for
30 receiving reimbursement for the reasonable and necessary expenses incurred in the performance
31 of their duties on the council from funds appropriated to the department of transportation.
32 Legislative members shall be reimbursed by their respective appointing bodies out of the
33 contingency fund for such body for necessary expenses incurred in the performance of their
34 duties.

35 4. Staff for the council shall be provided by the Missouri department of transportation.
36 The department shall designate a special transportation coordinator who shall have had

37 experience in the area of special transportation, as well as such other staff as needed to enable
38 the council to perform its duties.

39 5. The council shall meet at least quarterly each year and shall elect from its members
40 a chairman and a vice chairman.

41 6. The coordinating council on special transportation shall:

42 (1) Recommend and periodically review policies for the coordinated planning and
43 delivery of special transportation when appropriate;

44 (2) Identify special transportation needs and recommend agency funding allocations and
45 resources to meet these needs when appropriate;

46 (3) Identify legal and administrative barriers to effective service delivery;

47 (4) Review agency methods for distributing funds within the state and make
48 recommendations when appropriate;

49 (5) Review agency funding criteria and make recommendations when appropriate;

50 (6) Review area transportation plans and make recommendations for plan format and
51 content;

52 (7) Establish measurable objectives for the delivery of transportation services;

53 (8) Review annual performance data and make recommendations for improved service
54 delivery, operating procedures or funding when appropriate;

55 (9) Review local disputes and conflicts on special transportation and recommend
56 solutions.

208.955. 1. There is hereby established in the department of social services the "MO
2 HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist
3 of [eighteen] **nineteen** members as follows:

4 (1) Two members of the house of representatives, one from each party, appointed by the
5 speaker of the house of representatives and the minority floor leader of the house of
6 representatives;

7 (2) Two members of the Senate, one from each party, appointed by the president pro tem
8 of the senate and the minority floor leader of the senate;

9 (3) One consumer representative **who has no financial interest in the health care**
10 **industry and who has not been an employee of the state within the last five years;**

11 (4) Two primary care physicians, licensed under chapter 334, [recommended by any
12 Missouri organization or association that represents a significant number of physicians licensed
13 in this state,] who care for participants, not from the same geographic area, **chosen in the same**
14 **manner as described in section 334.120;**

15 (5) Two physicians, licensed under chapter 334, who care for participants but who are
16 not primary care physicians and are not from the same geographic area, [recommended by any

17 Missouri organization or association that represents a significant number of physicians licensed
18 in this state] **chosen in the same manner as described in section 334.120;**

19 (6) One representative of the state hospital association;

20 (7) [One] **Two** nonphysician health care [professional] **professionals, the first**
21 **nonphysician health care professional licensed under chapter 335 and the second**
22 **nonphysician health care professional licensed under chapter 337**, who [cares] **care** for
23 participants[, recommended by the director of the department of insurance, financial institutions
24 and professional registration];

25 (8) One dentist, who cares for participants[. The dentist shall be recommended by any
26 Missouri organization or association that represents a significant number of dentists licensed in
27 this state] , **chosen in the same manner as described in section 332.021;**

28 (9) Two patient advocates **who have no financial interest in the health care industry**
29 **and who have not been employees of the state within the last five years;**

30 (10) One public member **who has no financial interest in the health care industry**
31 **and who has not been an employee of the state within the last five years;** and

32 (11) The directors of the department of social services, the department of mental health,
33 the department of health and senior services, or the respective directors' designees, who shall
34 serve as ex-officio members of the committee.

35 2. The members of the oversight committee, other than the members from the general
36 assembly and ex-officio members, shall be appointed by the governor with the advice and
37 consent of the senate. A chair of the oversight committee shall be selected by the members of
38 the oversight committee. Of the members first appointed to the oversight committee by the
39 governor, eight members shall serve a term of two years, seven members shall serve a term of
40 one year, and thereafter, members shall serve a term of two years. Members shall continue to
41 serve until their successor is duly appointed and qualified. Any vacancy on the oversight
42 committee shall be filled in the same manner as the original appointment. Members shall serve
43 on the oversight committee without compensation but may be reimbursed for their actual and
44 necessary expenses from moneys appropriated to the department of social services for that
45 purpose. The department of social services shall provide technical, actuarial, and administrative
46 support services as required by the oversight committee. The oversight committee shall:

47 (1) Meet on at least four occasions annually, including at least four before the end of
48 December of the first year the committee is established. Meetings can be held by telephone or
49 video conference at the discretion of the committee;

50 (2) Review the participant and provider satisfaction reports and the reports of health
51 outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices

52 as required of the health improvement plans and the department of social services under section
53 208.950;

54 (3) Review the results from other states of the relative success or failure of various
55 models of health delivery attempted;

56 (4) Review the results of studies comparing health plans conducted under section
57 208.950;

58 (5) Review the data from health risk assessments collected and reported under section
59 208.950;

60 (6) Review the results of the public process input collected under section 208.950;

61 (7) Advise and approve proposed design and implementation proposals for new health
62 improvement plans submitted by the department, as well as make recommendations and suggest
63 modifications when necessary;

64 (8) Determine how best to analyze and present the data reviewed under section 208.950
65 so that the health outcomes, participant and provider satisfaction, results from other states, health
66 plan comparisons, financial impact of the various health improvement plans and models of care,
67 study of provider access, and results of public input can be used by consumers, health care
68 providers, and public officials;

69 (9) Present significant findings of the analysis required in subdivision (8) of this
70 subsection in a report to the general assembly and governor, at least annually, beginning January
71 1, 2009;

72 (10) Review the budget forecast issued by the legislative budget office, and the report
73 required under subsection (22) of subsection 1 of section 208.151, and after study:

74 (a) Consider ways to maximize the federal drawdown of funds;

75 (b) Study the demographics of the state and of the MO HealthNet population, and how
76 those demographics are changing;

77 (c) Consider what steps are needed to prepare for the increasing numbers of participants
78 as a result of the baby boom following World War II;

79 (11) Conduct a study to determine whether an office of inspector general shall be
80 established. Such office would be responsible for oversight, auditing, investigation, and
81 performance review to provide increased accountability, integrity, and oversight of state medical
82 assistance programs, to assist in improving agency and program operations, and to deter and
83 identify fraud, abuse, and illegal acts. The committee shall review the experience of all states
84 that have created a similar office to determine the impact of creating a similar office in this state;
85 and

86 (12) Perform other tasks as necessary, including but not limited to making
87 recommendations to the division concerning the promulgation of rules and emergency rules so
88 that quality of care, provider availability, and participant satisfaction can be assured.

89 3. By July 1, 2011, the oversight committee shall issue findings to the general assembly
90 on the success and failure of health improvement plans and shall recommend whether or not any
91 health improvement plans should be discontinued.

92 4. The oversight committee shall designate a subcommittee devoted to advising the
93 department on the development of a comprehensive entry point system for long-term care that
94 shall:

95 (1) Offer Missourians an array of choices including community-based, in-home,
96 residential and institutional services;

97 (2) Provide information and assistance about the array of long-term care services to
98 Missourians;

99 (3) Create a delivery system that is easy to understand and access through multiple
100 points, which shall include but shall not be limited to providers of services;

101 (4) Create a delivery system that is efficient, reduces duplication, and streamlines access
102 to multiple funding sources and programs;

103 (5) Strengthen the long-term care quality assurance and quality improvement system;

104 (6) Establish a long-term care system that seeks to achieve timely access to and payment
105 for care, foster quality and excellence in service delivery, and promote innovative and
106 cost-effective strategies; and

107 (7) Study one-stop shopping for seniors as established in section 208.612.

108 5. The subcommittee shall include the following members:

109 (1) The lieutenant governor or his or her designee, who shall serve as the subcommittee
110 chair;

111 (2) One member from a Missouri area agency on aging, designated by the governor;

112 (3) One member representing the in-home care profession, designated by the governor;

113 (4) One member representing residential care facilities, predominantly serving MO
114 HealthNet participants, designated by the governor;

115 (5) One member representing assisted living facilities or continuing care retirement
116 communities, predominantly serving MO HealthNet participants, designated by the governor;

117 (6) One member representing skilled nursing facilities, predominantly serving MO
118 HealthNet participants, designated by the governor;

119 (7) One member from the office of the state ombudsman for long-term care facility
120 residents, designated by the governor;

121 (8) One member representing Missouri centers for independent living, designated by the
122 governor;

123 (9) One consumer representative with expertise in services for seniors or [the disabled]
124 **persons with a disability**, designated by the governor;

125 (10) One member with expertise in Alzheimer's disease or related dementia;

126 (11) One member from a county developmental disability board, designated by the
127 governor;

128 (12) One member representing the hospice care profession, designated by the governor;

129 (13) One member representing the home health care profession, designated by the
130 governor;

131 (14) One member representing the adult day care profession, designated by the governor;

132 (15) One member gerontologist, designated by the governor;

133 (16) Two members representing the aged, blind, and disabled population, not of the same
134 geographic area or demographic group designated by the governor;

135 (17) The directors of the departments of social services, mental health, and health and
136 senior services, or their designees; and

137 (18) One member of the house of representatives and one member of the senate serving
138 on the oversight committee, designated by the oversight committee chair.

139

140 Members shall serve on the subcommittee without compensation but may be reimbursed for their
141 actual and necessary expenses from moneys appropriated to the department of health and senior
142 services for that purpose. The department of health and senior services shall provide technical
143 and administrative support services as required by the committee.

144 6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit
145 its report to the governor and general assembly containing recommendations for the
146 implementation of the comprehensive entry point system, offering suggested legislative or
147 administrative proposals deemed necessary by the subcommittee to minimize conflict of interests
148 for successful implementation of the system. Such report shall contain, but not be limited to,
149 recommendations for implementation of the following consistent with the provisions of section
150 208.950:

151 (1) A complete statewide universal information and assistance system that is integrated
152 into the web-based electronic patient health record that can be accessible by phone, in-person,
153 via MO HealthNet providers and via the Internet that connects consumers to services or
154 providers and is used to establish consumers' needs for services. Through the system, consumers
155 shall be able to independently choose from a full range of home, community-based, and
156 facility-based health and social services as well as access appropriate services to meet individual
157 needs and preferences from the provider of the consumer's choice;

158 (2) A mechanism for developing a plan of service or care via the web-based electronic
159 patient health record to authorize appropriate services;

160 (3) A preadmission screening mechanism for MO HealthNet participants for nursing
161 home care;

162 (4) A case management or care coordination system to be available as needed; and

163 (5) An electronic system or database to coordinate and monitor the services provided
164 which are integrated into the web-based electronic patient health record.

165 7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide
166 to the governor, lieutenant governor and the general assembly a yearly report that provides an
167 update on progress made by the subcommittee toward implementing the comprehensive entry
168 point system.

169 8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

170 210.101. 1. There is hereby established the "Missouri Children's Services Commission",
171 which shall be composed of the following members:

172 (1) The director or [deputy director of the department of labor and industrial relations
173 and the director or deputy director of each state agency, department, division, or other entity
174 which provides services or programs for children, including, but not limited to, the department
175 of mental health, the department of elementary and secondary education, the department of social
176 services, the department of public safety and the department of health and senior services] **the**
177 **director's designee of the following departments: labor and industrial relations,**
178 **corrections, elementary and secondary education, higher education, health and senior**
179 **services, mental health, public safety, and social services;**

180 (2) One judge of a **family or** juvenile court, who shall be appointed by the chief justice
181 of the supreme court;

182 (3) [One judge of a family court, who shall be appointed by the chief justice of the
183 supreme court;

184 (4) Four] **Two** members, [two] **one** from each political party, of the house of
185 representatives, who shall be appointed by the speaker of the house of representatives;

186 [(5) Four] **(4) Two** members, [two] **one** from each political party, of the senate, who
187 shall be appointed by the president pro tempore of the senate.

188

189 All members shall serve for as long as they hold the position which made them eligible for
190 appointment to the Missouri children's services commission under this subsection. All members
191 shall serve without compensation but may be reimbursed for all actual and necessary expenses
192 incurred in the performance of their official duties for the commission.

193 2. All meetings of the Missouri children's services commission shall be open to the
194 public and shall, for all purposes, be deemed open public meetings under the provisions of
195 sections 610.010 to 610.030. The Missouri children's services commission shall meet no less
196 than once every two months[, and shall hold its first meeting no later than sixty days after
197 September 28, 1983]. Notice of all meetings of the commission shall be given to the general

198 assembly in the same manner required for notifying the general public of meetings of the general
199 assembly.

200 3. The Missouri children's services commission may make all rules it deems necessary
201 to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.

202 4. The commission shall elect from amongst its members a chairman, vice chairman, a
203 secretary-reporter, and such other officers as it deems necessary.

204 5. The services of the personnel of any agency from which the director or deputy director
205 is a member of the commission shall be made available to the commission at the discretion of
206 such director or deputy director. All meetings of the commission shall be held in the state of
207 Missouri.

208 6. The officers of the commission may hire an executive director. Funding for the
209 executive director may be provided from the Missouri children's services commission fund or
210 other sources provided by law.

211 7. The commission, by majority vote, may invite individuals representing local and
212 federal agencies or private organizations and the general public to serve as ex officio members
213 of the commission. Such individuals shall not have a vote in commission business and shall
214 serve without compensation but may be reimbursed for all actual and necessary expenses
215 incurred in the performance of their official duties for the commission.

**210.105. 1. There is hereby created the "Missouri Task Force on Prematurity and
2 Infant Mortality" within the children's services commission to consist of the following
3 eighteen members:**

4 **(1) The following six members of the general assembly:**

5 **(a) Three members of the house of representatives, with two members to be
6 appointed by the speaker of the house and one member to be appointed by the minority
7 leader of the house;**

8 **(b) Three members of the senate, with two members to be appointed by the
9 president pro tem of the senate and one member to be appointed by the minority leader of
10 the senate;**

11 **(2) The director of the department of health and senior services, or the director's
12 designee;**

13 **(3) The director of the department of social services, or the director's designee;**

14 **(4) The director of the department of insurance, financial institutions and
15 professional registration, or the director's designee;**

16 **(5) One member representing a not-for-profit organization specializing in
17 prematurity and infant mortality;**

18 **(6) Two members who shall be either a physician or nurse practitioner specializing
19 in obstetrics and gynecology, family medicine, pediatrics or perinatology;**

- 20 (7) Two consumer representatives who are parents of individuals born
21 prematurely, including one parent of an individual under the age of eighteen;
22 (8) Two members representing insurance providers in the state;
23 (9) One small business advocate; and
24 (10) One member of the small business regulatory fairness board.

25

26 Members of the task force, other than the legislative members and directors of state
27 agencies, shall be appointed by the governor with the advice and consent of the senate by
28 September 15, 2011.

29 2. A majority of a quorum from among the task force membership shall elect a
30 chair and vice-chair of the task force.

31 3. A majority vote of a quorum of the task force is required for any action.

32 4. The chairperson of the children's services commission shall convene the initial
33 meeting of the task force by no later than October 15, 2011. The task force shall meet at
34 least quarterly; except that the task force shall meet at least twice prior to the end of 2011.
35 Meetings may be held by telephone or video conference at the discretion of the chair.

36 5. Members shall serve on the commission without compensation, but may, subject
37 to appropriation, be reimbursed for actual and necessary expenses incurred in the
38 performance of their official duties as members of the task force.

39 6. The goal of the task force is to seek evidence-based and cost-effective approaches
40 to reduce Missouri's preterm birth and infant mortality rates.

41 7. The task force shall:

42 (1) Submit findings to the general assembly;

43 (2) Review appropriate and relevant evidence-based research regarding the causes
44 and effects of prematurity and birth defects in Missouri;

45 (3) Examine existing public and private entities currently associated with the
46 prevention and treatment of prematurity and infant mortality in Missouri;

47 (4) Develop cost-effective strategies to reduce prematurity and infant mortality; and

48 (5) Issue findings and propose to the appropriate public and private organizations
49 goals, objectives, strategies, and tactics designed to reduce prematurity and infant
50 mortality in Missouri, including recommendations on public policy for consideration
51 during the next appropriate session of the general assembly.

52 8. On or before December 31, 2013, the task force shall submit a report on their
53 findings to the governor and general assembly. The report shall include any dissenting
54 opinions in addition to any majority opinions.

55 9. The task force shall expire on January 1, 2015, or upon submission of a report
56 under subsection 8 of this section, whichever is earlier.

210.496. The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

- 3 (1) Fails consistently to comply with the applicable provisions of sections 208.400 to
- 4 208.535 and the applicable rules promulgated thereunder;
- 5 (2) Violates any of the provisions of its license;
- 6 (3) Violates state laws or rules relating to the protection of children;
- 7 (4) Furnishes or makes any misleading or false statements or reports to the division;
- 8 (5) Refuses to submit to the division any reports or refuses to make available to the
- 9 division any records required by the division in making an investigation;
- 10 (6) Fails or refuses to admit authorized representatives of the division at any reasonable
- 11 time for the purpose of investigation;
- 12 (7) Fails or refuses to submit to an investigation by the division;
- 13 (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the
- 14 premises established or used for the care of children being served, as required by law, rule, or
- 15 ordinance applicable to the location of the foster home or residential care facility; or
- 16 (9) Fails to provide financial resources adequate for the satisfactory care of and services
- 17 to children being served and the upkeep of the premises.

18

19 **Nothing in this section shall be construed to permit discrimination on the basis of disability**
20 **or disease of an applicant. The disability or disease of an applicant shall not constitute a**
21 **basis for a determination that the applicant is unfit or not suitable to be a foster parent**
22 **without a specific showing that there is a causal relationship between the disability or**
23 **disease and a substantial and significant risk of harm to a child or an inability to perform**
24 **the duties of a foster parent.**

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the
2 "Family Care Safety Act".

3 2. As used in sections 210.900 to 210.936, the following terms shall mean:

- 4 (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed
- 5 or license-exempt child-care center, child-placing agency, residential care facility for children,
- 6 group home, foster family group home, foster family home, employment agency that refers a
- 7 child-care worker to parents or guardians as defined in section 289.005. The term "child-care
- 8 provider" does not include summer camps or voluntary associations designed primarily for
- 9 recreational or educational purposes;
- 10 (2) "Child-care worker", any person who is employed by a child-care provider, or
- 11 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as
- 12 remuneration for child-care services;
- 13 (3) "Department", the department of health and senior services;

14 (4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person,
15 corporation, or association who provides in-home services under contract with the division of
16 aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant
17 to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to
18 sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection
19 1 of section 198.012 applies;

20 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who
21 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as
22 remuneration for elder-care services;

23 (6) "Employer", any child-care provider, elder-care provider, or personal-care provider
24 as defined in this section;

25 (7) "Mental health provider", any [mental retardation] **developmental disability** facility
26 or group home as defined in section 633.005;

27 (8) "Mental health worker", any person employed by a mental health provider to provide
28 personal care services and supports;

29 (9) "Patrol", the Missouri state highway patrol;

30 (10) "Personal-care attendant" or "personal-care worker", a person who performs routine
31 services or supports necessary for a person with a physical or mental disability to enter and
32 maintain employment or to live independently;

33 (11) "Personal-care provider", any person, corporation, or association who provides
34 personal-care services or supports under contract with the department of mental health, the
35 division of aging, the department of health and senior services or the department of elementary
36 and secondary education;

37 (12) "Related child care", child care provided only to a child or children by such child's
38 or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence
39 separate from the child or children;

40 (13) "Related elder care", care provided only to an elder by an adult child, a spouse, a
41 grandchild, a great-grandchild or a sibling of such elder.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family
2 court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have
3 exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident of or
5 found within the county and who is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the child
7 or person seventeen years of age, neglect or refuse to provide proper support, education which
8 is required by law, medical, surgical or other care necessary for his or her well-being; except that
9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or

10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise without proper care, custody
13 or support; or

14 (c) The child or person seventeen years of age was living in a room, building or other
15 structure at the time such dwelling was found by a court of competent jurisdiction to be a public
16 nuisance pursuant to section 195.130;

17 (d) The child or person seventeen years of age is a child in need of mental health services
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health
19 treatment or care for the child;

20 (2) Involving any child who may be a resident of or found within the county and who is
21 alleged to be in need of care and treatment because:

22 (a) The child while subject to compulsory school attendance is repeatedly and without
23 justification absent from school; or

24 (b) The child disobeys the reasonable and lawful directions of his or her parents or other
25 custodian and is beyond their control; or

26 (c) The child is habitually absent from his or her home without sufficient cause,
27 permission, or justification; or

28 (d) The behavior or associations of the child are otherwise injurious to his or her welfare
29 or to the welfare of others; or

30 (e) The child is charged with an offense not classified as criminal, or with an offense
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
32 child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic
33 ordinance or regulation, the violation of which does not constitute a felony, or any child who is
34 alleged to have violated a state or municipal ordinance or regulation prohibiting possession or
35 use of any tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of
39 the circuit in which the child or person resides or may be found or in which the violation is
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child
41 fifteen and one-half years of age who is alleged to have violated a state or municipal traffic
42 ordinance or regulation, the violation of which does not constitute a felony, and except that the
43 juvenile court shall have concurrent jurisdiction with the municipal court over any child who is
44 alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall
45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship
49 of the department of social services as provided by law.

50 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person
51 seventeen years of age who resides in a county of this state shall be made as follows:

52 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
53 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
54 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving
55 court, to the county of the child's residence or the residence of the person seventeen years of age
56 for future action;

57 (2) Upon the motion of any party or on its own motion prior to final disposition on the
58 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
59 a child or person seventeen years of age to the court located in the county of the child's residence
60 or the residence of the person seventeen years of age, or the county in which the offense pursuant
61 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

62 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
63 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction
64 of a child or person seventeen years of age to the court located in the county of the child's
65 residence or the residence of the person seventeen years of age for further action with the prior
66 consent of the receiving court;

67 (4) Upon motion of any party or upon its own motion at any time following a judgment
68 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause
69 may place the child or person seventeen years of age under the supervision of another juvenile
70 court within or without the state pursuant to section 210.570 with the consent of the receiving
71 court;

72 (5) Upon motion of any child or person seventeen years of age or his or her parent, the
73 court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court
74 Rules;

75 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or
76 person seventeen years of age, certified copies of all legal and social documents and records
77 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the
78 transfer.

