

Riddle ⑤



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

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 SAs 1, 2, 4, 5, 6

In which the concurrence of the House is respectfully requested.

Respectfully,

Terry L. Spieler
Secretary of the Senate

MAY 17 2012

SENATE AMENDMENT NO. 1

Offered by

Stenoff

of

Geline

Amend

SS House

Bill No.

1318

Page

1

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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1 569.050, 569.070, or 569.160, or of an equivalent felony offense,
2 or who has been convicted of or pled guilty or nolo contendere to
3 any violation of subsection 3 of section 198.070, or has been
4 convicted of or pled guilty or nolo contendere to any offense
5 requiring registration under section 589.400, shall be
6 disqualified from holding any direct-care position in any public
7 or private facility, day program, residential facility or
8 specialized service operated, licensed, certified, accredited, in
9 possession of deemed status, or funded [or licensed] by the
10 department or any mental health facility or mental health program
11 in which people are admitted on a voluntary basis or are civilly
12 detained pursuant to chapter 632.

13 3. A person who has received a suspended imposition of
14 sentence or a suspended execution of sentence following a plea of
15 guilty to any of the disqualifying crimes listed in subsection 1
16 or 2 of this section shall remain disqualified.

17 4. Any person disqualified pursuant to the provisions of
18 subsection 1 or 2 of this section may seek an exception to the
19 disqualification from the director of the department or the
20 director's designee. The request shall be written and may not be
21 made more than once every [twelve] six months. The request may
22 be granted by the director or designee if in the judgment of the
23 director or designee a clear showing has been made by written
24 submission only, that the person will not commit any additional
25 acts for which the person had originally been disqualified for or
26 any other acts that would be harmful to a patient, resident or
27 client of a facility, program or service. The director or
28 designee may grant an exception subject to any conditions deemed
29 appropriate and failure to comply with such terms may result in

1 the person again being disqualified. Any person placed on the
2 disqualification registry prior to August 28, 2012, may be
3 removed from the registry by the director or designee if in the
4 judgment of the director or designee a clear showing has been
5 made, by written submission only, that the person will not commit
6 any additional acts for which the person had originally been
7 disqualified for or any other acts that would be harmful to a
8 patient, resident, or client of a facility, program, or service.
9 Decisions by the director or designee pursuant to the provisions
10 of this subsection shall not be subject to appeal. The right to
11 request an exception pursuant to this subsection shall not apply
12 to persons who are disqualified due to being listed on the
13 department of social services or department of health and senior
14 services employee disqualification list pursuant to section
15 660.315, nor to persons disqualified from employment due to any
16 crime pursuant to the provisions of chapter 566 or section
17 565.020, 565.021, 568.020, 568.060, 569.025, or 569.070.

18 5. An applicant for a [direct care] position in any public
19 or private facility, day program, residential facility, or
20 specialized service operated, licensed, certified, accredited, in
21 possession of deemed status, or funded[, or licensed] by the
22 department or any mental health facility or mental health program
23 in which people are admitted on a voluntary basis or are civilly
24 detained pursuant to chapter 632 shall:

25 (1) Sign a consent form as required by section 43.540 to
26 provide written consent for a criminal record review;

27 (2) Disclose the applicant's criminal history. For the
28 purposes of this subdivision "criminal history" includes any
29 suspended imposition of sentence, any suspended execution of

1 sentence, or any period of probation or parole; and

2 (3) Disclose if the applicant is listed on the employee
3 disqualification list as provided in section 660.315, or the
4 department of mental health disqualification registry as provided
5 for in this section.

6 6. Any person who has received a good cause waiver issued
7 by the [division of] department of health and senior services or
8 its predecessor under subsection 9 of section 660.317 shall not
9 require an additional exception under this section in order to be
10 employed in a long-term care facility licensed under chapter 198.

