

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

# HOUSE BILL NO. 1064

## 97TH GENERAL ASSEMBLY

4543H.01T

2014

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### AN ACT

To repeal sections 178.656, 197.315, 205.968, 208.215, 208.275, as enacted by senate committee substitute for house committee substitute for house bill no. 464, ninety-sixth general assembly, first regular session, 210.211, 210.516, 211.202, 211.203, 226.805, 287.812, 376.810, 475.010, 475.120, 475.355, 552.040, 563.033, 565.030, 630.003, 630.005, 630.130, 630.340, 630.705, 633.020, 633.105, 633.170, 633.401, 660.075, and 660.405, RSMo, and to enact in lieu thereof twenty-nine new sections relating to individuals with disabilities.

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

Section A. Sections 178.656, 197.315, 205.968, 208.215, 208.275, as enacted by senate committee substitute for house committee substitute for house bill no. 464, ninety-sixth general assembly, first regular session, 210.211, 210.516, 211.202, 211.203, 226.805, 287.812, 376.810, 475.010, 475.120, 475.355, 552.040, 563.033, 565.030, 630.003, 630.005, 630.130, 630.340, 630.705, 633.020, 633.105, 633.170, 633.401, 660.075, and 660.405, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 178.656, 197.315, 205.968, 208.215, 210.211, 210.516, 211.202, 211.203, 226.805, 287.812, 376.810, 475.010, 475.120, 475.355, 552.040, 563.033, 565.030, 630.003, 630.005, 630.130, 630.340, 630.705, 633.020, 633.105, 633.170, 633.401, 660.075, 660.405, and 1, to read as follows:

178.656. 1. Centers for independent living shall be community-based nonresidential programs designed to promote independent living for persons with disabilities. Such centers shall be organized as nonprofit corporations with persons with disabilities comprising at least fifty-one percent of the governing board of directors.

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.

5           2. At least fifty-one percent of the staff of such centers shall be persons with disabilities.

6           3. The center shall provide to persons with disabilities within the center's target  
7 population and their families the following independent living services:

8           (1) Advocacy;

9           (2) Independent living skills training, which shall include but shall not be limited to  
10 health care and financial management;

11          (3) Peer counseling;

12          (4) Information and referral to all inquirers including those from outside the center's  
13 target population.

14          4. The center may provide or make available, but is not limited to, the following:

15          (1) Legal services;

16          (2) Other counseling services, which may include nonpeer, group, and family counseling;

17          (3) Housing services;

18          (4) Equipment services;

19          (5) Transportation services;

20          (6) Social and recreational services;

21          (7) Educational services;

22          (8) Vocational services, including supported employment;

23          (9) Reader, interpreter, and other communication services;

24          (10) Attendant and homemaker services; and

25          (11) Electronic services.

26          5. To qualify as a center for independent living under the provisions of sections 178.651  
27 to 178.658, centers shall serve at least four of the following types of disabilities:

28          (1) Mobility;

29          (2) Orthopedic;

30          (3) Hearing impaired or deaf;

31          (4) Vision impaired or blind;

32          (5) Neurological;

33          (6) [Mental retardation] **Intellectual disability**;

34          (7) Developmental;

35          (8) Psychiatric or mental; or

36          (9) Learning.

37          6. Centers shall make maximum use of existing resources available to persons with  
38 disabilities and shall not duplicate any existing services or programs in the geographic areas to  
39 the extent that such services or programs are available through other state resources. Such  
40 centers shall, however, provide information and referral to assist persons with disabilities in

41 obtaining available services and shall coordinate, where feasible, the delivery of such services.

42 7. Centers shall operate in compliance with all applicable local laws and ordinances.

197.315. 1. Any person who proposes to develop or offer a new institutional health  
2 service within the state must obtain a certificate of need from the committee prior to the time  
3 such services are offered.

4 2. Only those new institutional health services which are found by the committee to be  
5 needed shall be granted a certificate of need. Only those new institutional health services which  
6 are granted certificates of need shall be offered or developed within the state. No expenditures  
7 for new institutional health services in excess of the applicable expenditure minimum shall be  
8 made by any person unless a certificate of need has been granted.

9 3. After October 1, 1980, no state agency charged by statute to license or certify health  
10 care facilities shall issue a license to or certify any such facility, or distinct part of such facility,  
11 that is developed without obtaining a certificate of need.

12 4. If any person proposes to develop any new institutional health care service without  
13 a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the  
14 attorney general, and he shall apply for an injunction or other appropriate legal action in any  
15 court of this state against that person.

16 5. After October 1, 1980, no agency of state government may appropriate or grant funds  
17 to or make payment of any funds to any person or health care facility which has not first obtained  
18 every certificate of need required pursuant to sections 197.300 to 197.366.

19 6. A certificate of need shall be issued only for the premises and persons named in the  
20 application and is not transferable except by consent of the committee.

21 7. Project cost increases, due to changes in the project application as approved or due  
22 to project change orders, exceeding the initial estimate by more than ten percent shall not be  
23 incurred without consent of the committee.

24 8. Periodic reports to the committee shall be required of any applicant who has been  
25 granted a certificate of need until the project has been completed. The committee may order the  
26 forfeiture of the certificate of need upon failure of the applicant to file any such report.

27 9. A certificate of need shall be subject to forfeiture for failure to incur a capital  
28 expenditure on any approved project within six months after the date of the order. The applicant  
29 may request an extension from the committee of not more than six additional months based upon  
30 substantial expenditure made.

31 10. Each application for a certificate of need must be accompanied by an application fee.  
32 The time of filing commences with the receipt of the application and the application fee. The  
33 application fee is one thousand dollars, or one-tenth of one percent of the total cost of the  
34 proposed project, whichever is greater. All application fees shall be deposited in the state

35 treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the  
36 Missouri health facilities review committee.

37 11. In determining whether a certificate of need should be granted, no consideration shall  
38 be given to the facilities or equipment of any other health care facility located more than a  
39 fifteen-mile radius from the applying facility.

40 12. When a nursing facility shifts from a skilled to an intermediate level of nursing care,  
41 it may return to the higher level of care if it meets the licensure requirements, without obtaining  
42 a certificate of need.

43 13. In no event shall a certificate of need be denied because the applicant refuses to  
44 provide abortion services or information.

45 14. A certificate of need shall not be required for the transfer of ownership of an existing  
46 and operational health facility in its entirety.

47 15. A certificate of need may be granted to a facility for an expansion, an addition of  
48 services, a new institutional service, or for a new hospital facility which provides for something  
49 less than that which was sought in the application.

50 16. The provisions of this section shall not apply to facilities operated by the state, and  
51 appropriation of funds to such facilities by the general assembly shall be deemed in compliance  
52 with this section, and such facilities shall be deemed to have received an appropriate certificate  
53 of need without payment of any fee or charge.

54 17. Notwithstanding other provisions of this section, a certificate of need may be issued  
55 after July 1, 1983, for an intermediate care facility operated exclusively for the [mentally  
56 retarded] **intellectually disabled**.

57 18. To assure the safe, appropriate, and cost-effective transfer of new medical technology  
58 throughout the state, a certificate of need shall not be required for the purchase and operation of  
59 research equipment that is to be used in a clinical trial that has received written approval from  
60 a duly constituted institutional review board of an accredited school of medicine or osteopathy  
61 located in Missouri to establish its safety and efficacy and does not increase the bed complement  
62 of the institution in which the equipment is to be located. After the clinical trial has been  
63 completed, a certificate of need must be obtained for continued use in such facility.

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 persons with a disability. The facility may operate at one or  
6 more locations in the county or city not within a county. Once established, the board may, in its  
7 own name engage in and contract for any and all types of services, actions or endeavors, not

8 contrary to the law, necessary to the successful and efficient prosecution and continuation of the  
9 business and purposes for which it is created, and may purchase, receive, lease or otherwise  
10 acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real  
11 and personal property, or any interest therein, or other assets wherever situated and may incur  
12 liability and may borrow money at rates of interest up to the market rate published by the  
13 Missouri division of finance. The board shall be taken and considered as a "political  
14 subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to  
15 70.755.

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

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

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

32 (a) A disability which is attributable to [mental retardation] **intellectual disability**,  
33 cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar  
34 condition found by comprehensive evaluation to be closely related to such conditions, or to  
35 require habilitation similar to that required for [mentally retarded] **intellectually disabled**  
36 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) "Person with a disability" shall mean a person who is lower range educable or upper  
41 range trainable [mentally retarded] **intellectually disabled** or a person who has a developmental  
42 disability.

208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law.  
2 When any person, corporation, institution, public agency or private agency is liable, either  
3 pursuant to contract or otherwise, to a participant receiving public assistance on account of  
4 personal injury to or disability or disease or benefits arising from a health insurance plan to  
5 which the participant may be entitled, payments made by the department of social services or  
6 MO HealthNet division shall be a debt due the state and recoverable from the liable party or  
7 participant for all payments made on behalf of the participant and the debt due the state shall not  
8 exceed the payments made from MO HealthNet benefits provided under sections 208.151 to  
9 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate  
10 for payments on account of the injury, disease, or disability or benefits arising from a health  
11 insurance program to which the participant may be entitled. Any health benefit plan as defined  
12 in section 376.1350, third-party administrator, administrative service organization, and pharmacy  
13 benefits manager shall process and pay all properly submitted medical assistance subrogation  
14 claims or MO HealthNet subrogation claims using standard electronic transactions or paper  
15 claim forms:

16 (1) For a period of three years from the date services were provided or rendered;  
17 however, an entity:

18 (a) Shall not be required to reimburse for items or services which are not covered under  
19 MO HealthNet;

20 (b) Shall not deny a claim submitted by the state solely on the basis of the date of  
21 submission of the claim, the type or format of the claim form, failure to present proper  
22 documentation of coverage at the point of sale, or failure to provide prior authorization;

23 (c) Shall not be required to reimburse for items or services for which a claim was  
24 previously submitted to the health benefit plan, third-party administrator, administrative service  
25 organization, or pharmacy benefits manager by the health care provider or the participant and the  
26 claim was properly denied by the health benefit plan, third-party administrator, administrative  
27 service organization, or pharmacy benefits manager for procedural reasons, except for timely  
28 filing, type or format of the claim form, failure to present proper documentation of coverage at  
29 the point of sale, or failure to obtain prior authorization;

30 (d) Shall not be required to reimburse for items or services which are not covered under  
31 or were not covered under the plan offered by the entity against which a claim for subrogation  
32 has been filed; and

33 (e) Shall reimburse for items or services to the same extent that the entity would have  
34 been liable as if it had been properly billed at the point of sale, and the amount due is limited to  
35 what the entity would have paid as if it had been properly billed at the point of sale; and

36 (2) If any action by the state to enforce its rights with respect to such claim is  
37 commenced within six years of the state's submission of such claim.

