

FIRST REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 333

94TH GENERAL ASSEMBLY

Reported from the Committee on Health Care Policy May 7, 2007 with recommendation that House Committee Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 333 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1511L.07C

AN ACT

To repeal sections 58.451, 58.720, 192.667, 192.745, 192.925, 194.210, 194.220, 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, 194.304, 197.500, 198.006, 198.070, 198.090, 198.097, 198.532, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.909, 208.912, 208.915, 210.900, 210.906, 210.933, 302.171, 304.028, 559.100, 565.180, 565.182, 565.184, 565.188, 565.200, 570.145, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.512, 660.620, 660.625, 660.600, 660.603, 660.605, and 660.608, RSMo, and to enact in lieu thereof one hundred twenty-one new sections relating to the department of health and senior services, with penalty provisions.

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

Section A. Sections 58.451, 58.720, 192.667, 192.745, 192.925, 194.210, 194.220,
2 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, 194.304, 197.500,
3 198.006, 198.070, 198.090, 198.097, 198.532, 199.001, 199.003, 199.007, 199.009, 199.010,

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.

4 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.909, 208.912, 208.915,
5 210.900, 210.906, 210.933, 302.171, 304.028, 559.100, 565.180, 565.182, 565.184, 565.188,
6 565.200, 570.145, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060,
7 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263,
8 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310,
9 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411,
10 660.414, 660.416, 660.418, 660.420, 660.512, 660.620, 660.625, 660.600, 660.603, 660.605, and
11 660.608, RSMo, are repealed and one hundred twenty-one new sections enacted in lieu thereof,
12 to be known as sections 58.451, 58.720, 58.775, 58.780, 58.785, 192.632, 192.667, 192.745,
13 192.925, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009, 192.2012, 192.2015, 192.2025,
14 192.2030, 192.2033, 192.2035, 192.2040, 192.2100, 192.2103, 192.2106, 192.2109, 192.2112,
15 192.2115, 192.2118, 192.2121, 192.2124, 192.2127, 192.2130, 192.2150, 192.2153, 192.2175,
16 192.2178, 192.2181, 192.2184, 192.2187, 192.2200, 192.2203, 192.2206, 192.2209, 192.2212,
17 192.2215, 192.2218, 192.2221, 192.2224, 192.2227, 192.2250, 192.2253, 194.210, 194.215,
18 194.220, 194.225, 194.230, 194.235, 194.240, 194.245, 194.250, 194.255, 194.260, 194.263,
19 194.265, 194.270, 194.275, 194.280, 194.285, 194.290, 194.292, 194.293, 194.294, 194.304,
20 197.551, 197.554, 197.557, 197.560, 197.563, 197.566, 197.569, 197.572, 197.575, 197.578,
21 197.581, 197.584, 197.587, 198.006, 198.090, 198.097, 198.532, 198.700, 198.703, 198.705,
22 198.708, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039,
23 199.041, 199.043, 199.051, 208.909, 210.900, 210.906, 302.171, 304.028, 559.100, 565.180,
24 565.182, 565.184, 565.188, 565.200, 565.320, 570.145, 620.510, and 660.010, to read as
25 follows:

58.451. 1. When any person, in any county in which a coroner is required by section
2 58.010, dies and there is reasonable ground to believe that such person died as a result of:
3 (1) Violence by homicide, suicide, or accident;
4 (2) Criminal abortions, including those self-induced;
5 (3) Some unforeseen sudden occurrence and the deceased had not been attended by a
6 physician during the thirty-six-hour period preceding the death;
7 (4) In any unusual or suspicious manner;
8 (5) Any injury or illness while in the custody of the law or while an inmate in a public
9 institution; the police, sheriff, law enforcement officer or official, or any person having
10 knowledge of such a death shall immediately notify the coroner of the known facts concerning
11 the time, place, manner and circumstances of the death. Immediately upon receipt of
12 notification, the coroner or [his] deputy **coroner** shall take charge of the dead body and fully
13 investigate the essential facts concerning the medical causes of death, including whether by the
14 act of man, and the manner of death. [He] **The coroner or deputy coroner** may take the names

15 and addresses of witnesses to the death and shall file this information in [his] **the coroner's**
16 office. The coroner or [his] deputy **coroner** shall take possession of all property of value found
17 on the body, making exact inventory of such property on [his] **the** report and shall direct the
18 return of such property to the person entitled to its custody or possession. The coroner or [his]
19 deputy **coroner** shall take possession of any object or article which, in [his] **the coroner or the**
20 **deputy coroner's** opinion, may be useful in establishing the cause of death, and deliver it to the
21 prosecuting attorney of the county.

22 2. When a death occurs outside a licensed health care facility, the first licensed medical
23 professional or law enforcement official learning of such death shall contact the county coroner.
24 Immediately upon receipt of such notification, the coroner or the coroner's deputy shall make the
25 determination if further investigation is necessary, based on information provided by the
26 individual contacting the coroner, and immediately advise such individual of the coroner's
27 intentions.

28 3. Upon taking charge of the dead body and before moving the body the coroner shall
29 notify the police department of any city in which the dead body is found, or if the dead body is
30 found in the unincorporated area of a county governed by the provisions of sections 58.451 to
31 58.457, the coroner shall notify the county sheriff [and] **or** the highway patrol and cause the body
32 to remain unmoved until the police department, sheriff or the highway patrol has inspected the
33 body and the surrounding circumstances and carefully noted the appearance, the condition and
34 position of the body and recorded every fact and circumstance tending to show the cause and
35 manner of death, with the names and addresses of all known witnesses, and shall subscribe the
36 same and make such record a part of [his] **the coroner's** report.

37 4. In any case of sudden, violent or suspicious death after which the body was buried
38 without any investigation or autopsy, the coroner, upon being advised of such facts, may at [his]
39 **the coroner's** own discretion request that the prosecuting attorney apply for a court order
40 requiring the body to be exhumed.

41 5. The coroner shall certify the cause of death in any case under [his] **the coroner's**
42 charge when a physician is unavailable to sign a certificate of death.

43 6. When the cause of death is established by the coroner, [he] **the coroner** shall file a
44 copy of [his] **the coroner's** findings in [his] **the coroner's** office within thirty days.

45 7. If on view of the dead body and after personal inquiry into the cause and manner of
46 death, the coroner determines that a further examination is necessary in the public interest, the
47 coroner on [his] **the coroner's** own authority may make or cause to be made an autopsy on the
48 body. The coroner may on [his] **the coroner's** own authority employ the services of a
49 pathologist, chemist, or other expert to aid in the examination of the body or of substances
50 supposed to have caused or contributed to death, and if the pathologist, chemist, or other expert

51 is not already employed by the city or county for the discharge of such services, [he] **the**
52 **pathologist, chemist, or other expert** shall, upon written authorization of the coroner, be
53 allowed reasonable compensation, payable by the city or county, in the manner provided in
54 section 58.530. The coroner shall, at the time of the autopsy, record or cause to be recorded each
55 fact and circumstance tending to show the condition of the body and the cause and manner of
56 death.

57 8. If on view of the dead body and after personal inquiry into the cause and manner of
58 death, the coroner considers a further inquiry and examination necessary in the public interest,
59 [he] **the coroner** shall make out [his] **the coroner's** warrant directed to the sheriff of the city or
60 county requiring [him] **the sheriff** forthwith to summon six good and lawful citizens of the
61 county to appear before the coroner, at the time and place expressed in the warrant, and to inquire
62 how and by whom the deceased [came to his death] **died**.

63 9. (1) When a person is being transferred from one county to another county for medical
64 treatment and such person dies while being transferred, **or dies while being treated in the**
65 **emergency room of the receiving facility** the [county] **place** from which the person is first
66 removed shall be considered the place of death and the county coroner **or medical examiner** of
67 the county from which the person was being transferred shall be responsible for the **Missouri**
68 certificate of death and for investigating the cause and manner of the death. [If]

69 (2) The coroner or medical examiner in the county in which the person [died believes
70 that further investigation is warranted and a postmortem examination is needed, such coroner or
71 medical examiner shall have the right to further investigate and perform the postmortem
72 examination] **is determined to be dead may with authorization of the coroner or medical**
73 **examiner from the transferring county, investigate and conduct postmortem examinations**
74 at the expense of [such] **the coroner or medical examiner [and shall be] from the transferring**
75 **county. The coroner or medical examiner from the transferring county shall be** responsible
76 for the **Missouri** certificate of death and for investigating the cause and manner of the death.
77 [Such] **The coroner or medical examiner, from the county where a person is determined to**
78 **be dead** shall immediately notify the coroner or medical examiner of the county from which the
79 person was being transferred of the death of such person [and after an investigation is completed
80 shall notify such coroner or medical examiner of his findings] , **and shall make available**
81 **information and records necessary for investigation of the death.**

82 (3) If a person does not die while being transferred and is institutionalized **as a regularly**
83 **admitted patient** after such transfer and subsequently dies while in such institution, the coroner
84 or medical examiner of the county in which the person [dies] **is determined to be dead** shall
85 immediately notify the coroner or medical examiner of the county from which such person was

86 transferred of the death of such person. In such cases, the county in which the deceased was
87 institutionalized shall be considered the place of death.

88 **(4) In the cases of death by homicide, suicide, accident, criminal abortion including**
89 **those that are self-induced, child fatality, or any unusual or suspicious manner, the**
90 **investigation of the cause and manner of death shall revert to the county of origin, and the**
91 **coroner or medical examiner shall be responsible for the Missouri certificate of death.**

92 **(5) There shall not be any statute of limitations or time limits on the cause of death**
93 **when death is the final result or determined to be caused by homicide, suicide, accident,**
94 **child fatality, criminal abortion including those self-induced, or any unusual or suspicious**
95 **manner. The place of death shall be the place in which the person is determined to be**
96 **dead. The final investigation of death in determining the cause and matter of death shall**
97 **revert to the county of origin, and the coroner or medical examiner of such county shall be**
98 **responsible for the Missouri certificate of death.**

99 10. Except as provided in subsection 9 of this section, if a person dies in one county and
100 [his] the body is subsequently transferred to another county, **or into the state of Missouri, for**
101 **burial or other reasons**, the county coroner or medical examiner where the death occurred shall
102 be responsible for the certificate of death and for investigating the cause and manner of the death.

103 11. In performing [his] **the duties of the office**, the coroner or medical examiner shall
104 make reasonable efforts to accommodate organ **or tissue** donation.

58.720. 1. When any person dies within a county having a medical examiner as a result
2 of:

3 (1) Violence by homicide, suicide, or accident;

4 (2) Thermal, chemical, electrical, or radiation injury;

5 (3) Criminal abortions, including those self-induced;

6 (4) Disease thought to be of a hazardous and contagious nature or which might constitute
7 a threat to public health; or when any person dies:

8 (a) Suddenly when in apparent good health;

9 (b) When unattended by a physician, chiropractor, or an accredited Christian Science
10 practitioner, during the period of thirty-six hours immediately preceding his death;

11 (c) While in the custody of the law, or while an inmate in a public institution;

12 (d) In any unusual or suspicious manner;

13

14 the police, sheriff, law enforcement officer or official, or any person having knowledge of such
15 a death shall immediately notify the office of the medical examiner of the known facts
16 concerning the time, place, manner and circumstances of the death.

17

18 Immediately upon receipt of notification, the medical examiner or his designated assistant shall
19 take charge of the dead body and fully investigate the essential facts concerning the medical
20 causes of death. He may take the names and addresses of witnesses to the death and shall file
21 this information in his office. The medical examiner or his designated assistant shall take
22 possession of all property of value found on the body, making exact inventory thereof on his
23 report and shall direct the return of such property to the person entitled to its custody or
24 possession. The medical examiner or his designated assistant examiner shall take possession of
25 any object or article which, in his opinion, may be useful in establishing the cause of death, and
26 deliver it to the prosecuting attorney of the county.

27 2. When a death occurs outside a licensed health care facility, the first licensed medical
28 professional or law enforcement official learning of such death shall contact the county medical
29 examiner. Immediately upon receipt of such notification, the medical examiner or the medical
30 examiner's deputy shall make a determination if further investigation is necessary, based on
31 information provided by the individual contacting the medical examiner, and immediately advise
32 such individual of the medical examiner's intentions.

33 3. In any case of sudden, violent or suspicious death after which the body was buried
34 without any investigation or autopsy, the medical examiner, upon being advised of such facts,
35 may at his own discretion request that the prosecuting attorney apply for a court order requiring
36 the body to be exhumed.

37 4. The medical examiner shall certify the cause of death in any case where death
38 occurred without medical attendance or where an attending physician refuses to sign a certificate
39 of death, and may sign a certificate of death in the case of any death.

40 5. When the cause of death is established by the medical examiner, he shall file a copy
41 of his findings in his office within thirty days after notification of the death.

42 6. **(1)** When a person is being transferred from one county to another county for medical
43 treatment and such person dies while being transferred, **or dies while being treated in the**
44 **emergency room of the receiving facility**, the [county] **place** from which the person is first
45 removed shall be considered the place of death and the **county coroner or** medical examiner of
46 the county from which the person was being transferred shall be responsible for the **Missouri**
47 certificate of death and for investigating the cause and manner of the death. [If]

48 **(2)** The coroner or medical examiner in the county in which the person [died believes
49 that further investigation is warranted and a postmortem examination is needed, such coroner or
50 medical examiner shall have the right to further investigate and perform the postmortem
51 examination] **is determined to be dead may, with authorization of the coroner or medical**
52 **examiner from the transferring county, investigate and conduct postmortem examinations**
53 at the expense of [such] **the** coroner or medical examiner [and shall be] **from the transferring**

54 **county. The coroner or medical examiner from the transferring county, shall be**
55 **responsible for the Missouri certificate of death and for investigating the cause and manner of**
56 **the death. [Such] The coroner or medical examiner, from the county where a person is**
57 **determined to be dead** shall immediately notify the coroner or medical examiner of the county
58 from which the person was being transferred of the death of such person [and after an
59 investigation is completed shall notify such coroner or medical examiner of his findings.] , **and**
60 **shall make available information and records necessary for investigation of the death.**

61 (3) If a person does not die while being transferred and is institutionalized **as a regularly**
62 **admitted patient** after such transfer and subsequently dies while in such institution, the coroner
63 or medical examiner of the county in which the person [dies] **is determined to be dead** shall
64 immediately notify the coroner or medical examiner of the county from which such person was
65 transferred of the death of such person. In such cases, the county in which the deceased was
66 institutionalized shall be considered the place of death.

67 (4) **In the cases of death by homicide, suicide, accident, criminal abortion including**
68 **those that are self-induced, child fatality, or any unusual or suspicious manner, the**
69 **investigation of the cause and manner of death shall revert to the county of origin, and the**
70 **coroner or medical examiner shall be responsible for the Missouri certificate of death.**

71 (5) **There shall not be any statute of limitations or time limits on the cause of death**
72 **when death is the final result or determined to be caused by homicide, suicide, accident,**
73 **child fatality, criminal abortion including those self-induced, or any unusual or suspicious**
74 **manner. The place of death shall be the place in which the person is determined to be**
75 **dead. The final investigation of death in determining the cause and matter of death shall**
76 **revert to the county of origin, and the coroner or medical examiner of such county shall be**
77 **responsible for the Missouri certificate of death.**

78 7. Except as provided in subsection 6 of this section, if a person dies in one county and
79 [his] **the** body is subsequently transferred to another county, **for burial or other reasons** the
80 county coroner or medical examiner where the death occurred shall be responsible for the
81 certificate of death and for investigating the cause and manner of the death.

82 8. In performing his duties, the coroner or medical examiner shall [make reasonable
83 efforts to accommodate organ donation] **comply with sections 58.775 to 58.785 with respect**
84 **to organ donation.**

58.775. For the purpose of sections 58.775 to 58.785, the definitions in section
2 **194.210 are applicable.**

58.780. 1. A coroner or medical examiner shall cooperate with a procurement
2 **organization to maximize the opportunity to recover anatomical gifts for the purpose of**
3 **transplantation, therapy, research, or education.**

4 **2. If a coroner or medical examiner receives notice from a procurement**
5 **organization that an anatomical gift might be available or was made with respect to a**
6 **decedent whose body is under the jurisdiction of the coroner or medical examiner and a**
7 **post-mortem examination is going to be performed, unless the coroner or medical examiner**
8 **denies recovery in accordance with section 58.785, the coroner or medical examiner or**
9 **designee shall conduct a post-mortem examination of the body or the part in a manner and**
10 **within a time period compatible with its preservation for the purposes of the gift.**

11 **3. A part may not be removed from the body of a decedent under the jurisdiction**
12 **of a coroner or medical examiner for transplantation, therapy, research, or education**
13 **unless the part is the subject of an anatomical gift. The body of a decedent under the**
14 **jurisdiction of the coroner or medical examiner may not be delivered to a person for**
15 **research or education unless the body is the subject of an anatomical gift. This subsection**
16 **does not preclude a coroner or medical examiner from performing the medicolegal**
17 **investigation upon the body or parts of a decedent under the jurisdiction of the coroner or**
18 **medical examiner.**

58.785. 1. Upon request of a procurement organization, a coroner or medical
2 **examiner shall release to the procurement organization the name, contact information, and**
3 **available medical and social history of a decedent whose body is under the jurisdiction of**
4 **the coroner or medical examiner. If the decedent's body or part is medically suitable for**
5 **transplantation, therapy, research, or education, the coroner or medical examiner shall**
6 **release post-mortem examination results to the procurement organization. The**
7 **procurement organization may make a subsequent disclosure of the post-mortem**
8 **examination results or other information received from the corner or medical examiner**
9 **only if relevant to transplantation or therapy.**

10 **2. The coroner or medical examiner may conduct a medicolegal examination by**
11 **reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and**
12 **other information that any person possesses about a prospective donor or a donor whose**
13 **body is under the jurisdiction of the coroner or medical examiner which the coroner or**
14 **medical examiner determines may be relevant to the investigation.**

15 **3. A person that has any information requested by a coroner or medical examiner**
16 **under subsection 2 of this section shall provide that information as expeditiously as**
17 **possible to allow the coroner or medical examiner to conduct the medicolegal investigation**
18 **within a period compatible with the preservation of parts for purposes of transplantation,**
19 **therapy, research, or education.**

20 **4. If an anatomical gift has been or might be made of a part of a decedent whose**
21 **body is under the jurisdiction of the coroner or medical examiner and a post-mortem**

22 examination is not required, or the coroner or medical examiner determines that a post-
23 mortem examination is required but that the recovery of the part that is the subject of an
24 anatomical gift will not interfere with the examination, the coroner or medical examiner
25 and procurement organization shall cooperate in the timely removal of the part from the
26 decedent for purposes of transplantation, therapy, research, or education.