11 7. Any public or private residential facility, day program,
12 or specialized service operated, licensed, certified, accredited,
13 in possession of deemed status, or funded by the department or
14 any mental health facility or mental health program in which
15 people are admitted on a voluntary basis or are civilly detained
16 pursuant to chapter 632 shall, not later than two working days
17 after hiring any person for a full-time, part-time, or temporary
18 position that will have contact with clients, residents, or
19 patients:

20 (1) Request a criminal background check as provided in
21 section 43.540;

22 (2) Make an inquiry to the department of social services
23 and department of health and senior services to determine whether
24 the person is listed on the employee disqualification list as
25 provided in section 660.315; and

26 (3) Make an inquiry to the department of mental health to
27 determine whether the person is listed on the disqualification
28 registry as provided in this section.

29 8. An applicant who knowingly fails to disclose his or her

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

10 9. Any public or private residential facility, day program,
11 or specialized service operated, licensed, certified, accredited,
12 in possession of deemed status or funded by the department or any
13 mental health facility or mental health program in which people
14 are admitted on a voluntary basis or are civilly detained
15 pursuant to chapter 632 that declines to employ or discharges a
16 person who is disqualified pursuant to the provisions of
17 subsection 1 or 2 of this section shall be immune from suit by
18 that person or anyone else acting for or in behalf of that person
19 for the failure to employ or for the discharge of the person due
20 to disqualification.

21 10. Any employer who is required to discharge an employee
22 because the employee was placed on a disqualification registry
23 maintained by the department of mental health after the date of
24 hire shall not be charged for unemployment insurance benefits
25 based on wages paid to the employee for work prior to the date of
26 discharge pursuant to section 288.100.

27 11. The department [may] shall maintain a disqualification
28 registry and place on the registry the names of any persons who
29 have been finally determined by the department to be disqualified

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

15 12. Persons notified that their name will be placed on the
16 disqualification registry may appeal such determination pursuant
17 to department rule or regulation. If the person appeals, the
18 hearing tribunal shall not modify the length of time the person's
19 name shall appear on the disqualification registry if the hearing
20 tribunal upholds all of the administrative substantiations made
21 by the director or the director's designee. If the hearing
22 tribunal overturns part of the administrative substantiations
23 made by the director or the director's designee, the hearing
24 tribunal may consider modifying the length of time the person's
25 name shall appear on the disqualification registry based upon
26 testimony and evidence received during the hearing.

27 13. The length of time the person's name shall appear on
28 the disqualification registry shall be determined by the director
29 or the director's designee based upon the following:

1 (1) Whether the person acted recklessly or knowingly, as
2 defined in chapter 562;

3 (2) The degree of actual or potential injury or harm to the
4 patient, resident, or client;

5 (3) The degree of actual or potential danger to the health,
6 safety, or welfare of the patient, resident, or client;

7 (3) The degree of misappropriation or conversion of
8 patient, resident, or client funds or property;

9 (4) Whether the person has previously been listed on the
10 department's disqualification registry;

11 (5) Any mitigating circumstances; and

12 (6) Any aggravating circumstances.

13 14. The department shall provide the disqualification
14 registry maintained pursuant to this section to other state and
15 federal agencies upon request. The department may provide the
16 disqualification registry maintained pursuant to this section to
17 any public or private facility, day program, residential
18 facility, or specialized service operated, licensed, certified,
19 accredited, in possession of deemed status, or funded by the
20 department or to any mental health facility or mental health
21 program in which people are admitted on a voluntary or
22 involuntary basis or are civilly detained pursuant to chapter
23 632. The department may also provide the disqualification
24 registry to a recognized school of nursing, medicine, or other
25 health profession for the purpose of determining whether students
26 scheduled to participate in clinical rotations are included in
27 the employee disqualification registry."; and

28 Further amend the title and enacting clause accordingly.

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SENATE AMENDMENT NO. 2Offered by Green of _____Amend SS / House Bill No. 1318, Page 1, Section 630.945, Line 4,

2 by inserting immediately after "630.945." the following:

3 "Beginning July 1, 2013,".

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adopted 5-17-12

SENATE AMENDMENT NO. 4Offered by Engler of 3RDAmend SS/House Bill No. 1318, Page 1, Section Title, 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 Further amend the title and enacting clause accordingly.
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SENATE AMENDMENT NO. 5Offered by ENGLE of 3rdAmend SS/House Bill No. 1318, Page 1, Section Title, 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 A, line 3 of said
6 page, by inserting after all of said line the following:

7 "559.117. 1. The director of the department of corrections
8 is authorized to establish, as a three-year pilot program, a
9 mental health assessment process.