38 2. The department of social services, MO HealthNet division, or its contractor may  
39 maintain an appropriate action to recover funds paid by the department of social services or MO  
40 HealthNet division or its contractor that are due under this section in the name of the state of  
41 Missouri against the person, corporation, institution, public agency, or private agency liable to  
42 the participant, minor or estate.

43 3. Any participant, minor, guardian, conservator, personal representative, estate,  
44 including persons entitled under section 537.080 to bring an action for wrongful death who  
45 pursues legal rights against a person, corporation, institution, public agency, or private agency  
46 liable to that participant or minor for injuries, disease or disability or benefits arising from a  
47 health insurance plan to which the participant may be entitled as outlined in subsection 1 of this  
48 section shall upon actual knowledge that the department of social services or MO HealthNet  
49 division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO  
50 HealthNet division as to the pursuit of such legal rights.

51 4. Every applicant or participant by application assigns his right to the department of  
52 social services or MO HealthNet division of any funds recovered or expected to be recovered to  
53 the extent provided for in this section. All applicants and participants, including a person  
54 authorized by the probate code, shall cooperate with the department of social services, MO  
55 HealthNet division in identifying and providing information to assist the state in pursuing any  
56 third party who may be liable to pay for care and services available under the state's plan for MO  
57 HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and  
58 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party  
59 resources due to the applicant, participant, or child for whom assistance is claimed. Failure to  
60 cooperate without good cause as determined by the department of social services, MO HealthNet  
61 division in accordance with federally prescribed standards shall render the applicant or  
62 participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections  
63 208.162 and 208.204. A participant who has notice or who has actual knowledge of the  
64 department's rights to third-party benefits who receives any third-party benefit or proceeds for  
65 a covered illness or injury is either required to pay the division within sixty days after receipt of  
66 settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet  
67 benefits provided or to place the full amount of the third-party benefits in a trust account for the  
68 benefit of the division pending judicial or administrative determination of the division's right to  
69 third-party benefits.

70 5. Every person, corporation or partnership who acts for or on behalf of a person who  
71 is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections

72 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which  
73 accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in  
74 the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing  
75 to assist such person and further shall notify the MO HealthNet division of any institution of a  
76 proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before  
77 any judgment, award, or settlement may be satisfied in any action or any claim by the applicant  
78 or participant to recover damages for such injuries, disease, or disability, or benefits arising from  
79 a health insurance program to which the participant may be entitled.

80 6. Every participant, minor, guardian, conservator, personal representative, estate,  
81 including persons entitled under section 537.080 to bring an action for wrongful death, or his  
82 attorney or legal representative shall promptly notify the MO HealthNet division of any recovery  
83 from a third party and shall immediately reimburse the department of social services, MO  
84 HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other  
85 recovery in any action or claim initiated against any such third party. A judgment, award, or  
86 settlement in an action by a participant to recover damages for injuries or other third-party  
87 benefits in which the division has an interest may not be satisfied without first giving the division  
88 notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as  
89 otherwise permitted by law.

90 7. The department of social services, MO HealthNet division or its contractor shall have  
91 a right to recover the amount of payments made to a provider under this chapter because of an  
92 injury, disease, or disability, or benefits arising from a health insurance plan to which the  
93 participant may be entitled for which a third party is or may be liable in contract, tort or  
94 otherwise under law or equity. Upon request by the MO HealthNet division, all third-party  
95 payers shall provide the MO HealthNet division with information contained in a 270/271 Health  
96 Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal  
97 Health Insurance Portability and Accountability Act, except that third-party payers shall not  
98 include accident-only, specified disease, disability income, hospital indemnity, or other fixed  
99 indemnity insurance policies.

100 8. The department of social services or MO HealthNet division shall have a lien upon  
101 any moneys to be paid by any insurance company or similar business enterprise, person,  
102 corporation, institution, public agency or private agency in settlement or satisfaction of a  
103 judgment on any claim for injuries or disability or disease benefits arising from a health  
104 insurance program to which the participant may be entitled which resulted in medical expenses  
105 for which the department or MO HealthNet division made payment. This lien shall also be  
106 applicable to any moneys which may come into the possession of any attorney who is handling  
107 the claim for injuries, or disability or disease or benefits arising from a health insurance plan to

108 which the participant may be entitled which resulted in payments made by the department or MO  
109 HealthNet division. In each case, a lien notice shall be served by certified mail or registered  
110 mail, upon the party or parties against whom the applicant or participant has a claim, demand or  
111 cause of action. The lien shall claim the charge and describe the interest the department or MO  
112 HealthNet division has in the claim, demand or cause of action. The lien shall attach to any  
113 verdict or judgment entered and to any money or property which may be recovered on account  
114 of such claim, demand, cause of action or suit from and after the time of the service of the notice.

115 9. On petition filed by the department, or by the participant, or by the defendant, the  
116 court, on written notice of all interested parties, may adjudicate the rights of the parties and  
117 enforce the charge. The court may approve the settlement of any claim, demand or cause of  
118 action either before or after a verdict, and nothing in this section shall be construed as requiring  
119 the actual trial or final adjudication of any claim, demand or cause of action upon which the  
120 department has charge. The court may determine what portion of the recovery shall be paid to  
121 the department against the recovery. In making this determination the court shall conduct an  
122 evidentiary hearing and shall consider competent evidence pertaining to the following matters:

123 (1) The amount of the charge sought to be enforced against the recovery when expressed  
124 as a percentage of the gross amount of the recovery; the amount of the charge sought to be  
125 enforced against the recovery when expressed as a percentage of the amount obtained by  
126 subtracting from the gross amount of the recovery the total attorney's fees and other costs  
127 incurred by the participant incident to the recovery; and whether the department should, as a  
128 matter of fairness and equity, bear its proportionate share of the fees and costs incurred to  
129 generate the recovery from which the charge is sought to be satisfied;

130 (2) The amount, if any, of the attorney's fees and other costs incurred by the participant  
131 incident to the recovery and paid by the participant up to the time of recovery, and the amount  
132 of such fees and costs remaining unpaid at the time of recovery;

133 (3) The total hospital, doctor and other medical expenses incurred for care and treatment  
134 of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the  
135 participant, by insurance provided by the participant, and by the department, and the amount of  
136 such previously incurred expenses which remain unpaid at the time of recovery and by whom  
137 such incurred, unpaid expenses are to be paid;

138 (4) Whether the recovery represents less than substantially full recompense for the injury  
139 and the hospital, doctor and other medical expenses incurred to the date of recovery for the care  
140 and treatment of the injury, so that reduction of the charge sought to be enforced against the  
141 recovery would not likely result in a double recovery or unjust enrichment to the participant;

142 (5) The age of the participant and of persons dependent for support upon the participant,  
143 the nature and permanency of the participant's injuries as they affect not only the future

144 employability and education of the participant but also the reasonably necessary and foreseeable  
145 future material, maintenance, medical rehabilitative and training needs of the participant, the cost  
146 of such reasonably necessary and foreseeable future needs, and the resources available to meet  
147 such needs and pay such costs;

148 (6) The realistic ability of the participant to repay in whole or in part the charge sought  
149 to be enforced against the recovery when judged in light of the factors enumerated above.

150 10. The burden of producing evidence sufficient to support the exercise by the court of  
151 its discretion to reduce the amount of a proven charge sought to be enforced against the recovery  
152 shall rest with the party seeking such reduction. The computerized records of the MO HealthNet  
153 division, certified by the director or his or her designee, shall be prima facie evidence of proof  
154 of moneys expended and the amount of the debt due the state.

155 11. The court may reduce and apportion the department's or MO HealthNet division's  
156 lien proportionate to the recovery of the claimant. The court may consider the nature and extent  
157 of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it  
158 applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The  
159 department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on  
160 the department's or MO HealthNet division's lien as it compares to the total settlement agreed  
161 upon. This section shall not affect the priority of an attorney's lien under section 484.140. The  
162 charges of the department or MO HealthNet division or contractor described in this section,  
163 however, shall take priority over all other liens and charges existing under the laws of the state  
164 of Missouri with the exception of the attorney's lien under such statute.

165 12. Whenever the department of social services or MO HealthNet division has a statutory  
166 charge under this section against a recovery for damages incurred by a participant because of its  
167 advancement of any assistance, such charge shall not be satisfied out of any recovery until the  
168 attorney's claim for fees is satisfied, regardless of whether an action based on participant's claim  
169 has been filed in court. Nothing herein shall prohibit the director from entering into a  
170 compromise agreement with any participant, after consideration of the factors in subsections 9  
171 to 13 of this section.