27 **5. If an anatomical gift of a part from the decedent under the jurisdiction of the**
28 **coroner or medical examiner has been or might be made, but the coroner or medical**
29 **examiner initially believes that the recovery of the part could interfere with the post-**
30 **mortem investigation into the decedent's cause or manner of death, the coroner or medical**
31 **examiner shall consult with the procurement organization or physician or technician**
32 **designated by the procurement organization about the proposed recovery. After**
33 **consultation, the coroner or medical examiner may allow recovery.**

34 **6. Following the consultation under subsection 5 of this section, in the absence of**
35 **mutually agreed upon protocols to resolve conflict between the coroner or medical**
36 **examiner and the procurement organization, if the coroner or medical examiner intends**
37 **to deny recovery, the coroner or medical examiner or designee, at the request of the**
38 **procurement organization, shall attend the removal procedure for the part before making**
39 **a final determination not to allow the procurement organization to recover the part.**
40 **During the removal procedure, the coroner or medical examiner or designee may allow**
41 **recovery by the procurement organization to proceed, or, if the coroner or medical**
42 **examiner or designee reasonably believes that the part may be involved in determining the**
43 **decedent's cause or manner of death, deny recovery by the procurement organization.**

44 **7. If the coroner or medical examiner or designee denies recovery under subsection**
45 **6 of this section, the coroner or medical examiner or designee shall:**

46 **(1) Explain in a record the specific reasons for not allowing recovery of the part;**

47 **(2) Include the specific reasons in the records of the coroner or medical examiner;**

48 **and**

49 **(3) Provide a record with the specific reasons to the procurement organization.**

50 **8. If the coroner or medical examiner or designee allows recovery of a part under**
51 **subsection 4, 5, or 6 of this section, upon request the procurement organization shall cause**
52 **the physician or technician who removes the part to provide the coroner or medical**
53 **examiner with a record describing the condition of the part, a biopsy, photograph, and any**
54 **other information and observations that would assist in the post-mortem examination.**

55 **9. If a coroner or medical examiner or designee is required to be present at a**
56 **removal procedure under subsection 6 of this section, upon request the procurement**
57 **organization requesting the recovery of the part shall reimburse the coroner or medical**

58 examiner or designee for the additional costs incurred in complying with subsection 6 of
59 this section.

192.632. 1. There is hereby created a "Chronic Kidney Disease Task Force".
2 Unless otherwise stated, members shall be appointed by the director of the department of
3 health and senior services and shall include, but not be limited to, the following members:

4 (1) Two physicians appointed from lists submitted by the Missouri State Medical
5 Association;

6 (2) Two nephrologists;

7 (3) Two family physicians;

8 (4) Two pathologists;

9 (5) One member who represents owners or operators of clinical laboratories in the
10 state;

11 (6) One member who represents a private renal care provider;

12 (7) One member who has a chronic kidney disease;

13 (8) One member who represents the state affiliate of the National Kidney
14 Foundation;

15 (9) One member who represents the Missouri Kidney Program;

16 (10) Two members of the house of representatives appointed by the speaker of the
17 house of representatives;

18 (11) Two members of the senate appointed by the president pro tem of the senate;

19 (12) Additional members may be chosen to represent public health clinics,
20 community health centers, and private health insurers.

21 2. A chairperson and a vice chairperson shall be elected by the members of the task
22 force.

23 3. The chronic kidney disease task force shall:

24 (1) Develop a plan to educate the public and health care professionals about the
25 advantages and methods of early screening, diagnosis, and treatment of chronic kidney
26 disease and its complications based on kidney disease outcomes, quality initiative clinical
27 practice guidelines for chronic kidney disease, or other medically recognized clinical
28 practice guidelines;

29 (2) Make recommendations on the implementation of a cost-effective plan for early
30 screening, diagnosis, and treatment of chronic kidney disease for the state's population;

31 (3) Identify barriers to adoption of best practices and potential public policy
32 options to address these barriers;

33 (4) Submit a report of its findings and recommendations to the general assembly
34 by August 30, 2008.

35 **4. The department of health and senior services shall provide all necessary staff,**
36 **research, and meeting facilities for the chronic kidney disease task force.**

37 **5. The provisions of this section shall expire August 30, 2008.**

192.667. 1. All health care providers shall at least annually provide to the department
2 charge data as required by the department. All hospitals shall at least annually provide patient
3 abstract data and financial data as required by the department. Hospitals as defined in section
4 197.020, RSMo, shall report patient abstract data for outpatients and inpatients. Within one year
5 of August 28, 1992, ambulatory surgical centers as defined in section 197.200, RSMo, shall
6 provide patient abstract data to the department. The department shall specify by rule the types
7 of information which shall be submitted and the method of submission.

8 2. The department shall collect data on required nosocomial infection incidence rates
9 from hospitals, ambulatory surgical centers, and other facilities as necessary to generate the
10 reports required by this section. Hospitals, ambulatory surgical centers, and other facilities shall
11 provide such data in compliance with this section.

12 3. No later than July 1, 2005, the department shall promulgate rules specifying the
13 standards and procedures for the collection, analysis, risk adjustment, and reporting of
14 nosocomial infection incidence rates and the types of infections and procedures to be monitored
15 pursuant to subsection 12 of this section. In promulgating such rules, the department shall:

16 (1) Use methodologies and systems for data collection established by the federal Centers
17 for Disease Control and Prevention National Nosocomial Infection Surveillance System, or its
18 successor; and

19 (2) Consider the findings and recommendations of the infection control advisory panel
20 established pursuant to section 197.165, RSMo.

21 4. The infection control advisory panel created by section 197.165, RSMo, shall make
22 a recommendation to the department regarding the appropriateness of implementing all or part
23 of the nosocomial infection data collection, analysis, and public reporting requirements of this
24 act by authorizing hospitals, ambulatory surgical centers, and other facilities to participate in the
25 federal Centers for Disease Control and Prevention's National Nosocomial Infection Surveillance
26 System, or its successor. The advisory panel shall consider the following factors in developing
27 its recommendation:

28 (1) Whether the public is afforded the same or greater access to facility-specific infection
29 control indicators and rates than would be provided under subsections 2, 3, and 6 to 12 of this
30 section;

31 (2) Whether the data provided to the public are subject to the same or greater accuracy
32 of risk adjustment than would be provided under subsections 2, 3, and 6 to 12 of this section;

33 (3) Whether the public is provided with the same or greater specificity of reporting of
34 infections by type of facility infections and procedures than would be provided under subsections
35 2, 3, and 6 to 12 of this section;

36 (4) Whether the data are subject to the same or greater level of confidentiality of the
37 identity of an individual patient than would be provided under subsections 2, 3, and 6 to 12 of
38 this section;

39 (5) Whether the National Nosocomial Infection Surveillance System, or its successor,
40 has the capacity to receive, analyze, and report the required data for all facilities;

41 (6) Whether the cost to implement the nosocomial infection data collection and reporting
42 system is the same or less than under subsections 2, 3, and 6 to 12 of this section.

43 5. Based on the affirmative recommendation of the infection control advisory panel, and
44 provided that the requirements of subsection 12 of this section can be met, the department may
45 or may not implement the federal Centers for Disease Control and Prevention Nosocomial
46 Infection Surveillance System, or its successor, as an alternative means of complying with the
47 requirements of subsections 2, 3, and 6 to 12 of this section. If the department chooses to
48 implement the use of the federal Centers for Disease Control Prevention Nosocomial Infection
49 Surveillance System, or its successor, as an alternative means of complying with the
50 requirements of subsections 2, 3, and 6 to 12 of this section, it shall be a condition of licensure
51 for hospitals and ambulatory surgical centers which opt to participate in the federal program to
52 permit the federal program to disclose facility-specific data to the department as necessary to
53 provide the public reports required by the department. Any hospital or ambulatory surgical
54 center which does not voluntarily participate in the National Nosocomial Infection Surveillance
55 System, or its successor, shall be required to abide by all of the requirements of subsections 2,
56 3, and 6 to 12 of this section.

57 6. The department shall not require the resubmission of data which has been submitted
58 to the department of health and senior services or the department of social services under any
59 other provision of law. The department of health and senior services shall accept data submitted
60 by associations or related organizations on behalf of health care providers by entering into
61 binding agreements negotiated with such associations or related organizations to obtain data
62 required pursuant to section 192.665 and this section. A health care provider shall submit the
63 required information to the department of health and senior services:

64 (1) If the provider does not submit the required data through such associations or related
65 organizations;

66 (2) If no binding agreement has been reached within ninety days of August 28, 1992,
67 between the department of health and senior services and such associations or related
68 organizations; or

69 (3) If a binding agreement has expired for more than ninety days.

70 7. Information obtained by the department under the provisions of section 192.665 and
71 this section shall not be public information. Reports and studies prepared by the department
72 based upon such information shall be public information and may identify individual health care
73 providers. The department of health and senior services may authorize the use of the data by
74 other research organizations pursuant to the provisions of section 192.067. The department shall
75 not use or release any information provided under section 192.665 and this section which would
76 enable any person to determine any health care provider's negotiated discounts with specific
77 preferred provider organizations or other managed care organizations. The department shall not
78 release data in a form which could be used to identify a patient. Any violation of this subsection
79 is a class A misdemeanor.

80 8. The department shall undertake a reasonable number of studies and publish
81 information, including at least an annual consumer guide, in collaboration with health care
82 providers, business coalitions and consumers based upon the information obtained pursuant to
83 the provisions of section 192.665 and this section. The department shall allow all health care
84 providers and associations and related organizations who have submitted data which will be used
85 in any report to review and comment on the report prior to its publication or release for general
86 use. The department shall include any comments of a health care provider, at the option of the
87 provider, and associations and related organizations in the publication if the department does not
88 change the publication based upon those comments. The report shall be made available to the
89 public for a reasonable charge.

90 9. Any health care provider which continually and substantially, as these terms are
91 defined by rule, fails to comply with the provisions of this section shall not be allowed to
92 participate in any program administered by the state or to receive any moneys from the state.

93 10. A hospital, as defined in section 197.020, RSMo, aggrieved by the department's
94 determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal
95 as provided in section 197.071, RSMo. An ambulatory surgical center as defined in section
96 197.200, RSMo, aggrieved by the department's determination of ineligibility for state moneys
97 pursuant to subsection 9 of this section may appeal as provided in section 197.221, RSMo.

98 11. The department of health may promulgate rules providing for collection of data and
99 publication of nosocomial infection incidence rates for other types of health facilities determined
100 to be sources of infections; except that, physicians' offices shall be exempt from reporting and
101 disclosure of infection incidence rates.

102 12. In consultation with the infection control advisory panel established pursuant to
103 section 197.165, RSMo, the department shall develop and disseminate to the public reports based
104 on data compiled for a period of twelve months. Such reports shall be updated quarterly and

105 shall show for each hospital, ambulatory surgical center, and other facility a risk- adjusted
106 nosocomial infection incidence rate for the following types of infection:

107 (1) Class I surgical site infections;

108 (2) Ventilator-associated pneumonia; **provided that, upon the recommendation of the**
109 **infection control advisory panel, one or more quality indicators designed to better measure**
110 **the risk of transmission of ventilator-associated pneumonia from one patient to another**
111 **may be substituted for a risk-adjusted nosocomial infection incidence rate;**

112 (3) Central line-related bloodstream infections;

113 (4) Other categories of infections that may be established by rule by the department.

114

115 The department, in consultation with the advisory panel, shall be authorized to collect and report
116 data on subsets of each type of infection described in this subsection.

117 13. In the event the provisions of this act are implemented by requiring hospitals,
118 ambulatory surgical centers, and other facilities to participate in the federal Centers for Disease
119 Control and Prevention National Nosocomial Infection Surveillance System, or its successor, the
120 types of infections to be publicly reported shall be determined by the department by rule and
121 shall be consistent with the infections tracked by the National Nosocomial Infection Surveillance
122 System, or its successor.

123 14. Reports published pursuant to subsection 12 of this section shall be published on the
124 department's Internet web site. The initial report shall be issued by the department not later than
125 December 31, 2006. The reports shall be distributed at least annually to the governor and
126 members of the general assembly.

127 15. The Hospital Industry Data Institute shall publish a report of Missouri hospitals' and
128 ambulatory surgical centers' compliance with standardized quality of care measures established
129 by the federal Centers for Medicare and Medicaid Services for prevention of infections related
130 to surgical procedures. If the Hospital Industry Data Institute fails to do so by July 31, 2008, and
131 annually thereafter, the department shall be authorized to collect information from the Centers
132 for Medicare and Medicaid Services or from hospitals and ambulatory surgical centers and
133 publish such information in accordance with subsection 14 of this section.

134 16. The data collected or published pursuant to this section shall be available to the
135 department for purposes of licensing hospitals and ambulatory surgical centers pursuant to
136 chapter 197, RSMo.

137 17. The department shall promulgate rules to implement the provisions of section
138 192.131 and sections 197.150 to 197.160, RSMo. Any rule or portion of a rule, as that term is
139 defined in section 536.010, RSMo, that is created under the authority delegated in this section
140 shall become effective only if it complies with and is subject to all of the provisions of chapter

141 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
142 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
143 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
144 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
145 or adopted after August 28, 2004, shall be invalid and void.

192.745. 1. The "Missouri [Head] **Brain** Injury Advisory Council" [is hereby
2 established] as created by executive order of the governor on March 5, 1985 **is hereby**
3 **transferred to the department of health and senior services by executive order 05-09 issued**
4 **on February 2, 2005**. The council shall consist of twenty-five members. The members of the
5 council that are serving on [August 13, 1986] **February 2, 2005**, shall continue [serving on the
6 following basis: the two members of the council who are members of the house of
7 representatives and appointed by the speaker of the house of representatives shall serve for the
8 remainder of their terms; the two members of the council who are members of the senate
9 appointed by the president pro tempore of the senate shall serve for the remainder of their terms;
10 and the remaining twenty-one members shall determine by lot which seven are to have a one-year
11 term, which seven are to have a two-year term, and which seven are to have a three-year term]
12 **to fulfill their current terms. Through attrition, the council will decrease from the present**
13 **twenty-five members to eighteen members**. Thereafter, the successors to each of these
14 [twenty-one] members shall **be appointed by the director of the department of health and**
15 **senior services to** serve a three-year term and [until the member's successor is appointed by the
16 governor with the advice and consent of the senate. In addition, two members who are members
17 of the house of representatives shall be appointed by the speaker of the house and two members
18 who are members of the senate shall be appointed by the president pro tempore of the senate.
19 The members appointed by the governor shall represent] **shall be appointed on the following**
20 **basis: four** people with [head] **brain** injuries[,] **or** relatives of persons with [head] **brain**
21 injuries, [proprietary schools as defined in section 173.600, RSMo,] **and fourteen others from**
22 professional groups, health institutions, [or] **community groups**, private industry and state
23 agencies which administer programs regarding mental health, education, public health, public
24 safety, insurance, and Medicaid. The appointment of individuals representing state agencies
25 shall be conditioned on their continued employment with their respective agencies.

26 2. The Missouri [head] **brain** injury advisory council is assigned to the [division of
27 general services in the office of administration] **department of health and senior services**. The
28 [office of administration] **department** shall submit estimates of requirements for appropriations
29 on behalf of the council for the necessary staff and expenses to carry out the duties and
30 responsibilities assigned by the council. [Such staff shall consist of a director and other support
31 staff.]

32 3. Meetings **of the full council** shall be held at least [every ninety days] **twice a year** or
33 at the call of the council chairperson, who shall be elected by the council. **Subcommittees may**
34 **meet on an as needed basis.**

35 4. [Each member shall, subject to appropriations, be reimbursed for reasonable and
36 necessary expenses actually incurred in the performance of the member's official duties.]
37 **Members of the council shall not receive any compensation for their services, but they**
38 **shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred**
39 **in the performance of their duties from funds appropriated for this purpose.**

40 5. The council shall adopt written procedures to govern its activities. [Staff and
41 consultants shall be provided for the council from appropriations requested by the commissioner
42 of the office of administration for such purpose.]

43 6. The council, **under the direction of the department**, shall make recommendations
44 to the [governor] **director of the department of health and senior services** for developing and
45 administering a state plan to provide services for [head] **brain** injured persons.

46 7. No member of the council may participate in or seek to influence a decision or vote
47 of the council if the member would be directly involved with the matter or if the member would
48 derive income from it. A violation of the prohibition contained herein shall be grounds for a
49 person to be removed as a member of the council by the [governor] **director of the department**
50 **of health and senior services.**

51 8. The council shall be advisory and shall:

52 (1) Promote meetings and programs for the discussion of reducing the debilitating effects
53 of [head] **brain** injuries and disseminate information in cooperation with any other department,
54 agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons
55 affected by [head] **brain** injuries;

56 (2) Study and review current prevention, evaluation, care, treatment and rehabilitation
57 technologies and recommend appropriate preparation, training, retraining and distribution of
58 manpower and resources in the provision of services to [head-injured] **brain-injured** persons
59 through private and public residential facilities, day programs and other specialized services;

60 (3) Recommend [what] specific methods, means and procedures [should be adopted] to
61 improve and upgrade the state's service delivery system for [head-injured] **brain-injured** citizens
62 of this state;

63 (4) Participate in developing and disseminating criteria and standards which may be
64 required for future funding or licensing of facilities, day programs and other specialized services
65 for [head-injured] **brain-injured** persons in this state;

66 (5) Report annually to the [commissioner of administration] **director of the department**
67 **of health and senior services**, the governor, and the general assembly on its activities, and on
68 the results of its studies and the recommendations of the council.

69 9. The [office of administration] **department of health and senior services** may accept
70 on behalf of the council federal funds, gifts and donations from individuals, private organizations
71 and foundations, and any other funds that may become available.

192.925. 1. To increase public awareness of the problem of elder abuse and neglect **and**
2 **financial exploitation of the elderly**, the department of health and senior services shall
3 implement an education and awareness program. Such program shall have the goal of reducing
4 the incidences of elder abuse and neglect **and financial exploitation of the elderly**, and may
5 focus on:

6 (1) The education and awareness of mandatory reporters on their responsibility to report
7 elder abuse and neglect **and financial exploitation of the elderly**;

8 (2) Targeted education and awareness for the public on the problem, identification and
9 reporting of elder abuse and neglect **and financial exploitation of the elderly**;

10 (3) Publicizing the elder abuse and neglect hot line telephone number;

11 (4) Education and awareness for law enforcement agencies and prosecutors on the
12 problem and identification of elder abuse and neglect **and financial exploitation of the elderly**,
13 and the importance of prosecuting cases pursuant to chapter 565, RSMo; and

14 (5) Publicizing the availability of background checks prior to hiring an individual for
15 caregiving purposes.

16 2. The department of social services and facilities licensed pursuant to chapters 197 and
17 198, RSMo, shall cooperate fully with the department of health and senior services in the
18 distribution of information pursuant to this program.

