

Mr. Speaker: I am instructed by the Senate to inform the

Representatives that the Senate has taken up and passed

SS HB 1318

____entitled:

AN ACT

To amend chapter 630, RSMo, by adding thereto one new section relating to employees of certain mental health facilities.

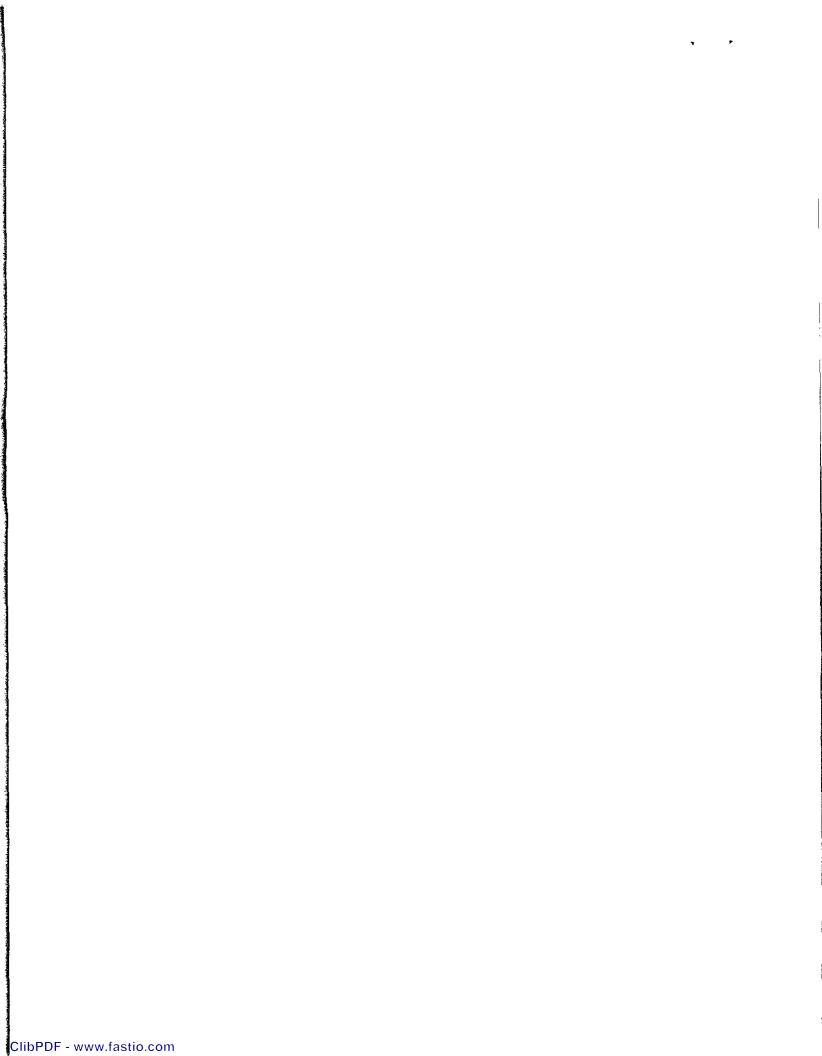
WITH SA1, 2, 4, 5, 6

In which the concurrence of the House is respectfully requested.

Respectfully,

Terry L. Spieler

Secretary of the Senate



SENATE	AMENDMENT	NO.
	LILITATION TARGET	TAC -

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Offere	ed by	2/0er	M	of .		afin	<u>e</u>			 -
Amend	_\$\$	House	Bill No.	[318]	Page		Section	A_	_, Line	,3

by inserting immediately after said line the following:

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

2. A person who has been convicted of or pled guilty or nolo contendere to any felony offense against persons as defined in chapter 565; any felony sexual offense as defined in chapter 566; any felony offense defined in section 568.020, 568.045, 568.050, 568.060, 569.020, 569.025, 569.030, 569.035, 569.040,

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569.050, 569.070, or 569.160, or of an equivalent felony offense, or who has been convicted of or pled guilty or nolo contendere to any violation of subsection 3 of section 198.070, or has been convicted of or pled guilty or nolo contendere to any offense requiring registration under section 589.400, shall be disqualified from holding any direct-care position in any public or private facility, day program, residential facility or specialized service operated, <u>licensed</u>, <u>certified</u>, <u>accredited</u>, in <u>possession of deemed status</u>, or funded [or licensed] by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632.