172 13. This section shall be inapplicable to any claim, demand or cause of action arising  
173 under the workers' compensation act, chapter 287. From funds recovered pursuant to this section  
174 the federal government shall be paid a portion thereof equal to the proportionate part originally  
175 provided by the federal government to pay for MO HealthNet benefits to the participant or minor  
176 involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C.  
177 1396p, as authorized by federal law and regulation on permanently institutionalized individuals.  
178 The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42  
179 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized

180 individuals. For the purposes of this subsection, "permanently institutionalized individuals"  
181 includes those people who the department or MO HealthNet division determines cannot  
182 reasonably be expected to be discharged and return home, and "property" includes the homestead  
183 and all other personal and real property in which the participant has sole legal interest or a legal  
184 interest based upon co-ownership of the property which is the result of a transfer of property for  
185 less than the fair market value within thirty months prior to the participant's entering the nursing  
186 facility. The following provisions shall apply to such liens:

187 (1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be  
188 paid on behalf of a participant. The amount of the lien shall be for the full amount due the state  
189 at the time the lien is enforced;

190 (2) The MO HealthNet division shall file for record, with the recorder of deeds of the  
191 county in which any real property of the participant is situated, a written notice of the lien. The  
192 notice of lien shall contain the name of the participant and a description of the real estate. The  
193 recorder shall note the time of receiving such notice, and shall record and index the notice of lien  
194 in the same manner as deeds of real estate are required to be recorded and indexed. The director  
195 or the director's designee may release or discharge all or part of the lien and notice of the release  
196 shall also be filed with the recorder. The department of social services, MO HealthNet division,  
197 shall provide payment to the recorder of deeds the fees set for similar filings in connection with  
198 the filing of a lien and any other necessary documents;

199 (3) No such lien may be imposed against the property of any individual prior to the  
200 individual's death on account of MO HealthNet benefits paid except:

201 (a) In the case of the real property of an individual:

202 a. Who is an inpatient in a nursing facility, intermediate care facility for the [mentally  
203 retarded] **intellectually disabled**, or other medical institution, if such individual is required, as  
204 a condition of receiving services in such institution, to spend for costs of medical care all but a  
205 minimal amount of his or her income required for personal needs; and

206 b. With respect to whom the director of the MO HealthNet division or the director's  
207 designee determines, after notice and opportunity for hearing, that he cannot reasonably be  
208 expected to be discharged from the medical institution and to return home. The hearing, if  
209 requested, shall proceed under the provisions of chapter 536 before a hearing officer designated  
210 by the director of the MO HealthNet division; or

211 (b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf  
212 of such individual;

213 (4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on  
214 such individual's home if one or more of the following persons is lawfully residing in such home:

215 (a) The spouse of such individual;

216 (b) Such individual's child who is under twenty-one years of age, or is blind or  
217 permanently and totally disabled; or

218 (c) A sibling of such individual who has an equity interest in such home and who was  
219 residing in such individual's home for a period of at least one year immediately before the date  
220 of the individual's admission to the medical institution;

221 (5) Any lien imposed with respect to an individual pursuant to subparagraph b. of  
222 paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge  
223 from the medical institution and return home.

224 14. The debt due the state provided by this section is subordinate to the lien provided by  
225 section 484.130 or section 484.140, relating to an attorney's lien and to the participant's expenses  
226 of the claim against the third party.

227 15. Application for and acceptance of MO HealthNet benefits under this chapter shall  
228 constitute an assignment to the department of social services or MO HealthNet division of any  
229 rights to support for the purpose of medical care as determined by a court or administrative order  
230 and of any other rights to payment for medical care.

231 16. All participants receiving benefits as defined in this chapter shall cooperate with the  
232 state by reporting to the family support division or the MO HealthNet division, within thirty  
233 days, any occurrences where an injury to their persons or to a member of a household who  
234 receives MO HealthNet benefits is sustained, on such form or forms as provided by the family  
235 support division or MO HealthNet division.

236 17. If a person fails to comply with the provision of any judicial or administrative decree  
237 or temporary order requiring that person to maintain medical insurance on or be responsible for  
238 medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies  
239 available, that person shall be liable to the state for the entire cost of the medical care provided  
240 pursuant to eligibility under any public assistance program on behalf of that dependent child,  
241 spouse, or ex-spouse during the period for which the required medical care was provided. Where  
242 a duty of support exists and no judicial or administrative decree or temporary order for support  
243 has been entered, the person owing the duty of support shall be liable to the state for the entire  
244 cost of the medical care provided on behalf of the dependent child or spouse to whom the duty  
245 of support is owed.

246 18. The department director or the director's designee may compromise, settle or waive  
247 any such claim in whole or in part in the interest of the MO HealthNet program.  
248 Notwithstanding any provision in this section to the contrary, the department of social services,  
249 MO HealthNet division is not required to seek reimbursement from a liable third party on claims  
250 for which the amount it reasonably expects to recover will be less than the cost of recovery or

251 for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on  
252 the following:

253 (1) Actual and legal issues of liability as may exist between the participant and the liable  
254 party;

255 (2) Total funds available for settlement; and

256 (3) An estimate of the cost to the division of pursuing its claim.

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a  
2 child-care facility for children, or to advertise or hold himself or herself out as being able to  
3 perform any of the services as defined in section 210.201, without having in effect a written  
4 license granted by the department of health and senior services; except that nothing in sections  
5 210.203 to 210.245 shall apply to:

6 (1) Any person who is caring for four or fewer children. For purposes of this  
7 subdivision, children who are related by blood, marriage or adoption to such person within the  
8 third degree shall not be considered in the total number of children being cared for;

9 (2) Any person who has been duly appointed by a court of competent jurisdiction the  
10 guardian of the person of the child or children, or the person who has legal custody of the child  
11 or children;

12 (3) Any person who receives free of charge, and not as a business, for periods not  
13 exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or  
14 children of personal friends of such person, and who receives custody of no other unrelated child  
15 or children;

16 (4) Any graded boarding school, summer camp, hospital, sanitarium or home which is  
17 conducted in good faith primarily to provide education, recreation, medical treatment, or nursing  
18 or convalescent care for children;

19 (5) Any child-care facility maintained or operated under the exclusive control of a  
20 religious organization. When a nonreligious organization, having as its principal purpose the  
21 provision of child-care services, enters into an arrangement with a religious organization for the  
22 maintenance or operation of a child-care facility, the facility is not under the exclusive control  
23 of the religious organization;

24 (6) Any residential facility or day program licensed by the department of mental health  
25 pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation  
26 exclusively to children who have a primary diagnosis of mental disorder, mental illness, [mental  
27 retardation] **intellectual disability** or developmental disability, as defined in section 630.005;  
28 and

29 (7) Any nursery school.

30           2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility  
31 shall be exempt from licensure if such facility receives any state or federal funds for providing  
32 care for children, except for federal funds for those programs which meet the requirements for  
33 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to  
34 parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds  
35 received by a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

36           3. Any child care facility not exempt from licensure shall disclose the licensure status  
37 of the facility to the parents or guardians of children for which the facility provides care. No  
38 child care facility exempt from licensure shall represent to any parent or guardian of children for  
39 which the facility provides care that the facility is licensed when such facility is in fact not  
40 licensed.

          210.516. 1. It shall be unlawful for any person to establish, maintain, or operate a foster  
2 home, residential care facility, or child placing agency, or to advertise or hold himself out as  
3 being able to perform any of the services as defined in sections 210.481 to 210.536, without  
4 having in full force and effect a license issued by the division; provided, however, that nothing  
5 in sections 210.481 to 210.536 shall apply to:

6           (1) Any residential care facility operated by a person in which the care provided is in  
7 conjunction with an educational program for which a tuition is charged and completion of the  
8 program results in meeting requirements for a diploma recognized by the state department of  
9 elementary and secondary education;

10           (2) Any camp, hospital, sanitarium, or home which is conducted in good faith primarily  
11 to provide recreation, medical treatment, or nursing or convalescent care for children;

12           (3) Any person who receives free of charge, and not as a business, for periods of time  
13 not exceeding ninety consecutive days, the child of personal friends of such person as an  
14 occasional and personal guest, and who receives custody of no other unrelated child;

15           (4) Any child placing agency operated by the department of mental health or any foster  
16 home or residential care facility operated or licensed by the department of mental health under  
17 sections 630.705 to 630.760 which provides care, treatment, and habilitation exclusively to  
18 children who have a primary diagnosis of mental disorder, mental illness, [mental retardation]  
19 **intellectual disability** or developmental disability, as defined in section 630.005;

20           (5) Any foster home arrangement established and operated by any well-known religious  
21 order or church and any residential care facility or child placement agency operated by such  
22 organization; or

23           (6) Any institution or agency maintained or operated by the state, city or county.

24           2. The division shall not require any foster home, residential care facility, or child  
25 placing agency which believes itself exempt from licensure as provided in subsection 1 of this

26 section to submit any documentation in support of the claimed exemption; however said foster  
27 home, residential care facility, or child placing agency is not precluded from furnishing such  
28 documentation if it chooses to do so.

211.202. 1. If a child under the jurisdiction of the juvenile court appears to be mentally  
2 disordered, other than intellectually disabled or developmentally disabled, the court, on its own  
3 motion or on the motion or petition of any interested party, may order the department of mental  
4 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] **intellectual disability**  
10 or developmental 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] **intellectually disabled** or developmentally disabled, as these terms are defined in  
3 chapter 630, the court, on its own motion or on the motion or petition of any interested party,  
4 may order the department of 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 developmental  
8 disability facility operated or funded by the department of mental health. If it is determined by  
9 the regional center, as a result of the evaluation, to be appropriate to refer such child to a  
10 department developmental disability facility under section 633.120 or a private developmental  
11 disability facility under section 630.610, the regional center shall refer the evaluation to the  
12 appropriate developmental disability facility.

13           3. If, as a result of reviewing the evaluation, the head of the developmental disability  
14 facility, or his designee, determines that it is appropriate to admit such child as a resident, the  
15 head of the developmental disability facility, or his or her designee, shall recommend the child  
16 for admission, subject to availability of suitable accommodations. The head of the regional  
17 center, or his designee, shall send the juvenile court notice of the recommendation for admission  
18 by the developmental disability facility and a copy of the evaluation. Should the department  
19 evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel  
20 shall have the right to request an independent evaluation of the child. Within twenty days of  
21 receipt of the notice and evaluation from 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 residential care and  
24 habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to  
25 the department of mental health for other than residential care and habilitation. If the department

26 proposes placement at, or transferring the child to, a department facility other than that  
27 designated in the order of the juvenile court, the department shall conduct a due process hearing  
28 within six days of such placement or transfer during which the head of the initiating facility shall  
29 have the burden to show that the placement or transfer is appropriate for the medical needs of  
30 the child. The head of the facility shall notify the court ordering detention or commitment and  
31 the child's last known attorney of record of such placement or transfer.