[660.050.] **192.2000.** 1. The "Division of Aging" is hereby transferred from the
2 department of social services to the department of health and senior services by a type I transfer
3 as defined in the Omnibus State Reorganization Act of 1974. **All references in the revised**
4 **statutes of Missouri to the division of aging shall include any division or divisions**
5 **established by the department as a successor division or divisions to the division of aging.**
6 The division shall aid and assist the elderly and low-income [handicapped] adults **with**
7 **disabilities** living in the state of Missouri to secure and maintain maximum economic and
8 personal independence and dignity. The division shall regulate adult long-term care facilities
9 pursuant to the laws of this state and rules and regulations of federal and state agencies, to
10 safeguard the lives and rights of residents in these facilities.

11 2. In addition to its duties and responsibilities enumerated pursuant to other provisions
12 of law, the division shall:

- 13 (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service
14 program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73,
15 (42 U.S.C. 3001, et seq.), as amended;
- 16 (2) Assure that an information and referral system is developed and operated for the
17 elderly, including information on the Missouri care options program;
- 18 (3) Provide technical assistance, planning and training to local area agencies on aging;
- 19 (4) Contract with the federal government to conduct surveys of long-term care facilities
20 certified for participation in the Title XVIII program;
- 21 (5) Serve as liaison between the department of health and senior services and the Federal
22 Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the
23 United States Department of Health and Human Services;
- 24 (6) Conduct medical review (inspections of care) activities such as utilization reviews,
25 independent professional reviews, and periodic medical reviews to determine medical and social
26 needs for the purpose of eligibility for Title XIX, and for level of care determination;
- 27 (7) Certify long-term care facilities for participation in the Title XIX program;
- 28 (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for
29 Supplemental Security Income recipients in long-term care facilities and serve as the liaison
30 between the Social Security Administration and the department of health and senior services
31 concerning Supplemental Security Income beneficiaries;
- 32 (9) Review plans of proposed long-term care facilities before they are constructed to
33 determine if they meet applicable state and federal construction standards;
- 34 (10) Provide consultation to long-term care facilities in all areas governed by state and
35 federal regulations;
- 36 (11) Serve as the central state agency with primary responsibility for the planning,
37 coordination, development, and evaluation of policy, programs, and services for elderly persons
38 in Missouri consistent with the provisions of subsection 1 of this section and serve as the
39 designated state unit on aging, as defined in the Older Americans Act of 1965;
- 40 (12) With the advice of the governor's advisory council on aging, develop long-range
41 state plans for programs, services, and activities for elderly [and handicapped] persons, **and**
42 **long-term care options for elderly persons and adults with disabilities.** State plans should
43 be revised annually and should be based on area agency on aging plans, statewide priorities, and
44 state and federal requirements;
- 45 (13) Receive and disburse all federal and state funds allocated to the division and solicit,
46 accept, and administer grants, including federal grants, or gifts made to the division or to the
47 state for the benefit of elderly persons in this state;

48 (14) Serve, within government and in the state at large, as an advocate for elderly
49 persons by holding hearings and conducting studies or investigations concerning matters
50 affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to
51 assure their rights to apply for and receive services and to be given fair hearings when such
52 services are denied;

53 (15) Provide information and technical assistance to the governor's advisory council on
54 aging and keep the council continually informed of the activities of the division;

55 (16) After consultation with the governor's advisory council on aging, make
56 recommendations for legislative action to the governor and to the general assembly;

57 (17) Conduct research and other appropriate activities to determine the needs of elderly
58 persons in this state, including, but not limited to, their needs for social and health services, and
59 to determine what existing services and facilities, private and public, are available to elderly
60 persons to meet those needs;

61 (18) Maintain [and serve as a clearinghouse for] **information regarding resources that**
62 **provide** up-to-date information and technical assistance related to the needs and interests of
63 elderly persons and persons with Alzheimer's disease or related dementias, including information
64 on the Missouri care options program, dementia-specific training materials and dementia-specific
65 trainers. Such dementia-specific information and technical assistance shall be [maintained and]
66 provided in consultation with agencies, organizations and/or institutions of higher learning with
67 expertise in dementia care;

68 (19) Provide area agencies on aging with assistance in applying for federal, state, and
69 private grants and identifying new funding sources;

70 (20) Determine area agencies on aging annual allocations for Title XX and Title III of
71 the Older Americans Act expenditures;

72 (21) Provide transportation services, home-delivered and congregate meals, in-home
73 services, counseling and other services to the elderly and low-income handicapped adults as
74 designated in the Social Services Block Grant Report, through contract with other agencies, and
75 shall monitor such agencies to ensure that services contracted for are delivered and meet
76 standards of quality set by the division;

77 (22) Monitor the process pursuant to the federal Patient Self-determination Act, 42
78 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients
79 concerning durable powers of attorney and living wills.

80 3. The division director, subject to the supervision of the director of the department of
81 health and senior services, shall be the chief administrative officer of the division and shall
82 exercise for the division the powers and duties of an appointing authority pursuant to chapter 36,

83 RSMo, to employ such administrative, technical and other personnel as may be necessary for the
84 performance of the duties and responsibilities of the division.

85 4. The division may withdraw designation of an area agency on aging only when it can
86 be shown the federal or state laws or rules have not been complied with, state or federal funds
87 are not being expended for the purposes for which they were intended, or the elderly are not
88 receiving appropriate services within available resources, and after consultation with the director
89 of the area agency on aging and the area agency board. Withdrawal of any particular program
90 of services may be appealed to the director of the department of health and senior services and
91 the governor. In the event that the division withdraws the area agency on aging designation in
92 accordance with the Older Americans Act, the division shall administer the services to clients
93 previously performed by the area agency on aging until a new area agency on aging is designated.

94 5. Any person hired by the department of health and senior services after August 13,
95 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198,
96 RSMo, shall complete at least one hundred hours of basic orientation regarding the inspection
97 process and applicable rules and statutes during the first six months of employment. Any such
98 person shall annually, on the anniversary date of employment, present to the department evidence
99 of having completed at least twenty hours of continuing education in at least two of the following
100 categories: communication techniques, skills development, resident care, or policy update. The
101 department of health and senior services shall by rule describe the curriculum and structure of
102 such continuing education.

103 6. The division may issue and promulgate rules to enforce, implement and effectuate the
104 powers and duties established in this section [and sections 198.070 and 198.090, RSMo, and
105 sections 660.250 and 660.300 to 660.320] , **section 192.2100, sections 192.2175 to 192.2187,**
106 **and section 198.090, RSMo.** Any rule or portion of a rule, as that term is defined in section
107 536.010, RSMo, that is created under the authority delegated in this section shall become
108 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
109 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
110 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
111 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
112 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
113 after August 28, 2001, shall be invalid and void.

114 7. Missouri care options is a program, operated and coordinated by the [division of
115 aging] **department**, which informs individuals of the variety of care options available to them
116 when they may need long-term care.

117 8. The division shall, by January 1, 2002, establish minimum dementia-specific training
118 requirements for employees involved in the delivery of care to persons with Alzheimer's disease

119 or related dementias who are employed by skilled nursing facilities, intermediate care facilities,
120 residential care facilities, agencies providing in-home care services authorized by the [division
121 of aging] **department**, adult day-care programs, independent contractors providing direct care
122 to persons with Alzheimer's disease or related dementias and the [division of aging] **department**.
123 Such training shall be incorporated into new employee orientation and ongoing in-service
124 curricula for all employees involved in the care of persons with dementia. The department of
125 health and senior services shall, by January 1, 2002, establish minimum dementia-specific
126 training requirements for employees involved in the delivery of care to persons with Alzheimer's
127 disease or related dementias who are employed by home health and hospice agencies licensed
128 by chapter 197, RSMo. Such training shall be incorporated into the home health and hospice
129 agency's new employee orientation and ongoing in-service curricula for all employees involved
130 in the care of persons with dementia. The dementia training need not require additional hours
131 of orientation or ongoing in-service. Training shall include at a minimum, the following:

132 (1) For employees providing direct care to persons with Alzheimer's disease or related
133 dementias, the training shall include an overview of Alzheimer's disease and related dementias,
134 communicating with persons with dementia, behavior management, promoting independence in
135 activities of daily living, and understanding and dealing with family issues;

136 (2) For other employees who do not provide direct care for, but may have daily contact
137 with, persons with Alzheimer's disease or related dementias, the training shall include an
138 overview of dementias and communicating with persons with dementia.

139

140 As used in this subsection, the term "employee" includes persons hired as independent
141 contractors. The training requirements of this subsection shall not be construed as superceding
142 any other laws or rules regarding dementia-specific training.

143 **9. All powers, duties, and functions of the board of nursing home administrators**
144 **contained in chapter 344, RSMo, are transferred by type I transfer to the department of**
145 **health and senior services. The public members of the board shall be appointed by the**
146 **director of the department of health and senior services.**

[660.060.] **192.2001.** All authority, powers, duties, functions, records, personnel,
2 property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging
3 shall be transferred to the department of health and senior services.

[660.053.] **192.2003.** As used in [section 199.025, RSMo, and sections 660.050 to
2 660.057 and 660.400 to 660.420] **sections 192.2000 to 192.2040 and sections 192.2200 to**
3 **192.2227**, the following terms mean:

4 (1) "Area agency on aging", the agency designated by the division in a planning and
5 service area to develop and administer a plan and administer available funds for a comprehensive

6 and coordinated system of services for the elderly and persons with disabilities who require
7 similar services;

8 (2) "Area agency board", the local policy-making board which directs the actions of the
9 area agency on aging under state and federal laws and regulations;

10 (3) "**Department**", the **department of health and senior services**;

11 (4) "Director", the director [of the division of aging] of the Missouri department of
12 [social] **health and senior services, or designee**;

13 [(4)] "Division", the division of aging of the Missouri department of social services;

14 (5) (5) "Elderly" or "elderly persons", persons who are sixty years of age or older;

15 [(6)] (6) "Disability", a mental or physical impairment that substantially limits one or
16 more major life activities, whether the impairment is congenital or acquired by accident, injury
17 or disease, where such impairment is verified by medical findings;

18 [(7)] (7) "Local government", a political subdivision of the state whose authority is
19 general or a combination of units of general purpose local governments;

20 [(8)] (8) "Major life activities", functions such as caring for one's self, performing
21 manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

22 [(9)] (9) "Medicaid", medical assistance provided under section 208.151, RSMo, et seq.,
23 in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act
24 (42 U.S.C. 301 et seq.), as amended;

25 [(10)] (10) "Protective services", a service provided by the [Missouri division of aging]
26 **department** in response to the need for protection from harm or neglect to eligible adults under
27 sections [660.250 to 660.295] **192.2100 to 192.2130**;

28 [(11)] (11) "Registered caregiver", a person who provides primary long-term care for an
29 elderly person and wishes to receive information, services or support from the shared care
30 program;

31 [(12)] (12) "Shared care", a program administered by the [division of aging] **department**
32 in which Missouri families who provide primary long-term care for an elderly person and register
33 as a shared care member with the [division of aging] **department** shall receive access to certain
34 supportive services and may receive a state tax credit;

35 [(13)] (13) "Shared care community project", a project in a community that offers to help
36 support shared care participation through development of programs;

37 [(14)] (14) "Shared care member", a registered caregiver or shared care provider who
38 registers with the [division of aging] **department** in order to participate in the shared care
39 program;

40 [(15)] (15) "Shared care provider", any state authorized long-term care provider in the
41 state, including, but not limited to, in-home, home health, hospice, adult day care, residential care

42 facility or assisted living facility, or nursing home, who voluntarily registers with the [division
43 of aging] **department** to be available as a resource for the shared care program;

44 [(16)] **(16)** "Shared care tax credit", a tax credit to registered caregivers who meet the
45 requirements of section [660.055] **192.2009**.

[660.054.] **192.2006**. 1. The [division of aging of the] department of [social] **health and
2 senior** services shall establish a program to help families who provide the primary long-term care
3 for an elderly person. This program shall be known as "shared care" and has the following goals:

4 (1) To provide services and support for families caring for an elderly person;

5 (2) To increase awareness of the variety of privately funded services which may be
6 available to those persons caring for an elderly person;

7 (3) To increase awareness of the variety of government services which may be available
8 to those caring for an elderly person;

9 (4) Recognition on an annual basis by the governor for those families participating in the
10 shared care program and community project groups participating in the shared care program;

11 (5) To provide a tax credit to members who meet the qualifications pursuant to section
12 [660.055] **192.2009**; and

13 (6) To promote community involvement by:

14 (a) Providing local communities information about the shared care program and to
15 encourage the establishment of support groups where none are available and to support existing
16 support groups, and other programs for shared care members and providers to share ideas,
17 information and resources on caring for an elderly person; and

18 (b) Encouraging local home care, adult day care or other long-term care providers, who
19 have regularly scheduled training sessions for paid caregivers, to voluntarily invite shared care
20 members to participate in education and training sessions at no cost to the registered caregivers.
21 Such providers shall not be held liable in any civil or criminal action related to or arising out of
22 the participation or training of shared care members in such sessions.

23 2. To further the goals of the shared care program, the director shall:

24 (1) Promulgate specific rules and procedures for the shared care program. Any rule or
25 portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the
26 authority delegated in sections [660.050 to 660.057] **192.2000 to 192.2012** shall become
27 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
28 and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August
29 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to
30 repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully
31 complied with all applicable provisions of law. This section and chapter 536, RSMo, are
32 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,

33 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
34 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
35 after August 28, 1999, shall be invalid and void;

36 (2) Maintain a registry of names and addresses of shared care members and shared care
37 providers;

38 (3) [Compile a list, updated annually, of] **Maintain a website with links to** public and
39 private resources, services and programs which may be available to assist and support the
40 registered caregiver with caring for the elderly. [Such list] **This website** shall be [given]
41 **available** to shared care members along with information on shared care providers in their
42 community. Private organizations and providers shall be responsible for [providing] **updating**
43 information to the [division of aging] **department** for inclusion on the [list] **website**. The
44 [division of aging] **department** shall establish reporting procedures for private organizations and
45 publicly disseminate the [division's] **department's** guidelines statewide;

46 (4) [Compile and distribute to shared care members] **Post shared care member's**
47 **information on the Internet regarding resources that contain** information about [the] services
48 and benefits of the shared care program [and a bibliography of] **with links to** resources and
49 materials with information helpful to such members. The [bibliography will give members an
50 overview] **weblinks will provide access to an array** of available information and is not required
51 to be comprehensive;

52 (5) Encourage shared care providers, consumer groups, churches and other philanthropic
53 organizations to help local communities develop local support systems where none are available
54 and to support existing support groups for persons caring for elderly persons and make [division]
55 **department** staff available, if possible;

56 (6) In conjunction with the director of revenue, develop a physician certification for
57 shared care tax credit form to be given to registered caregivers upon request. The form shall
58 require, but is not limited to:

59 (a) Identifying information about the registered caregiver for tax purposes, and the
60 signature of the registered caregiver certifying that he or she qualifies for the shared care tax
61 credit as provided in section [660.055] **192.2009**;

62 (b) Identifying information about the elderly person receiving care for verification
63 purposes;

64 (c) Identifying information about and the signature of the physician licensed pursuant
65 to the provisions of chapter 334, RSMo, for verification and certification purposes;

66 (d) A description by such physician of the physical or mental condition of the elderly
67 person that makes them incapable of living alone and lists the care, assistance with daily living

68 and oversight needed at home in order to prevent placement in a facility licensed pursuant to
69 chapter 198, RSMo; and

70 (e) A complete explanation of the shared care tax credit and its guidelines and directions
71 on completion of the form and how to file for the shared care tax credit with the department of
72 revenue; and

73 (7) In conjunction with the director of revenue, develop a [division of aging]
74 **department** certification for shared care tax credit form to be given at the request of the
75 registered caregivers when a [division of aging] **department** assessment has been completed for
76 other purposes. The form shall require, but is not limited to:

77 (a) Identifying information about the registered caregiver for tax purposes, and the
78 signature of the registered caregiver certifying that he or she qualifies for the shared care tax
79 credit as provided in section [660.055] **192.2009**;

80 (b) Identifying information about the elderly person receiving care for verification
81 purposes;

82 (c) Identifying information about and the signature of the [division of aging] **department**
83 staff for verification and certification purposes;

84 (d) A description by the [division of aging] **department** staff of the physical or mental
85 condition of the elderly person that makes them incapable of living alone and lists the care,
86 assistance with daily living and oversight needed at home in order to prevent placement in a
87 facility licensed pursuant to chapter 198, RSMo; and

88 (e) A complete explanation of the shared care tax credit and its guidelines and directions
89 for completing the form and how to file for the shared care tax credit with the department of
90 revenue.

91 3. Funds appropriated for the shared care program shall be appropriated to and
92 administered by the department of [social] **health and senior** services.

[660.055.] **192.2009**. 1. Any registered caregiver who meets the requirements of this
2 section shall be eligible for a shared care tax credit in an amount not to exceed five hundred
3 dollars to defray the cost of caring for an elderly person. In order to be eligible for a shared care
4 tax credit, a registered caregiver shall:

5 (1) Care for an elderly person, age sixty or older, who:

6 (a) Is physically or mentally incapable of living alone, as determined and certified by his
7 or her physician licensed pursuant to chapter 334, RSMo, or by the [division of aging]
8 **department** staff when an assessment has been completed for the purpose of qualification for
9 other services; and

10 (b) Requires assistance with activities of daily living to the extent that without care and
11 oversight at home would require placement in a facility licensed pursuant to chapter 198, RSMo;
12 and

13 (c) Under no circumstances, is able or allowed to operate a motor vehicle; and

14 (d) Does not receive funding or services through Medicaid or social services block grant
15 funding;

16 (2) Live in the same residence to give protective oversight for the elderly person meeting
17 the requirements described in subdivision (1) of this subsection for an aggregate of more than
18 six months per tax year;

19 (3) Not receive monetary compensation for providing care for the elderly person meeting
20 the requirements described in subdivision (1) of this subsection; and

21 (4) File the original completed and signed physician certification for shared care tax
22 credit form or the original completed and signed [division of aging] **department** certification
23 for shared care tax credit form provided for in subsection 2 of section [660.054] **192.2006** along
24 with such caregiver's Missouri individual income tax return to the department of revenue.

25 2. The tax credit allowed by this section shall apply to any year beginning after
26 December 31, 1999.

27 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
28 is created under the authority delegated in sections [660.050 to 660.057] **192.2000 to 192.2012**
29 shall become effective only if it complies with and is subject to all of the provisions of chapter
30 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior
31 to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be
32 interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999,
33 if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo,
34 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
35 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are
36 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
37 or adopted after August 28, 1999, shall be invalid and void.

38 4. Any person who knowingly falsifies any document required for the shared care tax
39 credit shall be subject to the same penalties for falsifying other tax documents as provided in
40 chapter 143, RSMo.