- 3. A person who has received a suspended imposition of sentence or a suspended execution of sentence following a plea of guilty to any of the disqualifying crimes listed in subsection 1 or 2 of this section shall remain disqualified.
- 4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section may seek an exception to the disqualification from the director of the department or the director's designee. The request shall be written and may not be made more than once every [twelve] six months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant an exception subject to any conditions deemed appropriate and failure to comply with such terms may result in

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

- 5. An applicant for a [direct care] position in any public or private facility, day program, residential facility, or specialized service operated, <u>licensed</u>, <u>certified</u>, <u>accredited</u>, <u>in possession of deemed status</u>, <u>or funded</u>[, or licensed] by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632 shall:
- (1) Sign a consent form as required by section 43.540 to provide written consent for a criminal record review;
- (2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any suspended imposition of sentence, any suspended execution of

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sentence, or any period of probation or parole; and

- (3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315, or the department of mental health disqualification registry as provided for in this section.
- 6. Any person who has received a good cause waiver issued by the [division of] department of health and senior services or its predecessor under subsection 9 of section 660.317 shall not require an additional exception under this section in order to be employed in a long-term care facility licensed under chapter 198.
- 7. Any public or private residential facility, day program, or specialized service operated, licensed, certified, accredited, in possession of deemed status, or funded by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632 shall, not later than two working days after hiring any person for a full-time, part-time, or temporary position that will have contact with clients, residents, or patients:
- (1) Request a criminal background check as provided in section 43.540;
- (2) Make an inquiry to the department of social services and department of health and senior services to determine whether the person is listed on the employee disqualification list as provided in section 660.315; and
- (3) Make an inquiry to the department of mental health to determine whether the person is listed on the disqualification registry as provided in this section.
 - 8. An applicant who knowingly fails to disclose his or her

criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider hires a person to hold a direct-care position knowing that such person has been disqualified pursuant to the provisions of subsection [1 or] 2 of this section. A provider is guilty of a class A misdemeanor if the provider hires a person to hold any position knowing that such person has been disqualified pursuant to the provisions of subsection 1 of this section.

- 9. Any public or private residential facility, day program, or specialized service operated, licensed, certified, accredited, in possession of deemed status or funded by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632 that declines to employ or discharges a person who is disqualified pursuant to the provisions of subsection 1 or 2 of this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the discharge of the person due to disqualification.
- because the employee was placed on a disqualification registry maintained by the department of mental health after the date of hire shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge pursuant to section 288.100.
- 11. The department [may] shall maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified

[pursuant to this section, or who have had] based upon administrative substantiations made against them for abuse or neglect pursuant to department rule or regulation. Such list shall reflect that the person is barred from holding any position in any public or private facility [or], day program, residential facility, or specialized service operated, licensed, certified, accredited, in possession of deemed status, or funded [or licensed] by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632. The length of time the person's name shall appear on the disqualification registry shall be determined by the director or the director's designee, based upon the criteria contained in subsection 13 of this section.