79 3. In any proceeding involving any child or person seventeen years of age taken into
80 custody in a county other than the county of the child's residence or the residence of a person
81 seventeen years of age, the juvenile court of the county of the child's residence or the residence
82 of a person seventeen years of age shall be notified of such taking into custody within
83 seventy-two hours.

84 4. When an investigation by a juvenile officer pursuant to this section reveals that the
85 only basis for action involves an alleged violation of section 167.031 involving a child who
86 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child
87 to verify that the child is being home schooled and not in violation of section 167.031 before
88 making a report of such a violation. Any report of a violation of section 167.031 made by a
89 juvenile officer regarding a child who is being home schooled shall be made to the prosecuting
90 attorney of the county where the child legally resides.

91 **5. The disability or disease of a parent shall not constitute a basis for a**
92 **determination that a child is a child in need of care or for the removal of custody of a child**
93 **from the parent without a specific showing that there is a causal relation between the**
94 **disability or disease and harm to the child.**

211.202. 1. If a child under the jurisdiction of the juvenile court appears to be mentally
2 disordered, other than [mentally retarded or] **intellectually disabled or** developmentally
3 disabled, the court, on its own motion or on the motion or petition of any interested party, may
4 order the department of mental health to evaluate the child.

5 2. A mental health facility designated by the department of mental health shall perform
6 within twenty days an evaluation of the child, on an outpatient basis if practicable, for the
7 purpose of determining whether inpatient admission is appropriate because the following criteria
8 are met:

9 (1) The child has a mental disorder other than mental retardation or developmental
10 disability, as all these terms are defined in chapter 630;

11 (2) The child requires inpatient care and treatment for the protection of himself or others;

12 (3) A mental health facility offers a program suitable for the child's needs;

13 (4) A mental health facility is the least restrictive environment as the term "least
14 restrictive environment" is defined in chapter 630.

15 3. If the facility determines, as a result of the evaluation, that it is appropriate to admit
16 the child as an inpatient, the head of the mental health facility, or his designee, shall recommend
17 the child for admission, subject to the availability of suitable accommodations, and send the
18 juvenile court notice of the recommendation and a copy of the evaluation. Should the
19 department evaluation recommend inpatient care, the child, his parent, guardian or counsel shall
20 have the right to request an independent evaluation of the child. Within twenty days of the
21 receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the
22 notice and evaluation from the independent examiner, the court may order, pursuant to a hearing,
23 the child committed to the custody of the department of mental health for inpatient care and
24 treatment, or may otherwise dispose of the matter; except, that no child shall be committed to
25 a mental health facility under this section for other than care and treatment.

26 4. If the facility determines, as a result of the evaluation, that inpatient admission is not
27 appropriate, the head of the mental health facility, or his designee, shall not recommend the child
28 for admission as an inpatient. The head of the facility, or his designee, shall send to the court
29 a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within
30 twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the
31 juvenile court shall transfer the child from the department of mental health within twenty days
32 of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving
33 notice of the hearing to the director of the facility as well as all others required by law.

34 5. If at any time the facility determines that it is no longer appropriate to provide
35 inpatient care and treatment for the child committed by the juvenile court, but that such child
36 appears to qualify for placement under section 630.610, the head of the facility shall refer such
37 child for placement. Subject to the availability of an appropriate placement, the department of
38 mental health shall place any child who qualifies for placement under section 630.610. If no
39 appropriate placement is available, the department of mental health shall discharge the child or
40 make such other arrangements as it may deem appropriate and consistent with the child's welfare
41 and safety. Notice of the placement or discharge shall be sent to the juvenile court which first
42 ordered the child's detention.

43 6. The committing juvenile court shall conduct an annual review of the child's need for
44 continued placement in the mental health facility.

211.203. 1. If a child under the jurisdiction of the juvenile court appears to be mentally
2 retarded or developmentally disabled, as these terms are defined in chapter 630, the court, on its
3 own motion or on the motion or petition of any interested party, may order the department of
4 mental health to evaluate the child.

5 2. A regional center designated by the department of mental health shall perform within
6 twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if
7 practicable, for the purpose of determining the appropriateness of a referral to a [mental
8 retardation] **developmental disability** facility operated or funded by the department of mental
9 health. If it is determined by the regional center, as a result of the evaluation, to be appropriate
10 to refer such child to a department [mental retardation] **developmental disability** facility under
11 section 633.120 or a private [mental retardation] **developmental disability** facility under section
12 630.610, the regional center shall refer the evaluation to the appropriate [mental retardation]
13 **developmental disability** facility.

14 3. If, as a result of reviewing the evaluation, the head of the [mental retardation]
15 **developmental disability** facility, or his designee, determines that it is appropriate to admit such
16 child as a resident, the head of the [mental retardation] **developmental disability** facility, or his
17 **or her** designee, shall recommend the child for admission, subject to availability of suitable

18 accommodations. The head of the regional center, or his designee, shall send the juvenile court
19 notice of the recommendation for admission by the [mental retardation] **developmental**
20 **disability** facility and a copy of the evaluation. Should the department evaluation recommend
21 residential care and habilitation, the child, his parent, guardian or counsel shall have the right to
22 request an independent evaluation of the child. Within twenty days of receipt of the notice and
23 evaluation from the facility, or within twenty days of the receipt of the notice and evaluation
24 from the independent examiner, the court may order, pursuant to a hearing, the child committed
25 to the custody of the department of mental health for residential care and habilitation, or may
26 otherwise dispose of the matter; except, that no child shall be committed to the department of
27 mental health for other than residential care and habilitation. If the department proposes
28 placement at, or transferring the child to, a department facility other than that designated in the
29 order of the juvenile court, the department shall conduct a due process hearing within six days
30 of such placement or transfer during which the head of the initiating facility shall have the
31 burden to show that the placement or transfer is appropriate for the medical needs of the child.
32 The head of the facility shall notify the court ordering detention or commitment and the child's
33 last known attorney of record of such placement or transfer.

34 4. If, as a result of the evaluation, the regional center determines that it is not appropriate
35 to admit such child as a resident in a [mental retardation] **developmental disability** facility, the
36 regional center shall send a notice to the court that it is inappropriate to admit such child, along
37 with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court
38 shall transfer the child from the department within five days of receiving the notice and
39 evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the
40 director of the facility as well as all others required by law.

41 5. If at any time the [mental retardation] **developmental disability** facility determines
42 that it is no longer appropriate to provide residential habilitation for the child committed by the
43 juvenile court, but that such child appears to qualify for placement under section 630.610, the
44 head of the facility shall refer such child for placement. Subject to the availability of an
45 appropriate placement, the department shall place any child who qualifies for placement under
46 section 630.610. If no appropriate placement is available, the department shall discharge the
47 child or make such other arrangements as it may deem appropriate and consistent with the child's
48 welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which
49 first ordered the child's detention.

50 6. The committing court shall conduct an annual review of the child's need for continued
51 placement at the [mental retardation] **developmental disability** facility.

211.206. 1. For each child committed to the department of mental health by the juvenile
2 court, the director of the department of mental health, or his designee, shall prepare an

3 individualized treatment or habilitation plan, as defined in chapter 630, within thirty days of the
4 admission for treatment or habilitation. The status of each child shall be reviewed at least once
5 every thirty days. Copies of all individualized treatment plans, habilitation plans, and periodic
6 reviews shall be sent to the committing juvenile court.

7 2. The department of mental health shall discharge a child committed to it by the juvenile
8 court pursuant to sections 211.202 and 211.203 if the head of a mental health facility or [mental
9 retardation] **developmental disability** facility, or his designee, determines, in an evaluation or
10 a periodic review, that any of the following conditions are true:

11 (1) A child committed to a mental health facility no longer has a mental disorder other
12 than [mental retardation] **intellectual disability** or developmental disability;

13 (2) A child committed to a [mental retardation] **developmental disability** facility is not
14 [mentally retarded] **intellectually disabled** or developmentally disabled;

15 (3) The condition of the child is no longer such that, for the protection of the child or
16 others, the child requires inpatient hospitalization or residential habilitation;

17 (4) The mental health facility or [mental retardation] **developmental disability** facility
18 does not offer a program which best meets the child's needs;

19 (5) The mental health facility or [mental retardation] **developmental disability** facility
20 does not provide the least restrictive environment, as defined in section 630.005, which is
21 consistent with the child's welfare and safety.

22 3. If the committing court specifically retained jurisdiction of the child by the terms of
23 its order committing the child to the department of mental health, notice of the discharge,
24 accompanied by a diagnosis and recommendations for placement of the child, shall be forwarded
25 to the court at least twenty days before such discharge date. Unless within twenty days of receipt
26 of notice of discharge the juvenile court orders the child to be brought before it for appropriate
27 proceedings, jurisdiction of that court over the child shall terminate at the end of such twenty
28 days.

211.207. 1. If a child is committed to the division of youth services and subsequently
2 appears to be mentally disordered, as defined in chapter 630, the division shall refer the child to
3 the department of mental health for evaluation. The evaluation shall be performed within twenty
4 days by a mental health facility or regional center operated by the department of mental health
5 and, if practicable, on an outpatient basis, for the purpose of determining whether inpatient care
6 at a mental health facility or residential habilitation in a [mental retardation] **developmental**
7 **disability** facility is appropriate because the child meets the criteria specified in subsection 2 of
8 section 211.202 or in section 633.120, respectively.

9 2. If, as a result of the evaluation, the director of the department of mental health, or his
10 designee, determines that the child is not mentally disordered so as to require inpatient care and

11 treatment in a mental health facility or residential habilitation in a [mental retardation]
12 **developmental disability** facility, the director, or his designee, shall so notify the director of the
13 division of youth services. If the child was evaluated on an inpatient or residential basis, the
14 child shall be returned to the division of youth services.

15 3. If the director of the department of mental health, or his designee, determines that the
16 child requires inpatient care and treatment at a mental health facility operated by the department
17 of mental health or residential habilitation in a [mental retardation] **developmental disability**
18 facility operated by the department of mental health, the director, or his designee, shall notify the
19 director of the division of youth services that admission is appropriate. The director of the
20 division may transfer the physical custody of the child to the department of mental health for
21 admission to a department of mental health facility and the department of mental health shall
22 accept the transfer subject to the availability of suitable accommodations.

23 4. The director of the department of mental health, or his designee, shall cause an
24 individualized treatment or habilitation plan to be prepared by the mental health facility or
25 [mental retardation] **developmental disability** facility for each child. The mental health facility
26 or [mental retardation] **developmental disability** facility shall review the status of the child at
27 least once every thirty days. If, as a result of any such review, it is determined that inpatient care
28 and treatment at a mental health facility or residential habilitation in a [mental retardation]
29 **developmental disability** facility is no longer appropriate for the child because the child does
30 not meet the criteria specified in subsection 2 of section 211.202 or in section 633.120,
31 respectively, the director of the department of mental health, or his designee, shall so notify the
32 director of the division of youth services and shall return the child to the custody of the division.

33 5. If a child for any reason ceases to come under the jurisdiction of the division of youth
34 services, he may be retained in a mental health facility or [mental retardation] **developmental**
35 **disability** facility only as otherwise provided by law.

211.447. 1. Any information that could justify the filing of a petition to terminate
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the
6 informant may bring the matter directly to the attention of the judge of the juvenile court by
7 presenting the information in writing, and if it appears to the judge that the information could
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,
9 including making a further preliminary inquiry or filing a petition.

10 2. Except as provided for in subsection 4 of this section, a petition to terminate the
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,

12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek
13 to be joined as a party to the petition, when:

14 (1) Information available to the juvenile officer or the division establishes that the child
15 has been in foster care for at least fifteen of the most recent twenty-two months; or

16 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
18 of filing of the petition. The court may find that an infant has been abandoned if:

19 (a) The parent has left the child under circumstances that the identity of the child was
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come
21 forward to claim the child; or

22 (b) The parent has, without good cause, left the child without any provision for parental
23 support and without making arrangements to visit or communicate with the child, although able
24 to do so; or

25 (3) A court of competent jurisdiction has determined that the parent has:

26 (a) Committed murder of another child of the parent; or

27 (b) Committed voluntary manslaughter of another child of the parent; or

28 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
29 voluntary manslaughter; or

30 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
31 another child of the parent.

32 3. A termination of parental rights petition shall be filed by the juvenile officer or the
33 division, or if such a petition has been filed by another party, the juvenile officer or the division
34 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
35 required in subsection 2 of this section, except as provided in subsection 4 of this section.
36 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate
37 a petition for termination of parental rights which is filed outside of sixty days.

38 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this
39 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
40 the parental rights of the child's parent or parents if:

41 (1) The child is being cared for by a relative; or

42 (2) There exists a compelling reason for determining that filing such a petition would
43 not be in the best interest of the child, as documented in the permanency plan which shall be
44 made available for court review; or

45 (3) The family of the child has not been provided such services as provided for in section
46 211.183.

47 5. The juvenile officer or the division may file a petition to terminate the parental rights
48 of the child's parent when it appears that one or more of the following grounds for termination
49 exist:

50 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
51 child over one year of age at the time of filing of the petition. The court shall find that the child
52 has been abandoned if, for a period of six months or longer:

53 (a) The parent has left the child under such circumstances that the identity of the child
54 was unknown and could not be ascertained, despite diligent searching, and the parent has not
55 come forward to claim the child; or

56 (b) The parent has, without good cause, left the child without any provision for parental
57 support and without making arrangements to visit or communicate with the child, although able
58 to do so;

59 (2) The child has been abused or neglected. In determining whether to terminate parental
60 rights pursuant to this subdivision, the court shall consider and make findings on the following
61 conditions or acts of the parent:

62 (a) A mental condition which is shown by competent evidence either to be permanent
63 or such that there is no reasonable likelihood that the condition can be reversed and which
64 renders the parent unable to knowingly provide the child the necessary care, custody and control;

65 (b) Chemical dependency which prevents the parent from consistently providing the
66 necessary care, custody and control of the child and which cannot be treated so as to enable the
67 parent to consistently provide such care, custody and control;

68 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
69 or any child in the family by the parent, including an act of incest, or by another under
70 circumstances that indicate that the parent knew or should have known that such acts were being
71 committed toward the child or any child in the family; or

72 (d) Repeated or continuous failure by the parent, although physically or financially able,
73 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
74 care and control necessary for the child's physical, mental, or emotional health and development.

75

76 **Nothing in this subdivision shall be construed to permit discrimination on the basis of**
77 **disability or disease;**

78 (3) The child has been under the jurisdiction of the juvenile court for a period of one
79 year, and the court finds that the conditions which led to the assumption of jurisdiction still
80 persist, or conditions of a potentially harmful nature continue to exist, that there is little
81 likelihood that those conditions will be remedied at an early date so that the child can be returned
82 to the parent in the near future, or the continuation of the parent-child relationship greatly
83 diminishes the child's prospects for early integration into a stable and permanent home. In

84 determining whether to terminate parental rights under this subdivision, the court shall consider
85 and make findings on the following:

86 (a) The terms of a social service plan entered into by the parent and the division and the
87 extent to which the parties have made progress in complying with those terms;

88 (b) The success or failure of the efforts of the juvenile officer, the division or other
89 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to
90 provide a proper home for the child;

91 (c) A mental condition which is shown by competent evidence either to be permanent
92 or such that there is no reasonable likelihood that the condition can be reversed and which
93 renders the parent unable to knowingly provide the child the necessary care, custody and control;

94 (d) Chemical dependency which prevents the parent from consistently providing the
95 necessary care, custody and control over the child and which cannot be treated so as to enable
96 the parent to consistently provide such care, custody and control; or

97 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566
98 when the child or any child in the family was a victim, or a violation of section 568.020 when
99 the child or any child in the family was a victim. As used in this subdivision, a "child" means
100 any person who was under eighteen years of age at the time of the crime and who resided with
101 such parent or was related within the third degree of consanguinity or affinity to such parent; or

102 (5) The child was conceived and born as a result of an act of forcible rape. When the
103 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such
104 a plea or conviction shall be conclusive evidence supporting the termination of the biological
105 father's parental rights; or

106 (6) The parent is unfit to be a party to the parent and child relationship because of a
107 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined
108 in section 455.010, child abuse or drug abuse before the child or of specific conditions directly
109 relating to the parent and child relationship either of which are determined by the court to be of
110 a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care
111 appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed
112 that a parent is unfit to be a party to the parent-child relationship upon a showing that within a
113 three-year period immediately prior to the termination adjudication, the parent's parental rights
114 to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this
115 section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other
116 states.

117 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed
118 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court
119 finds that the termination is in the best interest of the child and when it appears by clear, cogent

120 and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of
121 this section.

122 7. When considering whether to terminate the parent-child relationship pursuant to
123 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section,
124 the court shall evaluate and make findings on the following factors, when appropriate and
125 applicable to the case:

126 (1) The emotional ties to the birth parent;

127 (2) The extent to which the parent has maintained regular visitation or other contact with
128 the child;

129 (3) The extent of payment by the parent for the cost of care and maintenance of the child
130 when financially able to do so including the time that the child is in the custody of the division
131 or other child-placing agency;

132 (4) Whether additional services would be likely to bring about lasting parental
133 adjustment enabling a return of the child to the parent within an ascertainable period of time;

134 (5) The parent's disinterest in or lack of commitment to the child;

135 (6) The conviction of the parent of a felony offense that the court finds is of such a
136 nature that the child will be deprived of a stable home for a period of years; provided, however,
137 that incarceration in and of itself shall not be grounds for termination of parental rights;

138 (7) Deliberate acts of the parent or acts of another of which the parent knew or should
139 have known that subjects the child to a substantial risk of physical or mental harm.

140 8. The court may attach little or no weight to infrequent visitations, communications, or
141 contributions. It is irrelevant in a termination proceeding that the maintenance of the
142 parent-child relationship may serve as an inducement for the parent's rehabilitation.

143 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the
144 issues raised in a petition for adoption containing a prayer for termination of parental rights filed
145 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

146 **10. The disability or disease of a parent shall not constitute a basis for a**
147 **determination that a child is a child in need of care, for the removal of custody of a child**
148 **from the parent, or for the termination of parent rights without a specific showing that**
149 **there is a causal relation between the disability or disease and harm to the child.**

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

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

8 distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever
9 a political subdivision or owner of private property so designates a parking space, the space shall
10 be indicated by a sign upon which shall be inscribed the international symbol of accessibility and
11 [shall] **may** also include any appropriate wording **such as "Accessible Parking"** to indicate that
12 the space is reserved for the exclusive use of vehicles which display a distinguishing license plate
13 or card. The sign described in this subsection shall also state, or an additional sign shall be
14 posted below or adjacent to the sign stating, the following: "\$50 to \$300 fine.". **Beginning**
15 **August 28, 2011, when any political subdivision or owner of private property restripes a**
16 **parking lot or constructs a new parking lot, one in every four accessible spaces, but not less**
17 **than one, shall be served by an access aisle a minimum of ninety-six inches wide and shall**
18 **be designated "lift van accessible only" with signs that meet the requirements of the federal**
19 **Americans with Disabilities Act, as amended, and any rules or regulations established**
20 **pursuant thereto.**

21 3. Any political subdivision, by ordinance or resolution, and any person or corporation
22 in lawful possession of a public off-street parking facility or any other owner of private property
23 may designate reserved parking spaces for the exclusive use of vehicles which display a
24 distinguishing license plate or card issued pursuant to section 301.071 or 301.142 as close as
25 possible to the nearest accessible entrance. Such designation shall be made by posting
26 immediately adjacent to, and visible from, each space, a sign upon which is inscribed the
27 international symbol of accessibility, and may also include any appropriate wording to indicate
28 that the space is reserved for the exclusive use of vehicles which display a distinguishing license
29 plate or card.

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

43 5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license
44 plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal

45 Americans with Disabilities Act, as amended, and any rules or regulations established pursuant
46 thereto. Notwithstanding the other provisions of this section, on-street parking spaces designated
47 by political subdivisions in residential areas for the exclusive use of vehicles displaying a
48 distinguishing license plate or card issued pursuant to section 301.071 or 301.142 shall meet the
49 requirements of the federal Americans with Disabilities Act pursuant to this subsection and any
50 such space shall have clearly and visibly painted upon it the international symbol of accessibility
51 and any curb adjacent to the space shall be clearly and visibly painted blue.

52 6. Any person who, without authorization, uses a distinguishing license plate or card
53 issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under authority
54 of this section shall be guilty of a class B misdemeanor.

55 7. Law enforcement officials may enter upon private property open to public use to
56 enforce the provisions of this section and section 301.142, including private property designated
57 by the owner of such property for the exclusive use of vehicles which display a distinguishing
58 license plate or card issued pursuant to section 301.071 or 301.142.

59 8. Nonconforming signs or spaces otherwise required pursuant to this section which are
60 in use prior to August 28, [1997] **2011**, shall not be in violation of this section during the useful
61 life of such signs or spaces. Under no circumstances shall the useful life of the nonconforming
62 signs or spaces be extended by means other than those means used to maintain any sign or space
63 on the owner's property which is not used for vehicles displaying a disabled license plate.

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

332.021. 1. "The Missouri Dental Board" shall consist of seven members including five
2 registered and currently licensed dentists, one registered and currently licensed dental hygienist
3 with voting authority as limited in subsection 4 of this section, and one voting public member.
4 Any currently valid certificate of registration or currently valid specialist's certificate issued by
5 the Missouri dental board as constituted pursuant to prior law shall be a valid certificate of
6 registration or a valid specialist's certificate, as the case may be, upon October 13, 1969, and such
7 certificates shall be valid so long as the holders thereof comply with the provisions of this
8 chapter.