[660.057.] **192.2012.** 1. On and after August 13, 1984, an area agency on aging shall
2 operate with local administrative responsibility for Title III of the Older Americans Act, and
3 other funds allocated to it by the [division] **department**. The area agency board shall be
4 responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited
5 to, the accountability for funds and compliance with federal and state laws and rules. Such

6 responsibility shall include all geographic areas in which the area agency on aging is designated
7 to operate. The respective area agency board shall appoint a director of the area agency on aging
8 in its jurisdiction. [Beginning January 1, 1995,] The director of the area agency on aging shall
9 submit an annual performance report to the [division] **department** director, the speaker of the
10 house of representatives, the president pro tempore of the senate and the governor. Such
11 performance report shall give a detailed accounting of all funds which were available to and
12 expended by the area agency on aging from state, federal and private sources.

13 2. Each area agency on aging shall have an area agency on aging advisory council, which
14 shall:

15 (1) Recommend basic policy guidelines for the administration of the activities of the area
16 agencies on aging on behalf of elderly persons and advise the area agency on aging on questions
17 of policy;

18 (2) Advise the area agency on aging with respect to the development of the area plan and
19 budget, and review and comment on the completed area plan and budget before its transmittal
20 to the [division] **department**;

21 (3) Review and evaluate the effectiveness of the area agency on aging in meeting the
22 needs of elderly persons in the planning and service area;

23 (4) Meet at least quarterly, with all meetings being subject to sections 610.010 to
24 610.030, RSMo.

25 3. Each area agency board shall:

26 (1) Conduct local planning functions for Title III and Title XX, and such other funds as
27 may be available;

28 (2) Develop a local plan for service delivery, subject to review and approval by the
29 [division] **department**, that complies with federal and state requirements and in accord with
30 locally determined objectives consistent with the state policy on aging;

31 (3) Assess the needs of elderly persons within the planning and service delivery area for
32 service for social and health services, and determine what resources are currently available to
33 meet those needs;

34 (4) Assume the responsibility of determining services required to meet the needs of
35 elderly persons, assure that such services are provided within the resources available, and
36 determine when such services are no longer needed;

37 (5) Endeavor to coordinate and expand existing resources in order to develop within its
38 planning and service area a comprehensive and coordinated system for the delivery of social and
39 health services to elderly persons;

40 (6) Serve as an advocate within government and within the community at large for the
41 interests of elderly persons within its planning and service area;

42 (7) Make grants to or enter into contracts with any public or private agency for the
43 provision of social or health services not otherwise sufficiently available to elderly persons
44 within the planning and service area;

45 (8) Monitor and evaluate the activities of its service providers to ensure that the services
46 being provided comply with the terms of the grant or contract. Where a provider is found to be
47 in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant
48 or contract;

49 (9) Conduct research, evaluation, demonstration or training activities appropriate to the
50 achievement of the goal of improving the quality of life for elderly persons within its planning
51 and service area;

52 (10) Comply with [division] **department** requirements that have been developed in
53 consultation with the area agencies for client and fiscal information, and provide to the [division]
54 **department** information necessary for federal and state reporting, program evaluation, program
55 management, fiscal control and research needs.

56 4. [Beginning January 1, 1995,] The records of each area agency on aging shall be
57 audited at least every other year. All audits required by the Older Americans Act of 1965, as
58 amended, shall satisfy this requirement.

[660.058.] **192.2015.** 1. The [division of aging] **department** shall provide budget
2 allotment tables to each area agency on aging by January first of each year. Each area agency on
3 aging shall submit its area plan, area budget and service contracts to the [division of aging]
4 **department** by March first of each year. Each April, the area agencies on aging shall present
5 their plans to the [division of aging] **department** in a public hearing scheduled by the [division]
6 **department** and held in the area served by the area agency on aging. Within thirty days of such
7 hearing, the [division] **department** shall report findings and recommendations to the board of
8 directors for the area agency on aging, the area agency on aging advisory council, the members
9 of the senate budget committee and the members of the house appropriations committee for
10 social services and corrections.

11 2. Each area agency on aging shall include in its area plan performance measures and
12 outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall
13 also be presented to the [division] **department** during the public hearing.

14 3. The [division of aging] **department** shall conduct on-site monitoring of each area
15 agency on aging at least once a year. The [division of aging] **department** shall send all
16 monitoring reports to the area agency on aging advisory council and the board of directors for
17 the area agency which is the subject of the reports.

[660.062.] **192.2025.** 1. There is hereby created a "State Board of Senior Services"
2 which shall consist of seven members, who shall be appointed by the governor, by and with the

3 advice and consent of the senate. No member of the state board of senior services shall hold any
4 other office or employment under the state of Missouri other than in a consulting status relevant
5 to the member's professional status, licensure or designation. Not more than four of the members
6 of the state board of senior services shall be from the same political party.

7 2. Each member shall be appointed for a term of four years; except that of the members
8 first appointed, two shall be appointed for a term of one year, two for a term of two years, two
9 for a term of three years and one for a term of four years. The successors of each shall be
10 appointed for full terms of four years. No person may serve on the state board of senior services
11 for more than two terms. The terms of all members shall continue until their successors have
12 been duly appointed and qualified. One of the persons appointed to the state board of senior
13 services shall be a person currently working in the field of gerontology. One of the persons
14 appointed to the state board of senior services shall be a physician with expertise in geriatrics.
15 One of the persons appointed to the state board of senior services shall be a person with expertise
16 in nutrition. One of the persons appointed to the state board of senior services shall be a person
17 with expertise in rehabilitation services of persons with disabilities. One of the persons
18 appointed to the state board of senior services shall be a person with expertise in mental health
19 issues. In making the two remaining appointments, the governor shall give consideration to
20 individuals having a special interest in gerontology or disability-related issues, including senior
21 citizens. Four of the seven members appointed to the state board of senior services shall be
22 members of the governor's advisory council on aging. If a vacancy occurs in the appointed
23 membership, the governor may appoint a member for the remaining portion of the unexpired
24 term created by the vacancy. The members shall receive actual and necessary expenses plus
25 twenty-five dollars per day for each day of actual attendance.

26 3. The board shall elect from among its membership a chairman and a vice chairman,
27 who shall act as chairman in his or her absence. The board shall meet at the call of the chairman.
28 The chairman may call meetings at such times as he or she deems advisable, and shall call a
29 meeting when requested to do so by three or more members of the board.

30 4. The state board of senior services shall advise the department of health and senior
31 services in the:

32 (1) Promulgation of rules and regulations by the department of health and senior
33 services;

34 (2) Formulation of the budget for the department of health and senior services; and

35 (3) Planning for and operation of the department of health and senior services.

[660.067.] **192.2030.** As used in sections [660.067 to 660.070] **192.2030 to 192.2035,**
2 the following terms shall mean:

3 (1) "Adult day care", a group program that emphasizes appropriate services for persons
4 eighteen years of age or older [having Alzheimer's disease and related disorders] **who have**
5 **functional impairments** and that provides services for periods of less than twenty-four hours
6 but more than two hours per day in a place other than the adult's home;

7 (2) "Alzheimer's disease and related disorders", diseases resulting from significant
8 destruction of brain tissue and characterized by a decline of memory and other intellectual
9 functions. These diseases include but are not limited to progressive, degenerative and dementing
10 illnesses such as presenile and senile dementias, Alzheimer's disease and other related disorders;

11 (3) "Appropriate services", services that emphasize surveillance, safety, behavior
12 management and other techniques used to assist persons having Alzheimer's disease and related
13 disorders;

14 (4) "Director", the director [of the division of aging] of the department of [social] **health**
15 **and senior services, or designee;**

16 (5) ["Division", the division of aging of the department of social services;

17 (6)] "In-home companion", someone trained to provide appropriate services to persons
18 having Alzheimer's disease and related disorders and who provides those services in the home;

19 [(7)] (6) "Respite care", a program that provides temporary and short-term residential
20 care, sustenance, supervision and other appropriate services for persons having Alzheimer's
21 disease and related disorders who otherwise reside in their own or in a family home.

[660.069.] **192.2033.** 1. To encourage development of appropriate services for persons
2 having Alzheimer's disease and related disorders, the [division] **department** may make grants
3 to public and private entities for pilot projects from funds specifically appropriated for this
4 purpose. Pilot projects shall have the following goals:

5 (1) To prevent or postpone institutionalization of persons having Alzheimer's disease and
6 related disorders who currently live in their own home or in a family home;

7 (2) To offer services that emphasize safety, surveillance and behavior management rather
8 than, or in addition to, medical treatment, homemaker, chore or personal care services;

9 (3) To temporarily relieve family members or others who have assumed direct care
10 responsibilities by offering services that allow care givers to leave the home. These services
11 shall include but not be limited to adult day care, in-home companions and respite care;

12 (4) To test the practical and economic feasibility of providing services in settings and
13 at levels designed for varying needs; and

14 (5) To develop program models that can be adapted and operated by other public and
15 private entities.

16 2. The director, in accordance with chapter 536, RSMo, shall promulgate rules that
 17 establish procedures for grant application, review, selection, monitoring and auditing of grants
 18 made [pursuant to sections 660.067 to 660.070] **under this section and section 192.2035.**

19 3. The grants shall be limited to a duration of one year but may be renewable for one
 20 additional year at the director's discretion and if funds are appropriated for this purpose.

[660.070.] **192.2035.** The commissioner of administration, in consultation with the
 2 director of the [division of aging] **department**, shall promulgate rules that establish procedures
 3 for contracting with grantees receiving funds under [sections 660.067 to 660.070] **this section**
 4 **and section 192.2033.** No rule or portion of a rule promulgated under the authority of [sections
 5 660.067 to 660.070] **this section and section 192.2033** shall become effective unless it has been
 6 promulgated pursuant to the provisions of section 536.024, RSMo.

[660.099.] **192.2040.** 1. The general assembly may appropriate funds in addition to the
 2 amount currently being provided per annum for nutrition services for the elderly. Funds so
 3 designated to provide nutrition services for the elderly shall be allocated to the [Missouri division
 4 of aging] **department** to be placed on the formula basis and distributed to each area agency on
 5 aging throughout the state of Missouri.

6 2. The general assembly may appropriate funds in addition to the amount currently being
 7 provided per annum through the Missouri elderly and handicapped transportation program.
 8 Funds so designated to provide transportation for the elderly and developmentally disabled shall
 9 be allocated to the [Missouri division of aging] **department** to be placed on the formula basis
 10 and distributed to each area agency on aging throughout the state of Missouri.

11 3. The general assembly may appropriate funds in addition to the amount currently being
 12 provided per annum for home-delivered meals for the elderly. Such additional funds shall be
 13 allocated to the [Missouri division of aging] **department** to be placed on the formula basis and
 14 distributed to each area agency on aging throughout the state of Missouri.

[660.250.] **192.2100.** As used in sections [660.250 to 660.321] **192.2100 to 192.2130**
 2 **and sections 192.2175 to 192.2187**, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including
 4 financial exploitation by any person, firm or corporation;

5 (2) "Court", the circuit court;

6 (3) "Department", the department of health and senior services;

7 (4) "Director", director of the department of health and senior services or his or her
 8 designees;

9 (5) "Eligible adult", a person sixty years of age or older who is unable to protect his or
 10 her own interests or adequately perform or obtain services which are necessary to meet his or her
 11 essential human needs or an adult with a disability, as defined in section [660.053] **192.2003,**

12 between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or
13 adequately perform or obtain services which are necessary to meet his or her essential human
14 needs;

15 (6) "Home health agency", the same meaning as such term is defined in section 197.400,
16 RSMo;

17 (7) "Home health agency employee", a person employed by a home health agency;

18 (8) "Home health patient", an eligible adult who is receiving services through any home
19 health agency;

20 (9) "In-home services client", an eligible adult who is receiving services in his or her
21 private residence through any in-home services provider agency;

22 (10) "In-home services employee", a person employed by an in-home services provider
23 agency;

24 (11) "In-home services provider agency", a business entity under contract with the
25 department or with a Medicaid participation agreement, which employs persons to deliver any
26 kind of services provided for eligible adults in their private homes;

27 (12) "Least restrictive environment", a physical setting where protective services for the
28 eligible adult and accommodation is provided in a manner no more restrictive of an individual's
29 personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

30 (13) "Likelihood of serious physical harm", one or more of the following:

31 (a) A substantial risk that physical harm to an eligible adult will occur because of his or
32 her failure or inability to provide for his or her essential human needs as evidenced by acts or
33 behavior which has caused such harm or which gives another person probable cause to believe
34 that the eligible adult will sustain such harm;

35 (b) A substantial risk that physical harm will be inflicted by an eligible adult upon
36 himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused
37 such harm or which places another person in reasonable fear that the eligible adult will sustain
38 such harm;

39 (c) A substantial risk that physical harm will be inflicted by another upon an eligible
40 adult as evidenced by recent acts or behavior which has caused such harm or which gives another
41 person probable cause to believe the eligible adult will sustain such harm;

42 (d) A substantial risk that further physical harm will occur to an eligible adult who has
43 suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting
44 of his or her financial resources by another person;

45 (14) "Neglect", the failure to provide services to an eligible adult by any person, firm or
46 corporation with a legal or contractual duty to do so, when such failure presents either an

47 imminent danger to the health, safety, or welfare of the client or a substantial probability that
48 death or serious physical harm would result;

49 (15) "Protective services", services provided by the state or other governmental or private
50 organizations or individuals which are necessary for the eligible adult to meet his or her essential
51 human needs.

[660.255.] **192.2103.** 1. Any person having reasonable cause to suspect that an eligible
2 adult presents a likelihood of suffering serious physical harm and is in need of protective services
3 shall report such information to the department.

4 2. The report shall be made orally or in writing. It shall include, if known:

5 (1) The name, age, and address of the eligible adult;

6 (2) The name and address of any person responsible for the eligible adult's care;

7 (3) The nature and extent of the eligible adult's condition; and

8 (4) Other relevant information.

9 3. Reports regarding persons determined not to be eligible adults as defined in section
10 [660.250] **192.2100** shall be referred to the appropriate state or local authorities.

11 4. The department shall maintain a statewide toll free phone number for receipt of
12 reports.

13 **5. Any person complying with this provision in the making of a report, or in**
14 **cooperating with the department in any of its activities under sections 192.2100 to 192.2130**
15 **shall be immune from any civil or criminal liability for making such a report, or in**
16 **cooperating with the department, unless such person acted negligently, recklessly, in bad**
17 **faith, or with malicious purpose. It is a crime under sections 565.186 and 565.188, RSMo,**
18 **for any person to purposely file a false report of elder abuse or neglect.**

[660.260.] **192.2106.** 1. Upon receipt of a report, the department shall make a prompt
2 and thorough investigation to determine whether or not an eligible adult is facing a likelihood
3 of serious physical harm and is in need of protective services. The department shall provide for
4 any of the following:

5 (1) Identification of the eligible adult and determination that the eligible adult is eligible
6 for services;

7 (2) Evaluation and diagnosis of the needs of eligible adults;

8 (3) Provision of social casework, counseling or referral to the appropriate local or state
9 authority;

10 (4) Assistance in locating and receiving alternative living arrangements as necessary;

11 (5) Assistance in locating and receiving necessary protective services; or

12 (6) The coordination and cooperation with other state agencies and public and private
13 agencies in exchange of information and the avoidance of duplication of services.

14 [660.261.] **2.** Upon receipt of a report that an eligible adult between the ages of eighteen
15 and fifty-nine is facing a likelihood of serious physical harm, the department shall:

- 16 (1) Investigate or refer the report to appropriate law enforcement or state agencies; and
17 (2) Provide services or refer to local community or state agencies.

[660.263.] **192.2109.** 1. Reports made pursuant to sections [660.250 to 660.295]
2 **192.2100 to 192.2130** shall be confidential and shall not be deemed a public record and shall not
3 be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo.

4 2. Such reports shall be accessible for examination and copying only to the following
5 persons or offices, or to their designees:

- 6 (1) The department or any person or agency designated by the department;
7 (2) The attorney general;
8 (3) The department of mental health for persons referred to that department;
9 (4) Any appropriate law enforcement agency; and
10 (5) The eligible adult or [his] **the eligible adult's** legal guardian.

11 3. The name of the reporter shall not be disclosed unless:

- 12 (1) Such reporter specifically authorizes disclosure of [his] **the reporter's** name; and
13 (2) The department determines that disclosure of the name of the reporter is necessary
14 in order to prevent further harm to an eligible adult.

15 4. Any person who violates the provisions of this section, or who permits or encourages
16 the unauthorized dissemination of information contained in the central registry and in reports and
17 records made pursuant to sections [660.250 to 660.295] **192.2100 to 192.2130**, shall be guilty
18 of a class A misdemeanor.

19 5. The department shall maintain a central registry capable of receiving and maintaining
20 reports received in a manner that facilitates rapid access and recall of the information reported,
21 and of subsequent investigations and other relevant information. The department shall
22 electronically record any telephone report of suspected abuse and neglect received by the
23 department and such recorded reports shall be retained by the department for a period of one year
24 after recording.

25 6. Although reports to the central registry may be made anonymously, the department
26 shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect,
27 attempt to obtain the name and address of any person making a report.

[660.265.] **192.2112.** When an eligible adult gives consent to receive protective services,
2 the department shall assist the adult in locating and arranging for necessary services in the least
3 restrictive environment reasonably available.

[660.270.] **192.2115.** When the department receives a report that there has been abuse
2 or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and

3 that he or she is in need of protective services and the department is unable to conduct an
4 investigation because access to the eligible adult is barred by any person, the director may
5 petition the appropriate court for a warrant or other order to enter upon the described premises
6 and investigate the report or to produce the information. The application for the warrant or order
7 shall identify the eligible adult and the facts and circumstances which require the issuance of the
8 warrant or order. The director may also seek an order to enjoin the person from barring access
9 to an eligible adult or from interfering with the investigation. If the court finds that, based on
10 the report and relevant circumstances and facts, probable cause exists showing that the eligible
11 adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in
12 need of protective services and the director has been prevented by another person from
13 investigating the report, the court may issue the warrant or enjoin the interference with the
14 investigation or both.

[660.275.] **192.2118.** If an eligible adult gives consent to receive protective services and
2 any other person interferes with or prevents the delivery of such services, the director may
3 petition the appropriate court for an order to enjoin the interference with the delivery of the
4 services. The petition shall allege the consent of the eligible adult and shall allege specific facts
5 sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need
6 of the protective services and that delivery is barred by the person named in the petition. If the
7 court finds upon a preponderance of evidence that the allegations in the petition are true, the
8 court may issue an order enjoining the interference with the delivery of the protective services
9 and may establish such conditions and restrictions on the delivery as the court deems necessary
10 and proper under the circumstances.

[660.280.] **192.2121.** When an eligible adult facing the likelihood of serious physical
2 harm and in need of protective services is unable to give consent because of incapacity or legal
3 disability and the guardian of the eligible adult refuses to provide the necessary services or allow
4 the provision of such services, the director shall inform the court having supervisory jurisdiction
5 over the guardian of the facts showing that the eligible adult faces the likelihood of serious
6 physical harm and is in need of protective services and that the guardian refuses to provide the
7 necessary services or allow the provision of such services under the provisions of sections
8 [660.250 to 660.295] **192.2100 to 192.2130.** Upon receipt of such information, the court may
9 take such action as it deems necessary and proper to insure that the eligible adult is able to meet
10 his essential human needs.