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

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

48 6. The committing court shall conduct an annual review of the child's need for continued  
49 placement at the developmental disability facility.

226.805. 1. There is hereby created the "Interagency Committee on Special  
2 Transportation" within the Missouri department of transportation. The members of the  
3 committee shall be: The assistant for transportation of the Missouri department of transportation,  
4 or his designee; the assistant commissioner of the department of elementary and secondary  
5 education, responsible for special transportation, or his designee; the director of the division of  
6 aging of the department of social services, or his designee; the director of the division of family  
7 services of the department of social services, or his designee; the [deputy] director [for mental  
8 retardation/developmental] **of the division of developmental** disabilities and the deputy director  
9 for administration of the department of mental health, or their designees; the executive secretary  
10 of the governor's committee on the employment of the handicapped; and other state agency  
11 representatives as the governor deems appropriate for temporary or permanent membership by  
12 executive order.

13           2. The interagency committee on special transportation shall:

14           (1) Jointly designate substate special transportation planning and service areas within  
15 the state;

16           (2) Jointly designate a special transportation planning council for each special  
17 transportation planning and service area. The special transportation planning council shall be  
18 composed of the area agency on aging, the regional center for developmental disabilities, the  
19 regional planning commission and other local organizations responsible for funding and  
20 organizing special transportation designated by the interagency committee. The special  
21 transportation planning councils will oversee and approve the preparation of special  
22 transportation plans. Staff support for the special transportation planning councils will be  
23 provided by the regional planning commissions serving the area with funds provided by the  
24 department of transportation for this purpose;

25           (3) Jointly establish a uniform planning format and content;

26           (4) Individually and jointly establish uniform budgeting and reporting standards for all  
27 transportation funds administered by the member agencies. These standards shall be adopted  
28 into the administrative rules of each member agency;

29           (5) Individually establish annual allocations of funds to support special transportation  
30 services in each of the designated planning and service areas;

31           (6) Individually and jointly adopt a five-year planning budget for the capital and  
32 operating needs of special transportation in Missouri;

33           (7) Individually develop administrative and adopt rules for the substate division of  
34 special transportation funds;

35           (8) Jointly review and accept annual capital and operating plans for the designated  
36 special transportation planning and service areas;

37           (9) Individually submit proposed expenditures to the interagency committee for review  
38 as to conformity with the areas special transportation plans. All expenditures are to be made in  
39 accordance with the plans or by special action of the interagency committee.

40           3. The assistant for transportation of the Missouri department of transportation shall  
41 serve as chairman of the committee.

42           4. Staff for the committee shall be provided by the Missouri department of  
43 transportation.

44           5. The committee shall meet on such a schedule and carry out its duties in such a way  
45 as to discharge its responsibilities over special transportation expenditures made for the state  
46 fiscal year beginning July 1, 1989, and all subsequent years.

          287.812. As used in sections 287.812 to 287.855, unless the context clearly requires  
2 otherwise, the following terms shall mean:

3 (1) "Administrative law judge", any person appointed pursuant to section 287.610 or  
4 section 621.015, or any person who hereafter may have by law all of the powers now vested by  
5 law in administrative law judges appointed under the provisions of the workers' compensation  
6 law;

7 (2) "Beneficiary", a surviving spouse married to the deceased administrative law judge  
8 or legal advisor of the division of workers' compensation continuously for a period of at least two  
9 years immediately preceding the administrative law judge's or legal advisor's death and also on  
10 the day of the last termination of such person's employment as an administrative law judge or  
11 legal advisor for the division of workers' compensation, or if there is no surviving spouse eligible  
12 to receive benefits, any minor child of the deceased administrative law judge or legal advisor,  
13 or any child of the deceased administrative law judge or legal advisor who, regardless of age, is  
14 unable to support himself because of [mental retardation] **intellectual disability**, disease or  
15 disability, or any physical handicap or disability, who shall share in the benefits on an equal basis  
16 with all other beneficiaries;

17 (3) "Benefit", a series of equal monthly payments payable during the life of an  
18 administrative law judge or legal advisor of the division of workers' compensation retiring  
19 pursuant to the provisions of sections 287.812 to 287.855 or payable to a beneficiary as provided  
20 in sections 287.812 to 287.850;

21 (4) "Board", the board of trustees of the Missouri state employees' retirement system;

22 (5) "Chief legal counsel", any person appointed or employed under section 287.615 to  
23 serve in the capacity of legal counsel to the division;

24 (6) "Division", the division of workers' compensation of the state of Missouri;

25 (7) "Legal advisor", any person appointed or employed pursuant to section 287.600,  
26 287.615, or 287.616 to serve in the capacity as a legal advisor or an associate administrative law  
27 judge and any person appointed pursuant to section 286.010 or pursuant to section 295.030, and  
28 any attorney or legal counsel appointed or employed pursuant to section 286.070;

29 (8) "Salary", the total annual compensation paid for personal services as an  
30 administrative law judge or legal advisor, or both, of the division of workers' compensation by  
31 the state or any of its political subdivisions.

376.810. As used in sections 376.810 to 376.814, the following terms mean: (1)  
2 "Chemical dependency", the psychological or physiological dependence upon and abuse of  
3 drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social  
4 or occupational role functioning or both; (2) "Community mental health center", a legal entity  
5 certified by the department of mental health or accredited by a nationally recognized  
6 organization, through which a comprehensive array of mental health services are provided to  
7 individuals; (3) "Day program services", a structured, intensive day or evening treatment or

8 partial hospitalization program, certified by the department of mental health or accredited by a  
9 nationally recognized organization; (4) "Episode", a distinct course of chemical dependency  
10 treatment separated by at least thirty days without treatment; (5) "Health insurance policy", all  
11 health insurance policies or contracts that are individually underwritten or provide such coverage  
12 for specific individuals and members of their families, which provide for hospital treatment. For  
13 the purposes of subsection 2 of section 376.811, "health insurance policy" shall also include any  
14 individually underwritten coverage issued by a health maintenance organization. The provisions  
15 of sections 376.810 to 376.814 shall not apply to policies which provide coverage for a specified  
16 disease only, other than for mental illness or chemical dependency; (6) "Licensed professional",  
17 a licensed physician specializing in the treatment of mental illness, a licensed psychologist, a  
18 licensed clinical social worker or a licensed professional counselor. Only prescription rights  
19 under this act shall apply to medical physicians and doctors of osteopathy; (7) "Managed care",  
20 the determination of availability of coverage under a health insurance policy through the use of  
21 clinical standards to determine the medical necessity of an admission or treatment, and the level  
22 and type of treatment, and appropriate setting for treatment, with required authorization on a  
23 prospective, concurrent or retrospective basis, sometimes involving case management; (8)  
24 "Medical detoxification", hospital inpatient or residential medical care to ameliorate acute  
25 medical conditions associated with chemical dependency; (9) "Nonresidential treatment  
26 program", a program certified by the department of mental health involving structured, intensive  
27 treatment in a nonresidential setting;

28 (10) "Recognized mental illness", those conditions classified as "mental disorders" in  
29 the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders,  
30 but shall not include [mental retardation] **intellectual disability**;

31 (11) "Residential treatment program", a program certified by the department of mental  
32 health involving residential care and structured, intensive treatment;

33 (12) "Social setting detoxification", a program in a supportive nonhospital setting  
34 designed to achieve detoxification, without the use of drugs or other medical intervention, to  
35 establish a plan of treatment and provide for medical referral when necessary.

475.010. When used in this chapter, unless otherwise apparent from the context, the  
2 following terms mean:

3 (1) "Adult", a person who has reached the age of eighteen years;

4 (2) "Claims", liabilities of the protectee arising in contract, in tort or otherwise, before  
5 or after the appointment of a conservator, and liabilities of the estate which arise at or after the  
6 adjudication of disability or after the appointment of a conservator of the estate, including  
7 expenses of the adjudication and of administration. The term does not include demands or  
8 disputes regarding title of the protectee to specific assets alleged to be included in the estate;

9 (3) "Conservator", one appointed by a court to have the care and custody of the estate  
10 of a minor or a disabled person. A "limited conservator" is one whose duties or powers are  
11 limited. The term "conservator", as used in this chapter, includes limited conservator unless  
12 otherwise specified or apparent from the context;

13 (4) "Custodial parent", the parent of a minor who has been awarded sole or joint physical  
14 custody of such minor, or the parent of an incapacitated person who has been appointed as  
15 guardian of such person, by an order or judgment of a court of this state or of another state or  
16 territory of the United States, or if there is no such order or judgment, the parent with whom the  
17 minor or incapacitated person primarily resides;

18 (5) "Disabled" or "disabled person", one who is:

19 (a) Unable by reason of any physical or mental condition to receive and evaluate  
20 information or to communicate decisions to such an extent that the person lacks ability to  
21 manage his financial resources; or

22 (b) The term "disabled" or "disabled person", as used in this chapter includes the terms  
23 partially disabled or partially disabled person unless otherwise specified or apparent from the  
24 context;

25 (6) "Eligible person" or "qualified person", a natural person, social service agency,  
26 corporation or national or state banking organization qualified to act as guardian of the person  
27 or conservator of the estate pursuant to the provisions of section 475.055;

28 (7) "Guardian", one appointed by a court to have the care and custody of the person of  
29 a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers are  
30 limited. A "standby guardian" is one approved by the court to temporarily assume the duties of  
31 guardian of a minor or of an incapacitated person under section 475.046. The term "guardian",  
32 as used in this chapter, includes limited guardian and standby guardian unless otherwise specified  
33 or apparent from the context;