9 2. Any person other than the public member appointed to the board as hereinafter
10 provided shall be a dentist or a dental hygienist who is registered and currently licensed in
11 Missouri, is a United States citizen, has been a resident of this state for one year immediately
12 preceding his or her appointment, has practiced dentistry or dental hygiene for at least five
13 consecutive years immediately preceding his or her appointment, shall have graduated from an
14 accredited dental school or dental hygiene school, and at the time of his or her appointment or
15 during his or her tenure on the board has or shall have no connection with or interest in, directly
16 or indirectly, any dental college, dental hygiene school, university, school, department, or other

17 institution of learning wherein dentistry or dental hygiene is taught, or with any dental laboratory
18 or other business enterprise directly related to the practice of dentistry or dental hygiene.

19 3. The governor shall appoint members to the board by and with the advice and consent
20 of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise;
21 provided, however, that any board member shall serve until his or her successor is appointed and
22 has qualified. Each appointee, except where appointed to fill an unexpired term, shall be
23 appointed for a term of five years. The president of the Missouri Dental Association in office
24 at the time shall, at least ninety days prior to the expiration of the term of a board member other
25 than the dental hygienist or public member, or as soon as feasible after a vacancy on the board
26 otherwise occurs, submit to the director of the division of professional registration a list of five
27 dentists qualified and willing to fill the vacancy in question, with the request and
28 recommendation that the governor appoint one of the five persons so listed, and with the list so
29 submitted, the president of the Missouri Dental Association shall include in his or her letter of
30 transmittal a description of the method by which the names were chosen by that association.

31 4. The public member shall be at the time of his or her appointment a citizen of the
32 United States; a resident of this state for a period of one year and a registered voter; a person who
33 is not and never was a member of any profession licensed or regulated pursuant to this chapter
34 or the spouse of such person; and a person who does not have and never has had a material,
35 financial interest in either the providing of the professional services regulated by this chapter,
36 or an activity or organization directly related to any profession licensed or regulated pursuant to
37 this chapter. All members, including public members, shall be chosen from lists submitted by
38 the director of the division of professional registration. **The list of dentists submitted to the**
39 **governor shall include the names submitted to the director of the division of professional**
40 **registration by the president of the Missouri Dental Association. This list shall be a public**
41 **record available for inspection and copying under chapter 610.** Lists of dental hygienists
42 submitted to the governor may include names submitted to the director of the division of
43 professional registration by the president of the Missouri Dental Hygienists' Association. The
44 duties of the dental hygienist member shall not include participation in the determination for or
45 the issuance of a certificate of registration or a license to practice as a dentist. The duties of the
46 public member shall not include the determination of the technical requirements to be met for
47 licensure or whether any person meets such technical requirements or of the technical
48 competence or technical judgment of a licensee or a candidate for licensure.

49 5. The board shall have a seal which shall be in circular form and which shall impress
50 the word "SEAL" in the center and around said word the words "Missouri Dental Board". The
51 seal shall be affixed to such instruments as hereinafter provided and to any other instruments as
52 the board shall direct.

53 6. The board may sue and be sued as the Missouri dental board, and its members need
54 not be named as parties. Members of the board shall not be personally liable, either jointly or
55 severally, for any act or acts committed in the performance of their official duties as board
56 members; nor shall any board member be personally liable for any court costs which accrue in
57 any action by or against the board.

334.120. 1. There is hereby created and established a board to be known as "The State
2 Board of Registration for the Healing Arts" for the purpose of registering, licensing and
3 supervising all physicians and surgeons, and midwives in this state. The board shall consist of
4 nine members, including one voting public member, to be appointed by the governor by and with
5 the advice and consent of the senate, at least five of whom shall be graduates of professional
6 schools accredited by the Liaison Committee on Medical Education or recognized by the
7 Educational Commission for Foreign Medical Graduates, and at least two of whom shall be
8 graduates of professional schools approved and accredited as reputable by the American
9 Osteopathic Association, and all of whom, except the public member, shall be duly licensed and
10 registered as physicians and surgeons pursuant to the laws of this state. Each member must be
11 a citizen of the United States and must have been a resident of this state for a period of at least
12 one year next preceding his or her appointment and shall have been actively engaged in the
13 lawful and ethical practice of the profession of physician and surgeon for at least five years next
14 preceding his or her appointment. Not more than four members shall be affiliated with the same
15 political party. All members shall be appointed for a term of four years. Each member of the
16 board shall receive as compensation an amount set by the board not to exceed fifty dollars for
17 each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her
18 expenses necessarily incurred in the discharge of his or her official duties. The president of the
19 Missouri State Medical Association, for all medical physician appointments, or the president of
20 the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician
21 appointments, in office at the time shall, at least ninety days prior to the expiration of the term
22 of the respective board member, other than the public member, or as soon as feasible after the
23 appropriate vacancy on the board otherwise occurs, submit to the director of the division of
24 professional registration a list of five physicians and surgeons qualified and willing to fill the
25 vacancy in question, with the request and recommendation that the governor appoint one of the
26 five persons so listed, and with the list so submitted, the president of the Missouri State Medical
27 Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate,
28 shall include in his or her letter of transmittal a description of the method by which the names
29 were chosen by that association.

30 2. The public member shall be at the time of his or her appointment a citizen of the
31 United States; a resident of this state for a period of one year and a registered voter; a person who
32 is not and never was a member of any profession licensed or regulated pursuant to this chapter

33 or the spouse of such person; and a person who does not have and never has had a material,
34 financial interest in either the providing of the professional services regulated by this chapter,
35 or an activity or organization directly related to any profession licensed or regulated pursuant to
36 this chapter. All members, including public members, shall be chosen from lists submitted by
37 the director of the division of professional registration. **The list of medical physicians or**
38 **osteopathic physicians submitted to the governor shall include the names submitted to the**
39 **director of the division of professional registration by the president of the Missouri State**
40 **Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons,**
41 **respectively. This list shall be a public record available for inspection and copying under**
42 **chapter 610.** The duties of the public member shall not include the determination of the
43 technical requirements to be met for licensure or whether any person meets such technical
44 requirements or of the technical competence or technical judgment of a licensee or a candidate
45 for licensure.

453.070. 1. Except as provided in subsection 5 of this section, no decree for the
2 adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners
3 in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation,
4 which includes an assessment of the adoptive parents, an appropriate postplacement assessment
5 and a summary of written reports as provided for in section 453.026, and any other pertinent
6 information relevant to whether the child is suitable for adoption by the petitioner and whether
7 the petitioner is suitable as a parent for the child, has been made. The report shall also include
8 a statement to the effect that the child has been considered as a potential subsidy recipient.

9 2. Such investigation shall be made, as directed by the court having jurisdiction, either
10 by the division of family services of the state department of social services, a juvenile court
11 officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or
12 other suitable person appointed by the court. The results of such investigation shall be embodied
13 in a written report that shall be submitted to the court within ninety days of the request for the
14 investigation.

15 3. The department of social services, division of family services, shall develop rules and
16 regulations regarding the content of the assessment of the petitioner or petitioners. The content
17 of the assessment shall include but not be limited to, a report on the condition of the petitioner's
18 home and information on the petitioner's education, financial, marital, medical and psychological
19 status and criminal background check. If an assessment is conducted after August 28, 1997, but
20 prior to the promulgation of rules and regulations by the department concerning the contents of
21 such assessment, any discrepancy between the contents of the actual assessment and the contents
22 of the assessment required by department rule shall not be used as the sole basis for invalidating
23 an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section
24 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

25 4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to
26 the court prior to the scheduled hearing of the adoptive petition.

27 5. In cases where the adoption or custody involves a child under eighteen years of age
28 that is the natural child of one of the petitioners and where all of the parents required by this
29 chapter to give consent to the adoption or transfer of custody have given such consent, the
30 juvenile court may waive the investigation and report, except the criminal background check, and
31 enter the decree for the adoption or order the transfer of custody without such investigation and
32 report.

33 6. In the case of an investigation and report made by the division of family services by
34 order of the court, the court may order the payment of a reasonable fee by the petitioner to cover
35 the costs of the investigation and report.

36 7. Any adult person or persons over the age of eighteen, who, as foster parent or parents,
37 have cared for a foster child continuously for a period of nine months or more and bonding has
38 occurred as evidenced by the positive emotional and physical interaction between the foster
39 parent and child, may apply to such authorized agency for the placement of such child with them
40 for the purpose of adoption if the child is eligible for adoption. The agency and court shall give
41 preference and first consideration for adoptive placements to foster parents. However, the final
42 determination of the propriety of the adoption of such foster child shall be within the sole
43 discretion of the court.

44 **8. (1) Nothing in this section shall be construed to permit discrimination on the**
45 **basis of disability or disease of a prospective adoptive parent.**

46 **(2) The disability or disease of a prospective adoptive parent shall not constitute**
47 **a basis for a determination that the petitioner is unfit or not suitable to be an adoptive**
48 **parent without a specific showing that there is a causal relationship between the disability**
49 **or disease and a substantial and significant risk of harm to a child.**

475.121. 1. Pursuant to an application alleging that the admission of the ward to a
2 particular mental health or [mental retardation] **developmental disability** facility is appropriate
3 and in the best interest of the ward, the court may authorize the guardian or limited guardian to
4 admit the ward to such facility. Such application shall be accompanied by a physician's
5 statement setting forth the factual basis for the need for continued admission including a
6 statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable
7 duration of the admission.

8 2. If the court finds that the application establishes the need for inpatient care,
9 habilitation or treatment of the ward in a mental health or [mental retardation] **developmental**
10 **disability** facility without the adduction of further evidence, it shall issue an order authorizing
11 the guardian to admit the ward to such facility in accordance with the provisions of section
12 632.120 or section 633.120.

13 3. The court may, in its discretion, appoint an attorney to represent the ward. The
14 attorney shall meet with the ward and may request a hearing on the application. If a hearing is
15 requested, the court shall set the application for hearing. If there is no request for hearing, the
16 court may rule on the application without a hearing. The attorney for the ward shall be allowed
17 a reasonable fee for his services rendered to be assessed as costs under section 475.085.

18 4. Proceedings under this section may be combined with adjudication proceedings under
19 section 475.075.

 475.355. 1. If, upon the filing of a petition for the adjudication of incapacity or disability
2 it appears that the respondent, by reason of a mental disorder or [mental retardation] **intellectual**
3 **disability or developmental disability**, presents a likelihood of serious physical harm to himself
4 or others, he may be detained in accordance with the provisions of chapter 632 if suffering from
5 a mental disorder, or chapter 633 if [mentally retarded] **the person has an intellectual or**
6 **developmental disability**, pending a hearing on the petition for adjudication.

7 2. As used in this section, the terms "mental disorder" and "mental retardation" shall be
8 as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others"
9 shall be as defined in chapter 632.

10 3. The procedure for obtaining an order of temporary emergency detention shall be as
11 prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

 476.537. In the event that any judge leaving no surviving spouse or any surviving spouse
2 receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable
3 to care for or support themselves because of any [mental retardation] **intellectual disability or**
4 **developmental disability**, disease or disability, or any physical [handicap or] disability, the
5 benefits that would be received by a surviving spouse on the judge's death if there were a
6 surviving spouse or the benefits received by such surviving spouse, as the case may be, shall be
7 paid to such surviving dependent for the remainder of such dependent's life. If the judge or such
8 surviving spouse leaves more than one dependent who would be eligible for benefits under this
9 section, then each eligible dependent shall receive a pro rata share of the amount that would be
10 paid to a surviving spouse under section 476.535.

 552.015. 1. Evidence that the defendant did or did not suffer mental disease or defect
2 shall not be admissible in a criminal prosecution except as provided in this section.

3 2. Evidence that the defendant did or did not suffer from a mental disease or defect shall
4 be admissible in a criminal proceeding:

5 (1) To determine whether the defendant lacks capacity to understand the proceedings
6 against him or to assist in his own defense as provided in section 552.020;

7 (2) To determine whether the defendant is criminally responsible as provided in section
8 552.030;

9 (3) To determine whether a person committed to the director of the department of mental
10 health pursuant to this chapter shall be released as provided in section 552.040;

11 (4) To determine if a person in the custody of any correctional institution needs care in
12 a mental hospital as provided in section 552.050;

13 (5) To determine whether a person condemned to death shall be executed as provided
14 in sections 552.060 and 552.070;

15 (6) To determine whether or not the defendant, if found guilty, should be sentenced to
16 death as provided in chapter 558;

17 (7) To determine the appropriate disposition of a defendant, if guilty, as provided in
18 sections 557.011 and 557.031;

19 (8) To prove that the defendant did or did not have a state of mind which is an element
20 of the offense;

21 (9) To determine if the defendant, if found not guilty by reason of mental disease or
22 defect, should be immediately conditionally released by the court under the provisions of section
23 552.040 to the community or committed to a mental health or [mental retardation]
24 **developmental disability** facility. This question shall not be asked regarding defendants
25 charged with any of the dangerous felonies as defined in section 556.061, or with those crimes
26 set forth in subsection 11 of section 552.040, or the attempts thereof.

552.020. 1. No person who as a result of mental disease or defect lacks capacity to
2 understand the proceedings against him or to assist in his own defense shall be tried, convicted
3 or sentenced for the commission of an offense so long as the incapacity endures.

4 2. Whenever any judge has reasonable cause to believe that the accused lacks mental
5 fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on
6 behalf of the accused, by order of record, appoint one or more private psychiatrists or
7 psychologists, as defined in section 632.005, or physicians with a minimum of one year training
8 or experience in providing treatment or services to [mentally retarded or mentally ill individuals]
9 **persons with an intellectual disability or developmental disability or mental illness**, who are
10 neither employees nor contractors of the department of mental health for purposes of performing
11 the examination in question, to examine the accused; or shall direct the director to have the
12 accused so examined by one or more psychiatrists or psychologists, as defined in section
13 632.005, or physicians with a minimum of one year training or experience in providing treatment
14 or services to [mentally retarded or mentally ill individuals] **persons with an intellectual**
15 **disability, developmental disability, or mental illness**. The order shall direct that a written
16 report or reports of such examination be filed with the clerk of the court. No private physician,
17 psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The
18 examinations ordered shall be made at such time and place and under such conditions as the

19 court deems proper; except that, if the order directs the director of the department to have the
20 accused examined, the director, or his designee, shall determine the time, place and conditions
21 under which the examination shall be conducted. The order may include provisions for the
22 interview of witnesses and may require the provision of police reports to the department for use
23 in evaluations. The department shall establish standards and provide training for those
24 individuals performing examinations pursuant to this section and section 552.030. No individual
25 who is employed by or contracts with the department shall be designated to perform an
26 examination pursuant to this chapter unless the individual meets the qualifications so established
27 by the department. Any examination performed pursuant to this subsection shall be completed
28 and filed with the court within sixty days of the order unless the court for good cause orders
29 otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists
30 to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be
31 provided at no charge to the defendant by the department. All costs of subsequent evaluations
32 shall be assessed to the party requesting the evaluation.

33 3. A report of the examination made under this section shall include:

34 (1) Detailed findings;

35 (2) An opinion as to whether the accused has a mental disease or defect;

36 (3) An opinion based upon a reasonable degree of medical or psychological certainty as
37 to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the
38 proceedings against him or to assist in his own defense;

39 (4) A recommendation as to whether the accused should be held in custody in a suitable
40 hospital facility for treatment pending determination, by the court, of mental fitness to proceed;
41 and

42 (5) A recommendation as to whether the accused, if found by the court to be mentally
43 fit to proceed, should be detained in such hospital facility pending further proceedings.

44 4. If the accused has pleaded lack of responsibility due to mental disease or defect or has
45 given the written notice provided in subsection 2 of section 552.030, the court shall order the
46 report of the examination conducted pursuant to this section to include, in addition to the
47 information required in subsection 3 of this section, an opinion as to whether at the time of the
48 alleged criminal conduct the accused, as a result of mental disease or defect, did not know or
49 appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or
50 defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty
51 by reason of mental disease or defect shall not be accepted by the court in the absence of any
52 such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded
53 not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony
54 as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or
55 the attempts thereof, the court shall order the report of the examination to include an opinion as

56 to whether or not the accused should be immediately conditionally released by the court pursuant
57 to the provisions of section 552.040 or should be committed to a mental health or [mental
58 retardation] **developmental disability** facility. If such an evaluation is conducted at the direction
59 of the director of the department of mental health, the court shall also order the report of the
60 examination to include an opinion as to the conditions of release which are consistent with the
61 needs of the accused and the interest of public safety, including, but not limited to, the following
62 factors:

- 63 (1) Location and degree of necessary supervision of housing;
- 64 (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and
65 aftercare services, including the frequency of such services;
- 66 (3) Medication follow-up, including necessary testing to monitor medication compliance;
- 67 (4) At least monthly contact with the department's forensic case monitor;
- 68 (5) Any other conditions or supervision as may be warranted by the circumstances of the
69 case.

70 5. If the report contains the recommendation that the accused should be committed to
71 or held in a suitable hospital facility pending determination of the issue of mental fitness to
72 proceed, and if the accused is not admitted to bail or released on other conditions, the court may
73 order that the accused be committed to or held in a suitable hospital facility pending
74 determination of the issue of mental fitness to proceed.

75 6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit
76 attorney and to the accused or his counsel. The report shall not be a public record or open to the
77 public. Within ten days after the filing of the report, both the defendant and the state shall, upon
78 written request, be entitled to an order granting them an examination of the accused by a
79 psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one
80 year training or experience in providing treatment or services to [mentally retarded or mentally
81 ill individuals] **persons with an intellectual disability or developmental disability or mental**
82 **illness**, of their own choosing and at their own expense. An examination performed pursuant
83 to this subsection shall be completed and a report filed with the court within sixty days of the
84 date it is received by the department or private psychiatrist, psychologist or physician unless the
85 court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

86 7. If neither the state nor the accused nor his counsel requests a second examination
87 relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and
88 3 of this section, the court may make a determination and finding on the basis of the report filed
89 or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold
90 a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may
91 impanel a jury of six persons to assist in making the determination. The report or reports may

92 be received in evidence at any hearing on the issue but the party contesting any opinion therein
93 shall have the right to summon and to cross-examine the examiner who rendered such opinion
94 and to offer evidence upon the issue.

95 8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is
96 presumed to have the mental fitness to proceed. The burden of proving that the accused does not
97 have the mental fitness to proceed is by a preponderance of the evidence and the burden of going
98 forward with the evidence is on the party raising the issue. The burden of going forward shall
99 be on the state if the court raises the issue.

100 9. If the court determines that the accused lacks mental fitness to proceed, the criminal
101 proceedings shall be suspended and the court shall commit him to the director of the department
102 of mental health.

103 10. Any person committed pursuant to subsection 9 of this section shall be entitled to
104 the writ of habeas corpus upon proper petition to the court that committed him. The issue of the
105 mental fitness to proceed after commitment under subsection 9 of this section may also be raised
106 by a motion filed by the director of the department of mental health or by the state, alleging the
107 mental fitness of the accused to proceed. A report relating to the issue of the accused's mental
108 fitness to proceed may be attached thereto. If the motion is not contested by the accused or his
109 counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or
110 if he is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal
111 proceedings shall be resumed.

112 11. The following provisions shall apply after a commitment as provided in this section:

113 (1) Six months after such commitment, the court which ordered the accused committed
114 shall order an examination by the head of the facility in which the accused is committed, or a
115 qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether
116 there is a substantial probability that the accused will attain the mental fitness to proceed to trial
117 in the foreseeable future. The order shall direct that written report or reports of the examination
118 be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the
119 prosecuting attorney or circuit attorney and to the accused or his counsel. The report required
120 by this subsection shall conform to the requirements under subsection 3 of this section with the
121 additional requirement that it include an opinion, if the accused lacks mental fitness to proceed,
122 as to whether there is a substantial probability that the accused will attain the mental fitness to
123 proceed in the foreseeable future;

124 (2) Within ten days after the filing of the report, both the accused and the state shall,
125 upon written request, be entitled to an order granting them an examination of the accused by a
126 psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one
127 year training or experience in providing treatment or services to [mentally retarded or mentally
128 ill individuals] **persons with an intellectual disability or developmental disability or mental**

129 **illness**, of their own choosing and at their own expense. An examination performed pursuant
130 to this subdivision shall be completed and filed with the court within thirty days unless the court,
131 for good cause, orders otherwise. A copy shall be furnished to the opposing party;

132 (3) If neither the state nor the accused nor his counsel requests a second examination
133 relative to fitness to proceed or contests the findings of the report referred to in subdivision (1)
134 of this subsection, the court may make a determination and finding on the basis of the report
135 filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall
136 hold a hearing on the issue. The report or reports may be received in evidence at any hearing on
137 the issue but the party contesting any opinion therein relative to fitness to proceed shall have the
138 right to summon and to cross-examine the examiner who rendered such opinion and to offer
139 evidence upon the issue;

140 (4) If the accused is found mentally fit to proceed, the criminal proceedings shall be
141 resumed;

142 (5) If it is found that the accused lacks mental fitness to proceed but there is a substantial
143 probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the
144 court shall continue such commitment for a period not longer than six months, after which the
145 court shall reinstitute the proceedings required under subdivision (1) of this subsection;

146 (6) If it is found that the accused lacks mental fitness to proceed and there is no
147 substantial probability that the accused will be mentally fit to proceed in the reasonably
148 foreseeable future, the court shall dismiss the charges without prejudice and the accused shall
149 be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475,
150 in which case those sections and no others will be applicable. The probate division of the circuit
151 court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to
152 determine if the accused shall be involuntarily detained under chapter 632, or to determine if the
153 accused shall be declared incapacitated under chapter 475, and approved for admission by the
154 guardian under section 632.120 or 633.120, to a mental health or [retardation] **developmental**
155 **disability** facility. When such proceedings are filed, the criminal charges shall be dismissed
156 without prejudice if the court finds that the accused is mentally ill and should be committed or
157 that he is incapacitated and should have a guardian appointed. The period of limitation on
158 prosecuting any criminal offense shall be tolled during the period that the accused lacks mental
159 fitness to proceed.