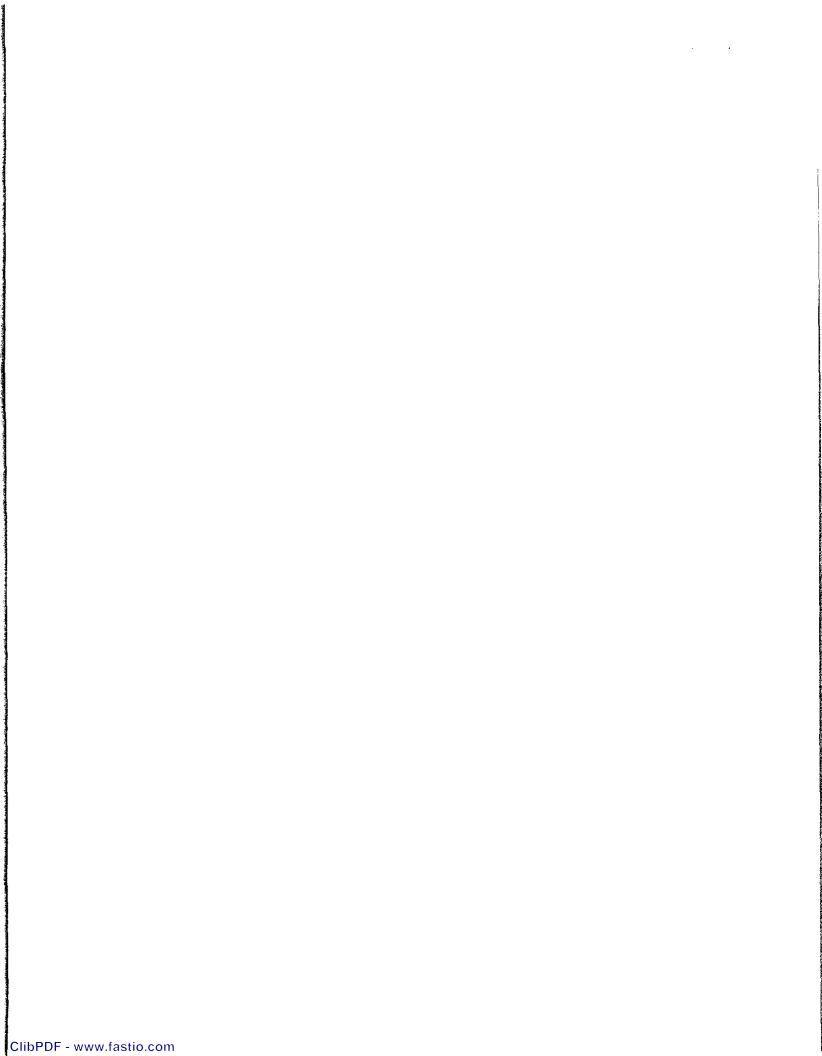
- 12. Persons notified that their name will be placed on the disqualification registry may appeal such determination pursuant to department rule or regulation. If the person appeals, the hearing tribunal shall not modify the length of time the person's name shall appear on the disqualification registry if the hearing tribunal upholds all of the administrative substantiations made by the director or the director's designee. If the hearing tribunal overturns part of the administrative substantiations made by the director or the director's designee, the hearing tribunal may consider modifying the length of time the person's name shall appear on the disqualification registry based upon testimony and evidence received during the hearing.
- 13. The length of time the person's name shall appear on the disqualification registry shall be determined by the director or the director's designee based upon the following:

- (1) Whether the person acted recklessly or knowingly, as defined in chapter 562;
- (2) The degree of actual or potential injury or harm to the patient, resident, or client;
- (3) The degree of actual or potential danger to the health, safety, or welfare of the patient, resident, or client;
- (3) The degree of misappropriation or conversion of patient, resident, or client funds or property;
- (4) Whether the person has previously been listed on the department's disqualification registry;
 - (5) Any mitigating circumstances; and
 - (6) Any aggravating circumstances.
- 14. The department shall provide the disqualification registry maintained pursuant to this section to other state and federal agencies upon request. The department may provide the disqualification registry maintained pursuant to this section to any public or private facility, day program, residential facility, or specialized service operated, licensed, certified, accredited, in possession of deemed status, or funded by the department or to any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632. The department may also provide the disqualification registry to a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations are included in the employee disqualification registry."; and

Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 2

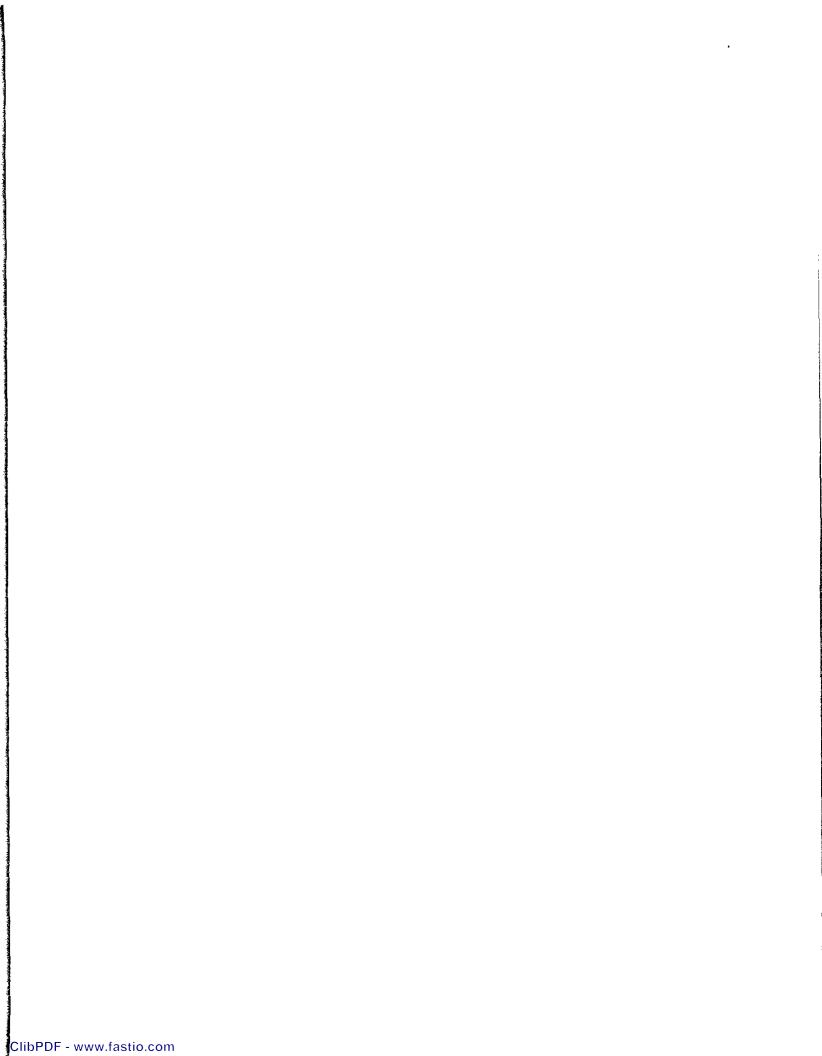
Offered by	v Over W	of		
Amend 55	House Bill No	<u>1318</u> , Page <u>1</u> ,	Section <u>630.94</u>	5_, Line
_	inserting immedi	ately after "630.94 <u>2013,</u> ".	15." the follow	ing:
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SENATE AMENDMENT NO. 4