[660.285.] **192.2124.** 1. If the director determines after an investigation that an eligible
2 adult is unable to give consent to receive protective services and presents a likelihood of serious
3 physical harm, the director may initiate proceedings pursuant to chapter 202, RSMo, or chapter
4 475, RSMo, if appropriate.

5 2. In order to expedite adult guardianship and conservatorship cases, the department may
6 retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

[660.290.] **192.2127.** 1. When a peace officer has probable cause to believe that an
2 eligible adult will suffer an imminent likelihood of serious physical harm if not immediately
3 placed in a medical facility for care and treatment, that the adult is incapable of giving consent,
4 and that it is not possible to follow the procedures in section [660.285] **192.2124**, the officer may
5 transport, or arrange transportation for, the eligible adult to an appropriate medical facility which
6 may admit the eligible adult and shall notify the next of kin, if known, and the director.

7 2. Where access to the eligible adult is barred and a substantial likelihood exists of
8 serious physical harm resulting to the eligible adult if he is not immediately afforded protective
9 services, the peace officer may apply to the appropriate court for a warrant to enter upon the
10 described premises and remove the eligible adult. The application for the warrant shall identify
11 the eligible adult and the circumstances and facts which require the issuance of the warrant.

12 3. If immediately upon admission to a medical facility, a person who is legally
13 authorized to give consent for the provision of medical treatment for the eligible adult, has not
14 given or refused to give such consent, and it is the opinion of the medical staff of the facility that
15 treatment is necessary to prevent serious physical harm, the director or the head of the medical
16 facility shall file a petition in the appropriate court for an order authorizing specific medical
17 treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the
18 above, if a licensed physician designated by the facility for such purpose examines the eligible
19 adult and determines that the treatment is immediately or imminently necessary and any delay
20 occasioned by the hearing provided in this subsection would jeopardize the life of the person
21 affected, the medical facility may treat the eligible adult prior to such court hearing.

22 4. The court shall conduct a hearing pursuant to chapter 475, RSMo, forthwith and, if
23 the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person
24 of the eligible adult to determine the nature and extent of the medical treatment necessary for the
25 benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad
26 litem shall promptly report the completion of treatment to the court, who shall thereupon conduct
27 a restoration hearing or a hearing to appoint a permanent guardian.

28 5. The medical care under this section may not be rendered in a mental health facility
29 unless authorized pursuant to the civil commitment procedures in chapter 632, RSMo.

30 6. Nothing contained in this section or [in any other section of sections 660.250 to
31 660.295] **sections 192.2100 to 192.2130** shall be construed as requiring physician or medical
32 care or hospitalization of any person who, because of religious faith or conviction, relies on
33 spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of
34 sections [660.250 to 660.295] **192.2100 to 192.2130** be construed so as to designate any person

35 as an eligible adult who presents a likelihood of suffering serious physical harm and is in need
36 of protective services solely because such person, because of religious faith or conviction, relies
37 on spiritual means or prayer to cure or prevent disease or suffering.

[660.295.] **192.2130.** If an eligible adult does not consent to the receipt of reasonable and
2 necessary protective services, or if an eligible adult withdraws previously given consent, the
3 protective services shall not be provided or continued; except that, if the director has reasonable
4 cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court
5 order pursuant to the provisions of section [660.285] **192.2124.**

[198.070.] **192.2150.** 1. [When] **As used in sections 192.2150 to 192.2187, unless the**
2 **context clearly indicates otherwise, the following terms mean:**

- 3 (1) **"Consumer", a consumer of personal care assistance services as defined in**
4 **section 208.900, RSMo;**
- 5 (2) **"In-home services client", the same meaning as such term is defined in section**
6 **192.2100, or a healthy children and youth program participant who receives in-home care**
7 **authorized by the department;**
- 8 (3) **"Misappropriation", the dishonest conversion of property or moneys of a**
9 **patient, resident, in-home services client, or consumer;**
- 10 (4) **"Patient", any patient of any entity licensed or certified under chapter 197,**
11 **RSMo, or a client of any adult day care provider, as defined in section 192.2200;**
- 12 (5) **"Personal care attendant", a person hired to provide personal care assistance**
13 **services as defined in section 208.900, RSMo;**
- 14 (6) **"Principal", a provider officer, director, owner, partner, or other person with**
15 **primary management or supervisory responsibilities;**
- 16 (7) **"Provider", any person or entity who:**
 - 17 (a) **Is licensed or certified as an operator under chapters 197 or 198, RSMo;**
 - 18 (b) **Provides in-home services under contract with the department;**
 - 19 (c) **Employs health care staff for temporary or intermittent placement in health**
20 **care facilities;**
 - 21 (d) **Is a licensed adult day care provider;**
 - 22 (e) **Is a personal care assistance services vendor agency as defined in section**
23 **208.900, RSMo; or**
 - 24 (f) **Has a Medicaid participation agreement and employs persons to deliver any**
25 **kind of services provided for patients, in-home services clients, or consumers in their**
26 **private homes;**
- 27 (8) **"Resident", any resident of any entity licensed or certified under chapter 198,**
28 **RSMo.**

29 **2.** Any adult day care worker; chiropractor; Christian Science practitioner; coroner;
30 dentist; embalmer; employee of the departments of social services, mental health, or health and
31 senior services; employee of a local area agency on aging or an organized area agency on aging
32 program; funeral director; home health agency or home health agency employee; hospital and
33 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
34 provider, operator, or employee; law enforcement officer; long-term care facility administrator
35 or employee; medical examiner; medical resident or intern; mental health professional; minister;
36 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
37 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
38 psychologist; social worker; **personal care assistance services vendor employee or attendant;**
39 or other person **charged** with the care of a person sixty years of age or older or an eligible adult,
40 **as defined in section 192.2100, who** has reasonable cause to believe that a [resident of a facility]
41 **patient, resident, in-home services client, or consumer** has been abused or neglected, [he or
42 she] **that misappropriation of property or moneys belonging to a patient, resident, in-home**
43 **services client, or consumer has occurred, or that the falsification of any documents**
44 **verifying service delivery of in-home services or consumer-directed services has occurred,**
45 shall [immediately] report or cause a report to be made to the department **within twenty-four**
46 **hours after the later of the act or the discovery of the act by such person.**

47 **[2.] 3.** In addition to those persons required to report under subsection 2 of this
48 section, any other person having reasonable cause to believe that a patient, resident, in-
49 home services client, or consumer has been abused or neglected, that misappropriation of
50 property or moneys belonging to a patient, resident, in-home services client, or consumer
51 has occurred, or that falsification of any documents verifying service delivery of in-home
52 services or consumer-directed services has occurred may report such information to the
53 department.

54 **4.** If a report is made by the patient's, in-home services client's, consumer's, or
55 resident's physician, the department shall provide information regarding the progress of
56 the investigation to the physician upon request.

57 **5.** The report shall contain:

58 **(1)** The name and address of the [facility, the name of the resident,] **provider and the**
59 **patient, resident, in-home services client, or consumer;**

60 **(2)** Information regarding the nature of the abuse or neglect, **misappropriation, or**
61 **falsification of documents verifying service delivery;**

62 **(3)** The name of the complainant[,]; and

63 **(4)** Any other information which might be helpful in an investigation.

64 [3. Any person required in subsection 1 of this section to report or cause a report to be
65 made to the department who knowingly fails to make a report within a reasonable time after the
66 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

67 4. In addition to the penalties imposed by this section, any administrator who knowingly
68 conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in
69 section 565.002, RSMo, is guilty of a class D felony.

70 5. In addition to those persons required to report pursuant to subsection 1 of this section,
71 any other person having reasonable cause to believe that a resident has been abused or neglected
72 may report such information to the department.]

73 6. Upon receipt of a report **that indicates an imminent danger to the health, safety,**
74 **or welfare of a patient, resident, in-home services client, or consumer, or substantial**
75 **probability that death or serious physical injury will result,** the department shall [initiate an]
76 **make a prompt and thorough** investigation [within twenty-four hours and,]. **The department**
77 **shall initiate all other investigations as soon as practicable. As provided in section 565.186,**
78 **RSMo, substantiated reports of elder abuse shall be promptly reported by the department**
79 **to the appropriate law enforcement agency and prosecutor. In the case of investigations**
80 **alleging abuse, neglect, misappropriation, or exploitation of a resident of a facility licensed**
81 **under chapter 198, RSMo, by a facility employee or other resident:**

82 (1) **If the resident has been appointed a guardian or conservator, or both, under**
83 **chapter 475, RSMo, or if the resident has been certified to be incapacitated in accordance**
84 **with sections 404.800 to 404.872, RSMo, the department,** as soon as possible during the
85 course of the investigation, shall notify the resident's [next of kin or responsible party] **legal**
86 **representative** of the report [and] , the investigation, and [further notify them] whether the
87 report was substantiated or unsubstantiated unless such person is the alleged perpetrator [of the
88 abuse or neglect.] ;

89 (2) **The department may notify family members or guardians of the results of**
90 **investigations in accordance with section 198.532, RSMo.**

91

92 [As provided in section 565.186, RSMo, substantiated reports of elder abuse shall be promptly
93 reported by the department to the appropriate law enforcement agency and prosecutor.]

94 7. If the investigation indicates possible abuse or neglect [of a resident] ,
95 **misappropriation of property or moneys, or falsification of documents verifying service**
96 **delivery of in-home services or consumer-directed services,** the investigator shall refer the
97 complaint together with the investigator's report to the department director or the director's
98 designee for appropriate action. **When information gained from an investigation indicates**

99 **a crime has occurred, the department shall report such information to the appropriate law**
100 **enforcement agency.**

101 **8.** If, during the investigation or at its completion, the department has reasonable cause
102 to believe that immediate [removal] **action** is necessary to protect the resident, **patient, in-home**
103 **services client, or consumer** from abuse or neglect, **or misappropriation of property or**
104 **moneys**, the department or the local prosecuting attorney may, or the attorney general upon
105 request of the department shall, file a petition for temporary care and protection of the resident,
106 **patient, in-home services client, or consumer** in a circuit court of competent jurisdiction. The
107 circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte
108 order granting the department authority for the temporary care and protection of the resident,
109 **patient, in-home services client, or consumer**, for a period not to exceed thirty days.

110 [8.] **9.** Reports shall be confidential, [as provided pursuant to section 660.320, RSMo]
111 **shall not be deemed a public record, and shall not be subject to the provisions of section**
112 **109.180, RSMo, or chapter 610, RSMo. The name of the complainant or any person**
113 **mentioned in the reports shall not be disclosed unless:**

114 (1) **The complainant, patient, resident, in-home services client, or consumer**
115 **mentioned, or such person's legal representative agrees to disclosure of his or her name;**

116 (2) **The department determines that disclosure is necessary to prevent further abuse**
117 **or neglect, misappropriation of property or moneys, or falsification of any documents**
118 **verifying service delivery of in-home services or consumer-directed services;**

119 (3) **Release of a name is required for compliance with a lawful subpoena; except**
120 **that the name of the complainant or reporter may only be required after a court**
121 **determines that it is necessary to avoid substantial and irreversible prejudice to the party**
122 **requesting the name of the complainant or reporter;**

123 (4) **Release of a name is required in connection with a review by the administrative**
124 **hearing commission in accordance with section 198.039, RSMo;**

125 (5) **The department determines that release of a name is appropriate when**
126 **forwarding a report of findings of an investigation to a licensing authority; or**

127 (6) **Release of a name is requested by the department of social services for the**
128 **purpose of licensure under chapter 210, RSMo.**

129 **10.** Within five working days after a report required to be made under this section
130 is received, the person making the report shall be notified of its receipt and the initiation
131 of the investigation.

132 [9.] **11.** Anyone, except any person who has abused or neglected a resident [in a facility]
133 **,patient, in-home services client, or consumer, or who has benefited from the**
134 **misappropriation of property or moneys of a patient, resident, in-home services client, or**

135 **consumer, or who has falsified documents verifying service delivery of in-home services or**
136 **consumer-directed services**, who makes a report pursuant to this section or who testifies in any
137 administrative or judicial proceeding arising from the report, **or who cooperates with the**
138 **department in any activities pursuant to this section**, shall be immune from any civil or
139 criminal liability for making such a report or for testifying except for liability for perjury, unless
140 such person acted negligently, recklessly, in bad faith or with malicious purpose. It is a crime
141 pursuant to section 565.186 and 565.188, RSMo, for any person to purposely file a false report
142 of elder abuse or neglect.

143 [10. Within five working days after a report required to be made pursuant to this section
144 is received, the person making the report shall be notified in writing of its receipt and of the
145 initiation of the investigation.

146 11. No person who directs or exercises any authority in a facility shall evict, harass,
147 dismiss or retaliate against a resident or employee because such resident or employee or any
148 member of such resident's or employee's family has made a report of any violation or suspected
149 violation of laws, ordinances or regulations applying to the facility which the resident, the
150 resident's family or an employee has reasonable cause to believe has been committed or has
151 occurred. Through the existing department information and referral telephone contact line,
152 residents, their families and employees of a facility shall be able to obtain information about their
153 rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to
154 a report being made pursuant to this section.

155 12. Any person who abuses or neglects a resident of a facility is subject to criminal
156 prosecution under section 565.180, 565.182, or 565.184, RSMo.

157 13.] **12.** The department shall maintain the employee disqualification list and place on
158 the employee disqualification list the names of any persons who are or have been employed [in
159 any facility] **by any provider or consumer** and who have been finally determined by the
160 department pursuant to section [660.315, RSMo.] **192.2175:**

161 (1) To have **purposely**, knowingly, or recklessly abused or neglected a resident, **patient,**
162 **in-home services client, or consumer. For purposes of this section only, "abuse" and**
163 **"neglect" shall have the same meanings as such terms are defined in section 192.2100.** For
164 purposes of this section only, **"purposely"**, "knowingly" and "recklessly" shall have the
165 meanings [that are ascribed to them in this section. A person acts "knowingly" with respect to
166 the person's conduct when a reasonable person should be aware of the result caused by his or her
167 conduct. A person acts "recklessly" when the person consciously disregards a substantial and
168 unjustifiable risk that the person's conduct will result in serious physical injury and such
169 disregard constitutes a gross deviation from the standard of care that a reasonable person would
170 exercise in the situation] **as such terms are defined in chapter 562, RSMo;**

171 **(2) To have falsified documents verifying service delivery to an in-home services**
172 **client or consumer;**

173 **(3) To have misappropriated property or moneys belonging to a patient, resident,**
174 **in-home services client, or consumer.**

175 **13. No person who directs or exercises any authority on behalf of a provider and**
176 **no personal care attendant, as defined in section 208.900, RSMo, shall evict, harass,**
177 **dismiss, or retaliate against a patient, resident, in-home services client, consumer, or**
178 **employee because such patient, resident, in-home services client, consumer, or employee**
179 **or any member of such patient's, resident's, in-home services client's, consumer's, or**
180 **employee's family has made a report of any violation or suspected violation of laws,**
181 **standards, or regulations applying to the provider or attendant which the complainant has**
182 **reasonable cause to believe has been committed or has occurred. Through existing**
183 **department information and referral telephone contact line, patients, residents, in-home**
184 **services clients, consumers, their families, and employees of a provider may obtain**
185 **information regarding their rights, protections, and options in cases of eviction,**
186 **harassment, dismissal, or retaliation due to a report being made under this section.**

187 **14. In the case of investigations involving facilities licensed under chapter 198,**
188 **RSMo, the timely self-reporting of incidents to the central registry by a facility shall continue**
189 **to be investigated in accordance with department policy, and shall not be counted or reported by**
190 **the department as a hot-line call but rather a self-reported incident. If the self-reported incident**
191 **results in a regulatory violation, such incident shall be reported as a substantiated report.**

192 **15. Any potential consumer or in-home services client whose services are funded**
193 **by Medicaid shall be screened to ascertain if they are included on the Missouri sexual**
194 **offender registry maintained by the Missouri state highway patrol. If any potential**
195 **consumer or in-home services client whose services are funded by Medicaid is listed on the**
196 **Missouri sexual offender registry, the department shall notify the provider at the time of**
197 **the referral.**

192.2153. 1. Any person required to report or cause a report to be made to the
2 **department under subsection 2 of section 192.2150 who fails to make such a report or cause**
3 **such a report to be made within twenty-four hours after the later of the act or the discovery**
4 **of the act by such person of abuse or neglect, misappropriation of property or moneys, or**
5 **falsification of documents verifying service delivery of in-home services or consumer-**
6 **directed services is guilty of a class A misdemeanor.**

7 **2. Any person who abuses or neglects an in-home services client, patient, resident,**
8 **or consumer is subject to criminal prosecution under sections 565.180, 565.182, or 565.184,**
9 **RSMo. Any person who puts to his or her own use or the use of the provider, or otherwise**

10 **diverts from the in-home services client's, patient's, resident's, or consumer's use of any**
11 **personal property or moneys of the in-home services client, patient, resident, or consumer,**
12 **or falsifies any documents verifying service delivery of in-home services or consumer**
13 **directed services, is guilty of a class A misdemeanor.**

14 **3. In addition to any other penalties imposed by this section, any provider,**
15 **principal in the operation of a provider, as defined in section 192.2150, or employee of a**
16 **provider who knowingly conceals any act of abuse or neglect that results in death or**
17 **serious physical injury, as defined in section 565.002, RSMo, is guilty of a class D felony.**

18 **4. If a provider willfully and knowingly fails to report abuse by an employee of the**
19 **provider and such employee is later found guilty or pleads guilty to a violation of section**
20 **565.180, 565.182, or 565.184, RSMo, the provider may be subject to an administrative**
21 **penalty of one thousand dollars per violation to be collected by the department. Any**
22 **moneys collected shall be transferred to the state school moneys fund as established in**
23 **section 166.051, RSMo, and distributed to the public schools of this state in the manner**
24 **provided in section 163.031, RSMo. Any provider that has an administrative penalty**
25 **imposed by the department may seek an administrative review of the department's action**
26 **under chapter 621, RSMo. Any decision of the administrative hearing commission may be**
27 **appealed to the circuit court in the county where the violation occurred for judicial review**
28 **as a contested case under chapter 536, RSMo.**

[660.315.] **192.2175.** 1. After an investigation and a determination has been made to
2 place a person's name on the employee disqualification list, that person shall be notified in
3 writing mailed to his or her last known address that:

4 (1) An allegation has been made against the person, the substance of the allegation and
5 that an investigation has been conducted which tends to substantiate the allegation;

6 (2) The person's name will be included in the employee disqualification list of the
7 department;

8 (3) The consequences of being so listed including the length of time to be listed; and

9 (4) The person's rights and the procedure to challenge the allegation.