10 2. Only upon a motion filed by the prosecutor in a criminal
11 case, the judge who is hearing the criminal case in a
12 participating county may request 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 disorder or mental illness such that the
16 offender may qualify for probation including community
17 psychiatric rehabilitation (CPR) programs and such probation is
18 appropriate and not inconsistent with public safety. Before the
19 judge rules upon the motion, the victim shall be given notice of
20 such motion and the opportunity to be heard. Upon recommendation
21 of the court, the department shall determine the offender's

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1 eligibility for the mental health assessment process.

2 3. Following this assessment and treatment period, an
3 assessment report shall be sent to the sentencing court and the
4 sentencing court may, if appropriate, release the offender on
5 probation. The offender shall be supervised on probation by a
6 state probation and parole officer, who shall work cooperatively
7 with the department of mental health to enroll eligible offenders
8 in community psychiatric rehabilitation (CPR) programs.

9 4. Notwithstanding any other provision of law, probation
10 shall not be granted under this section to offenders who:

11 (1) Have been found guilty of, or plead guilty to, murder
12 in the second degree under section 565.021;

13 (2) Have been found guilty of, or plead guilty to, forcible
14 rape under section 566.030;

15 (3) Have been found guilty of, or plead guilty to,
16 statutory rape in the first degree under section 566.032;

17 (4) Have been found guilty of, or plead guilty to, forcible
18 sodomy under section 566.060;

19 (5) Have been found guilty of, or plead guilty to,
20 statutory sodomy in the first degree under section 566.062;

21 (6) Have been found guilty of, or plead guilty to, child
22 molestation in the first degree under section 566.067 when
23 classified as a class A felony;

24 (7) Have been found to be a predatory sexual offender under
25 section 558.018; or

26 (8) Have been found guilty of, or plead guilty to, any
27 offense for which there exists a statutory prohibition against
28 either probation or parole.

29 5. At the end of the three-year pilot, the director of the

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

Ridgway

of

17thAmend SS/House Bill No. 1318, Page 1, Section Title, Lines 3-4,

2 by striking the words "employees of certain mental health
3 facilities" and inserting in lieu thereof the following:
4 "employee hours and identity"; and

5 Further amend said bill and page, Section A, line 3 by
6 inserting after all of said line the following:

7 "407.1355. 1. Except as provided in this section a person
8 or entity, not including a state or local agency, shall not do
9 any of the following:

10 (1) Publicly post or publicly display in any manner an
11 individual's Social Security number. "Publicly post" or
12 "publicly display" is defined in this section to intentionally
13 communicate or otherwise make available to the general public or
14 to an individual's co-workers;

15 (2) Require an individual to transmit his or her Social
16 Security number over the Internet, unless the connection is
17 secure or the Social Security number is encrypted;

18 (3) Require an individual to use his or her Social Security
19 number to access an internet website, unless a password, unique
20 personal identification number, or other authentication device is
21 also required to access the internet website;

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1 (4) Require an individual to use his or her Social Security
2 number as an employee number for any type of employment-related
3 activity;

4 (5) Require an individual to use the last four digits of
5 his or her Social Security number as an employee number for any
6 type of employment-related activity.

7 2. The provisions of [subsection 1 of this section apply
8 only to the use of Social Security numbers on or after January 1,
9 2006] subdivision (5) of subsection 1 of this section shall only
10 apply to such use after December 31, 2015.

11 3. This section does not prevent the collection, use, or
12 release of a Social Security number as required by state or
13 federal law or the use of a Social Security number for internal
14 verification or administrative purposes.

15 4. This section does not apply to documents that are
16 recorded or required to be open to the public pursuant to chapter
17 610. This section does not apply to records that are required by
18 statute, case law, or Missouri court rules to be made available
19 to the public.

20 5. If a federal law takes effect requiring the United
21 States Department of Health and Human Services to establish a
22 national unique patient health identifier program, any person or
23 entity that complies with the federal law shall be deemed in
24 compliance with this section."; and

25 Further amend the title and enacting clause accordingly.