34 (8) "Guardian ad litem", one appointed by a court, in which particular litigation is  
35 pending, to represent a minor, an incapacitated person, a disabled person, or an unborn person  
36 in that particular proceeding or as otherwise specified in this code;

37 (9) "Habilitation", instruction, training, guidance or treatment designed to enable and  
38 encourage a [mentally retarded] **intellectually disabled** or developmentally disabled person as  
39 defined in chapter 630 to acquire and maintain those life skills needed to cope more effectively  
40 with the demands of his or her own person and of his or her environment;

41 (10) "Incapacitated person", one who is unable by reason of any physical or mental  
42 condition to receive and evaluate information or to communicate decisions to such an extent that  
43 he or she lacks capacity to meet essential requirements for food, clothing, shelter, safety or other  
44 care such that serious physical injury, illness, or disease is likely to occur. The term

45 "incapacitated person" as used in this chapter includes the term partially incapacitated person  
46 unless otherwise specified or apparent from the context;

47 (11) "Least restrictive environment", that there shall be imposed on the personal liberty  
48 of the ward only such restraint as is necessary to prevent the ward from injuring himself or  
49 herself and others and to provide the ward with such care, habilitation and treatment as are  
50 appropriate for the ward considering his or her physical and mental condition and financial  
51 means;

52 (12) "Manage financial resources", either those actions necessary to obtain, administer,  
53 and dispose of real and personal property, intangible property, business property, benefits,  
54 income or any assets, or those actions necessary to prevent waste, loss or dissipation of property,  
55 or those actions necessary to provide for the care and support of such person or anyone legally  
56 dependent upon such person by a person of ordinary skills and intelligence commensurate with  
57 his or her training and education;

58 (13) "Minor", any person who is under the age of eighteen years;

59 (14) "Parent", the biological or adoptive mother or father of a child whose parental rights  
60 have not been terminated under chapter 211, including:

61 (a) A person registered as the father of the child by reason of an unrevoked notice of  
62 intent to claim paternity under section 192.016;

63 (b) A person who has acknowledged paternity of the child and has not rescinded that  
64 acknowledgment under section 193.215; and

65 (c) A person presumed to be the natural father of the child under section 210.822;

66 (15) "Partially disabled person", one who is unable by reason of any physical or mental  
67 condition to receive and evaluate information or to communicate decisions to such an extent that  
68 such person lacks capacity to manage, in part, his or her financial resources;

69 (16) "Partially incapacitated person", one who is unable by reason of any physical or  
70 mental condition to receive and evaluate information or to communicate decisions to the extent  
71 that such person lacks capacity to meet, in part, essential requirements for food, clothing, shelter,  
72 safety, or other care without court-ordered assistance;

73 (17) "Protectee", a person for whose estate a conservator or limited conservator has been  
74 appointed or with respect to whose estate a transaction has been authorized by the court under  
75 section 475.092 without appointment of a conservator or limited conservator;

76 (18) "Seriously ill", a significant likelihood that a person will become incapacitated or  
77 die within twelve months;

78 (19) "Social service agency", a charitable organization organized and incorporated as a  
79 not-for-profit corporation under the laws of this state and which qualifies as an exempt

80 organization within the meaning of section 501(c)(3), or any successor provision thereto of the  
81 federal Internal Revenue Code;

82 (20) "Standby guardian", one who is authorized to have the temporary care and custody  
83 of the person of a minor or of an incapacitated person under the provisions of section 475.046;

84 (21) "Treatment", the prevention, amelioration or cure of a person's physical and mental  
85 illnesses or incapacities;

86 (22) "Ward", a minor or an incapacitated person for whom a guardian, limited guardian,  
87 or standby guardian has been appointed.

475.120. 1. The guardian of the person of a minor shall be entitled to the custody and  
2 control of the ward and shall provide for the ward's education, support and maintenance.

3 2. A guardian or limited guardian of an incapacitated person shall act in the best interest  
4 of the ward. A limited guardian of an incapacitated person shall have the powers and duties  
5 enumerated by the court in the adjudication order or any later modifying order.

6 3. The general powers and duties of a guardian of an incapacitated person shall be to take  
7 charge of the person of the ward and to provide for the ward's care, treatment, habilitation,  
8 education, support and maintenance; and the powers and duties shall include, but not be limited  
9 to, the following:

10 (1) Assure that the ward resides in the best and least restrictive setting reasonably  
11 available;

12 (2) Assure that the ward receives medical care and other services that are needed;

13 (3) Promote and protect the care, comfort, safety, health, and welfare of the ward;

14 (4) Provide required consents on behalf of the ward;

15 (5) To exercise all powers and discharge all duties necessary or proper to implement the  
16 provisions of this section.

17 4. A guardian of an adult or minor ward is not obligated by virtue of such guardian's  
18 appointment to use the guardian's own financial resources for the support of the ward. If the  
19 ward's estate and available public benefits are inadequate for the proper care of the ward, the  
20 guardian or conservator may apply to the county commission pursuant to section 475.370.

21 5. No guardian of the person shall have authority to seek admission of the guardian's  
22 ward to a mental health or [mental retardation] **intellectual disability** facility for more than thirty  
23 days for any purpose without court order except as otherwise provided by law.

24 6. Only the director or chief administrative officer of a social service agency serving as  
25 guardian of an incapacitated person, or such person's designee, is legally authorized to act on  
26 behalf of the ward.

27           7. A social service agency serving as guardian of an incapacitated person shall notify the  
28 court within fifteen days after any change in the identity of the professional individual who has  
29 primary responsibility for providing guardianship services to the incapacitated person.

30           8. Any social service agency serving as guardian may not provide other services to the  
31 ward.

          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 intellectual disability or  
3 developmental disability, presents a likelihood of serious physical harm to himself or others, he  
4 may be detained in accordance with the provisions of chapter 632 if suffering from a mental  
5 disorder, or chapter 633 if the person has an intellectual or developmental disability, pending a  
6 hearing on the petition for adjudication.

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

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

          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 developmental disability facility,  
5 private facility under contract with the department of mental health, or a section within any of  
6 these facilities, in which persons committed to the department of mental health pursuant to this  
7 chapter, shall not be permitted to move about the facility or section of the facility, nor to leave  
8 the facility or section of the facility, without approval by the head of the facility or such head's  
9 designee and adequate supervision consistent with the safety of the public and the person's  
10 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] **intellectual disability** facility unless an immediate conditional  
18 release is granted pursuant to this section. If the accused has not been charged with a dangerous  
19 felony as defined in section 556.061, or with murder in the first degree pursuant to section

20 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the  
21 examination contains an opinion that the accused should be immediately conditionally released  
22 to the community by the court, the court shall hold a hearing to determine if an immediate  
23 conditional release is appropriate pursuant to the procedures for conditional release set out in  
24 subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the  
25 department of mental health, or the director's designee, to have the accused examined to  
26 determine conditions of confinement in accordance with subsection 4 of section 552.020. The  
27 provisions of subsection 16 of this section shall be applicable to defendants granted an  
28 immediate conditional release and the director shall honor the immediate conditional release as  
29 granted by the court. If the court determines that an immediate conditional release is warranted,  
30 the court shall order the person committed to the director of the department of mental health  
31 before ordering such a release. The court granting the immediate conditional release shall retain  
32 jurisdiction over the case for the duration of the conditional release. This shall not limit the  
33 authority of the director of the department of mental health or the director's designee to revoke  
34 the conditional release or the trial release of any committed person pursuant to subsection 17 of  
35 this section. If the accused is committed to a mental health or developmental disability facility,  
36 the director of the department of mental health, or the director's designee, shall determine the  
37 time, place and 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] **intellectually disabled** or mentally ill  
74 individuals of its own choosing and at its expense. The report of the mental condition of the  
75 committed person shall accompany the application. By agreement of all parties to the proceeding  
76 any report of the mental condition of the committed person which may accompany the  
77 application for release or which is filed in objection thereto may be received by evidence, but the  
78 party contesting any opinion therein shall have the right to summon and to cross-examine the  
79 examiner who rendered 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  
93 persuasion for any person committed to a mental health facility under the provisions of this  
94 section upon acquittal on the grounds of mental disease or defect excluding responsibility shall  
95 be on the party seeking unconditional release to prove by clear and convincing evidence that the  
96 person for whom unconditional release is sought does not have, and in the reasonable future is  
97 not likely to have, a mental disease or defect rendering the person dangerous to the safety of  
98 himself or 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.

563.033. 1. Evidence that the actor was suffering from the battered spouse syndrome  
2 shall be admissible upon the issue of whether the actor lawfully acted in self-defense or defense  
3 of another.

4 2. If the defendant proposes to offer evidence of the battered spouse syndrome, he shall  
5 file written notice thereof with the court in advance of trial. Thereafter, the court, upon motion

6 of the state, shall appoint one or more private psychiatrists or psychologists, as defined in section  
7 632.005, or physicians with a minimum of one year training or experience in providing treatment  
8 or services to [mentally retarded] **intellectually disabled** or mentally ill individuals, who are  
9 neither employees nor contractors of the department of mental health for the purposes of  
10 performing the examination in question, to examine the accused, or shall direct the director of  
11 the department of mental health, or his designee, to have the accused so examined by one or  
12 more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum  
13 of one year training or experience in providing treatment or services to [mentally retarded]  
14 **intellectually disabled** or mentally ill individuals designated by the director, or his designee, for  
15 the purpose of examining the defendant. No private psychiatrist, psychologist, or physician shall  
16 be appointed by the court unless he has consented to act. The examinations ordered shall be  
17 made at such time and place and under such conditions as the court deems proper; except that  
18 if the order directs the director of the department of mental health to have the accused examined,  
19 the director, or his designee, shall determine the reasonable time, place and conditions under  
20 which the examination shall be conducted. The order may include provisions for the interview  
21 of witnesses.