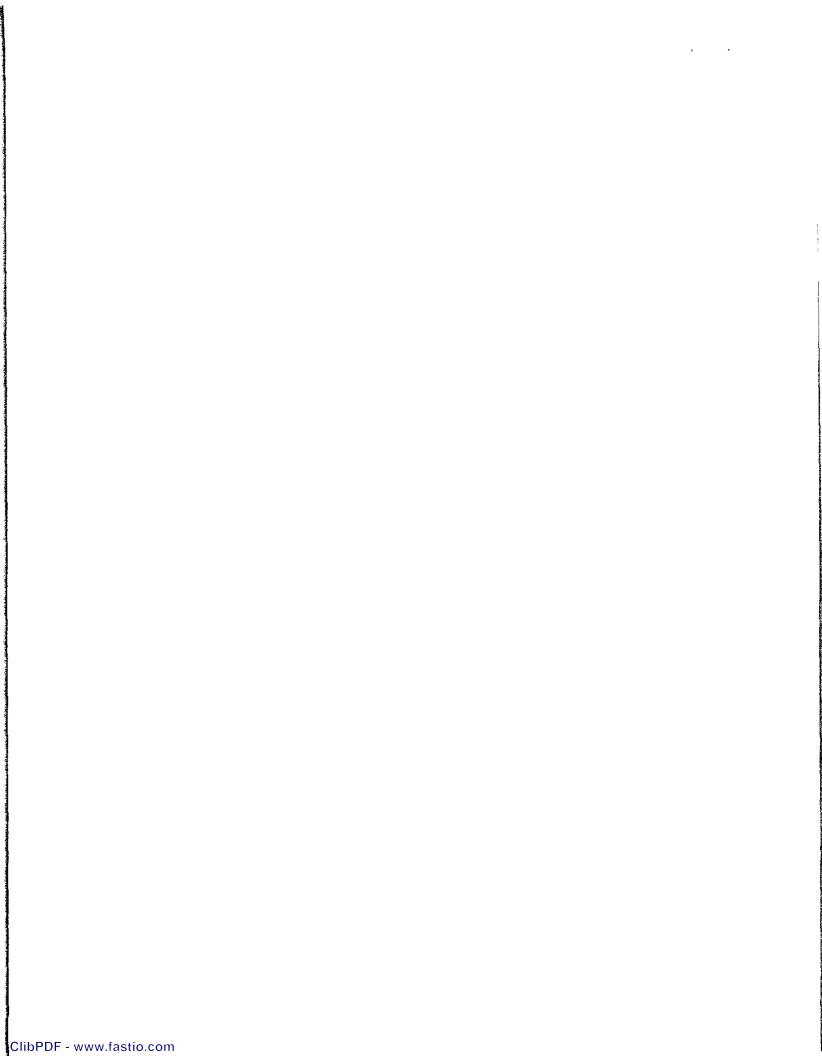
	Offer	red by ENGLER of 3ED
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	Amend	SS/House Bill No. 1318 , Page 1 , Section <u>Title</u> , Lines 3-4
2		of said page, by striking the following: "employees of certain
3		mental health facilities" and inserting in lieu thereof the
4		following: "facilities that conduct mental health services"; and
5		Further amend said bill and page, section 630.945, line 10
6		of said page, by inserting after all of said line the following:
7		"632.501. If the director of the department of mental
8		health determines that the person's mental abnormality has so
9		changed that the person is not likely to commit acts of sexual
10		violence if released, the director shall authorize the person to
11		petition the court for release. The petition shall be served
12		upon the court that committed the person, the prosecutor of the
13		jurisdiction into which the committed person is to be released,
14	•	the director of the department of mental health, the head of the
15		facility housing the person, and the attorney general. The
16		hearing and trial, if any, shall be conducted according to the
17		provisions of section 632.498."; and
18	1	Further amend the title and enacting clause accordingly.
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SENATE AMENDMENT NO. 5