160 12. If the question of the accused's mental fitness to proceed was raised after a jury was
161 impaneled to try the issues raised by a plea of not guilty and the court determines that the accused
162 lacks the mental fitness to proceed or orders the accused committed for an examination pursuant
163 to this section, the court may declare a mistrial. Declaration of a mistrial under these
164 circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not

165 constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the
166 same offense after he has been found restored to competency.

167 13. The result of any examinations made pursuant to this section shall not be a public
168 record or open to the public.

169 14. No statement made by the accused in the course of any examination or treatment
170 pursuant to this section and no information received by any examiner or other person in the
171 course thereof, whether such examination or treatment was made with or without the consent of
172 the accused or upon his motion or upon that of others, shall be admitted in evidence against the
173 accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court,
174 state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way
175 prejudice the accused in a defense to the crime charged on the ground that at the time thereof he
176 was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by
177 the court be introduced in evidence on that issue nor otherwise be brought to the notice of the
178 jury.

 552.030. 1. A person is not responsible for criminal conduct if, at the time of such
2 conduct, as a result of mental disease or defect such person was incapable of knowing and
3 appreciating the nature, quality, or wrongfulness of such person's conduct.

4 2. Evidence of mental disease or defect excluding responsibility shall not be admissible
5 at trial of the accused unless the accused, at the time of entering such accused's plea to the
6 charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless
7 within ten days after a plea of not guilty, or at such later date as the court may for good cause
8 permit, the accused files a written notice of such accused's purpose to rely on such defense. Such
9 a plea or notice shall not deprive the accused of other defenses. The state may accept a defense
10 of mental disease or defect excluding responsibility, whether raised by plea or written notice, if
11 the accused has no other defense and files a written notice to that effect. The state shall not
12 accept a defense of mental disease or defect excluding responsibility in the absence of any
13 pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance
14 of the defense of mental disease or defect excluding responsibility, the court shall proceed to
15 order the commitment of the accused as provided in section 552.040 in cases of persons
16 acquitted on the ground of mental disease or defect excluding responsibility, and further
17 proceedings shall be had regarding the confinement and release of the accused as provided in
18 section 552.040.

19 3. Whenever the accused has pleaded mental disease or defect excluding responsibility
20 or has given the written notice provided in subsection 2 of this section, and such defense has not
21 been accepted as provided in subsection 2 of this section, the court shall, after notice and upon
22 motion of either the state or the accused, by order of record, appoint one or more private
23 psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of

24 one year training or experience in providing treatment or services to [mentally retarded or
25 mentally ill individuals] **persons with an intellectual disability or developmental disability**
26 **or mental illness**, who are neither employees nor contractors of the department of mental health
27 for purposes of performing the examination in question, to examine the accused, or shall direct
28 the director of the department of mental health, or the director's designee, to have the accused
29 so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or
30 physicians with a minimum of one year training or experience in providing treatment or services
31 to [mentally retarded or mentally ill individuals] **persons with an intellectual disability or**
32 **developmental disability or mental illness** designated by the director, or the director's designee,
33 as qualified to perform examinations pursuant to this chapter. The order shall direct that written
34 report or reports of such examination be filed with the clerk of the court. No private psychiatrist,
35 psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist
36 or physician has consented to act. The examinations ordered shall be made at such time and
37 place and under such conditions as the court deems proper; except that, if the order directs the
38 director of the department of mental health to have the accused examined, the director, or the
39 director's designee, shall determine the time, place and conditions under which the examination
40 shall be conducted. The order may include provisions for the interview of witnesses and may
41 require the provision of police reports to the department for use in evaluation. If an examination
42 provided in section 552.020 was made and the report of such examination included an opinion
43 as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental
44 disease or defect, did not know or appreciate the nature, quality or wrongfulness of such
45 accused's conduct or as a result of mental disease or defect was incapable of conforming such
46 accused's conduct to the requirements of law, such report may be received in evidence, and no
47 new examination shall be required by the court unless, in the discretion of the court, another
48 examination is necessary. If an examination is ordered pursuant to this section, the report shall
49 contain the information required in subsections 3 and 4 of section 552.020. Within ten days after
50 receiving a copy of such report, both the accused and the state shall, upon written request, be
51 entitled to an order granting them an examination of the accused by an examiner of such
52 accused's or its own choosing and at such accused's or its expense. The clerk of the court shall
53 deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or
54 his counsel. No reports required by this subsection shall be public records or be open to the
55 public. Any examination performed pursuant to this subsection shall be completed and the
56 results shall be filed with the court within sixty days of the date it is received by the department
57 or private psychiatrist, psychologist or physician unless the court, for good cause, orders
58 otherwise.

59 4. If the report contains the recommendation that the accused should be held in custody
60 in a suitable hospital facility pending trial, and if the accused is not admitted to bail, or released
61 on other conditions, the court may order that the accused be committed to or held in a suitable
62 hospital facility pending trial.

63 5. No statement made by the accused in the course of any such examination and no
64 information received by any physician or other person in the course thereof, whether such
65 examination was made with or without the consent of the accused or upon the accused's motion
66 or upon that of others, shall be admitted in evidence against the accused on the issue of whether
67 the accused committed the act charged against the accused in any criminal proceeding then or
68 thereafter pending in any court, state or federal. The statement or information shall be
69 admissible in evidence for or against the accused only on the issue of the accused's mental
70 condition, whether or not it would otherwise be deemed to be a privileged communication. If
71 the statement or information is admitted for or against the accused on the issue of the accused's
72 mental condition, the court shall, both orally at the time of its admission and later by instruction,
73 inform the jury that it must not consider such statement or information as any evidence of
74 whether the accused committed the act charged against the accused.

75 6. All persons are presumed to be free of mental disease or defect excluding
76 responsibility for their conduct, whether or not previously adjudicated in this or any other state
77 to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court
78 may admit evidence presented at such adjudication based on its probative value. The issue of
79 whether any person had a mental disease or defect excluding responsibility for such person's
80 conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack
81 of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive.
82 Upon the introduction of substantial evidence of lack of such responsibility, the presumption
83 shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury
84 shall be instructed as to the existence and nature of such presumption when requested by the state
85 and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that
86 the burden rests upon the accused to show by a preponderance or greater weight of the credible
87 evidence that the defendant was suffering from a mental disease or defect excluding
88 responsibility at the time of the conduct charged against the defendant. At the request of the
89 defense the jury shall be instructed by the court as to the contents of subsection 2 of section
90 552.040.

91 7. When the accused is acquitted on the ground of mental disease or defect excluding
92 responsibility, the verdict and the judgment shall so state as well as state the offense for which
93 the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order
94 of commitment to the department of mental health pursuant to this section to the criminal records
95 central repository pursuant to section 43.503.

552.040. 1. For the purposes of this section, the following words mean:

2 (1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit
3 attorney of a city not within a county;

4 (2) "Secure facility", a state mental health facility, state [mental retardation]
5 **developmental disability** facility, private facility under contract with the department of mental
6 health, or a section within any of these facilities, in which persons committed to the department
7 of mental health pursuant to this chapter, shall not be permitted to move about the facility or
8 section of the facility, nor to leave the facility or section of the facility, without approval by the
9 head of the facility or such head's designee and adequate supervision consistent with the safety
10 of the public and the person's treatment, habilitation or rehabilitation plan;

11 (3) "Tried and acquitted" includes both pleas of mental disease or defect excluding
12 responsibility that are accepted by the court and acquittals on the ground of mental disease or
13 defect excluding responsibility following the proceedings set forth in section 552.030.

14 2. When an accused is tried and acquitted on the ground of mental disease or defect
15 excluding responsibility, the court shall order such person committed to the director of the
16 department of mental health for custody. The court shall also order custody and care in a state
17 mental health or retardation facility unless an immediate conditional release is granted pursuant
18 to this section. If the accused has not been charged with a dangerous felony as defined in section
19 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault
20 pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion
21 that the accused should be immediately conditionally released to the community by the court, the
22 court shall hold a hearing to determine if an immediate conditional release is appropriate
23 pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section.
24 Prior to the hearing, the court shall direct the director of the department of mental health, or the
25 director's designee, to have the accused examined to determine conditions of confinement in
26 accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section
27 shall be applicable to defendants granted an immediate conditional release and the director shall
28 honor the immediate conditional release as granted by the court. If the court determines that an
29 immediate conditional release is warranted, the court shall order the person committed to the
30 director of the department of mental health before ordering such a release. The court granting
31 the immediate conditional release shall retain jurisdiction over the case for the duration of the
32 conditional release. This shall not limit the authority of the director of the department of mental
33 health or the director's designee to revoke the conditional release or the trial release of any
34 committed person pursuant to subsection 17 of this section. If the accused is committed to a
35 mental health or [mental retardation] **developmental disability** facility, the director of the
36 department of mental health, or the director's designee, shall determine the time, place and
37 conditions of confinement.

38 3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140,
39 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370,
40 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section.
41 If the department does not have a treatment or rehabilitation program for a mental disease or
42 defect of an individual, that fact may not be the basis for a release from commitment.
43 Notwithstanding any other provision of law to the contrary, no person committed to the
44 department of mental health who has been tried and acquitted by reason of mental disease or
45 defect as provided in section 552.030 shall be conditionally or unconditionally released unless
46 the procedures set out in this section are followed. Upon request by an indigent committed
47 person, the appropriate court may appoint the office of the public defender to represent such
48 person in any conditional or unconditional release proceeding under this section.

49 4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of
50 this section shall be kept in a secure facility until such time as a court of competent jurisdiction
51 enters an order granting a conditional or unconditional release to a nonsecure facility.

52 5. The committed person or the head of the facility where the person is committed may
53 file an application in the court that committed the person seeking an order releasing the
54 committed person unconditionally; except that any person who has been denied an application
55 for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for
56 an unconditional release until the expiration of one year from such denial. In the case of a person
57 who was immediately conditionally released after being committed to the department of mental
58 health, the released person or the director of the department of mental health, or the director's
59 designee, may file an application in the same court that released the committed person seeking
60 an order releasing the committed person unconditionally. Copies of the application shall be
61 served personally or by certified mail upon the head of the facility unless the head of the facility
62 files the application, the committed person unless the committed person files the application, or
63 unless the committed person was immediately conditionally released, the director of the
64 department of mental health, and the prosecutor of the jurisdiction where the committed person
65 was tried and acquitted. Any party objecting to the proposed release must do so in writing within
66 thirty days after service. Within a reasonable period of time after any written objection is filed,
67 which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court
68 shall hold a hearing upon notice to the committed person, the head of the facility, if necessary,
69 the director of the department of mental health, and the prosecutor of the jurisdiction where the
70 person was tried. Prior to the hearing any of the parties, upon written application, shall be
71 entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined
72 in section 632.005, or a physician with a minimum of one year training or experience in
73 providing treatment or services to mentally retarded or mentally ill individuals of its own
74 choosing and at its expense. The report of the mental condition of the committed person shall

75 accompany the application. By agreement of all parties to the proceeding any report of the
76 mental condition of the committed person which may accompany the application for release or
77 which is filed in objection thereto may be received by evidence, but the party contesting any
78 opinion therein shall have the right to summon and to cross-examine the examiner who rendered
79 such opinion and to offer evidence upon the issue.

80 6. By agreement of all the parties and leave of court, the hearing may be waived, in
81 which case an order granting an unconditional release shall be entered in accordance with
82 subsection 8 of this section.

83 7. At a hearing to determine if the committed person should be unconditionally released,
84 the court shall consider the following factors in addition to any other relevant evidence:

85 (1) Whether or not the committed person presently has a mental disease or defect;

86 (2) The nature of the offense for which the committed person was committed;

87 (3) The committed person's behavior while confined in a mental health facility;

88 (4) The elapsed time between the hearing and the last reported unlawful or dangerous
89 act;

90 (5) Whether the person has had conditional releases without incident; and

91 (6) Whether the determination that the committed person is not dangerous to himself or
92 others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion
93 for any person committed to a mental health facility under the provisions of this section upon
94 acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party
95 seeking unconditional release to prove by clear and convincing evidence that the person for
96 whom unconditional release is sought does not have, and in the reasonable future is not likely
97 to have, a mental disease or defect rendering the person dangerous to the safety of himself or
98 others.

99 8. The court shall enter an order either denying the application for unconditional release
100 or granting an unconditional release. An order denying the application shall be without prejudice
101 to the filing of another application after the expiration of one year from the denial of the last
102 application.

103 9. No committed person shall be unconditionally released unless it is determined through
104 the procedures in this section that the person does not have, and in the reasonable future is not
105 likely to have, a mental disease or defect rendering the person dangerous to the safety of himself
106 or others.

107 10. The committed person or the head of the facility where the person is committed may
108 file an application in the court having probate jurisdiction over the facility where the person is
109 detained for a hearing to determine whether the committed person shall be released conditionally.
110 In the case of a person committed to a mental health facility upon acquittal on the grounds of
111 mental disease or defect excluding responsibility for a dangerous felony as defined in section

112 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to
113 section 566.040, any such application shall be filed in the court that committed the person. In
114 such cases, jurisdiction over the application for conditional release shall be in the committing
115 court. In the case of a person who was immediately conditionally released after being committed
116 to the department of mental health, the released person or the director of the department of
117 mental health, or the director's designee, may file an application in the same court that released
118 the person seeking to amend or modify the existing release. The procedures for application for
119 unconditional releases set out in subsection 5 of this section shall apply, with the following
120 additional requirements:

121 (1) A copy of the application shall also be served upon the prosecutor of the jurisdiction
122 where the person is being detained, unless the released person was immediately conditionally
123 released after being committed to the department of mental health, or unless the application was
124 required to be filed in the court that committed the person in which case a copy of the application
125 shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted
126 and the prosecutor of the jurisdiction into which the committed person is to be released;

127 (2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use
128 their best efforts to notify the victims of dangerous felonies. Notification by the appropriate
129 person or agency by certified mail to the most current address provided by the victim shall
130 constitute compliance with the victim notification requirement of this section;

131 (3) The application shall specify the conditions and duration of the proposed release;

132 (4) The prosecutor of the jurisdiction where the person is being detained shall represent
133 the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person
134 was tried and acquitted decides to appear to represent the public safety interest. If the application
135 for release was required to be filed in the committing court, the prosecutor of the jurisdiction
136 where the person was tried and acquitted shall represent the public safety interest. In the case
137 of a person who was immediately conditionally released after being committed to the department
138 of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall
139 appear and represent the public safety interest.

140 11. By agreement of all the parties, the hearing may be waived, in which case an order
141 granting a conditional release, stating the conditions and duration agreed upon by all the parties
142 and the court, shall be entered in accordance with subsection 13 of this section.

143 12. At a hearing to determine if the committed person should be conditionally released,
144 the court shall consider the following factors in addition to any other relevant evidence:

145 (1) The nature of the offense for which the committed person was committed;

146 (2) The person's behavior while confined in a mental health facility;

147 (3) The elapsed time between the hearing and the last reported unlawful or dangerous
148 act;

149 (4) The nature of the person's proposed release plan;

150 (5) The presence or absence in the community of family or others willing to take
151 responsibility to help the defendant adhere to the conditions of the release; and

152 (6) Whether the person has had previous conditional releases without incident. The
153 burden of persuasion for any person committed to a mental health facility under the provisions
154 of this section upon acquittal on the grounds of mental disease or defect excluding responsibility
155 shall be on the party seeking release to prove by clear and convincing evidence that the person
156 for whom release is sought is not likely to be dangerous to others while on conditional release.

157 13. The court shall enter an order either denying the application for a conditional release
158 or granting conditional release. An order denying the application shall be without prejudice to
159 the filing of another application after the expiration of one year from the denial of the last
160 application.

161 14. No committed person shall be conditionally released until it is determined that the
162 committed person is not likely to be dangerous to others while on conditional release.

163 15. If, in the opinion of the head of a facility where a committed person is being
164 detained, that person can be released without danger to others, that person may be released from
165 the facility for a trial release of up to ninety-six hours under the following procedure:

166 (1) The head of the facility where the person is committed shall notify the prosecutor of
167 the jurisdiction where the committed person was tried and acquitted and the prosecutor of the
168 jurisdiction into which the committed person is to be released at least thirty days before the date
169 of the proposed trial release;

170 (2) The notice shall specify the conditions and duration of the release;

171 (3) If no prosecutor to whom notice is required objects to the trial release, the committed
172 person shall be released according to conditions and duration specified in the notice;

173 (4) If any prosecutor objects to the trial release, the head of the facility may file an
174 application with the court having probate jurisdiction over the facility where the person is
175 detained for a hearing under the procedures set out in subsections 5 and 10 of this section with
176 the following additional requirements:

177 (a) A copy of the application shall also be served upon the prosecutor of the jurisdiction
178 into which the committed person is to be released; and

179 (b) The prosecutor or prosecutors who objected to the trial release shall represent the
180 public safety interest at the hearing; and

181 (5) The release criteria of subsections 12 to 14 of this section shall apply at such a
182 hearing.

183 16. The department shall provide or shall arrange for follow-up care and monitoring for
184 all persons conditionally released under this section and shall make or arrange for reviews and
185 visits with the client at least monthly, or more frequently as set out in the release plan, and

186 whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his
187 needs, condition and public safety. The department shall identify the facilities, programs or
188 specialized services operated or funded by the department which shall provide necessary levels
189 of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas
190 where they are released.

191 17. The director of the department of mental health, or the director's designee, may
192 revoke the conditional release or the trial release and request the return of the committed person
193 if such director or coordinator has reasonable cause to believe that the person has violated the
194 conditions of such release. If requested to do so by the director or coordinator, a peace officer
195 of a jurisdiction in which a patient on conditional release is found shall apprehend and return
196 such patient to the facility. No peace officer responsible for apprehending and returning the
197 committed person to the facility upon the request of the director or coordinator shall be civilly
198 liable for apprehending or transporting such patient to the facility so long as such duties were
199 performed in good faith and without negligence. If a person on conditional release is returned
200 to a facility under the provisions of this subsection, a hearing shall be held within ninety-six
201 hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated
202 the conditions of the release or whether resumption of full-time hospitalization is the least
203 restrictive alternative consistent with the person's needs and public safety. The director of the
204 department of mental health, or the director's designee, shall conduct the hearing. The person
205 shall be given notice at least twenty-four hours in advance of the hearing and shall have the right
206 to have an advocate present.

207 18. At any time during the period of a conditional release or trial release, the court which
208 ordered the release may issue a notice to the released person to appear to answer a charge of a
209 violation of the terms of the release and the court may issue a warrant of arrest for the violation.
210 Such notice shall be personally served upon the released person. The warrant shall authorize the
211 return of the released person to the custody of the court or to the custody of the director of mental
212 health or the director's designee.

213 19. The head of a mental health facility, upon any notice that a committed person has
214 escaped confinement, or left the facility or its grounds without authorization, shall immediately
215 notify the prosecutor and sheriff of the county wherein the committed person is detained of the
216 escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the
217 person was tried and acquitted.

218 20. Any person committed to a mental health facility under the provisions of this section
219 upon acquittal on the grounds of mental disease or defect excluding responsibility for a
220 dangerous felony as defined in section 556.061, murder in the first degree pursuant to section
221 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or

222 unconditional release under the provisions of this section unless, in addition to the requirements
223 of this section, the court finds that the following criteria are met:

224 (1) Such person is not now and is not likely in the reasonable future to commit another
225 violent crime against another person because of such person's mental illness; and

226 (2) Such person is aware of the nature of the violent crime committed against another
227 person and presently possesses the capacity to appreciate the criminality of the violent crime
228 against another person and the capacity to conform such person's conduct to the requirements of
229 law in the future.

630.003. 1. There is hereby created a department of mental health to be headed by a
2 mental health commission who shall appoint a director, by and with the advice and consent of
3 the senate. The director shall be the administrative head of the department and shall serve at the
4 pleasure of the commission and be compensated as provided by law for the director, division of
5 mental health. All employees of the department shall be selected in accordance with chapter 36.

6 2. (1) The "State Mental Health Commission", composed of seven members, is the
7 successor to the former state mental health commission and it has all the powers, duties and
8 responsibilities of the former commission. All members of the commission shall be appointed
9 by the governor, by and with the advice and consent of the senate. None of the members shall
10 otherwise be employed by the state of Missouri.

11 (2) Three of the commission members first appointed shall be appointed for terms of
12 four years, and two shall be appointed for terms of three years, and two shall be appointed for
13 a term of two years. The governor shall designate, at the time the appointments are made, the
14 length of the term of each member so appointed. Thereafter all terms shall be for four years.

15 (3) At least two of the members of the commission shall be physicians, one of whom
16 shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and
17 one of whom shall be recognized as an expert in the field of [mental retardation or of other]
18 **intellectual or** developmental disabilities. At least two of the members of the commission shall
19 be representative of persons or groups who are consumers having substantial interest in the
20 services provided by the division, one of whom shall represent [the mentally retarded or
21 developmentally disabled] **persons with an intellectual disability or developmental disability**
22 and one of whom shall represent those persons being treated for nervous and mental diseases.
23 Of the other three members at least one must be recognized for his expertise in general business
24 management procedures, and two shall be recognized for their interest and expertise in dealing
25 with alcohol/drug abuse problems, or community mental health services.