22 3. No statement made by the accused in the course of any such examination and no  
23 information received by any physician or other person in the course thereof, whether such  
24 examination was made with or without the consent of the accused or upon his motion or upon  
25 that of others, shall be admitted in evidence against the accused on the issue of whether he  
26 committed the act charged against him in any criminal proceeding then or thereafter pending in  
27 any court, state or federal.

565.030. 1. Where murder in the first degree is charged but not submitted or where the  
2 state waives the death penalty, the submission to the trier and all subsequent proceedings in the  
3 case shall proceed as in all other criminal cases with a single stage trial in which guilt and  
4 punishment are submitted together.

5 2. Where murder in the first degree is submitted to the trier without a waiver of the death  
6 penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall  
7 decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of  
8 punishment shall not be submitted to the trier at the first stage. If an offense is charged other  
9 than murder in the first degree in a count together with a count of murder in the first degree, the  
10 trial judge shall assess punishment on any such offense according to law, after the defendant is  
11 found guilty of such offense and after he finds the defendant to be a prior offender pursuant to  
12 chapter 558.

13 3. If murder in the first degree is submitted and the death penalty was not waived but the  
14 trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed at

15 which the only issue shall be the punishment to be assessed and declared. No further evidence  
16 shall be received. If the trier is a jury it shall be instructed on the law. The attorneys may then  
17 argue as in other criminal cases the issue of punishment, after which the trier shall assess and  
18 declare the punishment as in all other criminal cases.

19 4. If the trier at the first stage of a trial where the death penalty was not waived finds the  
20 defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which  
21 the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and  
22 mitigation of punishment, including but not limited to evidence supporting any of the  
23 aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be  
24 presented subject to the rules of evidence at criminal trials. Such evidence may include, within  
25 the discretion of the court, evidence concerning the murder victim and the impact of the crime  
26 upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented.  
27 The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The  
28 attorneys may then argue the issue of punishment to the jury, and the state shall have the right  
29 to open and close the argument. The trier shall assess and declare the punishment at life  
30 imprisonment without eligibility for probation, parole, or release except by act of the governor:

31 (1) If the trier finds by a preponderance of the evidence that the defendant is [mentally  
32 retarded] **intellectually disabled**; or

33 (2) If the trier does not find beyond a reasonable doubt at least one of the statutory  
34 aggravating circumstances set out in subsection 2 of section 565.032; or

35 (3) If the trier concludes that there is evidence in mitigation of punishment, including  
36 but not limited to evidence supporting the statutory mitigating circumstances listed in subsection  
37 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment  
38 found by the trier; or

39 (4) If the trier decides under all of the circumstances not to assess and declare the  
40 punishment at death. If the trier is a jury it shall be so instructed.

41 If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out  
42 in writing the aggravating circumstance or circumstances listed in subsection 2 of section  
43 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed  
44 before the case is submitted that if it is unable to decide or agree upon the punishment the court  
45 shall assess and declare the punishment at life imprisonment without eligibility for probation,  
46 parole, or release except by act of the governor or death. The court shall follow the same  
47 procedure as set out in this section whenever it is required to determine punishment for murder  
48 in the first degree.

49 5. Upon written agreement of the parties and with leave of the court, the issue of the  
50 defendant's [mental retardation] **intellectual disability** may be taken up by the court and decided

51 prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of  
52 fact as provided in subsection 4 of this section.

53 6. As used in this section, the terms ["mental retardation" or "mentally retarded"]  
54 **“intellectual disability” or “intellectually disabled”** refer to a condition involving substantial  
55 limitations in general functioning characterized by significantly subaverage intellectual  
56 functioning with continual extensive related deficits and limitations in two or more adaptive  
57 behaviors such as communication, self-care, home living, social skills, community use,  
58 self-direction, health and safety, functional academics, leisure and work, which conditions are  
59 manifested and documented before eighteen years of age.

60 7. The provisions of this section shall only govern offenses committed on or after August  
61 28, 2001.

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 intellectual or developmental  
18 disabilities. At least two of the members of the commission shall be representative of persons  
19 or groups who are consumers having substantial interest in the services provided by the division,  
20 one of whom shall represent persons with an intellectual disability or developmental disability  
21 and one of whom shall represent those persons being treated for nervous and mental diseases.  
22 Of the other three members at least one must be recognized for his expertise in general business  
23 management procedures, and two shall be recognized for their interest and expertise in dealing  
24 with alcohol/drug abuse problems, or community mental health services.

25           3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160,  
26 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental  
27 health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted  
28 by the governor under chapter 26 are transferred by specific type transfer from the department  
29 of public health and welfare to the department of mental health. The division of mental health,  
30 department of health and welfare, chapter 202 and others are abolished and all powers, duties and  
31 functions now assigned by law to the division, the director of the divisions of mental health or  
32 any of the institutions or officials of the division are transferred by type I transfer to the  
33 department of mental health.

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

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

57           6. All the duties, powers and functions of the advisory council on mental retardation and  
58 community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer  
59 to the division of mental retardation and developmental disabilities of the department of mental

60 health. The advisory council on mental retardation and community health centers shall be  
61 appointed by the division director.

62 7. The advisory council on mental retardation and developmental disabilities heretofore  
63 established by executive order and all of the duties, powers and functions of the advisory council  
64 including the responsibilities of the provision of the council in regard to the Federal  
65 Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type  
66 I transfer to the division of [mental retardation and] developmental disabilities. The advisory  
67 council on mental retardation and developmental disabilities shall be appointed by the director  
68 of the division of [mental retardation and] developmental disabilities.

69 8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type  
70 II transfer to the department of mental health and the members of the advisory council shall be  
71 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 intellectual disabilities, developmental disabilities,  
21 mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

22 (7) "Day program", a place conducted or maintained by any person who advertises or  
23 holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation  
24 for persons affected by mental disorders, mental illness, intellectual disabilities, developmental

25 disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily  
26 period;

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

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

29 (a) Which is attributable to:

30 a. [Mental retardation] **Intellectual disability**, cerebral palsy, epilepsy, head injury or  
31 autism, or a learning disability related to a brain dysfunction; or

32 b. Any other mental or physical impairment or combination of mental or physical  
33 impairments; and

34 (b) Is manifested before the person attains age twenty-two; and

35 (c) Is likely to continue indefinitely; and

36 (d) Results in substantial functional limitations in two or more of the following areas of  
37 major life activities:

38 a. Self-care;

39 b. Receptive and expressive language development and use;

40 c. Learning;

41 d. Self-direction;

42 e. Capacity for independent living or economic self-sufficiency;

43 f. Mobility; and

44 (e) Reflects the person's need for a combination and sequence of special,  
45 interdisciplinary, or generic care, habilitation or other services which may be of lifelong or  
46 extended duration and are individually planned and coordinated;

47 (10) "Director", the director of the department of mental health, or his designee;

48 (11) "Domiciled in Missouri", a permanent connection between an individual and the  
49 state of Missouri, which is more than mere residence in the state; it may be established by the  
50 individual being physically present in Missouri with the intention to abandon his previous  
51 domicile and to remain in Missouri permanently or indefinitely;

52 (12) "Drug abuse", the use of any drug without compelling medical reason, which use  
53 results in a temporary mental, emotional or physical impairment and causes socially  
54 dysfunctional behavior, or in psychological or physiological dependency resulting from  
55 continued use, which dependency induces a mental, emotional or physical impairment and causes  
56 socially dysfunctional behavior;

57 (13) "Habilitation", a process of treatment, training, care or specialized attention which  
58 seeks to enhance and maximize a person with an intellectual disability or a developmental  
59 disability to cope with the environment and to live as normally as possible;

60 (14) "Habilitation center", a residential facility operated by the department and serving  
61 only persons who are developmentally disabled;

62 (15) "Head of the facility", the chief administrative officer, or his designee, of any  
63 residential facility;

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

66 (17) "Individualized habilitation plan", a document which sets forth habilitation goals  
67 and objectives for residents and clients with an intellectual disability or a developmental  
68 disability, and which details the habilitation program as required by law, rules and funding  
69 sources;

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

73 (19) "Individualized treatment plan", a document which sets forth the care, treatment and  
74 rehabilitation goals and objectives for patients and clients with mental disorders or mental  
75 illness, and which details the treatment program as required by law, rules and funding sources;

76 (20) **"Intellectual disability", significantly subaverage general intellectual**  
77 **functioning which:**

78 **(a) Originates before age eighteen; and**

79 **(b) Is associated with a significant impairment in adaptive behavior;**

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

83 [(21)] (22) "Least restrictive environment", a reasonably available setting or mental  
84 health program where care, treatment, habilitation or rehabilitation is particularly suited to the  
85 level and quality of services necessary to implement a person's individualized treatment,  
86 habilitation or rehabilitation plan and to enable the person to maximize his or her functioning  
87 potential to participate as freely as feasible in normal living activities, giving due consideration  
88 to potentially harmful effects on the person and the safety of other facility or program clients and  
89 public safety. For some persons with mental disorders, intellectual disabilities, or developmental  
90 disabilities, the least restrictive environment may be a facility operated by the department, a  
91 private facility, a supported community living situation, or an alternative community program  
92 designed for persons who are civilly detained for outpatient treatment or who are conditionally  
93 released pursuant to chapter 632;

94 [(22)] (23) "Mental disorder", any organic, mental or emotional impairment which has  
95 substantial adverse effects on a person's cognitive, volitional or emotional function and which

96 constitutes a substantial impairment in a person's ability to participate in activities of normal  
97 living;

98 [(23)] **(24)** "Mental illness", a state of impaired mental processes, which impairment  
99 results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions,  
100 faulty perceptions or alterations of mood, and interferes with an individual's ability to reason,  
101 understand or exercise conscious control over his actions. The term "mental illness" does not  
102 include the following conditions unless they are accompanied by a mental illness as otherwise  
103 defined in this subdivision:

104 (a) [Mental retardation] **Intellectual disability**, developmental disability or narcolepsy;