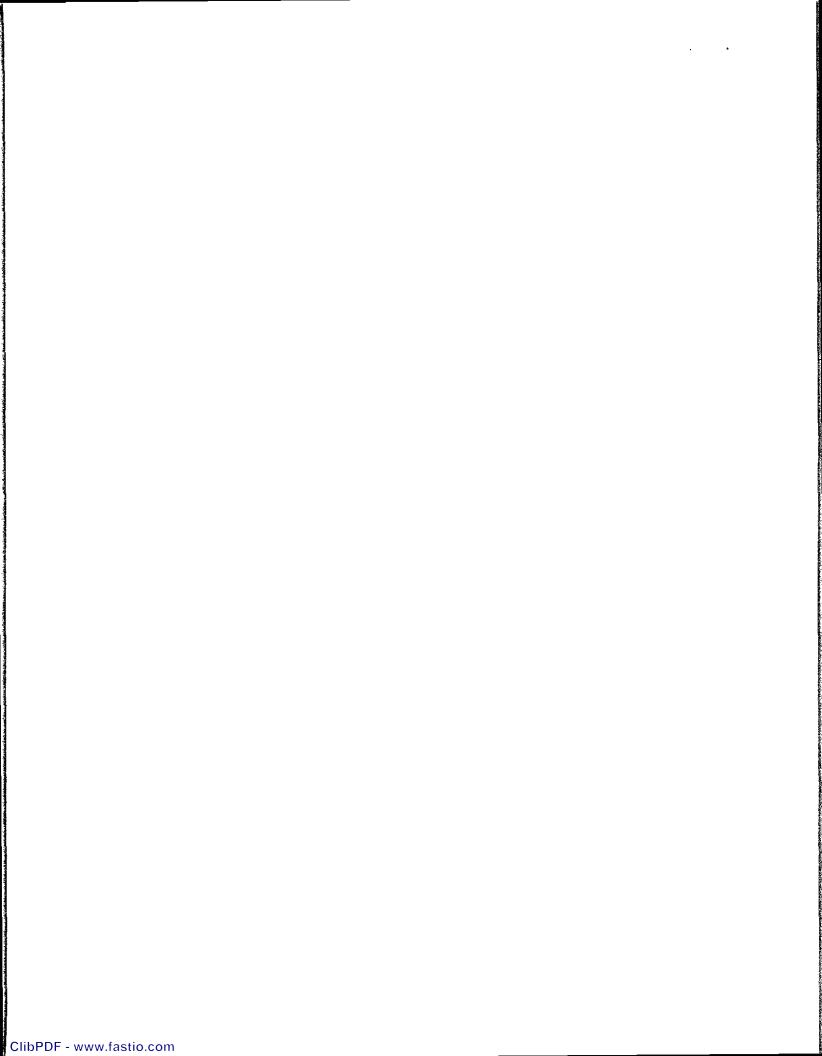
	Offered by ENGLER	of 3129
	Amend SS/House Bill No. 1318	, Page <u>1</u> , Section <u>Title</u> , Lines <u>3-4</u>
2	of said page, by striking the	e following: "employees of certain
3	mental health facilities" and	l inserting in lieu thereof the
4	following: "facilities that o	conduct mental health services"; and
5	Further amend said bill	and page, section A, line 3 of said
6	page, by inserting after all	of said line the following:
7	" <u>559.117. 1. The direc</u>	tor of the department of corrections
8	is authorized to establish, a	s a three-year pilot program, a
9	mental health assessment proc	ess.
10	2. Only upon a motion f	iled by the prosecutor in a criminal
11	case, the judge who is hearing	g the criminal case in a
12	participating county may requ	est that an offender be placed in
13	the department of corrections	for one hundred twenty days for a
14	mental health assessment and	for treatment if it appears that the
15	offender has a mental disorde	r or mental illness such that the
16	offender may qualify for prob	ation including community
17	psychiatric rehabilitation (C	PR) programs and such probation is
18	appropriate and not inconsist	ent with public safety. Before the
19	judge rules upon the motion,	the victim shall be given notice of
20	such motion and the opportuni	ty to be heard. Upon recommendation
21	of the court, the department	shall determine the offender's
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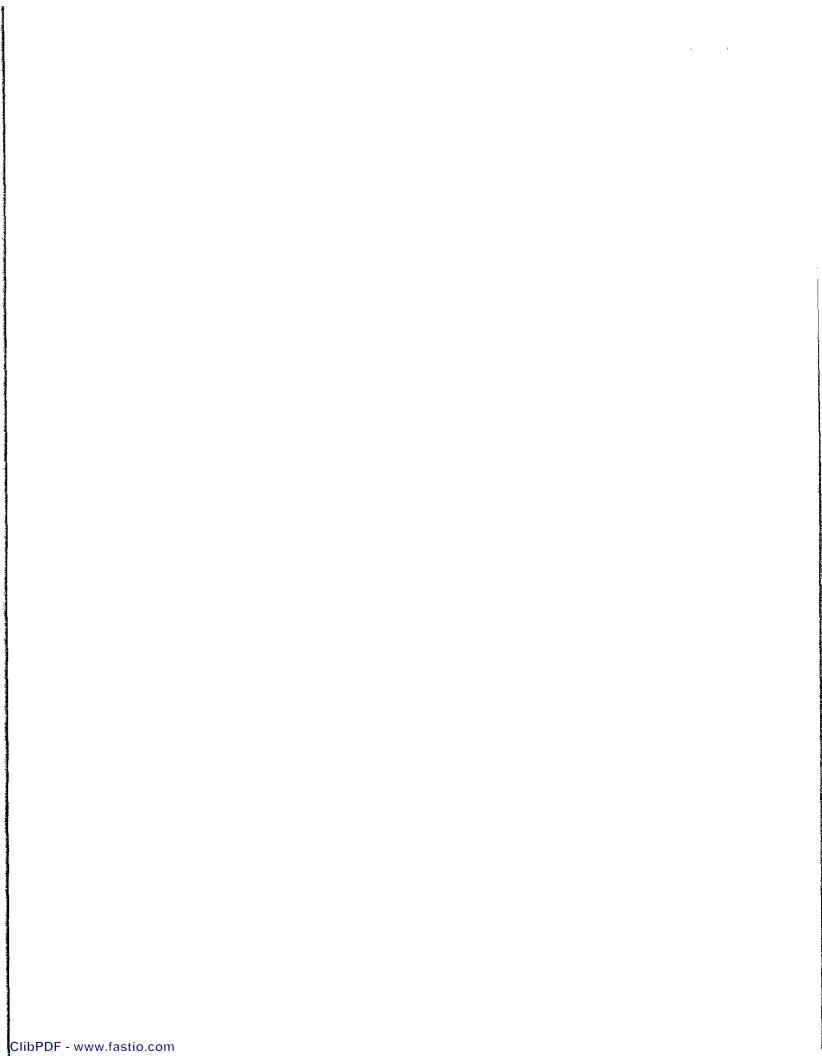
- eligibility for the mental health assessment process.
- 3. Following this assessment and treatment period, an assessment report shall be sent to the sentencing court and the sentencing court may, if appropriate, release the offender on probation. The offender shall be supervised on probation by a state probation and parole officer, who shall work cooperatively with the department of mental health to enroll eligible offenders in community psychiatric rehabilitation (CPR) programs.
 - 4. Notwithstanding any other provision of law, probation shall not be granted under this section to offenders who:
 - (1) Have been found quilty of, or plead quilty to, murder in the second degree under section 565.021;
 - (2) Have been found guilty of, or plead guilty to, forcible rape under section 566.030;
 - (3) Have been found quilty of, or plead quilty to, statutory rape in the first degree under section 566.032;
 - (4) Have been found guilty of, or plead guilty to, forcible sodomy under section 566.060;
 - (5) Have been found quilty of, or plead guilty to, statutory sodomy in the first degree under section 566.062;
 - (6) Have been found guilty of, or plead guilty to, child molestation in the first degree under section 566.067 when classified as a class A felony;
 - (7) Have been found to be a predatory sexual offender under section 558.018; or
 - (8) Have been found guilty of, or plead guilty to, any offense for which there exists a statutory prohibition against either probation or parole.
 - 5. At the end of the three-year pilot, the director of the