10 **2. Notice by mail to the last known address, as provided by the person to the**
11 **person's employer at the time of the allegation, shall satisfy the requirements of this**
12 **section. If the person has provided the department with a more recent address, notice shall**
13 **be sent to the more recent address. Notice shall be complete upon such mailing. If no reply**
14 **has been received within thirty days of mailing the notice, the department may include the name**
15 **of such person on its list. The length of time the person's name shall appear on the employee**
16 **disqualification list shall be determined by the director or the director's designee, based upon the**
17 **criteria contained in subsection 9 of this section.**

18 3. If the person so notified wishes to challenge the allegation, such person may file an
19 application for a hearing with the department. The department shall grant the application within
20 thirty days after receipt by the department and set the matter for hearing[, or the department shall
21 notify the applicant that, after review, the allegation has been held to be unfounded and the
22 applicant's name will not be listed].

23 4. If a person's name is included on the employee disqualification list without notice **in**
24 **accordance with subsections 1 and 2 of this section** by the department, such person may file
25 a request with the department for removal of the name or for a hearing. Within thirty days after
26 receipt of the request, the department shall either remove the name from the list or grant a
27 hearing and set a date therefor.

28 5. Any hearing shall be conducted [in the county of the person's residence] by the
29 director of the department or the director's designee **in Cole County or in the county of the**
30 **person's residence, or by telephone, in the discretion of the director or the director's**
31 **designee**. The provisions of chapter 536, RSMo, for a contested case except those provisions
32 or amendments which are in conflict with this section, shall apply to and govern the proceedings
33 contained in this section and the rights and duties of the parties involved. The person appealing
34 such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536,
35 RSMo, relevant to the allegations.

36 6. Upon the record made at the hearing, the director of the department or the director's
37 designee shall determine all questions presented and shall determine whether the person shall
38 be listed on the employee disqualification list. The director of the department or the director's
39 designee shall clearly state the reasons for his or her decision and shall include a statement of
40 findings of fact and conclusions of law pertinent to the questions in issue.

41 7. A person aggrieved by the decision following the hearing shall be informed of his or
42 her right to seek judicial review as provided under chapter 536, RSMo. If the person fails to
43 appeal the director's findings, those findings shall constitute a final determination that the person
44 shall be placed on the employee disqualification list.

45 8. A decision by the director shall be inadmissible in any civil action brought against a
46 [facility or the in-home services provider agency] **provider, or employee of such provider, or**
47 **personal care attendant** and arising out of the facts and circumstances which brought about the
48 employment disqualification proceeding, unless the civil action is brought against the [facility
49 or the in-home services provider agency] **provider, or employee of such provider, or personal**
50 **care attendant** by the department of health and senior services or one of its divisions.

51 9. The length of time the person's name shall appear on the employee disqualification
52 list shall be determined by the director of the department of health and senior services or the
53 director's designee, based upon the following:

54 (1) Whether the person acted **purposely**, recklessly, or knowingly, as defined in chapter
55 562, RSMo;

56 (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the
57 imminent danger to the health, safety or welfare of [a resident or in-home services client] **the**
58 **alleged victim**;

59 (3) The degree of misappropriation of the property or funds, or falsification of any
60 documents for service delivery of [an in-home services client] **a patient, resident, in-home**
61 **services client, or consumer**;

62 (4) Whether the person has previously been listed on the employee disqualification list;

63 (5) Any mitigating circumstances;

64 (6) Any aggravating circumstances; and

65 (7) Whether alternative sanctions resulting in conditions of continued employment are
66 appropriate in lieu of placing a person's name on the employee disqualification list. Such
67 conditions of employment may include, but are not limited to, additional training and employee
68 counseling. Conditional employment shall terminate upon the expiration of the designated
69 length of time and the person's submitting documentation which fulfills the department of health
70 and senior services' requirements.

71 10. The removal of any person's name from the list under this section shall not prevent
72 the director from keeping records of all acts finally determined to have occurred under this
73 section.

74 11. The department shall [provide] **make available** the list maintained pursuant to this
75 section to other state departments upon request and to any person, corporation or association
76 who:

77 (1) Is licensed as an operator under chapter 198, RSMo;

78 (2) Provides in-home services under contract with the department;

79 (3) Employs [nurses and nursing assistants] **health care staff** for temporary or
80 intermittent placement [in health care facilities] **with providers**;

81 (4) Is approved by the department to issue certificates for nursing assistants training; [or]

82 (5) Is an entity licensed under chapter 197, RSMo;

83 (6) **Is a personal care assistance services vendor agency, as defined in section**
84 **208.900, RSMo**;

85 (7) **Is an adult day care provider licensed under sections 192.2200 to 192.2227; or**

86 (8) **Is a recognized school of nursing, medicine, or other health profession that**
87 **receives the list for the purpose of checking its students who participate in clinical rotations**
88 **with entities described in subdivisions (1), (2), and (5) of this subsection.**

89

90 The department shall inform any person listed above who inquires of the department whether or
91 not a particular name is on the list. **No person, corporation, or association who is entitled to**
92 **access the employee disqualification list shall disclose the information to any person,**
93 **corporation, or association who is not entitled to access the list. Any person, corporation,**
94 **or association who is entitled to access the employee disqualification list who discloses the**
95 **information to any person, corporation, or association who is not entitled to access the list**
96 **is guilty of an infraction.** The department may require that the request be made in writing.

97 12. **The department shall, upon request, provide to the division of employment**
98 **security within the department of labor and industrial relations copies of the investigative**
99 **reports related to an employee being placed on the employee disqualification list.**

100 13. No person, corporation or association who received the employee disqualification
101 list under **subdivisions (1) to (7) of** subsection 11 of this section shall knowingly employ any
102 person who is on the employee disqualification list. **No person who is listed on the employee**
103 **disqualification list shall be paid from public moneys as a personal care assistance services**
104 **attendant.** Any person, corporation or association who received the employee disqualification
105 list under **subdivisions (1) to (7) of** subsection 11 of this section, or any **consumer or** person
106 responsible for providing health care service, who declines to employ or terminates a person
107 whose name is listed in this section shall be immune from suit by that person or anyone else
108 acting for or in behalf of that person for the failure to employ or for the termination of the person
109 whose name is listed on the employee disqualification list.

110 [13.] 14. Any employer who is required to discharge an employee because the employee
111 was placed on [a] **the employee** disqualification list maintained by the department of health and
112 senior services after the date of hire shall not be charged for unemployment insurance benefits
113 based on wages paid to the employee for work prior to the date of discharge, pursuant to section
114 288.100, RSMo. **Any claim for unemployment insurance paid by any employer as a result**
115 **of discharging an employee because the employee was placed on the employee**
116 **disqualification list maintained by the department of health and senior services after the**
117 **date of hire shall be reimbursed by the state. Any person who is employed in a position for**
118 **which employment is prohibited while such person is listed on the employee**
119 **disqualification list shall have his or her placement on the employee disqualification list**
120 **extended one year.**

121 [14.] 15. Any person who has been listed on the employee disqualification list may
122 request that the director remove his or her name from the employee disqualification list. The
123 request shall be written and may not be made more than once every twelve months. The request
124 will be granted by the director upon a clear showing, by written submission only, that the person
125 will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or

126 the falsification of any documents [of] **verifying** service delivery to an in-home services client
127 **or consumer**. The director may make conditional the removal of a person's name from the list
128 on any terms that the director deems appropriate, and failure to comply with such terms may
129 result in the person's name being relisted. The director's determination of whether to remove the
130 person's name from the list is not subject to appeal.

[660.317.] **192.2178.** 1. For the purposes of this section, the term "provider" [means any
2 person, corporation or association who:

3 (1) Is licensed as an operator pursuant to chapter 198, RSMo;

4 (2) Provides in-home services under contract with the department;

5 (3) Employs nurses or nursing assistants for temporary or intermittent placement in
6 health care facilities;

7 (4) Is an entity licensed pursuant to chapter 197, RSMo;

8 (5) Is a public or private facility, day program, residential facility or specialized service
9 operated, funded or licensed by the department of mental health; or

10 (6) Is a licensed adult day care provider] **has the same meaning as such term is defined**
11 **in section 192.2150, except that the term "provider" also includes a public or private**
12 **facility, day program, residential facility or specialized service operated, funded, or**
13 **licensed by the department of mental health.**

14 2. For the purpose of this section "patient or resident" has the same meaning as such term
15 is defined in section 43.540, RSMo, **"in-home services client" has the same meaning as such**
16 **term is defined in section 192.2150, and "consumer" has the same meaning as such term**
17 **is defined in section 208.900, RSMo.**

18 3. Prior to [allowing any person who has been hired] **hiring** as a full-time, part-time or
19 temporary **employee for any** position to have contact with any patient [or] , resident, **in-home**
20 **services client, or consumer**, the provider shall, or in the case of temporary employees hired
21 through or contracted for an employment agency, the employment agency shall prior to sending
22 a temporary employee to a provider **make an inquiry to the department of health and senior**
23 **services whether the person is listed on the employee disqualification list as provided in**
24 **section 192.2175.**

25 4. **Prior to allowing any person who has been hired in a full-time, part-time, or**
26 **temporary position to have contact with any patient, resident, in-home services client, or**
27 **consumer, the provider, or in the case of temporary employees hired through or contracted**
28 **for an employment agency, the employment agency, shall prior to sending a temporary**
29 **employee to a provider:**

30 (1) Request a criminal background check as provided in section 43.540, RSMo.
31 Completion of an inquiry to the highway patrol **or family care safety registry** for criminal

32 records that are available for disclosure to a provider for the purpose of conducting an employee
33 criminal records background check shall be deemed to fulfill the provider's duty to conduct
34 employee criminal background checks pursuant to this section; except that, completing the
35 inquiries pursuant to this subsection shall not be construed to exempt a provider from further
36 inquiry pursuant to common law requirements governing due diligence. If an applicant has not
37 resided in this state for five consecutive years prior to the date of his or her application for
38 employment, the provider shall request a nationwide check for the purpose of determining if the
39 applicant has a prior criminal history in other states. The fingerprint cards and any required fees
40 shall be sent to the highway patrol's criminal records division. The first set of fingerprints shall
41 be used for searching the state repository of criminal history information. If no identification is
42 made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation,
43 Identification Division, for the searching of the federal criminal history files. The patrol shall
44 notify the submitting state agency of any criminal history information or lack of criminal history
45 information discovered on the individual. The provisions relating to applicants for employment
46 who have not resided in this state for five consecutive years shall apply only to persons who have
47 no employment history with a licensed Missouri facility during that five-year period.
48 Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal
49 history information discovered shall be accessible and available to the provider making the
50 record request; and

51 (2) [Make an inquiry to the department of health and senior services whether the person
52 is listed on the employee disqualification list as provided in section 660.315] **Request of the**
53 **person a physical address where the person may be located in addition to any other**
54 **address provided by the person such as a post office box address. For any worker listed**
55 **in the family care safety registry required by sections 210.900 to 210.936, RSMo, a provider**
56 **may access the family care safety registry in lieu of the requirements established under**
57 **subsection 3 of this section.**

58 [4.] **5.** When the provider requests a criminal background check pursuant to section
59 43.540, RSMo, the requesting entity may require that the applicant reimburse the provider for
60 the cost of such record check. When a provider requests a nationwide criminal background
61 check pursuant to subdivision (1) of subsection [3] **4** of this section, the total cost to the provider
62 of any background check required pursuant to this section shall not exceed five dollars which
63 shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide
64 criminal background check shall be subject to the availability of appropriations.

65 [5.] **6.** An applicant for a position to have contact with patients, **in-home services**
66 **clients, consumers,** or residents of a provider shall:

67 (1) Sign a consent form as required by section 43.540, RSMo, so the provider may
68 request a criminal records review;

69 (2) Disclose the applicant's criminal history. For the purposes of this subdivision
70 "criminal history" includes any conviction or a plea of guilty **or nolo contendere** to a
71 misdemeanor or felony charge **in this state or any other state** and shall include any suspended
72 imposition of sentence, any suspended execution of sentence or any period of probation or
73 parole; and

74 (3) Disclose if the applicant is listed on the employee disqualification list as provided
75 in section [660.315] **192.2175 and disclose whether the applicant is a registered sexual**
76 **offender under section 589.400, RSMo, listed in the Missouri uniform law enforcement**
77 **system (MULES).**

78 [6.] **7.** An applicant who knowingly fails to disclose his or her criminal history as
79 required in subsection [5] **6** of this section is guilty of a class A misdemeanor. A provider is
80 guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have
81 contact with patients, **in-home services clients, consumers,** or residents and the person has been
82 convicted of, pled guilty to or nolo contendere in this state or any other state or has been found
83 guilty of a crime, which if committed in Missouri would be a class A or B felony violation of
84 chapter **195, 565, 566 or 569, RSMo, a violation of section 570.090, RSMo, felony violation**
85 **or three or more misdemeanor violations of section 570.030, RSMo, a violation of section**
86 **570.145, RSMo,** or any violation of subsection [3] **1** of section [198.070, RSMo,] **192.2153** or
87 section 568.020, RSMo. **For any persons hired on or after August 28, 2007, a provider shall**
88 **not hire any person with a disqualifying criminal history unless such person has first**
89 **obtained a good cause waiver of the disqualifying criminal history. For any person**
90 **employed as of August 28, 2007, a provider shall request a criminal background check as**
91 **provided in section 43.540, RSMo, by January 1, 2008, and shall not knowingly retain any**
92 **such person with a disqualifying criminal history after March 1, 2008, unless such person**
93 **has submitted a completed good cause waiver application prior to March 1, 2008. If the**
94 **good cause waiver is denied, the provider shall not continue to retain such person after the**
95 **provider is notified of the denial of the good cause waiver.**

96 **8.** For any persons hired on or after August 28, 2007, a provider is guilty of a class
97 **A misdemeanor if the provider knowingly hires or retains any person who is a registered**
98 **sex offender under section 589.400, RSMo, whose name appears on the sexual offender**
99 **registry or who has been convicted of an offense which would require registry under**
100 **section 589.400, RSMo.**

101 [7.] **9.** Any in-home services provider agency [or], **consumer-directed services vendor,**
102 **home health agency [shall be] , or hospice is** guilty of a class A misdemeanor if such **vendor**

103 or agency knowingly [employs] **hires or retains** a person to provide in-home services,
104 **consumer-directed services, hospice services,** or home health services to any in-home services
105 client, **consumer-directed services consumer, hospice patient,** or home health patient and such
106 person [either] refuses to register with the family care safety registry [or is listed on any of the
107 background check lists in the family care safety registry pursuant to sections 210.900 to 210.937,
108 RSMo] . **Any in-home services provider agency, home health agency, or hospice is guilty**
109 **of a class A misdemeanor if such agency or hospice allows an employee to have contact**
110 **with a patient or in-home services client prior to requesting a background screening from**
111 **the family care safety registry under sections 210.900 to 210.936, RSMo.**

112 [8.] **10.** The highway patrol shall examine whether protocols can be developed to allow
113 a provider to request a statewide fingerprint criminal records review check through local law
114 enforcement agencies.

115 [9.] **11.** A provider may use a private investigatory agency rather than the highway patrol
116 to do a criminal history records review check, and alternatively, the applicant pays the private
117 investigatory agency such fees as the provider and such agency shall agree.

118 [10.] **12.** Except for the hiring restriction based on the department of health and senior
119 services employee disqualification list established pursuant to section [660.315] **192.2175, and**
120 **the registration as a sexual offender under section 589.400, RSMo,** the department of health
121 and senior services shall promulgate rules and regulations to waive the hiring restrictions
122 pursuant to this section for good cause. For purposes of this section, "good cause" means the
123 department has made a determination by examining [the employee's prior work history and other
124 relevant factors that such employee does not present a risk to the health or safety of residents]
125 **such materials submitted by the applicant under rules established by the department, and**
126 **determined that the hiring restriction contained in subsections 7 and 9 of this section is**
127 **removed and the hiring decision remains the responsibility of the provider.**

[660.300.] **192.2181.** 1. [When any adult day care worker; chiropractor; Christian
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of social services,
3 mental health, or health and senior services; employee of a local area agency on aging or an
4 organized area agency on aging program; funeral director; home health agency or home health
5 agency employee; hospital and clinic personnel engaged in examination, care, or treatment of
6 persons; in-home services owner, provider, operator, or employee; law enforcement officer;
7 long-term care facility administrator or employee; medical examiner; medical resident or intern;
8 mental health professional; minister; nurse; nurse practitioner; optometrist; other health
9 practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant;
10 podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to
11 believe that an in-home services client has been abused or neglected, as a result of in-home

12 services, he or she shall immediately report or cause a report to be made to the department. If
13 the report is made by a physician of the in-home services client, the department shall maintain
14 contact with the physician regarding the progress of the investigation.

15 2.] When a report of deteriorating physical condition resulting in possible abuse or
16 neglect of an in-home services client **or consumer** is received by the department, [the client's
17 case manager and] the department nurse shall be notified. The [client's case manager]
18 **department** shall investigate and immediately report the results of the investigation to the
19 department nurse. The department may authorize [the] **an** in-home services provider nurse to
20 assist [the case manager] with the investigation.

21 [3.]**2.** If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection [1] **2** of [this] section **192.2150** regarding the detection and report
23 of abuse and neglect [pursuant to this section].

24 [4. Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 5. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the
29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 6. In addition to those persons required to report under subsection 1 of this section, any
32 other person having reasonable cause to believe that an in-home services client or home health
33 patient has been abused or neglected by an in-home services employee or home health agency
34 employee may report such information to the department.

35 7. If the investigation indicates possible abuse or neglect of an in-home services client
36 or home health patient, the investigator shall refer the complaint together with his or her report
37 to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home
42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 8. Reports shall be confidential, as provided under section 660.320.

47 9. Anyone, except any person who has abused or neglected an in-home services client
48 or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 10. Within five working days after a report required to be made under this section is
53 received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

55 11. No person who directs or exercises any authority in an in-home services provider
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or any member of his or her family has made a report of any violation or suspected
59 violation of laws, standards or regulations applying to the in-home services provider agency or
60 home health agency or any in-home services employee or home health agency employee which
61 he has reasonable cause to believe has been committed or has occurred.

62 12. Any person who abuses or neglects an in-home services client or home health patient
63 is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such
64 person is an in-home services employee and has been found guilty by a court, and if the
65 supervising in-home services provider willfully and knowingly failed to report known abuse by
66 such employee to the department, the supervising in-home services provider may be subject to
67 administrative penalties of one thousand dollars per violation to be collected by the department
68 and the money received therefor shall be paid to the director of revenue and deposited in the state
69 treasury to the credit of the general revenue fund. Any in-home services provider which has had
70 administrative penalties imposed by the department or which has had its contract terminated may
71 seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any
72 decision of the administrative hearing commission may be appealed to the circuit court in the
73 county where the violation occurred for a trial de novo. For purposes of this subsection, the term
74 "violation" means a determination of guilt by a court.