105 (b) Simple intoxication caused by substances such as alcohol or drugs;

106 (c) Dependence upon or addiction to any substances such as alcohol or drugs;

107 (d) Any other disorders such as senility, which are not of an actively psychotic nature;

108 [(24) "Mental retardation", significantly subaverage general intellectual functioning  
109 which:

110 (a) Originates before age eighteen; and

111 (b) Is associated with a significant impairment in adaptive behavior;]

112 (25) "Minor", any person under the age of eighteen years;

113 (26) "Patient", an individual under observation, care, treatment or rehabilitation by any  
114 hospital or other mental health facility or mental health program pursuant to the provisions of  
115 chapter 632;

116 (27) "Psychosurgery",

117 (a) Surgery on the normal brain tissue of an individual not suffering from physical  
118 disease for the purpose of changing or controlling behavior; or

119 (b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is  
120 to control, change or affect behavioral disturbances, except seizure disorders;

121 (28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain  
122 normal or optimum health or constructive activity through care, treatment, training, counseling  
123 or specialized attention;

124 (29) "Residence", the place where the patient has last generally lodged prior to admission  
125 or, in case of a minor, where his family has so lodged; except, that admission or detention in any  
126 facility of the department shall not be deemed an absence from the place of residence and shall  
127 not constitute a change in residence;

128 (30) "Resident", a person receiving residential services from a facility, other than mental  
129 health facility, operated, funded or licensed by the department;

130 (31) "Residential facility", any premises where residential prevention, evaluation, care,  
131 treatment, habilitation or rehabilitation is provided for persons affected by mental disorders,

132 mental illness, intellectual disability, developmental disabilities or alcohol or drug abuse; except  
133 the person's dwelling;

134 (32) "Specialized service", an entity which provides prevention, evaluation,  
135 transportation, care, treatment, habilitation or rehabilitation services to persons affected by  
136 mental disorders, mental illness, intellectual disabilities, developmental disabilities or alcohol  
137 or drug abuse;

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

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

630.130. 1. Every patient, whether voluntary or involuntary, in a public or private  
2 mental health facility shall have the right to refuse electroconvulsive therapy.

3 2. Before electroconvulsive therapy may be administered voluntarily to a patient, the  
4 patient shall be informed, both orally and in writing, of the risks of the therapy and shall give his  
5 express written voluntary consent to receiving the therapy.

6 3. Involuntary electroconvulsive therapy may be administered under a court order after  
7 a full evidentiary hearing where the patient refusing such treatment is represented by counsel  
8 who shall advocate his or her position. The therapy may be administered on an involuntary basis  
9 only if it is shown, by clear and convincing evidence, that the therapy is necessary under the  
10 following criteria:

11 (1) There is a strong likelihood that the therapy will significantly improve or cure the  
12 patient's mental disorder for a substantial period of time without causing him any serious  
13 functional harm; and

14 (2) There is no less drastic alternative form of therapy which could lead to substantial  
15 improvement in the patient's condition. At the conclusion of such hearing, if the petitioner has  
16 sustained his burden of proof, the court may order up to a specified number of involuntary  
17 electroconvulsive therapy treatments to be performed over a specified period of time.

18 4. Parents of minor patients or legal guardians of incompetent patients shall be required  
19 to obtain court orders authorizing electroconvulsive therapy under the procedures specified in  
20 subsection 3 of this section.

21 5. Persons who are diagnosed solely as [mentally retarded] **intellectually disabled** shall  
22 not be subject to electroconvulsive therapy.

23 6. If the judge finds that the respondent is unable to pay attorney's fees for the services  
24 rendered in the proceedings the judge shall allow a reasonable attorney's fee for the services,  
25 which fee shall be assessed as costs and paid together with all the costs in the proceeding by the  
26 state, in accordance with rules and regulations promulgated by the state court administrator, from

27 funds appropriated to the office of administration for such purposes provided that no attorney's  
28 fees shall be allowed for services rendered by any attorney who is a salaried employee of a public  
29 agency or a private agency which receives public funds.

630.340. 1. With the approval of the director, the head of any mental health or  
2 [retardation] **intellectual disability** facility or regional center operated by the department may  
3 establish a vocational activity center for its patients or residents.

4 2. Each facility or regional center shall keep revenues received from the activity center  
5 in a separate account. The acquisition costs to obtain materials to produce any goods sold and  
6 other expenses shall be paid from this account. A minimum amount of money necessary to meet  
7 cash flow needs and current operating expenses may be maintained in this account. The  
8 remaining funds from sales of the activity center shall be deposited monthly in the state treasury  
9 to the credit of the general revenue fund.

10 3. This section shall not be construed to authorize any facility or regional center to  
11 establish an activity center on the grounds for patients or residents who could participate in a  
12 sheltered workshop, as defined and authorized in sections 178.900 to 178.960, off the grounds  
13 of the facility or regional center.

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, 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] **intellectually disabled** and developmentally disabled as defined in section 630.005  
20 otherwise licensed by the state and operating under such license and within the limits of such

21 license, unless the majority of the persons served receive activities and services normally  
22 provided by a licensed facility 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] **the Council on Quality and**  
28 **Leadership**, Council on Accreditation of Services for Children and Families, Inc., or the  
29 Commission on Accreditation of Rehabilitation Facilities;

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

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

4 2. The members of the Missouri planning council for developmental disabilities, created  
5 by executive order of the governor on October 26, 1979, for the remainder of their appointed  
6 terms, and up to five persons to be appointed by the director, for staggered terms of three years  
7 each, shall act as such advisory body. At the expiration of the term of each member, the director  
8 shall appoint an individual who shall hold office for a term of three years. At least one-half of  
9 the members shall be consumers. Other members shall have professional, research or personal  
10 interest in intellectual disabilities and developmental disabilities. At least one member shall be  
11 a manager of or a member of the board of directors of a sheltered workshop as defined in section  
12 178.900. No more than one-fourth of the members shall be vendors or members of boards of  
13 directors, employees or officers of vendors, or any of their spouses, if such vendors receive more  
14 than fifteen hundred dollars under contract with the department; except that members of boards  
15 of directors of not-for-profit corporations shall not be considered members of board of directors  
16 of vendors under this subsection.

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

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

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

23 6. The council shall collaborate with the department in developing and administering a  
24 state plan for intellectual disabilities and developmental disabilities services.

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

29           8. The council shall be advisory and shall:

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

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

40           (3) Recommend what specific methods, means and procedures should be adopted to  
41 improve and upgrade the department's intellectual disabilities and developmental disabilities  
42 service delivery system for citizens of this state;

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

633.105. The regional centers shall be the entry and exit points in each region  
2 responsible for securing comprehensive [mental retardation] **intellectual disability** and  
3 developmental disability services for clients of the department. The center shall carry out this  
4 responsibility either through contracts purchasing the required services or through the direct  
5 provision of the services if community-based services are not available, economical or as  
6 effective for the provision of the services.

633.170. As used in sections 633.170 to 633.195 and section 208.500, the following  
2 terms mean:

3           (1) "Adult", a person eighteen years of age or older;

4           (2) "Child", a person under the age of eighteen;

5           (3) "Developmental disability", a disability which:

6           (a) Is attributable to:

7           a. [Mental retardation] **Intellectual disability**, cerebral palsy, epilepsy, head injury or  
8 autism, or a learning disability related to a brain dysfunction; or

9           b. Any other mental or physical impairment or a combination of mental and physical  
10 impairments;

11           (b) Is manifested before the person attains age twenty-two;

12           (c) Is likely to continue indefinitely; and

13           (d) Results in substantial functional limitations in two or more of the following areas of  
14 major life activities:

15           a. Self-care;

16           b. Receptive and expressive language development and use;

17           c. Learning;

18           d. Self-direction;

19           e. Capacity for independent living or economic self-sufficiency; and

20           f. Mobility;

21           (e) Reflects the person's need for a combination and sequence of special,  
22 interdisciplinary or generic care, or other services;

23           (f) Reflects the person's need for services and supports which may be of lifelong or  
24 extended duration and are individually planned and coordinated;

25           (4) "Family or private caregiver", the person or persons with whom the individual who  
26 has a developmental disability resides or who is primarily responsible for the physical care,  
27 education, health, and nurturing of the person with a disability. The term does not apply to  
28 persons providing care through hospitals, habilitation centers, nursing homes, group homes, or  
29 any other such institution;

30           (5) "Family support", services and helping relationships whose purpose is to maintain  
31 and enhance family caregiving. Family support may be one or many services that enable  
32 individuals with disabilities to reside within the family home and remain integrated within their  
33 community and are:

34           (a) Based on individual and family needs;

35           (b) Identified by the family;

36           (c) Easily accessible for the family;

37           (d) Flexible and varied to meet the ever changing needs of family members;

38           (e) Provided in a timely manner; and

39           (f) Family centered and culturally sensitive;

40           (6) "Family support program", a coordinated system of family support services which  
41 enhance family caregiving, strengthen family functioning, reduce family stress, foster community  
42 integration, promote individual and family independence and encourage economic  
43 self-sufficiency for the purpose of helping children with developmental disabilities remain with  
44 their families.

633.401. 1. For purposes of this section, the following terms mean:

2 (1) "Engaging in the business of providing health benefit services", accepting payment  
3 for health benefit services;

4 (2) "Intermediate care facility for the [mentally retarded] **intellectually disabled**", a  
5 private or department of mental health facility which admits persons who are [mentally retarded]  
6 **intellectually disabled** or developmentally disabled for residential habilitation and other services  
7 pursuant to chapter 630. Such term shall include habilitation centers and private or public  
8 intermediate care facilities for the [mentally retarded] **intellectually disabled** that have been  
9 certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

10 (3) "Net operating revenues from providing services of intermediate care facilities for  
11 the [mentally retarded] **intellectually disabled**" shall include, without limitation, all moneys  
12 received on account of such services pursuant to rates of reimbursement established and paid by  
13 the department of social services, but shall not include charitable contributions, grants,  
14 donations, bequests and income from nonservice related fund-raising activities and government  
15 deficit financing, contractual allowance, discounts or bad debt;

16 (4) "Services of intermediate care facilities for the [mentally retarded] **intellectually**  
17 **disabled**" has the same meaning as the term "**services of intermediate care facilities for the**  
18 **mentally retarded**", as used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as  
19 amended, and as such qualifies as a class of health care services recognized in federal Public Law  
20 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

21 2. Beginning July 1, 2008, each provider of services of intermediate care facilities for  
22 the [mentally retarded] **intellectually disabled** shall, in addition to all other fees and taxes now  
23 required or paid, pay assessments on their net operating revenues for the privilege of engaging  
24 in the business of providing services of the intermediate care facilities for the [mentally retarded]  
25 **intellectually disabled** or developmentally disabled in this state.