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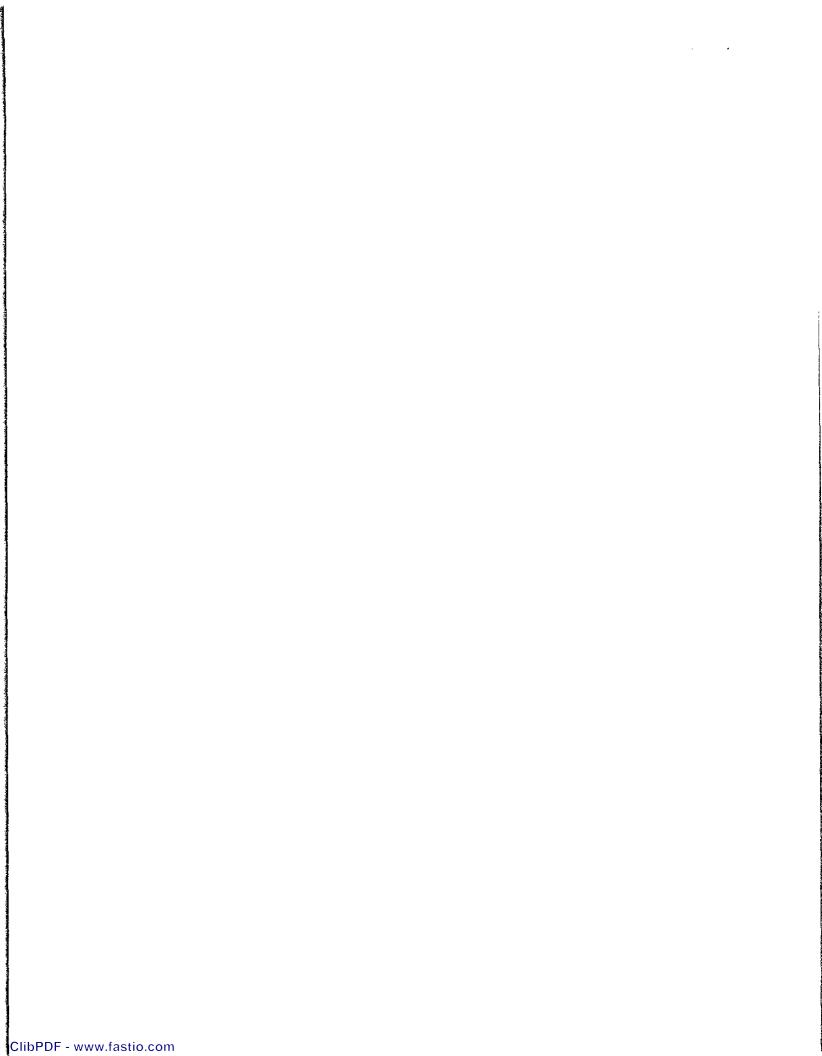