26 3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160,
27 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental
28 health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted

29 by the governor under chapter 26 are transferred by specific type transfer from the department
30 of public health and welfare to the department of mental health. The division of mental health,
31 department of health and welfare, chapter 202 and others are abolished and all powers, duties and
32 functions now assigned by law to the division, the director of the divisions of mental health or
33 any of the institutions or officials of the division are transferred by type I transfer to the
34 department of mental health.

35 4. The Missouri institute of psychiatry, which is under the board of curators of the
36 University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health".
37 The purpose of the institute will be that of conducting research into improving services for
38 persons served by the department of mental health for fostering the training of psychiatric
39 residents in public psychiatry and for fostering excellence in mental health services through
40 employee training and the study of mental health policy and ethics. To assist in this training,
41 hospitals operated by and providers contracting with the department of mental health may be
42 used for the same purposes and under the same arrangements as the board of curators of the
43 University of Missouri utilizes with other hospitals in the state in supervising residency training
44 for medical doctors. Appropriations requests for the Missouri institute of mental health shall be
45 jointly developed by the University of Missouri and the department of mental health. All
46 appropriations for the Missouri institute of mental health shall be made to the curators of the
47 University of Missouri but shall be submitted separately from the appropriations of the curators
48 of the University of Missouri.

49 5. There is hereby established within the department of mental health a division of
50 [mental retardation and] developmental disabilities. The director of the division shall be
51 appointed by the director of the department. The division shall administer all state facilities
52 under the direction and authority of the department director. The Marshall Habilitation Center,
53 the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada
54 Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the
55 regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar
56 Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be
57 established, are transferred by type I transfer to the division of [mental retardation and]
58 developmental disabilities.

59 6. All the duties, powers and functions of the advisory council on mental retardation and
60 community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer
61 to the division of mental retardation and developmental disabilities of the department of mental
62 health. The advisory council on mental retardation and community health centers shall be
63 appointed by the division director.

64 7. The advisory council on mental retardation and developmental disabilities heretofore
65 established by executive order and all of the duties, powers and functions of the advisory council

66 including the responsibilities of the provision of the council in regard to the Federal
67 Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type
68 I transfer to the division of mental retardation and developmental disabilities. The advisory
69 council on mental retardation and developmental disabilities shall be appointed by the director
70 of the division of mental retardation and developmental disabilities.

71 8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type
72 II transfer to the department of mental health and the members of the advisory council shall be
73 appointed by the mental health director.

630.005. As used in this chapter and chapters 631, 632, and 633, unless the context
2 clearly requires otherwise, the following terms shall mean:

3 (1) "Administrative entity", a provider of specialized services other than transportation
4 to clients of the department on behalf of a division of the department;

5 (2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication
6 or in a psychological or physiological dependency from continued use, which dependency
7 induces a mental, emotional or physical impairment and which causes socially dysfunctional
8 behavior;

9 (3) "Chemical restraint", medication administered with the primary intent of restraining
10 a patient who presents a likelihood of serious physical injury to himself or others, and not
11 prescribed to treat a person's medical condition;

12 (4) "Client", any person who is placed by the department in a facility or program licensed
13 and funded by the department or who is a recipient of services from a regional center, as defined
14 in section 633.005;

15 (5) "Commission", the state mental health commission;

16 (6) "Consumer", a person:

17 (a) Who qualifies to receive department services; or

18 (b) Who is a parent, child or sibling of a person who receives department services; or

19 (c) Who has a personal interest in services provided by the department. A person who
20 provides services to persons affected by [mental retardation,] **intellectual disabilities**,
21 developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not
22 be considered a consumer;

23 (7) "Day program", a place conducted or maintained by any person who advertises or
24 holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation
25 for persons affected by mental disorders, mental illness, [mental retardation,] **intellectual**
26 **disabilities**, developmental disabilities or alcohol or drug abuse for less than the full twenty-four
27 hours comprising each daily period;

28 (8) "Department", the department of mental health of the state of Missouri;

29 (9) "Developmental disability", a disability:

- 30 (a) Which is attributable to:
- 31 a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning
32 disability related to a brain dysfunction; or
- 33 b. Any other mental or physical impairment or combination of mental or physical
34 impairments; and
- 35 (b) Is manifested before the person attains age twenty- two; and
- 36 (c) Is likely to continue indefinitely; and
- 37 (d) Results in substantial functional limitations in two or more of the following areas of
38 major life activities:
- 39 a. Self-care;
- 40 b. Receptive and expressive language development and use;
- 41 c. Learning;
- 42 d. Self-direction;
- 43 e. Capacity for independent living or economic self- sufficiency;
- 44 f. Mobility; and
- 45 (e) Reflects the person's need for a combination and sequence of special,
46 interdisciplinary, or generic care, habilitation or other services which may be of lifelong or
47 extended duration and are individually planned and coordinated;
- 48 (10) "Director", the director of the department of mental health, or his designee;
- 49 (11) "Domiciled in Missouri", a permanent connection between an individual and the
50 state of Missouri, which is more than mere residence in the state; it may be established by the
51 individual being physically present in Missouri with the intention to abandon his previous
52 domicile and to remain in Missouri permanently or indefinitely;
- 53 (12) "Drug abuse", the use of any drug without compelling medical reason, which use
54 results in a temporary mental, emotional or physical impairment and causes socially
55 dysfunctional behavior, or in psychological or physiological dependency resulting from
56 continued use, which dependency induces a mental, emotional or physical impairment and causes
57 socially dysfunctional behavior;
- 58 (13) "Habilitation", a process of treatment, training, care or specialized attention which
59 seeks to enhance and maximize [the mentally retarded or developmentally disabled person's
60 abilities] **a person with an intellectual disability or a developmental disability** to cope with
61 the environment and to live as normally as possible;
- 62 (14) "Habilitation center", a residential facility operated by the department and serving
63 only persons who are [mentally retarded, including] developmentally disabled;
- 64 (15) "Head of the facility", the chief administrative officer, or his designee, of any
65 residential facility;

66 (16) "Head of the program", the chief administrative officer, or his designee, of any day
67 program;

68 (17) "Individualized habilitation plan", a document which sets forth habilitation goals
69 and objectives for [mentally retarded or developmentally disabled] residents and clients **with an**
70 **intellectual disability or a developmental disability**, and which details the habilitation program
71 as required by law, rules and funding sources;

72 (18) "Individualized rehabilitation plan", a document which sets forth the care, treatment
73 and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse,
74 and which details the rehabilitation program as required by law, rules and funding sources;

75 (19) "Individualized treatment plan", a document which sets forth the care, treatment and
76 rehabilitation goals and objectives for [mentally disordered or mentally ill] patients and clients
77 **with mental disorders or mental illness**, and which details the treatment program as required
78 by law, rules and funding sources;

79 (20) "Investigator", an employee or contract agent of the department of mental health
80 who is performing an investigation regarding an allegation of abuse or neglect or an investigation
81 at the request of the director of the department of mental health or his designee;

82 (21) "Least restrictive environment", a reasonably available setting or mental health
83 program where care, treatment, habilitation or rehabilitation is particularly suited to the level and
84 quality of services necessary to implement a person's individualized treatment, habilitation or
85 rehabilitation plan and to enable the person to maximize his **or her** functioning potential to
86 participate as freely as feasible in normal living activities, giving due consideration to potentially
87 harmful effects on the person and the safety of other facility or program clients and public safety.
88 For some [mentally disordered or mentally retarded] persons **with mental disorders,**
89 **intellectual disabilities, or developmental disabilities**, the least restrictive environment may
90 be a facility operated by the department, a private facility, a supported community living
91 situation, or an alternative community program designed for persons who are civilly detained for
92 outpatient treatment or who are conditionally released pursuant to chapter 632;

93 (22) "Mental disorder", any organic, mental or emotional impairment which has
94 substantial adverse effects on a person's cognitive, volitional or emotional function and which
95 constitutes a substantial impairment in a person's ability to participate in activities of normal
96 living;

97 (23) "Mental illness", a state of impaired mental processes, which impairment results in
98 a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty
99 perceptions or alterations of mood, and interferes with an individual's ability to reason,
100 understand or exercise conscious control over his actions. The term "mental illness" does not

101 include the following conditions unless they are accompanied by a mental illness as otherwise
102 defined in this subdivision:

- 103 (a) Mental retardation, developmental disability or narcolepsy;
- 104 (b) Simple intoxication caused by substances such as alcohol or drugs;
- 105 (c) Dependence upon or addiction to any substances such as alcohol or drugs;
- 106 (d) Any other disorders such as senility, which are not of an actively psychotic nature;
- 107 (24) "Mental retardation", significantly subaverage general intellectual functioning

108 which:

- 109 (a) Originates before age eighteen; and
- 110 (b) Is associated with a significant impairment in adaptive behavior;
- 111 (25) "Minor", any person under the age of eighteen years;
- 112 (26) "Patient", an individual under observation, care, treatment or rehabilitation by any
113 hospital or other mental health facility or mental health program pursuant to the provisions of
114 chapter 632;
- 115 (27) "Psychosurgery",
 - 116 (a) Surgery on the normal brain tissue of an individual not suffering from physical
117 disease for the purpose of changing or controlling behavior; or
 - 118 (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is
119 to control, change or affect behavioral disturbances, except seizure disorders;
- 120 (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain
121 normal or optimum health or constructive activity through care, treatment, training, counseling
122 or specialized attention;
- 123 (29) "Residence", the place where the patient has last generally lodged prior to admission
124 or, in case of a minor, where his family has so lodged; except, that admission or detention in any
125 facility of the department shall not be deemed an absence from the place of residence and shall
126 not constitute a change in residence;
- 127 (30) "Resident", a person receiving residential services from a facility, other than mental
128 health facility, operated, funded or licensed by the department;
- 129 (31) "Residential facility", any premises where residential prevention, evaluation, care,
130 treatment, habilitation or rehabilitation is provided for persons affected by mental disorders,
131 mental illness, [mental retardation] **intellectual disability**, developmental disabilities or alcohol
132 or drug abuse; except the person's dwelling;
- 133 (32) "Specialized service", an entity which provides prevention, evaluation,
134 transportation, care, treatment, habilitation or rehabilitation services to persons affected by
135 mental disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental
136 disabilities or alcohol or drug abuse;

137 (33) "Vendor", a person or entity under contract with the department, other than as a
138 department employee, who provides services to patients, residents or clients;

139 (34) "Vulnerable person", any person in the custody, care, or control of the department
140 that is receiving services from an operated, funded, licensed, or certified program.

630.010. 1. The state mental health commission, established by the omnibus
2 reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members
3 appointed by the governor, by and with the advice and consent of the senate. The terms of
4 members appointed under the reorganization act before August 13, 1980, shall continue until the
5 terms under which the members were regularly appointed expire. The terms shall be for four
6 years. Each commissioner shall hold office until his successor has been appointed and qualified.

7 2. The commission shall be comprised of members who are not prohibited from serving
8 by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state.
9 The commission shall be composed of the following:

10 (1) A physician recognized as an expert in the treatment of mental illness;

11 (2) A physician recognized as an expert in the evaluation or habilitation of [the mentally
12 retarded and developmentally disabled] **persons with an intellectual disability or**
13 **developmental disability;**

14 (3) A representative of groups who are consumers or families of consumers interested
15 in the services provided by the department in the treatment of mental illness;

16 (4) A representative of groups who are consumers or families of consumers interested
17 in the services provided by the department in the habilitation of [the mentally retarded] **persons**
18 **with an intellectual disability or developmental disability;**

19 (5) A person recognized for his expertise in general business matters and procedures;

20 (6) A person recognized for his interest and expertise in dealing with alcohol or drug
21 abuse; and

22 (7) A person recognized for his interest or expertise in community mental health
23 services.

24 3. Vacancies occurring on the commission shall be filled by appointment by the
25 governor, by and with the advice and consent of the senate, for the unexpired terms. In case of
26 a vacancy when the senate is not in session, the governor shall make a temporary appointment
27 until the next session of the general assembly, when he shall nominate someone to fill the office.

28 4. The commission shall elect from its members a chairman and a secretary. Meetings
29 shall be held at least once a month, and special meetings may be held at the call of the chairman.

30 5. The department shall pay the commission members one hundred dollars per day for
31 each day, or portion thereof, they actually spend in transacting the business of the commission

32 and shall reimburse the commission members for necessary expenses actually incurred in the
33 performance of their official duties.

630.053. 1. There is hereby created in the state treasury a fund to be known as the
2 "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned
3 from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money
4 in the mental health earnings fund shall not be transferred and placed to the credit of general
5 revenue at the end of the biennium.

6 2. Fees received pursuant to the substance abuse traffic offenders program shall be
7 deposited in the mental health earnings fund. Such fees shall not be used for personal services,
8 expenses and equipment or for any demonstration or other program. No other federal or state
9 funds shall be deposited in the fund, except for the purposes provided in subsections 3 [and 4]
10 **to 5** of this section. The moneys received from such fees shall be appropriated solely for
11 assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay
12 for the services they receive.

13 3. The mental health earnings fund may be used for the deposit of revenue received for
14 the provision of services under a managed care agreement entered into by the department of
15 mental health. Subject to the approval through the appropriation process, such revenues may be
16 expended for the purposes of providing such services pursuant to the managed care agreement
17 and for no other purpose and shall be accounted for separately from all other revenues deposited
18 in the fund.

19 4. The mental health earnings fund may, if approved through the appropriation process,
20 be used for the deposit of revenue received pursuant to an agreement entered into by the
21 department of mental health and an alcohol and drug abuse counselor certification board for the
22 purpose of providing oversight of counselor certification. Such revenue shall be accounted for
23 separately from all other revenues deposited in the fund.

24 5. **The mental health earnings fund may be used for the deposit of revenue received**
25 **from proceeds of any sales and services from Mental Health First Aid USA. Subject to the**
26 **approval through the appropriation process, such proceeds shall be used for the purpose**
27 **of funding Mental Health First Aid USA activities and shall be accounted for separately**
28 **from all other revenues deposited in the fund.**

29 6. The department of mental health shall promulgate rules and regulations to implement
30 and administer the provisions of this section. No rule or portion of a rule promulgated pursuant
31 to the authority of this chapter shall become effective unless it has been promulgated pursuant
32 to the provisions of section 536.024.

630.095. The department may copyright or obtain a trademark for any instructional,
2 training and informational audio-visual materials, manuals and documents which are prepared

3 by department personnel or by persons who receive department funding to prepare such material.
4 If the material is sold directly or for distribution, the department shall pay the proceeds of the
5 sales to the director of revenue for deposit to the general revenue fund, **except for proceeds**
6 **received under subsection 5 of section 630.053.**

630.097. 1. The department of mental health shall develop, in partnership with all
2 departments represented on the children's services commission, a unified accountable
3 comprehensive children's mental health service system. The department of mental health shall
4 establish a state interagency comprehensive children's mental health service system team
5 comprised of representation from:

- 6 (1) Family-run organizations and family members;
- 7 (2) Child advocate organizations;
- 8 (3) The department of health and senior services;
- 9 (4) The department of social services' children's division, division of youth services, and
10 the division of medical services;
- 11 (5) The department of elementary and secondary education;
- 12 (6) The department of mental health's division of alcohol and drug abuse, division of
13 [mental retardation and] developmental disabilities, and the division of comprehensive
14 psychiatric services;
- 15 (7) The department of public safety;
- 16 (8) The office of state courts administrator;
- 17 (9) The juvenile justice system; and
- 18 (10) Local representatives of the member organizations of the state team to serve
19 children with emotional and behavioral disturbance problems, developmental disabilities, and
20 substance abuse problems. The team shall be called "The Comprehensive System Management
21 Team". There shall be a stakeholder advisory committee to provide input to the comprehensive
22 system management team to assist the departments in developing strategies and to ensure
23 positive outcomes for children are being achieved. The department of mental health shall obtain
24 input from appropriate consumer and family advocates when selecting family members for the
25 comprehensive system management team, in consultation with the departments that serve on the
26 children's services commission. The implementation of a comprehensive system shall include
27 all state agencies and system partner organizations involved in the lives of the children served.
28 These system partners may include private and not-for-profit organizations and representatives
29 from local system of care teams and these partners may serve on the stakeholder advisory
30 committee. The department of mental health shall promulgate rules for the implementation of
31 this section in consultation with all of the departments represented on the children's services
32 commission.

33 2. The department of mental health shall, in partnership with the departments serving on
34 the children's services commission and the stakeholder advisory committee, develop a state
35 comprehensive children's mental health service system plan. This plan shall be developed and
36 submitted to the governor, the general assembly, and children's services commission by
37 December, 2004. There shall be subsequent annual reports that include progress toward
38 outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

39 (1) Describe the mental health service and support needs of Missouri's children and their
40 families, including the specialized needs of specific segments of the population;

41 (2) Define the comprehensive array of services including services such as intensive
42 home-based services, early intervention services, family support services, respite services, and
43 behavioral assistance services;

44 (3) Establish short- and long-term goals, objectives, and outcomes;

45 (4) Describe and define the parameters for local implementation of comprehensive
46 children's mental health system teams;

47 (5) Describe and emphasize the importance of family involvement in all levels of the
48 system;

49 (6) Describe the mechanisms for financing, and the cost of implementing the
50 comprehensive array of services;

51 (7) Describe the coordination of services across child- serving agencies and at critical
52 transition points, with emphasis on the involvement of local schools;

53 (8) Describe methods for service, program, and system evaluation;

54 (9) Describe the need for, and approaches to, training and technical assistance; and

55 (10) Describe the roles and responsibilities of the state and local child-serving agencies
56 in implementing the comprehensive children's mental health care system.

57 3. The comprehensive system management team shall collaborate to develop uniform
58 language to be used in intake and throughout the provision of services.

59 4. The comprehensive children's mental health services system shall:

60 (1) Be child centered, family focused, strength based, and family driven, with the needs
61 of the child and family dictating the types and mix of services provided, and shall include the
62 families as full participants in all aspects of the planning and delivery of services;

63 (2) Provide community-based mental health services to children and their families in the
64 context in which the children live and attend school;

65 (3) Respond in a culturally competent and responsive manner;

66 (4) Emphasize prevention, early identification, and intervention;

67 (5) Assure access to a continuum of services that:

68 (a) Educate the community about the mental health needs of children;

69 (b) Address the unique physical, behavioral, emotional, social, developmental, and
70 educational needs of children;

71 (c) Are coordinated with the range of social and human services provided to children and
72 their families by local school districts, **the departments of** social services, health and senior
73 services, **and** public safety, juvenile offices, and the juvenile and family courts;

74 (d) Provide a comprehensive array of services through an integrated service plan;

75 (e) Provide services in the least restrictive most appropriate environment that meets the
76 needs of the child; and

77 (f) Are appropriate to the developmental needs of children;

78 (6) Include early screening and prompt intervention to:

79 (a) Identify and treat the mental health needs of children in the least restrictive
80 environment appropriate to their needs; and

81 (b) Prevent further deterioration;

82 (7) Address the unique problems of paying for mental health services for children,
83 including:

84 (a) Access to private insurance coverage;

85 (b) Public funding, including:

86 a. Assuring that funding follows children across departments; and

87 b. Maximizing federal financial participation;

88 (c) Private funding and services;

89 (8) Assure a smooth transition from child to adult mental health services when needed;

90 (9) Coordinate a service delivery system inclusive of services, providers, and schools that
91 serve children and youth with emotional and behavioral disturbance problems, and their families
92 through state agencies that serve on the state comprehensive children's management team; and

93 (10) Be outcome based.

94 5. By August 28, 2007, and periodically thereafter, the children's services commission
95 shall conduct and distribute to the general assembly an evaluation of the implementation and
96 effectiveness of the comprehensive children's mental health care system, including an assessment
97 of family satisfaction and the progress of achieving outcomes.

630.120. No patient or resident, either voluntary or involuntary, shall be presumed to be
2 incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability
3 as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care,
4 treatment, habilitation or rehabilitation for a mental disorder, mental illness, [mental retardation]
5 **intellectual disability**, developmental disability, alcohol problem or drug problem.

630.165. 1. When any physician, physician assistant, dentist, chiropractor, optometrist,
2 podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed

3 professional counselor, certified substance abuse counselor, psychologist, other health
4 practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical
5 therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential
6 facility, day program, group home or [mental retardation] **developmental disability** facility as
7 defined in section 633.005, or specialized service operated, licensed, certified, or funded by the
8 department or in a mental health facility or mental health program in which people may be
9 admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the
10 departments of social services, mental health, or health and senior services; or home health
11 agency or home health agency employee; hospital and clinic personnel engaged in examination,
12 care, or treatment of persons; in-home services owner, provider, operator, or employee; law
13 enforcement officer, long-term care facility administrator or employee; mental health
14 professional, probation or parole officer, or other nonfamilial person with responsibility for the
15 care of a patient, resident, or client of a facility, program, or service has reasonable cause to
16 suspect that a patient, resident or client of a facility, program or service has been subjected to
17 abuse or neglect or observes such person being subjected to conditions or circumstances that
18 would reasonably result in abuse or neglect, he or she shall immediately report or cause a report
19 to be made to the department in accordance with section 630.163.

20 2. Any person who knowingly fails to make a report as required in subsection 1 of this
21 section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand
22 dollars. Penalties collected for violations of this section shall be transferred to the state school
23 moneys fund as established in section 166.051 and distributed to the public schools of this state
24 in the manner provided in section 163.031. Such penalties shall not considered charitable for
25 tax purposes.

26 3. Every person who has been previously convicted of or pled guilty to failing to make
27 a report as required in subsection 1 of this section and who is subsequently convicted of failing
28 to make a report under subsection 2 of this section is guilty of a class D felony and shall be
29 subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection
30 shall be transferred to the state school moneys fund as established in section 166.051 and
31 distributed to the public schools of this state in the manner provided in section 163.031. Such
32 penalties shall not considered charitable for tax purposes.