26 3. Each facility's assessment shall be based on a formula set forth in rules and regulations  
27 promulgated by the department of mental health.

28 4. For purposes of determining rates of payment under the medical assistance program  
29 for providers of services of intermediate care facilities for the [mentally retarded] **intellectually**  
30 **disabled**, the assessment imposed pursuant to this section on net operating revenues shall be a  
31 reimbursable cost to be reflected as timely as practicable in rates of payment applicable within  
32 the assessment period, contingent, for payments by governmental agencies, on all federal  
33 approvals necessary by federal law and regulation for federal financial participation in payments  
34 made for beneficiaries eligible for medical assistance under Title XIX of the federal Social  
35 Security Act.

36           5. Assessments shall be submitted by or on behalf of each provider of services of  
37 intermediate care facilities for the [mentally retarded] **intellectually disabled** on a monthly basis  
38 to the director of the department of mental health or his or her designee and shall be made  
39 payable to the director of the department of revenue.

40           6. In the alternative, a provider may direct that the director of the department of social  
41 services offset, from the amount of any payment to be made by the state to the provider, the  
42 amount of the assessment payment owed for any month.

43           7. Assessment payments shall be deposited in the state treasury to the credit of the  
44 "Intermediate Care Facility [Mentally Retarded] **Intellectually Disabled** Reimbursement  
45 Allowance Fund", which is hereby created in the state treasury. All investment earnings of this  
46 fund shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the  
47 contrary, any unexpended balance in the intermediate care facility [mentally retarded]  
48 **intellectually disabled** reimbursement allowance fund at the end of the biennium shall not revert  
49 to the general revenue fund but shall accumulate from year to year. The state treasurer shall  
50 maintain records that show the amount of money in the fund at any time and the amount of any  
51 investment earnings on that amount.

52           8. Each provider of services of intermediate care facilities for the [mentally retarded]  
53 **intellectually disabled** shall keep such records as may be necessary to determine the amount of  
54 the assessment for which it is liable under this section. On or before the forty-fifth day after the  
55 end of each month commencing July 1, 2008, each provider of services of intermediate care  
56 facilities for the [mentally retarded] **intellectually disabled** shall submit to the department of  
57 social services a report on a cash basis that reflects such information as is necessary to determine  
58 the amount of the assessment payable for that month.

59           9. Every provider of services of intermediate care facilities for the [mentally retarded]  
60 **intellectually disabled** shall submit a certified annual report of net operating revenues from the  
61 furnishing of services of intermediate care facilities for the [mentally retarded] **intellectually**  
62 **disabled**. The reports shall be in such form as may be prescribed by rule by the director of the  
63 department of mental health. Final payments of the assessment for each year shall be due for all  
64 providers of services of intermediate care facilities for the [mentally retarded] **intellectually**  
65 **disabled** upon the due date for submission of the certified annual report.

66           10. The director of the department of mental health shall prescribe by rule the form and  
67 content of any document required to be filed pursuant to the provisions of this section.

68           11. Upon receipt of notification from the director of the department of mental health of  
69 a provider's delinquency in paying assessments required under this section, the director of the  
70 department of social services shall withhold, and shall remit to the director of the department of

71 revenue, an assessment amount estimated by the director of the department of mental health from  
72 any payment to be made by the state to the provider.

73 12. In the event a provider objects to the estimate described in subsection 11 of this  
74 section, or any other decision of the department of mental health related to this section, the  
75 provider of services may request a hearing. If a hearing is requested, the director of the  
76 department of mental health shall provide the provider of services an opportunity to be heard and  
77 to present evidence bearing on the amount due for an assessment or other issue related to this  
78 section within thirty days after collection of an amount due or receipt of a request for a hearing,  
79 whichever is later. The director shall issue a final decision within forty-five days of the  
80 completion of the hearing. After reconsideration of the assessment determination and a final  
81 decision by the director of the department of mental health, an intermediate care facility for the  
82 [mentally retarded] **intellectually disabled** provider's appeal of the director's final decision shall  
83 be to the administrative hearing commission in accordance with sections 208.156 and 621.055.

84 13. Notwithstanding any other provision of law to the contrary, appeals regarding this  
85 assessment shall be to the circuit court of Cole County or the circuit court in the county in which  
86 the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

87 14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt  
88 or nonprofit status of any intermediate care facility for the [mentally retarded] **intellectually**  
89 **disabled** granted by state law.

90 15. The director of the department of mental health shall promulgate rules and  
91 regulations to implement this section. Any rule or portion of a rule, as that term is defined in  
92 section 536.010, that is created under the authority delegated in this section shall become  
93 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
94 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
95 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
96 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
97 rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid  
98 and void.

99 16. The provisions of this section shall expire on September 30, 2015.

660.075. 1. The division of medical services shall not issue a provider agreement to an  
2 intermediate care facility for the [mentally retarded] **intellectually disabled** provider after May  
3 29, 1991, unless and until the department of mental health transmits a certification of  
4 authorization to provide services, provided, however, a profit or not-for-profit provider may  
5 operate a single home of six beds or less without issuance of a certificate to the division of  
6 medical services. Such certification shall be provider specific and shall contain the number of  
7 beds authorized.

8           2. Notwithstanding any other provision of law to the contrary, any provider intending  
9 to operate an intermediate care facility for the [mentally retarded] **intellectually disabled** in  
10 excess of those beds in existence on May 29, 1991, shall give notice to the department of mental  
11 health of any intent to do so between July first and October first of the fiscal year preceding the  
12 fiscal year in which they intend to operate such facility.

13           3. In addition to other good cause as established by administrative rules promulgated by  
14 the director of the department of mental health, such intermediate care facility for the [mentally  
15 retarded] **intellectually disabled** operations as may be accommodated within the home and  
16 community-based waiver for the developmentally disabled shall be refused certificates of  
17 authorization by the department of mental health. The division of medical services shall refuse  
18 intermediate care facility for the [mentally retarded] **intellectually disabled** provider agreements  
19 to providers to whom the department of mental health has refused certificates of authorization.

660.405. 1. The provisions of sections 199.025 and 660.403 to 660.420 shall not apply  
2 to the following:

3           (1) Any adult day care program operated by a person in which care is offered for no more  
4 than two hours per day;

5           (2) Any adult day care program maintained or operated by the federal government except  
6 where care is provided through a management contract;

7           (3) Any person who cares solely for persons related to the provider or who has been  
8 designated as guardian of that person;

9           (4) Any adult day care program which cares for no more than four persons unrelated to  
10 the provider;

11           (5) Any adult day care program licensed by the department of mental health under  
12 chapter 630 which provides care, treatment and habilitation exclusively to adults who have a  
13 primary diagnosis of mental disorder, mental illness, [mental retardation] **intellectual disability**  
14 or developmental disability as defined;

15           (6) Any adult day care program administered or maintained by a religious not-for-profit  
16 organization serving a social or religious function if the adult day care program does not hold  
17 itself out as providing the prescription or usage of physical or medical therapeutic activities or  
18 as providing or administering medicines or drugs.

19           2. Nothing in this section shall prohibit any person listed in subsection 1 of this section  
20 from applying for a license or receiving a license if the adult day care program owned or operated  
21 by such person conforms to the provisions of sections 199.025 and 660.403 to 660.420 and all  
22 applicable rules promulgated pursuant thereto.

**Section 1. The phrases “mentally retarded” and “mental retardation” shall be  
2 referred to as “intellectually disabled” and “intellectual disability”, respectively. The**

3 **revisor of statutes shall make the appropriate changes to all such references in the revised**  
4 **statutes.**

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

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

5 (2) "Handicapped", any person having a physical or mental condition,  
6 either permanent or temporary, which would substantially impair ability to  
7 operate or utilize available transportation.

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

29 3. State agency personnel shall serve on the council without additional  
30 appropriations or compensation. The consumer representatives shall serve  
31 without compensation except for receiving reimbursement for the reasonable and  
32 necessary expenses incurred in the performance of their duties on the council  
33 from funds appropriated to the department of transportation.

34 4. Staff for the council shall be provided by the Missouri department of  
35 transportation. The department shall designate a special transportation  
36 coordinator who shall have had experience in the area of special transportation,  
37 as well as such other staff as needed to enable the council to perform its duties.

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

40 6. The coordinating council on special transportation shall:

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

- 42                   (2) Identify special transportation needs and recommend agency funding
- 43                   allocations and resources to meet these needs when appropriate;
- 44                   (3) Identify legal and administrative barriers to effective service delivery;
- 45                   (4) Review agency methods for distributing funds within the state and
- 46                   make recommendations when appropriate;
- 47                   (5) Review agency funding criteria and make recommendations when
- 48                   appropriate;
- 49                   (6) Review area transportation plans and make recommendations for plan
- 50                   format and content;
- 51                   (7) Establish measurable objectives for the delivery of transportation
- 52                   services;
- 53                   (8) Review annual performance data and make recommendations for
- 54                   improved service delivery, operating procedures or funding when appropriate;
- 55                   (9) Review local disputes and conflicts on special transportation and
- 56                   recommend solutions.
- 57                   7. The provisions of this section shall expire on December 31, 2014.]

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