75 13.] 3. The department shall establish a quality assurance and supervision process for
76 **in-home services** clients that requires an in-home services provider agency to [conduct random
77 visits to] verify compliance with program standards and verify the accuracy of records kept by
78 an in-home services employee.

79 [14. The department shall maintain the employee disqualification list and place on the
80 employee disqualification list the names of any persons who have been finally determined by the
81 department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or
82 neglected an in-home services client or home health patient while employed by an in-home

83 services provider agency or home health agency. For purposes of this section only, "knowingly"
84 and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts
85 "knowingly" with respect to the person's conduct when a reasonable person should be aware of
86 the result caused by his or her conduct. A person acts "recklessly" when the person consciously
87 disregards a substantial and unjustifiable risk that the person's conduct will result in serious
88 physical injury and such disregard constitutes a gross deviation from the standard of care that a
89 reasonable person would exercise in the situation.

90 15.] 4. At the time [a] **an in-home services** client has been assessed to determine the
91 level of care as required by rule and is eligible for in-home services, the department shall conduct
92 a "Safe at Home Evaluation" to determine the **in-home services** client's physical, mental, and
93 environmental capacity. The department shall develop the safe at home evaluation tool by rule
94 in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure
95 that each **in-home services** client has the appropriate level of services and professionals involved
96 in the **in-home services** client's care. The plan of service or care for each in-home services client
97 shall be authorized by a nurse. The department may authorize the licensed in-home services
98 nurse, in lieu of the department nurse, to conduct the assessment of the **in-home services** client's
99 condition and to establish a plan of services or care. The department may use the expertise,
100 services, or programs of other departments and agencies on a case-by-case basis to establish the
101 plan of service or care. The department may, as indicated by the safe at home evaluation, refer
102 any **in-home services** client to a mental health professional, as defined in 9 CSR 30-4.030, for
103 evaluation and treatment as necessary.

104 [16.] 5. Authorized nurse visits shall occur at least twice annually to assess [the] **each**
105 **in-home services** client and [the client's] **consumer and his or her** plan of [services] **care**. The
106 provider nurse shall report the results of his or her visits to the [client's case manager]
107 **department**. If the provider nurse believes that the plan of [service] **care** requires alteration, the
108 department shall be notified and the department shall make [a client] **an** evaluation. All
109 authorized nurse visits shall be reimbursed to the in-home services provider. All authorized
110 nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients **or**
111 **consumers** whose services have reached one hundred percent of the average statewide charge
112 for care and treatment in an intermediate care facility, provided that the services have been
113 preauthorized by the department.

114 [17.] 6. All in-home services clients shall be advised of their rights **and responsibilities**
115 by the department at the initial evaluation. The rights shall include, but not be limited to, the
116 right to call the department for any reason, including dissatisfaction with the provider or services.
117 The department shall establish a process to receive such nonabuse and neglect calls other than
118 the elder abuse and neglect hotline.

119 [18.]7. Subject to appropriations, all nurse visits authorized in **this section and** sections
120 [660.250 to 660.300] **192.2100 to 192.2130** shall be reimbursed to the in-home services provider
121 agency.

[660.321.] **192.2184.** Notwithstanding any other provision of law, the department shall
2 not disclose personally identifiable medical, social, personal, or financial records of any eligible
3 adult being served by the [division of senior services] **department** except when disclosed in a
4 manner that does not identify the eligible adult, or when ordered to do so by a court of competent
5 jurisdiction. Such records shall be accessible without court order for examination and copying
6 only to the following persons or offices, or to their designees:

7 (1) The department or any person or agency designated by the department for such
8 purposes as the department may determine;

9 (2) The attorney general, to perform his or her constitutional or statutory duties;

10 (3) The department of mental health for residents placed through that department, to
11 perform its constitutional or statutory duties;

12 (4) Any appropriate law enforcement agency, to perform its constitutional or statutory
13 duties;

14 (5) The eligible adult, his or her legal guardian or any other person designated by the
15 eligible adult; and

16 (6) The department of social services for individuals who receive Medicaid benefits, to
17 perform its constitutional or statutory duties.

[660.310.] **192.2187.** 1. Notwithstanding any other provision of law, if the department
2 of health and senior services proposes to deny, suspend, place on probation, or terminate an
3 in-home services provider agency contract, the department of health and senior services shall
4 serve upon the applicant or contractor written notice of the proposed action to be taken. The
5 notice shall contain a statement of the type of action proposed, the basis for it, the date the action
6 will become effective, and a statement that the applicant or contractor shall have thirty days from
7 the date of mailing or delivery of the notice to file a complaint requesting a hearing before the
8 administrative hearing commission. The administrative hearing commission may consolidate
9 an applicant's or contractor's complaint with any proceeding before the administrative hearing
10 commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156,
11 RSMo, involving a common question of law or fact. Upon the filing of the complaint, the
12 provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145, RSMo, shall apply.
13 With respect to cases in which the department has denied a contract to an in-home services
14 provider agency, the administrative hearing commission shall conduct a hearing to determine the
15 underlying basis for such denial. However, if the administrative hearing commission finds that
16 the contract denial is supported by the facts and the law, the case need not be returned to the

17 department. The administrative hearing commission's decision shall constitute affirmation of
18 the department's contract denial.

19 2. The department of health and senior services may issue letters of censure or warning
20 without formal notice or hearing.

21 3. The administrative hearing commission may stay the suspension or termination of an
22 in-home services provider agency's contract, or the placement of the contractor on probation,
23 pending the commission's findings and determination in the cause, upon such conditions, with
24 or without the agreement of the parties, as the commission deems necessary and appropriate,
25 including the posting of bond or other security except that the commission shall not grant a stay,
26 or if a stay has already been entered shall set aside its stay, unless the commission finds that the
27 contractor has established that servicing the department's clients pending the commission's final
28 determination would not present an imminent danger to the health, safety, or welfare of any
29 client or a substantial probability that death or serious physical harm would result. The
30 commission may remove the stay at any time that it finds that the contractor has violated any of
31 the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the
32 commission, pending the decision of the commission and any subsequent departmental action
33 at which time the stay shall be removed. In any case in which the department has refused to issue
34 a contract, the commission shall have no authority to stay or to require the issuance of a contract
35 pending final determination by the commission.

36 4. Stays granted to contractors by the administrative hearing commission shall, as a
37 condition of the stay, require at a minimum that the contractor under the stay operate under the
38 same contractual requirements and regulations as are in effect, from time to time, as are
39 applicable to all other contractors in the program.

40 5. The administrative hearing commission shall make its final decision based upon the
41 circumstances and conditions as they existed at the time of the action of the department and not
42 based upon circumstances and conditions at the time of the hearing or decision of the
43 commission.

44 6. In any proceeding before the administrative hearing commission pursuant to this
45 section, the burden of proof shall be on the contractor or applicant seeking review.

46 7. Any person, including the department, aggrieved by a final decision of the
47 administrative hearing commission may seek judicial review of such decision as provided in
48 section 621.145, RSMo.

[660.400.] **192.2200.** As used in sections [199.025, RSMo, and 660.403 to 660.420]
2 **192.2203 to 192.2227**, unless the context clearly indicates otherwise, the following terms mean:

3 (1) "Adult", an individual over the age of eighteen;

4 (2) "Adult day care program", a group program designed to provide care and supervision
5 to meet the needs of functionally impaired adults for periods of less than twenty-four hours but
6 more than two hours per day in a place other than the adult's own home;

7 (3) "Adult day care provider", the person, corporation, partnership, association or
8 organization legally responsible for the overall operation of the adult day care program;

9 (4) "Department", the department of [social] **health and senior** services;

10 (5) "Director", the director of the [division of aging] **department of health and senior**
11 **services**;

12 (6) ["Division", the division of aging;

13 (7) "Functionally impaired adult", an adult who by reason of age or infirmity requires
14 care and supervision;

15 [(8)] (7) "License", the document issued by the [division] **department** in accordance
16 with the provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**
17 to an adult day care program which authorizes the adult day care provider to operate the program
18 in accordance with the provisions of sections [199.025, RSMo, and 660.403 to 660.420]
19 **192.2203 to 192.2227** and the applicable rules promulgated pursuant thereto;

20 [(9)] (8) "Participant", a functionally impaired adult who is enrolled in an adult day care
21 program;

22 [(10)] (9) "Person", any individual, firm, corporation, partnership, association, agency,
23 or an incorporated or unincorporated organization regardless of the name used;

24 [(11)] (10) "Provisional license", the document issued by the [division] **department** in
25 accordance with the provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203**
26 **to 192.2227** to an adult day care provider which is not currently meeting the requirements
27 necessary to obtain a license;

28 [(12)] (11) "Related", any of the following by blood, marriage or adoption: parent, child,
29 grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first
30 cousin;

31 [(13)] (12) "Staff participant ratio", the number of adult care staff required by the
32 [division] **department** in relation to the number of adults being cared for by such staff.

[660.403.] **192.2203.** 1. It shall be unlawful for any person to establish, maintain, or
2 operate an adult day care program, or to advertise or hold himself out as being able to perform
3 any adult day care service, unless he has obtained the proper license.

4 2. All applications for licenses shall be made on forms provided by the [division]
5 **department** and in the manner prescribed by the [division] **department**. All forms provided
6 shall include a fee schedule.

7 3. The [division] **department** shall conduct an investigation of the adult day care
8 program, and the applicant, for which a license is sought in order to determine if such program
9 is complying with the following:

10 (1) Local fire safety requirements or fire safety requirements of the [division]
11 **department** if there are no local codes;

12 (2) Local or state sanitation requirements;

13 (3) Local building and zoning requirements, where applicable;

14 (4) Staff/adult ratios required by the [division] **department**; and

15 (5) Other applicable provisions of sections [199.025, RSMo, and 660.403 to 660.420]
16 **192.2203 to 192.2227** and all applicable rules promulgated pursuant thereto, including but not
17 limited to:

18 (a) The applicant's ability to render adult day care;

19 (b) The proposed plan for providing adult day care;

20 (c) The proposed plan of operation of the adult day care program, so that, in the
21 judgment of the [division] **department**, minimum standards are being met to insure the health
22 and safety of the participants.

23 4. Following completion of its investigation made pursuant to subsection 3 of this
24 section and a finding that the applicant for a license has complied with all applicable rules
25 promulgated pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to**
26 **192.2227**, the [division] **department** shall issue a license to such applicant. Such license shall
27 be valid for the period designated by the [division] **department**, which period shall not exceed
28 two years from the date of issuance, for the premises and persons named in the application.

29 5. Each license issued under sections [199.025, RSMo, and 660.403 to 660.420]
30 **192.2203 to 192.2227** shall include the name of the provider, owner and operator; the name of
31 the adult day care program; the location of the adult day care program; the hours of operations;
32 the number and any limitations or the type of participants who may be served; and the period for
33 which such license is valid.

34 6. The [division] **department** may issue a provisional license to an adult day care
35 program that is not currently meeting requirements for a license but which demonstrates the
36 potential capacity to meet full requirements for license; except that, no provisional license shall
37 be issued unless the director is satisfied that the operation of the adult day care program is not
38 detrimental to the health and safety of the participants being served. The provisional license
39 shall be nonrenewable and shall be valid for the period designated by the [division] **department**,
40 which period shall not exceed six months from the date of issuance. Upon issuance of a regular
41 license, a day care program's provisional license shall immediately be null and void.

2 [660.405.] **192.2206.** 1. The provisions of sections [199.025, RSMo, and 660.403 to
3 660.420] **192.2203 to 192.2227** shall not apply to the following:

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

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

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

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

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

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

20 2. Nothing in this section shall prohibit any person listed in subsection 1 of this section
21 from applying for a license or receiving a license if the adult day care program owned or operated
22 by such person conforms to the provisions of sections [199.025, RSMo, and 660.403 to 660.420]
192.2203 to 192.2227 and all applicable rules promulgated pursuant thereto.

[660.407.] **192.2209.** 1. The director, or his authorized representative, shall have the
2 right to enter the premises of an applicant for or holder of a license at any time during the hours
3 of operation of a center to determine compliance with provisions of sections [199.025, RSMo,
4 and 660.403 to 660.420] **192.2203 to 192.2227** and applicable rules promulgated pursuant
5 thereto. Entry shall also be granted for investigative purposes involving complaints regarding
6 the operations of an adult day care program. The [division] **department** shall make at least two
7 inspections per year, at least one of which shall be unannounced to the operator or provider. The
8 [division] **department** may make such other inspections, announced or unannounced, as it
9 deems necessary to carry out the provisions of sections [199.025, RSMo, and 660.403 to
10 660.420] **192.2203 to 192.2227**.

11 2. The applicant for or holder of a license shall cooperate with the investigation and
12 inspection by providing access to the adult day care program, records and staff, and by providing
13 access to the adult day care program to determine compliance with the rules promulgated
14 pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**.

15 3. Failure to comply with any lawful request of the [division] **department** in connection
16 with the investigation and inspection is a ground for refusal to issue a license or for the
17 suspension or revocation of a license.

18 4. The [division] **department** may designate to act for it, with full authority of law, any
19 instrumentality of any political subdivision of the state of Missouri deemed by the [division]
20 **department** to be competent to investigate and inspect applicants for or holders of licenses.

[660.409.] **192.2212.** Each application for a license, or the renewal thereof, issued
2 pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** shall be
3 accompanied by a nonrefundable fee in the amount required by the [division] **department**. The
4 fee, to be determined by the director [of the division], shall not exceed one hundred dollars and
5 shall be based on the licensed capacity of the applicant.

[660.411.] **192.2215.** The [division] **department** shall offer technical assistance or
2 consultation to assist applicants for or holders of licenses or provisional licenses in meeting the
3 requirements of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, staff
4 qualifications, and other aspects involving the operation of an adult day care program, and to
5 assist in the achievement of programs of excellence related to the provision of adult day care.

[660.414.] **192.2218.** 1. Whenever the [division] **department** is advised or has reason
2 to believe that any person is operating an adult day care program without a license, or provisional
3 license, or that any holder of license, or provisional license is not in compliance with the
4 provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, the
5 [division] **department** shall make an investigation and inspection to ascertain the facts. If the
6 [division] **department** is not permitted access to the adult day care program in question, the
7 [division] **department** may apply to the circuit court of the county in which the program is
8 located for an order authorizing entry for inspection. The court shall issue the order if it finds
9 reasonable grounds necessitating the inspection.

10 2. If the [division] **department** finds that the adult day care program is being operated
11 in violation of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, it may
12 seek, among other remedies, injunctive relief against the adult day care program.

[660.416.] **192.2221.** 1. Any person aggrieved by an official action of the [division]
2 **department** either refusing to issue a license or revoking or suspending a license may seek a
3 determination thereon by the administrative hearing commission [pursuant to the provisions of]
4 **under** section [161.272] **621.045**, RSMo, et seq.; except that, the petition must be filed with the
5 administrative hearing commission within thirty days after the mailing or delivery of notice to
6 the applicant for or holder of such license or certificate. When the notification of the official
7 action is mailed to the applicant for or holder of such a license, there shall be included in the
8 notice a statement of the procedure whereby the applicant for or holder of such license may

9 appeal the decision of the [division] **department** before the administrative hearing commission.
10 It shall not be a condition to such determination that the person aggrieved seek a reconsideration,
11 a rehearing or exhaust any other procedure within the [division] **department**.

12 2. The administrative hearing commission may stay the revocation or suspension of such
13 certificate or license, pending the commission's findings and determination in the cause, upon
14 such conditions as the commission deems necessary and appropriate including the posting of
15 bond or other security; except that, the commission shall not grant a stay or if a stay has already
16 been entered shall set aside its stay, if, upon application of the [division] **department**, the
17 commission finds reason to believe that continued operation of the facility to which the
18 certificate or license in question applies pending the commission's final determination would
19 present an imminent danger to the health, safety or welfare of any person or a substantial
20 probability that death or serious physical harm would result. In any case in which the [division]
21 **department** has refused to issue a certificate or license, the commission shall have no authority
22 to stay or to require the issuance of a license pending final determination by the commission.

23 3. The administrative hearing commission shall make the final decision as to the
24 issuance, suspension, or revocation of a license. Any person aggrieved by a final decision of the
25 administrative hearing commission, including the [division] **department**, may seek judicial
26 review of such decision by filing a petition for review in the court of appeals for the district in
27 which the adult day care program to which the license in question applies is located. Review
28 shall be had in accordance with the provisions of sections [161.337 and 161.338] **621.189 and**
29 **621.193**, RSMo.

[660.418.] **192.2224**. The director [of the division] shall have the authority to promulgate
2 rules pursuant to this section and chapter 536, RSMo, in order to carry out the provisions of
3 sections [199.025, RSMo, and 660.403 to 660.420. No rule or portion of a rule promulgated
4 under the authority of section 199.025, RSMo, and sections 660.403 to 660.420 shall become
5 effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo]
6 **192.2203 to 192.2227**. Any rule or portion of a rule, as that term is defined in section
7 **536.010, RSMo, that is created under the authority delegated in this section shall become**
8 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
9 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
10 **nonseverable and if any of the powers vested with the general assembly pursuant to**
11 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
12 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
13 **rule proposed or adopted after August 28, 2007, shall be invalid and void.**

[660.420.] **192.2227**. 1. Any person who violates any provision of sections [199.025,
2 RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, or who, for himself or for any other

3 person, makes materially false statements in order to obtain a certificate or license, or the renewal
4 thereof, issued pursuant to sections [199.025, RSMo, and 660.403 to 660.420, shall be] **192.2203**
5 **to 192.2227, is** guilty of a class A misdemeanor.

6 2. Any person who is convicted pursuant to this section shall, in addition to all other
7 penalties provided by law, have any license issued to [him] **such person** under sections
8 [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** revoked, and shall not operate,
9 nor hold any license to operate, any adult day care program, or other entity governed by the
10 provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** for a
11 period of three years after such conviction.

[660.620.] **192.2250.** 1. There is hereby established an "Office of Advocacy and
2 Assistance for Senior Citizens" within the office of lieutenant governor.

3 2. The senior citizen advocate shall coordinate activities with the long-term care
4 ombudsman program, as defined in section [660.600] **198.700, RSMo**, on complaints made by
5 or on behalf of senior citizens residing in long-term care facilities.

6 3. The senior citizen advocate shall conduct a suitable investigation into any actions
7 complained of unless the senior citizen advocate finds that the complaint pertains to a matter
8 outside the scope of the authority of the senior citizen advocate, the complainant has no
9 substantive or procedural interest which is directly affected by the matter complained about, or
10 the complaint is trivial, frivolous, vexatious or not made in good faith.