33 4. Any person who knowingly files a false report of vulnerable person abuse or neglect
34 is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars.
35 Penalties collected for violations of this subsection shall be transferred to the state school
36 moneys fund as established in section 166.051 and distributed to the public schools of this state
37 in the manner provided in section 163.031. Such penalties shall not considered charitable for
38 tax purposes.

39 5. Every person who has been previously convicted of or pled guilty to making a false
40 report to the department and who is subsequently convicted of making a false report under
41 subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five
42 thousand dollars. Penalties collected for violations of this subsection shall be transferred to the
43 state school moneys fund as established in section 166.051 and distributed to the public schools
44 of this state in the manner provided in section 163.031. Such penalties shall not considered
45 charitable for tax purposes.

46 6. Evidence of prior convictions of false reporting shall be heard by the court, out of the
47 hearing of the jury, prior to the submission of the case to the jury, and the court shall determine
48 the existence of the prior convictions.

49 7. Any residential facility, day program, or specialized service operated, funded, or
50 licensed by the department that prevents or discourages a patient, resident, [or] client, employee,
51 or other person from reporting that a patient, resident, or client of a facility, program, or service
52 has been abused or neglected shall be subject to loss of their license issued pursuant to sections
53 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or
54 discourage reporting.

 630.167. 1. Upon receipt of a report, the department or the department of health and
2 senior services, if such facility or program is licensed pursuant to chapter 197, shall initiate an
3 investigation within twenty-four hours.

4 2. If the investigation indicates possible abuse or neglect of a patient, resident or client,
5 the investigator shall refer the complaint together with the investigator's report to the department
6 director for appropriate action. If, during the investigation or at its completion, the department
7 has reasonable cause to believe that immediate removal from a facility not operated or funded
8 by the department is necessary to protect the residents from abuse or neglect, the department or
9 the local prosecuting attorney may, or the attorney general upon request of the department shall,
10 file a petition for temporary care and protection of the residents in a circuit court of competent
11 jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to
12 issue an ex parte order granting the department authority for the temporary care and protection
13 of the resident for a period not to exceed thirty days.

14 3. (1) Except as otherwise provided in this section, reports referred to in section 630.165
15 and the investigative reports referred to in this section shall be confidential, shall not be deemed
16 a public record, and shall not be subject to the provisions of section 109.180 or chapter 610.
17 Investigative reports pertaining to abuse and neglect shall remain confidential until a final report
18 is complete, subject to the conditions contained in this section. Final reports of substantiated
19 abuse or neglect issued on or after August 28, 2007, are open and shall be available for release
20 in accordance with chapter 610. The names and all other identifying information in such final
21 substantiated reports, including diagnosis and treatment information about the patient, resident,

22 or client who is the subject of such report, shall be confidential and may only be released to the
23 patient, resident, or client who has not been adjudged incapacitated under chapter 475, the
24 custodial parent or guardian parent, or other guardian of the patient, resident or client. The
25 names and other descriptive information of the complainant, witnesses, or other persons for
26 whom findings are not made against in the final substantiated report shall be confidential and not
27 deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall
28 remain closed records and shall only be released to the parents or other guardian of the patient,
29 resident, or client who is the subject of such report, patient, resident, or client and the department
30 vendor, provider, agent, or facility where the patient, resident, or client was receiving department
31 services at the time of the unsubstantiated allegations of abuse and neglect, but the names and
32 any other descriptive information of the complainant or any other person mentioned in the
33 reports shall not be disclosed unless such complainant or person specifically consents to such
34 disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from
35 a patient, resident or client who has not been adjudged incapacitated under chapter 475 may be
36 denied or withheld if the director of the department or his or her designee determines that such
37 release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation,
38 or the safety of others and provided that the reasons for such denial or withholding are submitted
39 in writing to the patient, resident or client who has not been adjudged incapacitated under chapter
40 475. All reports referred to in this section shall be admissible in any judicial proceedings or
41 hearing in accordance with section [36.390] **621.075** or any administrative hearing before the
42 director of the department of mental health, or the director's designee. All such reports may be
43 disclosed by the department of mental health to law enforcement officers and public health
44 officers, but only to the extent necessary to carry out the responsibilities of their offices, and to
45 the department of social services, and the department of health and senior services, and to boards
46 appointed pursuant to sections 205.968 to 205.990 that are providing services to the patient,
47 resident or client as necessary to report or have investigated abuse, neglect, or rights violations
48 of patients, residents or clients provided that all such law enforcement officers, public health
49 officers, department of social services' officers, department of health and senior services' officers,
50 and boards shall be obligated to keep such information confidential.

51 (2) Except as otherwise provided in this section, the proceedings, findings, deliberations,
52 reports and minutes of committees of health care professionals as defined in section 537.035 or
53 mental health professionals as defined in section 632.005 who have the responsibility to evaluate,
54 maintain, or monitor the quality and utilization of mental health services are privileged and shall
55 not be subject to the discovery, subpoena or other means of legal compulsion for their release
56 to any person or entity or be admissible into evidence into any judicial or administrative action
57 for failure to provide adequate or appropriate care. Such committees may exist, either within
58 department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise

59 provided in this section, no person who was in attendance at any investigation or committee
60 proceeding shall be permitted or required to disclose any information acquired in connection
61 with or in the course of such proceeding or to disclose any opinion, recommendation or
62 evaluation of the committee or board or any member thereof; provided, however, that
63 information otherwise discoverable or admissible from original sources is not to be construed
64 as immune from discovery or use in any proceeding merely because it was presented during
65 proceedings before any committee or in the course of any investigation, nor is any member,
66 employee or agent of such committee or other person appearing before it to be prevented from
67 testifying as to matters within their personal knowledge and in accordance with the other
68 provisions of this section, but such witness cannot be questioned about the testimony or other
69 proceedings before any investigation or before any committee.

70 (3) Nothing in this section shall limit authority otherwise provided by law of a health
71 care licensing board of the state of Missouri to obtain information by subpoena or other
72 authorized process from investigation committees or to require disclosure of otherwise
73 confidential information relating to matters and investigations within the jurisdiction of such
74 health care licensing boards; provided, however, that such information, once obtained by such
75 board and associated persons, shall be governed in accordance with the provisions of this
76 subsection.

77 (4) Nothing in this section shall limit authority otherwise provided by law in
78 subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the
79 entity or agency authorized to implement a system to protect and advocate the rights of persons
80 with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and
81 the entity or agency authorized to implement a system to protect and advocate the rights of
82 persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this
83 section shall serve to negate assurances that have been given by the governor of Missouri to the
84 U.S. Administration on Developmental Disabilities, Office of Human Development Services,
85 Department of Health and Human Services concerning access to records by the agency
86 designated as the protection and advocacy system for the state of Missouri. However, such
87 information, once obtained by such entity or agency, shall be governed in accordance with the
88 provisions of this subsection.

89 4. Anyone who makes a report pursuant to this section or who testifies in any
90 administrative or judicial proceeding arising from the report shall be immune from any civil
91 liability for making such a report or for testifying unless such person acted in bad faith or with
92 malicious purpose.

93 5. Within five working days after a report required to be made pursuant to this section
94 is received, the person making the report shall be notified in writing of its receipt and of the
95 initiation of the investigation.

96 6. No person who directs or exercises any authority in a residential facility, day program
97 or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client
98 or employee because he or she or any member of his or her family has made a report of any
99 violation or suspected violation of laws, ordinances or regulations applying to the facility which
100 he or she has reasonable cause to believe has been committed or has occurred.

101 7. Any person who is discharged as a result of an administrative substantiation of
102 allegations contained in a report of abuse or neglect may, after exhausting administrative
103 remedies as provided in chapter 36, appeal such decision to the circuit court of the county in
104 which such person resides within ninety days of such final administrative decision. The court
105 may accept an appeal up to twenty-four months after the party filing the appeal received notice
106 of the department's determination, upon a showing that:

- 107 (1) Good cause exists for the untimely commencement of the request for the review;
108 (2) If the opportunity to appeal is not granted it will adversely affect the party's
109 opportunity for employment; and
110 (3) There is no other adequate remedy at law.

 630.183. Subject to other provisions of this chapter, the head of a mental health or
2 [mental retardation] **developmental disability** facility may authorize the medical and surgical
3 treatment of a patient or resident under the following circumstances:

- 4 (1) Upon consent of a patient or resident who is competent;
5 (2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or
6 legally incapacitated;
7 (3) Pursuant to the provisions of chapter 431;
8 (4) Pursuant to an order of a court of competent jurisdiction.

 630.192. No biomedical or pharmacological research shall be conducted in any mental
2 health facility or mental health program in which people may be civilly detained pursuant to
3 chapter 632 or in any public or private residential facilities or day programs operated, funded or
4 licensed by the department for persons affected by [mental retardation] **intellectual disabilities**,
5 developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such
6 research is intended to alleviate or prevent the disabling conditions or is reasonably expected to
7 be of direct therapeutic benefit to the participants. Without a specific court order, no involuntary
8 patient shall consent to participate in any biomedical or pharmacological research. The
9 application for the order shall be filed in the court having probate jurisdiction in the county in
10 which the mental health facility is located, provided, however, that if the patient requests that the
11 hearing be held by the court which has committed the patient, or if the court having probate
12 jurisdiction deems it appropriate, the hearing on the application shall be transferred to the
13 committing court.

630.210. 1. The director shall determine the maximum amount for services which shall
2 be charged in each of the residential facilities, day programs or specialized services operated or
3 funded by the department for full-time or part-time inpatient, resident or outpatient evaluation,
4 care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental
5 disorder, mental illness, [mental retardation,] **intellectual disability**, developmental disability,
6 or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost
7 or actual outpatient evaluation or other service costs of each facility, program or service, which
8 may vary from one locality to another. The director shall promulgate rules setting forth a
9 reasonable standard means test which shall be applied by all facilities, programs and services
10 operated or funded by the department in determining the amount to be charged to persons
11 receiving services. The department shall pay, out of funds appropriated to it for such purpose,
12 all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and
13 board provided or arranged by the department for any patient, resident or client who is domiciled
14 in Missouri and who is unable to pay fully for services.

15 2. The director shall apply the standard means test annually and may make application
16 of the test upon his own initiative or upon request of an interested party whenever evidence is
17 offered tending to show that the current support status of any patient, resident or client is no
18 longer proper. Any change of support status shall be retroactive to the date of application or
19 request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse
20 to cooperate in providing information necessary to properly apply the test or if retroactive
21 benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a
22 date prior to the date of application or request for review. The decision of the director in
23 determining the amount to be charged for services to a patient, resident or client shall be final.
24 Appeals from the determination may be taken to the circuit court of Cole County or the county
25 where the person responsible for payment resides in the manner provided by chapter 536.

26 3. The department shall not pay for services provided to a patient, resident or client who
27 is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the
28 department may pay for services provided to a transient person for up to thirty days pending
29 verification of his domiciliary state, and for services provided for up to thirty days in an
30 emergency situation. The director shall promulgate rules for determination of the domiciliary
31 state of any patient, resident or client receiving services from a facility, program or service
32 operated or funded by the department.

33 4. Whenever a patient, resident or client is receiving services from a residential facility,
34 day program or specialized service operated or funded by the department, and the state, county,
35 municipality, parent, guardian or other person responsible for support of the patient, resident or
36 client fails to pay any installment required to be paid for support, the department or the
37 residential facility, day program or specialized service may discharge the patient, resident or

38 client as provided by chapter 31. The patient, resident or client shall not be discharged under this
39 subsection until the final disposition of any appeal filed under subsection 2 of this section.

40 5. The standard means test may be waived for a child in need of mental health services
41 to avoid inappropriate custody transfers to the children's division. The department of mental
42 health shall notify the child's parent or custodian that the standard means test may be waived.
43 The department of mental health shall promulgate rules for waiving the standard means test.
44 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
45 authority delegated in this section shall become effective only if it complies with and is subject
46 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
47 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
48 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
49 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
50 or adopted after August 28, 2004, shall be invalid and void.

630.335. 1. With the approval of the director, the head of any of the department's mental
2 health or [mental retardation] **developmental disability** facilities or regional centers may
3 establish and operate a canteen or commissary for the use and benefit of patients, residents and
4 employees.

5 2. Each facility or center shall keep revenues received from the canteen or commissary
6 established and operated by the head of the facility in a separate account. The acquisition cost
7 of goods sold and other expenses shall be paid from this account. A minimum amount of money
8 necessary to meet cash flow needs and current operating expenses may be kept in this account.
9 The remaining funds from sales of each commissary or canteen shall be deposited monthly in
10 the state treasury to the credit of the mental health trust fund. The money in the fund shall be
11 expended, upon appropriation, for the benefit of the patients in the improvement of the
12 recreation, habilitation or treatment services or equipment of the facility or center from which
13 derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the
14 mental health trust fund shall be retained for the purposes specified in this section and shall not
15 revert or be transferred to general revenue. The department of mental health shall keep accurate
16 records of the source of money deposited in the mental health trust fund and shall allocate
17 appropriations from the fund to the appropriate institution, facility or center.

630.405. 1. The department may purchase services for patients, residents or clients from
2 private and public vendors in this state with funds appropriated for this purpose.

3 2. Services that may be purchased may include prevention, diagnosis, evaluation,
4 treatment, habilitation, rehabilitation, transportation and other special services for persons
5 affected by mental disorders, mental illness, [mental retardation,] **intellectual disabilities**,
6 developmental disabilities or alcohol or drug abuse.

7 3. The commissioner of administration, in consultation with the director, shall
8 promulgate rules establishing procedures consistent with the usual state purchasing procedures
9 pursuant to chapter 34 for the purchase of services pursuant to this section. The commissioner
10 may authorize the department to purchase any technical service which, in his judgment, can best
11 be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the
12 department to purchase timely services appropriate to the needs of the patients, residents or
13 clients of the department.

14 4. The commissioner of administration may promulgate rules authorizing the department
15 to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with
16 vendors as defined in subsection 1 of this section that fail to comply with the requirements of
17 section 210.906.

18 5. The commissioner of administration may promulgate rules for a waiver of chapter 34
19 bidding procedures for the purchase of services for patients, residents and clients with funds
20 appropriated for that purpose if, in the commissioner's judgment, such services can best be
21 purchased directly by the department.

22 6. No rule or portion of a rule promulgated pursuant to the authority of this section shall
23 become effective unless it has been promulgated pursuant to the provisions of chapter 536.

630.425. 1. The department may make incentive grants from funds specifically
2 appropriated for this purpose to private and public entities seeking to establish a residential
3 facility, day program or specialized service for persons affected by mental disorders, mental
4 illness, [mental retardation,] **intellectual disabilities**, developmental disabilities or alcohol or
5 drug abuse in unserved, underserved or inappropriately served areas of the state.

6 2. The department shall promulgate rules establishing procedures for monitoring and
7 auditing such grants.

8 3. The grants shall be of limited duration of one year and renewable for only one
9 additional year if the funds are appropriated for this purpose.

630.510. At least once every three years, the department shall conduct a complete
2 statewide inventory of its existing facilities and a survey of needs for persons affected by mental
3 disorders, mental illness, [mental retardation,] **intellectual disabilities**, developmental
4 disabilities and alcohol or drug abuse, and shall make a public report of its inventory and survey
5 and recommend a state plan for the construction of additional facilities.

630.605. The department shall establish a placement program for persons affected by a
2 mental disorder, mental illness, [mental retardation,] **intellectual disability**, developmental
3 disability or alcohol or drug abuse. The department may utilize residential facilities, day
4 programs and specialized services which are designed to maintain a person who is accepted in
5 the placement program in the least restrictive environment in accordance with the person's
6 individualized treatment, habilitation or rehabilitation plan. The department shall license, certify

7 and fund, subject to appropriations, a continuum of facilities, programs and services short of
8 admission to a department facility to accomplish this purpose.

630.610. 1. If the head of a facility operated by the department determines that
2 placement out of the facility would be appropriate for any patient or resident, the head of the
3 facility shall refer the patient or resident for placement according to the department's rules. If
4 a patient or resident is accepted and placed under this chapter, then the patient or resident shall
5 be considered as discharged as a patient or resident of the facility and reclassified as a client of
6 the department.

7 2. Any person, his authorized representative, his parent, if the person is a minor, his
8 guardian, a court of competent jurisdiction or a state or private facility or agency having custody
9 of the person may apply for placement of the person under this chapter.

10 3. If the department finds the application to be appropriate after review, it shall provide
11 for or arrange for a comprehensive evaluation, and the preparation of an individualized
12 treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a
13 department facility or directly, to determine if he meets the following criteria:

14 (1) The person is affected by a mental disorder, mental illness, [mental retardation,]
15 **intellectual disability**, developmental disability or alcohol or drug abuse; and

16 (2) The person is in need of special care, treatment, habilitation or rehabilitation services
17 as described in this chapter, including room or board, or both; provided, however, that no person
18 shall be accepted for placement if the sole reason for the application or referral is that residential
19 placement is necessary for a school-aged child, as defined in chapter 162, to receive an
20 appropriate special education.

630.635. 1. If a resident in a [mental retardation] **developmental disability** facility, or
2 his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement,
3 the head of the [mental retardation] **developmental disability** facility may petition, under the
4 procedures in section 633.135, the director of the division of [mental retardation and]
5 developmental disabilities to determine whether the proposed placement is appropriate under
6 chapter 633.

7 2. If a patient in a mental health facility, or his parent if he is a minor, or his legal
8 guardian refuses to consent to the proposed placement, the head of the mental health facility may
9 petition the director of the division of comprehensive psychiatric services to determine whether
10 the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

11 3. The director of the division of comprehensive psychiatric services shall refer the
12 petition to the chairman of the state advisory council for his division who shall appoint and
13 convene a review panel composed of three members. At least one member of the panel shall be
14 a family member or guardian of a patient who resides in a mental health facility operated by the

15 department. The remaining members of the panel shall be persons who are from
16 nongovernmental organizations or groups concerned with the prevention of mental disorders,
17 evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the
18 patient the department seeks to place and who are familiar with services and service needs of
19 persons in mental health facilities operated by the department. No member of the panel shall be
20 an officer or employee of the department.

21 4. After prompt notice and hearing, the panel shall determine whether the proposed
22 placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be
23 electronically recorded for purposes of obtaining a transcript. The council shall forward the tape
24 recording, recommended findings of fact, conclusions of law, and decision to the director who
25 shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's
26 decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered
27 mail, return receipt requested. The director shall expedite this review in all respects.

28 5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision
29 of the director, he may appeal the decision, within thirty days after notice of the decision is sent,
30 to the circuit court of the county where the patient or resident, or his parent if he is a minor, or
31 his guardian resides. The court shall review the record, proceedings and decision of the director
32 not only under the provisions of chapter 536, but also as to whether or not the head of the facility
33 or the department sustained its burden of proof that the proposed placement is appropriate under
34 sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects.
35 Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and
36 consider additional competent and material evidence.

37 6. The notice and procedure for the hearing by the panel shall be in accordance with
38 chapter 536.

39 7. In all proceedings either before the panel or before the circuit court, the burden of
40 proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that
41 the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615
42 and 630.120.

43 8. Pending the convening of the hearing panel and the final decision of the director or
44 the court if the director's decision is appealed, the department shall not place or discharge the
45 patient from a facility except that the department may temporarily transfer such patient in the
46 case of a medical emergency.

47 9. There shall be no retaliation against any state employee as the result of a good faith
48 decision to place the patient which is appealed and who testifies during a hearing or otherwise
49 provides information or evidence in regard to a proposed placement.

630.705. 1. The department shall promulgate rules setting forth reasonable standards
2 for residential facilities and day programs for persons who are affected by a mental disorder,
3 mental illness, [mental retardation] **intellectual disability**, or developmental disability.

4 2. The rules shall provide for the facilities and programs to be reasonably classified as
5 to resident or client population, size, type of services or other reasonable classification. The
6 department shall design the rules to promote and regulate safe, humane and adequate facilities
7 and programs for the care, treatment, habilitation and rehabilitation of persons described in
8 subsection 1 of this section.

9 3. The following residential facilities and day programs shall not be licensed by the
10 department:

11 (1) Any facility or program which relies solely upon the use of prayer or spiritual
12 healing;

13 (2) Any educational, special educational or vocational program operated, certified or
14 approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations
15 promulgated by the board;

16 (3) Any hospital, facility, program or entity operated by this state or the United States;
17 except that facilities operated by the department shall meet these standards;

18 (4) Any hospital, facility or other entity, excluding those with persons who are mentally
19 retarded and developmentally disabled as defined in section 630.005 otherwise licensed by the
20 state and operating under such license and within the limits of such license, unless the majority
21 of the persons served receive activities and services normally provided by a licensed facility
22 pursuant to this chapter;

23 (5) Any hospital licensed by the department of social services as a psychiatric hospital
24 pursuant to chapter 197;

25 (6) Any facility or program accredited by the Joint Commission on Accreditation of
26 Hospitals, the American Osteopathic Association, Accreditation Council for Services for
27 Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of
28 Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation
29 Facilities;

30 (7) Any facility or program caring for less than four persons whose care is not funded
31 by the department.

630.715. 1. The department shall establish a procedure for the licensing of residential
2 facilities and day programs for persons described in section 630.705, which procedure shall
3 provide for the acceptance of a license, a temporary operating permit or a probationary license
4 issued by the department of social services under sections 198.006 to 198.096 as regards the
5 licensing requirements in the following areas:

6 (1) General medical and health care;

- 7 (2) Adequate physical plant facilities including fire safety, housekeeping and
8 maintenance standards;
- 9 (3) Food service facilities;
- 10 (4) Safety precautions;
- 11 (5) Drugs and medications;
- 12 (6) Uniform system of record keeping;
- 13 (7) Resident and client rights and grievance procedures.