1	department of corrections and the director of the department of
2	mental health shall jointly submit recommendations to the
3	governor and to the general assembly by December 31, 2015, on
4	whether to expand the process statewide."; and
5 .	Further amend the title and enacting clause accordingly.
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SENATE AMENDMENT NO. 6
offered by Ridgeway of 17th
Amend <u>SS/House</u> Bill No. <u>1318</u> , Page <u>1</u> , Section <u>Title</u> , Lines <u>3-4</u> ,
by striking the words "employees of certain mental health
facilities" and inserting in lieu thereof the following:
"employee hours and identity"; and
Further amend said bill and page, Section A, line 3 by
inserting after all of said line the following:
"407.1355. 1. Except as provided in this section a person
or entity, not including a state or local agency, shall not do
any of the following:
(1) Publicly post or publicly display in any manner an
individual's Social Security number. "Publicly post" or
"publicly display" is defined in this section to intentionally
communicate or otherwise make available to the general public or
to an individual's co-workers;
(2) Require an individual to transmit his or her Social
Security number over the Internet, unless the connection is
secure or the Social Security number is encrypted;
(3) Require an individual to use his or her Social Security
number to access an internet website, unless a password, unique
personal identification number, or other authentication device is
also required to access the internet website;

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- (4) Require an individual to use his or her Social Security number as an employee number for any type of employment-related activity;
- (5) Require an individual to use the last four digits of his or her Social Security number as an employee number for any type of employment-related activity.
- 2. The provisions of [subsection 1 of this section apply only to the use of Social Security numbers on or after January 1, 2006] subdivision (5) of subsection 1 of this section shall only apply to such use after December 31, 2015.
- 3. This section does not prevent the collection, use, or release of a Social Security number as required by state or federal law or the use of a Social Security number for internal verification or administrative purposes.
- 4. This section does not apply to documents that are recorded or required to be open to the public pursuant to chapter 610. This section does not apply to records that are required by statute, case law, or Missouri court rules to be made available to the public.
- 5. If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, any person or entity that complies with the federal law shall be deemed in compliance with this section."; and
 - Further amend the title and enacting clause accordingly.