14

15 However, the department shall require annually that any facilities and programs already licensed
16 by the department of social services under chapter 198 which desire to provide services to
17 persons diagnosed [as mentally disordered, mentally ill, mentally retarded or developmentally
18 disabled] **with a mental disorder, mental illness, or developmental disability** in accordance
19 with sections 630.705 to 630.760 meet the department's requirements in excess of those required
20 for licensure or certification under chapter 198, which are appropriate to admission criteria and
21 care, treatment, habilitation and rehabilitation needs of such persons.

22 2. Applications for licenses shall be made to the department upon forms provided by it
23 and shall contain such information and documents as the department requires, including, but not
24 limited to, affirmative evidence of ability to comply with the rules adopted by the department.
25 Each application for a license, except applications from a governmental unit or a facility caring
26 for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of
27 ten dollars for establishments which accept more than three but less than ten persons and fifty
28 dollars from establishments which accept ten or more. The license fee shall be paid to the
29 director of revenue for deposit to the general revenue fund of the state treasury.

30 3. An applicant for a license shall submit an affidavit under oath that all documents
31 required by the department to be filed pursuant to this section are true and correct to the best of
32 his knowledge and belief, that the statements contained in the application are true and correct to
33 the best of his knowledge and belief and that all required documents are either included with the
34 application or are currently on file with the department.

630.735. 1. No person or governmental unit, acting separately or jointly with any other
2 person or governmental unit, shall establish, conduct or maintain any residential facility in this
3 state for the care, treatment, habilitation or rehabilitation of [mentally retarded or
4 developmentally disabled] persons **with an intellectual disability or a developmental**
5 **disability** without a valid license issued by the department. Licenses in effect on August 13,
6 1982, shall continue in effect until they regularly expire unless sooner revoked; except that in no
7 case shall a license continue in effect beyond one year after August 13, 1982.

8 2. After October 1, 1983, no person or governmental unit, acting separately or jointly
9 with any other person or governmental unit, shall establish, conduct or maintain any residential
10 facility or day program in this state for care, treatment, habilitation or rehabilitation of persons
11 diagnosed [as mentally disordered or mentally ill] **with a mental disorder or mental illness** or
12 day program for [mentally retarded or developmentally disabled] persons **with an intellectual**
13 **disability or a developmental disability** unless the facilities or programs are licensed by the
14 department.

 632.005. As used in chapter 631 and this chapter, unless the context clearly requires
2 otherwise, the following terms shall mean:

3 (1) "Comprehensive psychiatric services", any one, or any combination of two or more,
4 of the following services to persons affected by mental disorders other than [mental retardation
5 or] **intellectual disabilities** or developmental disabilities: inpatient, outpatient, day program or
6 other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation,
7 education, rehabilitation, prevention, screening, transitional living, medical prevention and
8 treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

9 (2) "Council", the Missouri advisory council for comprehensive psychiatric services;

10 (3) "Court", the court which has jurisdiction over the respondent or patient;

11 (4) "Division", the division of comprehensive psychiatric services of the department of
12 mental health;

13 (5) "Division director", director of the division of comprehensive psychiatric services
14 of the department of mental health, or his designee;

15 (6) "Head of mental health facility", superintendent or other chief administrative officer
16 of a mental health facility, or his designee;

17 (7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the
18 court is open for business, but excluding Saturdays, Sundays and legal holidays;

19 (8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334
20 or a person authorized to practice medicine in this state pursuant to the provisions of section
21 334.150;

22 (9) "Licensed professional counselor", a person licensed as a professional counselor
23 under chapter 337 and with a minimum of one year training or experience in providing
24 psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a
25 mental disorder;

26 (10) "Likelihood of serious harm" means any one or more of the following but does not
27 require actual physical injury to have occurred:

28 (a) A substantial risk that serious physical harm will be inflicted by a person upon his
29 own person, as evidenced by recent threats, including verbal threats, or attempts to commit

30 suicide or inflict physical harm on himself. Evidence of substantial risk may also include
31 information about patterns of behavior that historically have resulted in serious harm previously
32 being inflicted by a person upon himself;

33 (b) A substantial risk that serious physical harm to a person will result or is occurring
34 because of an impairment in his capacity to make decisions with respect to his hospitalization
35 and need for treatment as evidenced by his current mental disorder or mental illness which
36 results in an inability to provide for his own basic necessities of food, clothing, shelter, safety
37 or medical care or his inability to provide for his own mental health care which may result in a
38 substantial risk of serious physical harm. Evidence of that substantial risk may also include
39 information about patterns of behavior that historically have resulted in serious harm to the
40 person previously taking place because of a mental disorder or mental illness which resulted in
41 his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or
42 mental health care; or

43 (c) A substantial risk that serious physical harm will be inflicted by a person upon
44 another as evidenced by recent overt acts, behavior or threats, including verbal threats, which
45 have caused such harm or which would place a reasonable person in reasonable fear of sustaining
46 such harm. Evidence of that substantial risk may also include information about patterns of
47 behavior that historically have resulted in physical harm previously being inflicted by a person
48 upon another person;

49 (11) "Mental health coordinator", a mental health professional who has knowledge of
50 the laws relating to hospital admissions and civil commitment and who is authorized by the
51 director of the department, or his designee, to serve a designated geographic area or mental
52 health facility and who has the powers, duties and responsibilities provided in this chapter;

53 (12) "Mental health facility", any residential facility, public or private, or any public or
54 private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering
55 from a mental disorder or mental illness and which is recognized as such by the department or
56 any outpatient treatment program certified by the department of mental health. No correctional
57 institution or facility, jail, regional center or [mental retardation] **developmental disability**
58 facility shall be a mental health facility within the meaning of this chapter;

59 (13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist,
60 psychiatric nurse, licensed professional counselor, or psychiatric social worker;

61 (14) "Mental health program", any public or private residential facility, public or private
62 hospital, public or private specialized service or public or private day program that can provide
63 care, treatment, rehabilitation or services, either through its own staff or through contracted
64 providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness
65 or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the

66 department. No correctional institution or facility or jail may be a mental health program within
67 the meaning of this chapter;

68 (15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays
69 and legal holidays which are observed either by the court or by the mental health facility where
70 the respondent is detained;

71 (16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or
72 highway patrolman;

73 (17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter
74 335 and who has had at least two years of experience as a registered professional nurse in
75 providing psychiatric nursing treatment to individuals suffering from mental disorders;

76 (18) "Psychiatric social worker", a person with a master's or further advanced degree
77 from an accredited school of social work, practicing pursuant to chapter 337, and with a
78 minimum of one year training or experience in providing psychiatric care, treatment or services
79 in a psychiatric setting to individuals suffering from a mental disorder;

80 (19) "Psychiatrist", a licensed physician who in addition has successfully completed a
81 training program in psychiatry approved by the American Medical Association, the American
82 Osteopathic Association or other training program certified as equivalent by the department;

83 (20) "Psychologist", a person licensed to practice psychology under chapter 337 with a
84 minimum of one year training or experience in providing treatment or services to mentally
85 disordered or mentally ill individuals;

86 (21) "Resident in psychiatry", a licensed physician who is in a training program in
87 psychiatry approved by the American Medical Association, the American Osteopathic
88 Association or other training program certified as equivalent by the department;

89 (22) "Respondent", an individual against whom involuntary civil detention proceedings
90 are instituted pursuant to this chapter;

91 (23) "Treatment", any effort to accomplish a significant change in the mental or
92 emotional conditions or the behavior of the patient consistent with generally recognized
93 principles or standards in the mental health professions.

632.105. 1. The head of a private mental health facility may, and the head of a
2 department mental health facility shall, except in the case of a medical emergency and subject
3 to the availability of suitable programs and accommodations, accept for evaluation, on an
4 outpatient basis if practicable, any person eighteen years of age or over who applies for his
5 admission. The department may require that a community-based service where the person
6 resides perform the evaluation pursuant to an affiliation agreement and contract with the
7 department.

8 2. If a person is diagnosed as having a mental disorder, other than [mental retardation]
9 **an intellectual disability** or developmental disability without another accompanying mental

10 disorder, and is determined to be in need of inpatient treatment, the person may be admitted by
11 a private mental health facility and shall be admitted by a department mental health facility, if
12 suitable accommodations are available, for care and treatment as an inpatient for such periods
13 and under such conditions as authorized by law. The department may require that a
14 community-based service where the patient resides admit the person for inpatient care and
15 treatment pursuant to an affiliation agreement and contract with the department.

16 3. A person who is admitted under this section is a voluntary patient and shall have the
17 right to consent to evaluation, care, treatment and rehabilitation and shall not be medicated
18 without his prior voluntary and informed consent; except that medication may be given in
19 emergency situations.

632.110. 1. The head of a private mental health facility may, and the head of a
2 department mental health facility shall, except in the case of a medical emergency and subject
3 to the availability of suitable programs and accommodations, accept for evaluation, on an
4 outpatient basis if practicable, any minor for whom an application for voluntary admission is
5 made by his parent or other legal custodian. The department may require that a
6 community-based service where the minor resides perform the evaluation pursuant to an
7 affiliation agreement or contract with the department.

8 2. If the minor is diagnosed as having a mental disorder, other than [mental retardation]
9 **an intellectual disability** or developmental disability without another accompanying mental
10 disorder, and found suitable for inpatient treatment as a result of the evaluation, the minor may
11 be admitted by a private mental health facility or shall be admitted by a department mental health
12 facility, if suitable accommodations are available, for care, treatment and rehabilitation as an
13 inpatient for such periods and under such conditions as authorized by law. The department may
14 require that a community-based service where the patient resides admit the person for inpatient
15 care, treatment and rehabilitation pursuant to an affiliation agreement and contract with the
16 department.

17 3. The parent or legal custodian who applied for the admission of the minor shall have
18 the right to authorize his evaluation, care, treatment and rehabilitation and the right to refuse
19 permission to medicate the minor; except that medication may be given in emergency situations.

20 4. The parent or legal custodian may request a peace officer to take a minor into custody
21 and transport him to the mental health facility for evaluation if the parent or legal custodian
22 applies for such evaluation under subsection 1 of this section.

632.115. The head of a private mental health facility may, and the head of a public
2 mental health facility shall, except in the case of medical emergency and subject to the
3 availability of suitable programs and accommodations, admit any minor who has symptoms of
4 mental disorder other than [mental retardation] **an intellectual disability** or developmental
5 disability, who is under the jurisdiction of a juvenile court and who is committed to a facility not

6 operated by the state of Missouri under section 211.181 or to the custody of the director pursuant
7 to sections 211.201 to 211.207 for assignment by the director to an appropriate facility.

632.120. 1. The head of a private mental health facility may, and the head of a
2 department facility shall, except in the case of a medical emergency and subject to the
3 availability of suitable programs and accommodations, accept for evaluation and treatment, on
4 an outpatient basis if practicable, any person who has been declared incapacitated by a court of
5 competent jurisdiction and for whom an application for voluntary admission is made by his
6 guardian. The department may require that a community-based service where the person resides
7 perform the evaluation pursuant to an affiliation agreement and contract with the department.

8 2. If the person is diagnosed as having a mental disorder, other than [mental retardation
9 or] developmental disability without another accompanying mental disorder, and the person is
10 found suitable for inpatient treatment as a result of the evaluation, the person may be admitted
11 by a private mental health facility or shall be admitted by a public mental health facility, if
12 suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for
13 up to thirty days after admission for evaluation and treatment.

14 3. If further inpatient services are recommended, the person may remain in the facility
15 only if his guardian is authorized by the court to continue the inpatient hospitalization. The court
16 may authorize the guardian to consent to evaluation, care, treatment, including medication, and
17 rehabilitation on an inpatient basis.

632.370. 1. The department may transfer, or authorize the transfer of, an involuntary
2 patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental
3 health program to another if the department determines that it would be consistent with the
4 medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult
5 ward, the department shall conduct a due process hearing within six days of such transfer during
6 which hearing the head of the program shall have the burden to show that the transfer is
7 appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice
8 thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his
9 legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known
10 relative or friend. In all such transfers, due consideration shall be given to the relationship of the
11 patient to his family, legal guardian or friends, so as to maintain relationships and encourage
12 visits beneficial to the patient. The head of the mental health program shall notify the court
13 ordering detention or commitment, the patient's last known attorney of record and the mental
14 health coordinator for the region, and if the person was committed pursuant to chapter 552, to
15 the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any
16 transfer from one mental health facility to another. The prosecutor of the jurisdiction where the
17 person was tried and acquitted shall use their best efforts to notify the victims of dangerous
18 felonies. Notification by the appropriate person or agency by certified mail to the most current

19 address provided by the victim shall constitute compliance with the victim notification
20 requirement of this section. In the case of a patient committed under chapter 211, the court, on
21 its own motion, may hold a hearing on the transfer to determine whether such transfer is
22 appropriate to the medical needs of the patient.

23 2. Upon receipt of a certificate of an agency of the United States that facilities are
24 available for the care or treatment of any individual heretofore ordered involuntarily detained,
25 treated and evaluated pursuant to this chapter in any facility for the care or treatment of [the
26 mentally ill, mentally retarded or developmentally disabled] **persons with a mental illness or**
27 **an intellectual disability or a developmental disability** and that such individual is eligible for
28 care or treatment in a hospital or institution of such agency, the department may cause his
29 transfer to such agency of the United States for hospitalization. Upon effecting any such transfer,
30 the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known,
31 his nearest known relative or friend shall be notified thereof immediately by the department. No
32 person shall be transferred to an agency of the United States if he is confined pursuant to a
33 conviction for any felony or misdemeanor or if he has been acquitted of any felony or
34 misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally
35 ordering confinement of such person enters an order for the transfer after appropriate motion and
36 hearing. Any person transferred to an agency of the United States shall be deemed to be
37 hospitalized by such agency pursuant to the original order of hospitalization.

632.380. Persons [who are mentally retarded, developmentally disabled,] **with an**
2 **intellectual disability or a developmental disability or who are** senile or impaired by
3 alcoholism or drug abuse shall not be detained judicially under this chapter, unless they are also
4 mentally ill and as a result present likelihood of serious harm to themselves or to others. Such
5 persons may, however, be committed upon court order under this chapter and the provisions of
6 chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating to juveniles, or
7 may be admitted as voluntary patients under section 632.105 or 632.120.

633.005. As used in this chapter, unless the context clearly requires otherwise, the
2 following terms shall mean:

3 (1) "Comprehensive evaluation", a study, including a sequence of observations and
4 examinations, of an individual leading to conclusions and recommendations formulated jointly
5 by an interdisciplinary team of persons with special training and experience in the diagnosis and
6 habilitation of [the mentally retarded and developmentally disabled] **a person with an**
7 **intellectual disability or a developmental disability;**

8 (2) "Division", the division of [mental retardation and] developmental disabilities of the
9 department of mental health;

10 (3) "Division director", the director of the division of [mental retardation and]
11 developmental disabilities of the department of mental health, or his designee;

12 (4) "Group home", a residential facility serving nine or fewer residents, similar in
13 appearance to a single-family dwelling and providing basic health supervision, habilitation
14 training in skills of daily and independent living and community integration, and social support.
15 Group homes do not include a family living arrangement or individualized supported living;

16 (5) "[Mental retardation] **Developmental disability** facility", a private or department
17 facility, other than a regional center, which admits persons [who are mentally retarded or
18 developmentally disabled] **with an intellectual disability or a developmental disability** for
19 residential habilitation and other services and which is qualified or licensed as such by the
20 department pursuant to chapter 630. Such terms shall include, but shall not be limited to,
21 habilitation centers and private or public residential facilities for persons [who are
22 developmentally disabled] **with an intellectual disability or a developmental disability**;

23 (6) "Regional center", an entity so designated by the department to provide, directly or
24 indirectly, for comprehensive [mental retardation and] developmental disability services under
25 this chapter in a particular region;

26 (7) "Respite care", temporary and short-term residential care, sustenance and supervision
27 of a [mentally retarded or developmentally disabled] person **with an intellectual disability or**
28 **a developmental disability** who otherwise resides in a family home;

29 (8) "State advisory council", the Missouri [advisory council on mental retardation and]
30 developmental disabilities **council** as created in section 633.020.

633.010. 1. The division of [mental retardation and] developmental disabilities, created
2 by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of
3 the department. The division shall have the responsibility of insuring that [mental retardation]
4 **intellectual disabilities** and developmental disabilities prevention, evaluation, care, habilitation
5 and rehabilitation services are accessible, wherever possible. The division shall have and
6 exercise supervision of division residential facilities, day programs and other specialized services
7 operated by the department, and oversight over facilities, programs and services funded or
8 licensed by the department.

9 2. The powers, functions and duties of the division shall include the following:

10 (1) Provision of funds for the planning and implementation of accessible programs to
11 serve persons affected by [mental retardation or] **intellectual disabilities and** developmental
12 disabilities;

13 (2) Review of [mental retardation and] developmental disabilities plans submitted to
14 receive state and federal funds allocated by the department;

15 (3) Provision of technical assistance and training to community-based programs to assist
16 in the planning and implementation of quality services;

17 (4) Assurance of program quality in compliance with such appropriate standards as may
18 be established by the department;

19 (5) Sponsorship and encouragement of research into the causes, effects, prevention,
20 habilitation and rehabilitation of [mental retardation and] **intellectual disabilities and**
21 developmental disabilities;

22 (6) Provision of public information relating to [mental retardation and] developmental
23 disabilities and their habilitation;

24 (7) Cooperation with nonstate governmental agencies and the private sector in
25 establishing, conducting, integrating and coordinating [mental retardation and] developmental
26 disabilities programs and projects;

27 (8) Cooperation with other state agencies to encourage appropriate health facilities to
28 serve, without discrimination, persons [who are mentally retarded or developmentally disabled]
29 **with an intellectual disability or a developmental disability** who require medical care and to
30 provide them with adequate and appropriate services;

31 (9) Participation in developing and implementing a statewide plan to alleviate problems
32 relating to [mental retardation and] developmental disabilities and to overcome the barriers to
33 their solutions;

34 (10) Encouragement of coordination of division services with other divisions of the
35 department and other state agencies;

36 (11) Encouragement of the utilization, support, assistance and dedication of volunteers
37 to assist persons affected by [mental retardation and] **intellectual disabilities or** developmental
38 disabilities to be accepted and integrated into normal community activities;

39 (12) Evaluation, or the requirement of the evaluation, including the collection of
40 appropriate necessary information, of [mental retardation or] developmental disabilities programs
41 to determine their cost-and-benefit effectiveness;

42 (13) Participation in developing standards for residential facilities, day programs and
43 specialized services operated, funded or licensed by the department for persons affected by
44 [mental retardation or] developmental disabilities.

633.020. 1. The "Missouri [Advisory Council on Mental Retardation and]
2 Developmental Disabilities **Council**", consisting of up to twenty-five members, the number to
3 be determined under the council bylaws, is hereby created to advise the division and the division
4 director.

5 2. The members of the Missouri planning council for developmental disabilities, created
6 by executive order of the governor on October 26, 1979, for the remainder of their appointed

7 terms, and up to five persons to be appointed by the director, for staggered terms of three years
8 each, shall act as such advisory body. At the expiration of the term of each member, the director
9 shall appoint an individual who shall hold office for a term of three years. At least one-half of
10 the members shall be consumers. Other members shall have professional, research or personal
11 interest in [mental retardation] **intellectual disabilities** and developmental disabilities. At least
12 one member shall be a manager of or a member of the board of directors of a sheltered workshop
13 as defined in section 178.900. No more than one-fourth of the members shall be vendors or
14 members of boards of directors, employees or officers of vendors, or any of their spouses, if such
15 vendors receive more than fifteen hundred dollars under contract with the department; except
16 that members of boards of directors of not-for-profit corporations shall not be considered
17 members of board of directors of vendors under this subsection.

18 3. Meetings shall be held at least every ninety days or at the call of the division director
19 or the council chairman, who shall be elected by the council.

20 4. Each member shall be reimbursed for reasonable and necessary expenses, including
21 travel expenses, pursuant to department travel regulations, actually incurred in the performance
22 of his official duties.

23 5. The council may be divided into subcouncils in accordance with its bylaws.

24 6. The council shall collaborate with the department in developing and administering a
25 state plan for [mental retardation and] **intellectual disabilities and** developmental disabilities
26 services.

27 7. No member of a state advisory council may participate in or seek to influence a
28 decision or vote of the council if the member would be directly involved with the matter or if he
29 would derive income from it. A violation of the prohibition contained herein shall be grounds
30 for a person to be removed as a member of the council by the director.

31 8. The council shall be advisory and shall:

32 (1) Promote meetings and programs for the discussion of reducing the debilitating effects
33 of [mental retardation and] **intellectual disabilities and** developmental disabilities and
34 disseminate information in cooperation with any other department, agency or entity on the
35 prevention, evaluation, care, treatment and habilitation for persons affected by [mental
36 retardation or] **intellectual disabilities and** developmental disabilities;

37 (2) Study and review current prevention, evaluation, care, treatment and rehabilitation
38 technologies and recommend appropriate preparation, training, retraining and distribution of
39 manpower and resources in the provision of services to [mentally retarded or developmentally
40 disabled] persons **with an intellectual disability or a developmental disability** through private
41 and public residential facilities, day programs and other specialized services;

42 (3) Recommend what specific methods, means and procedures should be adopted to
43 improve and upgrade the department's [mental retardation and] **intellectual disabilities and**
44 developmental disabilities service delivery system for citizens of this state;

45 (4) Participate in developing and disseminating criteria and standards to qualify mental
46 retardation or developmental disability residential facilities, day programs and other specialized
47 services in this state for funding or licensing, or both, by the department.

633.029. All persons determined eligible for services provided by the division of [mental
2 retardation and] developmental disabilities prior to January 1, 1991, shall be eligible for services
3 on the basis of their earlier determination of eligibility without regard to their eligibility status
4 under the definition of developmental disability contained in section 630.005.

633.030. 1. The department shall prepare a state plan to secure coordinated [mental
2 retardation and] **intellectual disabilities and** developmental disabilities habilitation services
3 accessible to persons in need of them in defined geographic areas, which plan shall be reviewed
4 and revised annually.

5 2. The state plan shall include, but not be limited to, the following:

6 (1) A needs-assessment of the state to determine underserved, unserved and
7 inappropriately served populations and areas;

8 (2) Statements of short-term and long-term goals for meeting the needs of currently
9 served, underserved, unserved or inappropriately served populations and areas of the state;

10 (3) An inventory of existing private and public residential facilities, day programs and
11 other service providers offering [mental retardation or] **intellectual disability or** developmental
12 disability evaluation and habilitation services;

13 (4) Evaluations of the effects of habilitation programs;

14 (5) Descriptions of the following:

15 (a) Methods for assuring active consumer-oriented citizen participation throughout the
16 system;

17 (b) Strategies and procedures for encouraging, coordinating and integrating
18 community-based services, wherever practicable, to avoid duplication by private, not-for-profit
19 and public state and community-based providers of services;

20 (c) Methods for monitoring the quality of evaluation and habilitation services funded by
21 the state;

22 (d) Rules which set standards for construction, staffing, operations and programs, as
23 appropriate, for any public or private entity to meet for receiving state licensing, certification or
24 funding; and

25 (e) Plans for addressing the particular [mental retardation and] **intellectual disability**
26 **or** developmental disability service needs of each region, including special strategies for rural
27 and urban unserved, underserved or inappropriately served populations in areas of the state.

28 3. In preparing the state plan, the department shall take into consideration its regional
29 plans.

633.045. 1. Any regional advisory councils established under section 633.040 shall
2 participate in the preparation of regional plans and annually review, advise on and recommend
3 them before they are transmitted to the state advisory council and the division director. The
4 plans shall include at least the following:

5 (1) An inventory of existing residential facilities, day programs and specialized services
6 for [the mentally retarded and developmentally disabled] **persons with an intellectual disability**
7 **or a developmental disability**;

8 (2) An assessment of needs, including any special target populations, of unserved,
9 underserved or inappropriately served persons;

10 (3) A statement of specific goals for the region.

11 2. Any staff of such regional advisory councils shall be provided only from funds
12 appropriated specifically for that purpose. This subsection shall become effective July 1, 1981.

633.050. 1. In addition to such other advisory functions as may be agreed upon with the
2 division, the regional advisory councils shall review and advise on programs and policies of the
3 regional centers. The councils shall review, advise on, and recommend regional program
4 budgets and shall report to the division director their findings as to their conformity with the
5 regional plans before they are transmitted to the department to be considered for inclusion in the
6 department budget request.

7 2. The regional councils may advise the department, the division and the regional centers
8 on methods of operation and service delivery which will assure comprehensive services with the
9 minimum amount of duplication, fragmentation and unnecessary expenditures. In making such
10 proposals, the councils shall consider the most appropriate use of existing agencies and
11 professional personnel providing residential facilities, day programs and other specialized
12 services for [the mentally retarded and developmentally disabled] **persons with an intellectual**
13 **disability or developmental disability** in their regions.

14 3. The duties of the regional advisory councils shall include:

15 (1) Determining the disbursement of the cash stipend as established in section 633.180
16 and the family support loan as established in section 633.185;

17 (2) Providing direction and assistance to the regional center in the development of a
18 family support plan based upon the needs in the region;

19 (3) Approval of the regional family support plan;

20 (4) Monitoring the implementation of the family support plan;

21 (5) Providing an annual written report to the department of mental health regarding the
22 activities of the family support council.

633.110. 1. Any person suspected to [be mentally retarded or developmentally disabled]
2 **have an intellectual disability or developmental disability** shall be eligible for initial
3 diagnostic and counseling services through the regional centers.

4 2. If it is determined by a regional center through a comprehensive evaluation that a
5 person [is mentally retarded or developmentally disabled] **has an intellectual disability or a**
6 **developmental disability** so as to require the provision of services, and if such person, such
7 person's parent, if the person is a minor, or legal guardian, requests that he be registered as a
8 client of a regional center, the regional center shall, within the limits of available resources,
9 secure a comprehensive program of any necessary services for such person. Such services may
10 include, but need not be limited to, the following:

- 11 (1) Diagnosis and evaluation;
- 12 (2) Counseling;
- 13 (3) Respite care;
- 14 (4) Recreation;
- 15 (5) Habilitation;
- 16 (6) Training;
- 17 (7) Vocational habilitation;
- 18 (8) Residential care;
- 19 (9) Homemaker services;
- 20 (10) Developmental day care;
- 21 (11) Sheltered workshops;
- 22 (12) Referral to appropriate services;
- 23 (13) Placement;
- 24 (14) Transportation.

25 3. In securing the comprehensive program of services, the regional centers shall involve
26 the client, his family or his legal guardian in decisions affecting his care, habilitation, placement
27 or referral. Nothing in this chapter shall be construed as authorizing the care, treatment,
28 habilitation, referral or placement of any [mentally retarded or developmentally disabled] person
29 **with an intellectual disability or developmental disability** to any residential facility, day
30 program or other specialized service without the written consent of the client, his parent, if he
31 is a minor, or his legal guardian, unless such care, treatment, habilitation, referral, or placement
32 is authorized pursuant to an order of the court under the provisions of chapter 475.

633.115. The regional center shall secure services for its clients in the least restrictive environment consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall utilize the following entities to secure services:

(1) Agencies serving persons not diagnosed [as mentally retarded or developmentally disabled] **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which the services could be made available to the client through the purchase of assistive or supportive services;

(2) Agencies serving [mentally retarded or developmentally disabled] persons **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which services could be made available to the client through the purchase of assistive or supportive services;

(3) The regional center on a day-program basis;

(4) The regional center for short-term residential services, not to exceed six months, unless expressly authorized for a longer period by the division director;

(5) A residential facility licensed through the department placement program, but not operated by the department;

(6) A [mental retardation] **developmental disability** facility operated by the department for clients who are [developmentally disabled or mentally retarded] **persons with an intellectual disability or developmental disability**.

633.120. 1. A regional center may refer a client for admission to a [mental retardation] **developmental disability** facility only if determined by a comprehensive evaluation that:

(1) The person has a developmental disability;

(2) Protective services are required to guarantee the health, safety or mental well-being of the person;

(3) Placement in a [mental retardation] **developmental disability** facility is in the best interests of the person; and

(4) All other less restrictive services, including but not limited to family support and supported living, have been explored and found inadequate to prevent placement in a [mental retardation] **developmental disability** facility.

2. The regional center shall forward its comprehensive evaluation containing the determination under subsection 1 of this section and such other records as are necessary to enable the [mental retardation] **developmental disability** facility to determine whether to accept or reject the referral.

3. The head of a private [mental retardation] **developmental disability** facility may, and the head of a department [mental retardation] **developmental disability** facility shall, admit the person if, as a result of reviewing the evaluation, the head of the [mental retardation]

18 **developmental disability** facility determines that the client is appropriate for admission as a
19 resident and suitable accommodations are available. If the head of a department [mental
20 retardation] **developmental disability** facility rejects the referral, the regional center may appeal
21 the rejection to the division director. After consulting with the head of the referring regional
22 center and the head of the department [mental retardation] **developmental disability** facility, the
23 division director shall determine the appropriate disposition of the client.

24 4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor,
25 or his guardian, as authorized by a court, shall consent to the admission unless otherwise ordered
26 by a court.

27 5. The head of a [mental retardation] **developmental disability** facility shall have an
28 individualized habilitation plan for each resident within thirty days of the resident's admission.
29 Such plan shall include a statement regarding the resident's anticipated length of stay in the
30 facility and the feasibility of least restrictive alternatives.

31 6. If procedures are initiated under chapter 475 for the appointment of a guardian for a
32 resident of a department [mental retardation] **developmental disability** facility, the referral
33 procedure under this section shall not apply.

633.125. 1. A resident admitted to a [mental retardation] **developmental disability**
2 facility pursuant to section 633.120 shall be discharged immediately when the person who
3 applied for his admission requests the release orally, in writing or otherwise from the head of the
4 [mental retardation] **developmental disability** facility; except, that if the head of the [mental
5 retardation] **developmental disability** facility regards the resident as presenting a likelihood of
6 serious harm to himself or others, the head of the facility may initiate involuntary detention
7 procedures pursuant to chapter 632, if appropriate, or any individual, including the head of the
8 facility or the mental health coordinator may initiate guardianship proceedings and, if
9 appropriate, obtain an emergency commitment order pursuant to chapter 475.

10 2. A resident shall be discharged from a department [mental retardation] **developmental**
11 **disability** facility if it is determined in a comprehensive evaluation or periodic review that the
12 person is not [mentally retarded or] **intellectually disabled or** developmentally disabled, and if
13 the resident, parent, if a minor, or guardian consents to the discharge. If consent is not obtained,
14 the head of the facility shall initiate appeal proceedings under section 633.135, before a resident
15 can be discharged.

16 3. A resident shall either be discharged from a department [mental retardation]
17 **developmental disability** facility or shall be referred to a regional center for placement in a least
18 restrictive environment pursuant to section 630.610, if it is determined in a comprehensive
19 evaluation or periodic review that the following criteria exist:

20 (1) The resident's condition is not of such a nature that for the protection or adequate care
21 of the resident or others the resident needs department residential habilitation or other services;

22 (2) The [mental retardation] **developmental disability** facility does not offer a program
23 which best meets the resident's needs; or

24 (3) The [mental retardation] **developmental disability** facility does not provide the least
25 restrictive environment feasible. A resident may not be discharged without his consent or the
26 consent of his parent, if he is a minor, or guardian unless proceedings have been completed under
27 section 633.135.

28 4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall
29 be referred to an appropriate regional center for assistance in obtaining any necessary services.

633.130. 1. At least once every one hundred eighty days, the head of each [mental
2 retardation] **developmental disability** facility shall cause the condition and status of each
3 resident to be reviewed and evaluated for the purpose of determining whether the resident needs
4 further residential habilitation, placement in the least restrictive environment or discharge.

5 2. The head of the facility shall initiate proceedings to discharge any resident whose
6 continued residential habilitation is no longer appropriate; except, that the head of the facility
7 may refer the resident to the appropriate regional center for placement pursuant to section
8 630.610.

9 3. A copy of the evaluation and individualized habilitation plan shall be sent to any court
10 having jurisdiction over the resident.

633.135. 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to
2 consent to the proposed placement or to discharge from the facility, the head of the [mental
3 retardation] **developmental disability** facility may petition the director of the division to
4 determine whether the proposed placement is appropriate under sections 630.610, 630.615 and
5 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and
6 633.130.

7 2. The division director shall refer the petition to the chairman of the state advisory
8 council who shall appoint and convene a review panel composed of three members. At least one
9 member of the panel shall be a parent or guardian of a resident who resides in a department
10 [mental retardation] **developmental disability** facility. The remaining members of the panel
11 shall be persons who are from nongovernmental organizations or groups concerned with the
12 prevention of [mental retardation] **intellectual disability or developmental disability**,
13 evaluation, care and habilitation of [mentally retarded] **intellectually disabled or**
14 **developmentally disabled** persons and who are familiar with services and service needs of
15 [mentally retarded] **intellectually disabled or developmentally disabled** persons in facilities

16 operated by the department. No member of the panel shall be an officer or employee of the
17 department.

18 3. After prompt notice and hearing, the panel shall determine whether the proposed
19 placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed
20 discharge is appropriate under sections 633.120, 633.125 and 633.130. The hearing shall be
21 electronically recorded for purposes of obtaining a transcript. The council shall forward the tape
22 recording, recommended findings of fact, conclusions of law and decision to the director who
23 shall enter findings of fact, conclusions of law and the final decision. Notice of the director's
24 decision shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered
25 mail, return receipt requested. The director shall expedite this review in all respects.

26 4. If the resident, or his parent if he is a minor, or his guardian disagrees with the
27 decision of the director, he may appeal the decision, within thirty days after notice of the decision
28 is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his
29 guardian resides. The court shall review the record, proceedings and decision of the director not
30 only under the provisions of chapter 536, but also as to whether or not the head of the facility
31 sustained his burden of proof that the proposed placement is appropriate under sections 630.110,
32 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125
33 and 633.130. The court shall expedite this review in all respects. Notwithstanding the
34 provisions of section 536.140, a court may, for good cause shown, hear and consider additional
35 competent and material evidence.

36 5. Any resident of a [mental retardation] **developmental disability** facility who is age
37 eighteen or older and who does not have a legal guardian shall not be discharged unless probate
38 division of the circuit court approval is obtained to confirm that the resident is not in need of the
39 care, treatment or programs now being received in the [mental retardation] **developmental**
40 **disability** facility.

41 6. The notice and procedure for the hearing by the panel shall be in accordance with
42 chapter 536.

43 7. In all proceedings either before the panel or before the circuit court, the burden of
44 proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the
45 proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and
46 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections
47 633.120, 633.125 and 633.130.

48 8. Pending a convening of the hearing panel and the final decision of the director or the
49 court, if the director's decision is appealed, the department shall not place or discharge the
50 resident from a facility except that the department may temporarily transfer such resident in the
51 case of a medical emergency.

52 9. There shall be no disciplinary action against any state employee who in good faith
53 testifies or otherwise provides information or evidence in regard to a proposed placement or
54 discharge.

 633.140. 1. If any resident leaves a [mental retardation] **developmental disability**
2 facility without authorization, the sheriff of the county where the resident is found shall
3 apprehend and return him to the center if requested to do so by the head of the facility.

 2. The head of the facility may request the return of an absent resident pursuant to
5 subsection 1 of this section only when one of the following circumstances exists:

6 (1) The resident is a minor whose admission was applied for by his parent or legal
7 custodian, and such parent or guardian has not requested the resident's release;

8 (2) The resident is a minor under the jurisdiction of the juvenile court;

9 (3) The resident has been declared legally incapacitated and his guardian has not
10 requested his release; or

11 (4) The resident's condition is of such a nature that, for the protection of the resident or
12 others, the head of the facility determines that the resident's return to the facility is necessary.
13 Such determination shall be noted in the resident's records.

 633.145. 1. The department may transfer a resident from one department [mental
2 retardation] **developmental disability** facility to another if the division director determines that
3 such transfer is desirable to provide the resident improved habilitation or other services, to better
4 insure his safety and welfare, or to locate him in closer proximity to his family and friends.

5 2. Transfers may only be made to a private [mental retardation] **developmental**
6 **disability** facility pursuant to section 630.610.

7 3. Determinations by the division director pursuant to this section shall be written and
8 noted in the resident's records. The division director shall notify the resident, his guardian or
9 next of kin of such determination. The department shall not transfer any resident unless it
10 receives the consent of the resident, his guardian or his parent, if the resident is a minor.

 633.150. The head of a [mental retardation] **developmental disability** facility may
2 transfer a resident to a mental health facility only under the provisions of chapter 632. The
3 director shall order that such resident be returned to the [mental retardation] **developmental**
4 **disability** facility when the resident is no longer in need of psychiatric care and treatment.

 633.155. 1. The division may provide or obtain respite care for [a mentally retarded] **an**
2 **intellectually disabled** or developmentally disabled person for respite care of up to twenty-one
3 days which may be extended up to an additional twenty-one days for good cause shown. Any
4 additional respite care beyond forty-two days within a one-year period shall be expressly
5 approved by the director of the division.

6 2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional
7 center may admit [a mentally retarded] **an intellectually disabled** or developmentally disabled
8 person who has been declared legally incapacitated for respite care without a court order
9 authorizing the guardian of such person to obtain such care of up to twenty-one days for good
10 cause shown.

 633.160. If a person presents himself, or is presented, to a regional center or department
2 [mental retardation] **developmental disability** facility and is determined to be [mentally retarded
3 or] **intellectually disabled or** developmentally disabled and, as a result, presents an imminent
4 likelihood of serious harm to himself or others as defined in chapter 632, the regional center or
5 [mental retardation] **developmental disability** facility may accept the person for detention for
6 evaluation and treatment for a period not to exceed ninety-six hours under the same procedures
7 contained in chapter 632. The head of the regional center or [mental retardation] **developmental**
8 **disability** facility may initiate guardianship proceedings to have the person detained beyond the
9 ninety-six hours under chapter 475, or may refer the person to a mental health facility, if the
10 person is mentally ill, for further detention under the procedures in chapter 632.

 633.180. 1. A family with an annual income of sixty thousand dollars or less which has
2 a child with a developmental disability residing in the family home shall be eligible to apply for
3 a cash stipend from the division of [mental retardation and] developmental disabilities in an
4 amount to be determined by the regional advisory council. Such cash stipend amount shall not
5 exceed the maximum monthly federal Supplemental Security Income payment for an individual
6 with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis
7 and shall be considered a benefit and not income to the family. The stipend shall be used to
8 purchase goods and services for the benefit of the family member with a developmental
9 disability. Such goods and services may include, but are not limited to:

- 10 (1) Respite care;
- 11 (2) Personal and attendant care;
- 12 (3) Architectural and vehicular modifications;
- 13 (4) Health- and mental health-related costs not otherwise covered;
- 14 (5) Equipment and supplies;
- 15 (6) Specialized nutrition and clothing;
- 16 (7) Homemaker services;
- 17 (8) Transportation;
- 18 (9) Integrated community activities;
- 19 (10) Training and technical assistance; and
- 20 (11) Individual, family and group counseling.

21 2. Application for such stipend shall be made to the appropriate regional center. The
22 regional center shall determine the eligibility of the individual to receive services from the
23 division and the division shall forward the application to the regional advisory council to
24 determine the amount of the stipend which may be approved by the council.

25 3. The family support program shall be funded by moneys appropriated by the general
26 assembly; however, the family support program shall not supplant other programs funded
27 through the division of [mental retardation and] developmental disabilities.

633.185. 1. The division of [mental retardation and] developmental disabilities, subject
2 to appropriation by the general assembly, is authorized to implement and administer, as part of
3 the family support program, a family support loan program, which shall provide a family with
4 an annual income of sixty thousand dollars or less which has an individual with a developmental
5 disability residing in the home, with low-interest, short-term loans to purchase goods and
6 services for the family member with a developmental disability.

7 2. Interest rates on loans made pursuant to the provisions of this section shall be no more
8 than one percent above the prime interest rate as determined by the federal reserve system on the
9 date the loan is approved. Loans may be for a maximum period of sixty months and the
10 outstanding loan amount to any family may be no more than ten thousand dollars.

11 3. Applications for loans shall be made to the appropriate regional center. The regional
12 center shall determine the eligibility of the individual to receive services from the division and
13 the division shall forward the application to the regional advisory council to determine the
14 amount of the loan which may be approved by the council.

15 4. There is hereby created in the state treasury for use by the department of mental health
16 a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund
17 shall be appropriated to the director of the department of mental health to be used for loans
18 pursuant to this section. The fund shall consist of moneys appropriated by the general assembly
19 for starting the fund and money otherwise deposited according to law. Any unexpended balance
20 in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to
21 this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to
22 the transfer of unexpended balances to the ordinary revenue fund.

633.190. 1. The division of [mental retardation and] developmental disabilities, in
2 cooperation with the Missouri planning council for developmental disabilities, shall adopt
3 policies and procedures and, when necessary, shall promulgate rules and regulations regarding:

- 4 (1) Program guidelines and specifications;
- 5 (2) Additional duties of the regional advisory councils;
- 6 (3) Annual evaluation of services provided by each regional center, including an
7 assessment of consumer satisfaction;

8 (4) Coordination of the family support program and the use of its funds throughout the
9 state and within each region, with other publicly funded programs, including Medicaid;

10 (5) Methodology for allocating resources to families with the funds available;

11 (6) Resolution of grievances filed by families pertaining to actions of the family support
12 program;

13 (7) Methodology for outreach and education.

14 2. No rule or portion of a rule promulgated under the authority of this chapter shall
15 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

633.210. 1. There is hereby established in the department of mental health within the
2 division of [mental retardation and] developmental disabilities, an "Office of Autism Services".
3 The office of autism services, under the supervision of the director of the division of [mental
4 retardation and] developmental disabilities, shall provide leadership in program development for
5 children and adults with autism spectrum disorders, to include establishment of program
6 standards and coordination of program capacity.

7 2. For purposes of this section, the term "autism spectrum disorder" shall be defined as
8 in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder;
9 Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood
10 disintegrative disorder; and Rett's syndrome.

633.300. 1. All group homes and [mental retardation] **developmental disability**
2 facilities as defined in section 633.005 shall be subject to all applicable federal and state laws,
3 regulations, and monitoring, including but not limited to sections 630.705 to 630.805.

4 2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be
5 subject to the same training requirements established for state mental health workers with
6 comparable positions in public group homes and mental health facilities. Such required training
7 shall be paid for by the employer.

8 3. Group homes and [mental retardation] **developmental disability** facilities shall be
9 subject to the same medical errors reporting requirements of other mental health facilities and
10 group homes.

11 4. The department shall promulgate rules or amend existing rules to implement the
12 provisions of this section. Any rule or portion of a rule, as that term is defined in section
13 536.010, that is created under the authority delegated in this section shall become effective only
14 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
15 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
16 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
17 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
18 and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

633.303. Any employee, including supervisory personnel, of a group home or [mental
2 retardation] **developmental disability** facility who has been placed on the disqualification
3 registry pursuant to section 630.170 shall be terminated. Such requirements shall be specified
4 in contracts between the department and providers pursuant to this section.

633.309. The department of mental health shall not transfer any person to any group
2 home or [mental retardation] **developmental disability** facility that has received a notice of
3 noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and
4 630.750.

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