11 4. After completing his investigation of a complaint, the senior citizen advocate shall
12 inform the complainant, the agency, official or employee of action recommended by the senior
13 citizen advocate. The senior citizen advocate shall make such reports and recommendations to
14 the affected agencies, the governor and the general assembly as he deems necessary to further
15 the purposes of sections [660.620 and 660.625] **192.2250 and 192.2253.**

16 5. The senior citizen advocate shall, in conjunction with the [division of senior services,
17 act as a clearinghouse for] **department, maintain** information pertaining to and of interest to
18 senior citizens and shall disseminate such information as is necessary to inform senior citizens
19 of their rights and of governmental and nongovernmental services available to them.

[660.625.] **192.2253.** The senior citizen advocate shall maintain confidentiality with
2 respect to all matters, including the identities of the complainants or witnesses coming before
3 the senior citizen advocate unless the complainant consents to the use of his or her name in the
4 course of the investigation.

194.210. [As used in sections 194.210 to 194.290, the following words and terms mean:

2 (1) "Bank or storage facility", a facility licensed, accredited, or approved under the laws
3 of any state for storage of human bodies or parts thereof;

4 (2) "Decedent", a deceased individual and includes a stillborn infant or fetus;

5 (3) "Donor", an individual who makes a gift of all or part of his body;

6 (4) "Hospital", a hospital licensed, accredited, or approved under the laws of any state
7 and includes a hospital operated by the United States government, a state, or a subdivision
8 thereof, although not required to be licensed under state laws;

9 (5) "Part", organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions
10 of a human body;

11 (6) "Person", an individual, corporation, government or governmental subdivision or
12 agency, business trust, estate, trust, partnership or association, or any other legal entity;

13 (7) "Physician" or "surgeon", a physician or surgeon licensed or authorized to practice
14 under the laws of any state;

15 (8) "State" includes any state, district, commonwealth, territory, insular possession, and
16 any other area subject to the legislative authority of the United States of America.] **1. Beginning**
17 **July 1, 2008, sections 194.210 to 194.294 shall be known and may be cited as the "Revised**
18 **Uniform Anatomical Gift Act".**

19 **2. As used in sections 194.210 to 194.294, the following terms mean:**

20 (1) "Adult", an individual who is at least eighteen years of age;

21 (2) "Agent", an individual:

22 (a) **Authorized to make health-care decisions on the principal's behalf by a power**
23 **of attorney for health care; or**

24 (b) **Expressly authorized to make an anatomical gift on the principal's behalf by**
25 **any other record signed by the principal;**

26 (3) "Anatomical gift", a donation of all or part of a human body to take effect after
27 the donor's death for the purposes of transplantation, therapy, research, or education;

28 (4) "Decedent", a deceased individual whose body or part is or may be the source
29 of an anatomical gift;

30 (5) "Disinterested witness", a witness other than the spouse, child, parent, sibling,
31 grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or
32 refuses to make an anatomical gift, or another adult who exhibited special care and
33 concern for the individual. The term does not include a person to which an anatomical gift
34 could pass under section 194.255;

35 (6) "Document of gift", a donor card or other record used to make an anatomical
36 gift. The term includes a statement or symbol on a driver's license, identification card, or
37 donor registry;

38 (7) "Donor", an individual whose body or part is the subject of an anatomical gift;

39 (8) "Donor registry", a database that contains records of anatomical gifts and
40 amendments to or revocations of anatomical gifts;

- 41 (9) "Driver's license", a license or permit issued by the department of revenue to
42 operate a vehicle whether or not conditions are attached to the license or permit;
- 43 (10) "Eye bank", a person that is licensed, accredited, or regulated under federal
44 or state law to engage in the recovery, screening, testing, processing, storage, or
45 distribution of human eyes or portions of human eyes;
- 46 (11) "Guardian", a person appointed by a court to make decisions regarding the
47 support, care, education, health, and welfare of an individual. The term does not include
48 a guardian ad litem;
- 49 (12) "Hospital", a facility licensed as a hospital under the law of any state or a
50 facility operated as a hospital by the United States, a state, or a subdivision of a state;
- 51 (13) "Identification card", an identification card issued by the department of
52 revenue;
- 53 (14) "Know", to have actual knowledge.
- 54 (15) "Minor", an individual who is under eighteen years of age;
- 55 (16) "Organ procurement organization", a person designated by the United States
56 Secretary of Health and Human Services as an organ procurement organization;
- 57 (17) "Parent", a parent whose parental rights have not been terminated;
- 58 (18) "Part", an organ, an eye, or tissue of a human being. The term does not
59 include the whole body;
- 60 (19) "Person", an individual, corporation, business trust, estate, trust, partnership,
61 limited liability company, association, joint venture, public corporation, government or
62 governmental subdivision, agency, or instrumentality, or any other legal or commercial
63 entity;
- 64 (20) "Physician", an individual authorized to practice medicine or osteopathy
65 under the law of any state;
- 66 (21) "Procurement organization", an eye bank, organ procurement organization,
67 or tissue bank;
- 68 (22) "Prospective donor", an individual who is dead or near death and has been
69 determined by a procurement organization to have a part that could be medically suitable
70 for transplantation, therapy, research, or education. The term does not include an
71 individual who has made a refusal;
- 72 (23) "Reasonably available", able to be contacted by a procurement organization
73 without undue effort and willing and able to act in a timely manner consistent with existing
74 medical criteria necessary for the making of an anatomical gift;
- 75 (24) "Recipient", an individual into whose body a decedent's part has been or is
76 intended to be transplanted;

77 (25) "Record", information that is inscribed on a tangible medium or that is stored
78 in an electronic or other medium and is retrievable in perceivable form;

79 (26) "Refusal", a record created under section 194.235 that expressly states an
80 intent to bar other persons from making an anatomical gift of an individual's body or part;

81 (27) "Sign", with the present intent to authenticate or adopt a record:

82 (a) To execute or adopt a tangible symbol; or

83 (b) To attach or logically associate with the record an electronic symbol, sound, or
84 process;

85 (28) "State", a state of the United States, the District of Columbia, Puerto Rico, the
86 United States Virgin Islands, or any territory or insular possession subject to the
87 jurisdiction of the United States;

88 (29) "Technician", an individual determined to be qualified to remove or process
89 parts by an appropriate organization that is licensed, accredited, or regulated under
90 federal or state law. The term includes an enucleator;

91 (30) "Tissue", a portion of the human body other than an organ or an eye. The
92 term does not include blood unless the blood is donated for purposes of research or
93 education;

94 (31) "Tissue bank", a person that is licensed, accredited, or regulated under federal
95 or state law to engage in the recovery, screening, testing, processing, storage, or
96 distribution of tissue;

97 (32) "Transplant hospital", a hospital that furnishes organ transplants and other
98 medical and surgical specialty services required for the care of transplant patients.

194.215. Sections 194.210 to 194.294 applies to an anatomical gift or amendment
2 to, revocation of, or refusal to make anatomical gift, whenever made.

194.220. [1. Any individual of sound mind who is at least eighteen years of age may
2 give all or any part of his or her body for any purpose specified in section 194.230, the gift to
3 take effect upon death. Any individual who is a minor and at least sixteen years of age may
4 effectuate a gift for any purpose specified in section 194.230, provided parental or guardian
5 consent is deemed given. Parental or guardian consent shall be noted on the minor's donor card,
6 donor's instruction permit or driver's license, as the attorney-in-fact pursuant to subsection 2 of
7 this section, or other document of gift. An express gift that is not revoked by the donor before
8 death is irrevocable, and the donee shall be authorized to accept the gift without obtaining the
9 consent of any other person. The provisions of this subsection, relating to allowing a minor who
10 is at least sixteen years of age to effectuate a gift for any purpose specified in section 194.230,
11 through the driver's license or instruction permit application process, shall be effective July 1,
12 2003.

13 2. Any of the following persons, in order of priority stated, when persons in prior classes
14 are not available at the time of death, and in the absence of actual knowledge of a gift by the
15 decedent pursuant to subsection 1 of this section or actual notice of contrary indications by the
16 decedent or of opposition by a member of the same or a prior class, may give all or any part of
17 the decedent's body for any purpose specified in section 194.230:

18 (1) An attorney-in-fact under a durable power of attorney that expressly refers to making
19 a gift of all or part of the principal's body pursuant to the uniform anatomical gift act;

20 (2) The spouse;

21 (3) An adult son or daughter;

22 (4) Either parent;

23 (5) An adult brother or sister;

24 (6) A guardian of the person of the decedent at the time of his or her death;

25 (7) Any other person authorized or under obligation to dispose of the body.

26 3. If the donee has actual notice of contrary indications by the decedent or that a gift by
27 a member of a class is opposed by a member of the same or a prior class, the donee shall not
28 accept the gift. The persons authorized by subsection 2 of this section may make the gift after
29 or immediately before death.

30 4. A gift of all or part of a body authorizes any examination necessary to assure medical
31 acceptability of the gift for the purposes intended.

32 5. The rights of the donee created by the gift are paramount to the rights of others except
33 as provided by subsection 4 of section 194.270.] **1. (1) The department of health and senior
34 services shall establish or contract for the establishment of a first person consent organ and
35 tissue donor registry.**

36 **(2) The department of health and senior services and the department of revenue
37 shall advise the individual that he or she is under no obligation to have his or her name
38 included in the first person consent organ and tissue donor registry.**

39 **(3) An individual who agrees to have his or her name in the first person consent
40 organ and tissue donor registry has given full legal consent to the donation of any of his or
41 her organs or tissues upon his or her death as recorded in the registry or as subject in
42 subsection 2 of this section.**

43 **(4) An individual may withdraw his or her consent to be listed in the first person
44 consent organ and tissue donor registry as indicated in this section.**

45 **2. Subject to section 194.240, an anatomical gift of a donor's body or part may be
46 made during the life of the donor for the purpose of transplantation, therapy, research, or
47 education in the manner provided in section 194.225 by:**

48 **(1) The donor, if the donor is an adult or if the donor is a minor and is:**

- 49 (a) **Emancipated; or**
- 50 (b) **Authorized under state law to apply for a driver's license;**
- 51 (2) **An agent of the donor, unless the power of attorney for health care or other**
- 52 **record prohibits the agent from making an anatomical gift;**
- 53 (3) **A parent of the donor, if the donor is an unemancipated minor; or**
- 54 (4) **The donor's guardian.**

194.225. 1. A donor may make an anatomical gift:

- 2 (1) **By authorizing a statement or symbol indicating that the donor has made an**
- 3 **anatomical gift to be imprinted on the donor's driver's license or identification card;**
- 4 (2) **In a will; or**
- 5 (3) **During a terminal illness or injury of the donor, by any form of communication**
- 6 **addressed to at least two adults at least one of whom is a disinterested witness; or**
- 7 (4) **As provided in subsection 2 of this section.**

8 **2. A donor or other person authorized to make an anatomical gift under section**
9 **194.220 may make a gift by a donor card or other record signed by the donor or other**
10 **person making the gift or by authorizing that a statement or symbol indicating that the**
11 **donor has made an anatomical gift be included in the first person consent donor registry.**
12 **If the donor or other person is physically unable to sign a record, the record may be signed**
13 **by another individual at the direction of the donor or the other person and shall:**

- 14 (1) **Be witnessed by at least two adults at least one of whom is a disinterested**
- 15 **witness, who have signed at the request of the donor or the other person; and**
- 16 (2) **State that it has been signed and witnessed as provided in subdivision (1) of**
- 17 **subsection 1 of this section.**

18 **3. Revocation, suspension, expiration, or cancellation of the driver's license or**
19 **identification card upon which an anatomical gift is indicated does not invalidate the gift.**

20 **4. An anatomical gift made by will takes effect upon the donor's death whether or**
21 **not the will is probated. Invalidation of the will after the donor's death does not invalidate**
22 **the gift.**

194.230. [The following persons may become donees of gifts of bodies or parts thereof
2 for the purposes stated:

- 3 (1) **Any hospital, surgeon, or physician, for medical or dental education, research,**
- 4 **advancement of medical or dental science, therapy, or transplantation; or**
- 5 (2) **Any accredited medical or dental school, college or university or the state anatomical**
- 6 **board for education, research, advancement of medical or dental science, or therapy; or**
- 7 (3) **Any bank or storage facility, for medical or dental education, research, advancement**
- 8 **of medical or dental science, therapy, or transplantation; or**

9 (4) Any specified individual for therapy or transplantation needed by such individual.]

10 **1. Subject to section 194.240, a donor or other person authorized to make an anatomical**
11 **gift under section 194.220 may amend or revoke an anatomical gift by:**

12 (1) A record signed by:

13 (a) The donor;

14 (b) The other person authorized to make an anatomical gift under section 194.220;

15 or

16 (c) Subject to subsection 2 of this section, another individual acting at the direction
17 of the donor or the other person if the donor or other person is physically unable to sign;

18 or

19 (2) A later-executed document of gift that amends or revokes a previous anatomical
20 gift or portion of an anatomical gift, either expressly or by inconsistency.

21 **2. A record signed under paragraph (c) of subdivision (1) of subsection 1 of this**
22 **section shall:**

23 (1) Be witnessed by at least two adults at least one of whom is a disinterested
24 witness, who have signed at the request of the donor or the other person; and

25 (2) State that it has been signed and witnessed as provided in subdivision (1) of
26 subsection 2 of this section.

27 **3. Subject to section 194.240, a donor or other person authorized to make an**
28 **anatomical gift under section 194.220 may revoke the gift by the destruction or cancellation**
29 **of the document of gift, or a portion of the document of gift used to make the gift, with the**
30 **intent to revoke the gift.**

31 **4. A donor may amend or revoke an anatomical gift that was not made in a will by**
32 **any form of communication during a terminal illness or injury addressed to at least two**
33 **adults at least one of whom is a disinterested witness.**

34 **5. A donor who makes an anatomical gift in a will may amend or revoke the gift in**
35 **the manner provided for amendment or revocation of wills or as provided in subsection 1**
36 **of this section.**

194.235. 1. An individual may refuse to make an anatomical gift of the individual's
2 **body or part by:**

3 (1) A record signed by:

4 (a) The individual; or

5 (b) Subject to subsection 2 of this section, another individual acting at the direction
6 of the individual if the individual is physically unable to sign;

7 (2) The individual's will whether or not the will is admitted to probate or
8 invalidated after the individual's death; or

9 **(3) Any form of communication made by the individual during the individual's**
10 **terminal illness or injury addressed to at least two adults at least one of whom is a**
11 **disinterested witness.**

12 **2. A record signed under paragraph (b) of subdivision (1) of subsection 1 of this**
13 **section shall:**

14 **(1) Be witnessed by at least two adults at least one of whom is a disinterested**
15 **witness, who have signed at the request of the individual; and**

16 **(2) State that it has been signed and witnessed as provided in subdivision (1) of**
17 **subsection 2 of this section.**

18 **3. An individual may amend or revoke a refusal:**

19 **(1) In the manner provided in subsection 1 of this section for making a refusal;**

20 **(2) By subsequently making an anatomical gift under section 194.225 that is**
21 **inconsistent with the refusal; or**

22 **(3) By the destroying or cancelling of the record evidencing the refusal, or the**
23 **portion of the record used to make the refusal, with the intent to revoke the refusal.**

24 **4. Except as otherwise provided in subsection 8 of section 194.240, in the absence**
25 **of an express, contrary indication by the individual set forth in the refusal, an individual's**
26 **unrevoked refusal to make an anatomical gift of the individual's body or a part bars all**
27 **other persons from making an anatomical gift of the individual's body or the part.**

194.240. 1. [A gift of all or part of the body under subsection 1 of section 194.220 may
2 be made by will. The gift becomes effective upon the death of the testator without waiting for
3 probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift,
4 to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

5 2. A gift of all or part of the body under subsection 1 of section 194.220 may also be
6 made by document other than a will. The gift becomes effective upon the death of the donor.
7 The document, which may be a card designed to be carried on the person, must be signed by the
8 donor in the presence of two witnesses who must sign the document in his presence or before
9 a notary or other official authorized to administer oaths generally. If the donor cannot sign, the
10 document may be signed for him at his direction and in his presence in the presence of two
11 witnesses who must sign the document in his presence. Delivery of the document of gift during
12 the donor's lifetime is not necessary to make the gift valid.

13 3. The gift may be made to a specified donee or without specifying a donee. If the latter,
14 the gift may be accepted by a physician as donee upon or following death. If the gift is made to
15 a specified donee who is not available at the time and place of death or if the gift cannot be
16 implemented, a physician upon or following death, in the absence of any expressed indication
17 that the donor desired otherwise, may accept the gift as donee. The physician who becomes a

18 donee under this subsection shall not participate in the procedures for removing or transplanting
19 a part.

20 4. Notwithstanding the provisions of subsection 2 of section 194.270, the donor may
21 designate in his will, card, or other document of gift the surgeon or physician to carry out the
22 appropriate procedures. In the absence of a designation or if the designee is not available, the
23 donee or other person authorized to accept the gift may employ or authorize any surgeon or
24 physician to carry out the appropriate procedures. For the purpose of removing an eye or part
25 thereof, any medical technician employed by a hospital, physician or eye bank and acting under
26 supervision may perform the appropriate procedures. Any medical technician authorized to
27 perform such procedure shall successfully complete the course prescribed in section 194.295 for
28 embalmers.

29 5. Any gift by a person designated in subsection 2 of section 194.220 shall be made by
30 a document signed by him or made by his telegraphic, recorded telephonic, or other recorded
31 message.

32 6. A gift of part of the body under subsection 1 of section 194.220 may also be made by
33 a statement on a form which shall be provided on the reverse side of all Missouri motor vehicle
34 licenses issued pursuant to chapter 302, RSMo. The statement to be effective shall be signed by
35 the owner of the license in the presence of two witnesses, who shall sign the statement in the
36 presence of the donor. Use of the form is prima facie evidence that the owner of the license
37 intended to make the anatomical gift, and there shall be no civil or criminal liability for removal
38 of any part of the body indicated on the form by a licensed physician or surgeon. The gift
39 becomes effective upon the death of the donor. Delivery of the license during the donor's
40 lifetime is not necessary to make the gift valid. The gift shall become invalidated upon
41 expiration, cancellation, revocation, or suspension of the license, and the gift must be renewed
42 upon renewal of each license. Pertinent medical information which may affect the quality of the
43 gift may be included in the statement of gift.

44 7. Any person eighteen years of age or older, or any person under the age of eighteen
45 with parental consent who indicates the desire to make an organ donation through any method
46 prescribed in this section may also contact the department of health and senior services when
47 completing such form, so that the information may be included in the registry maintained by the
48 department pursuant to subsection 1 of section 194.304. Failure to contact the department of
49 health and senior services shall not be construed to challenge the validity of the organ donation.

50 8. Organ procurement organizations and tissue banks may employ coordinators to assist
51 in the procurement of cadaveric organs and tissue for transplant or research. A coordinator who
52 assists in the procurement of cadaveric organs or tissue for transplantation or research must do
53 so under the direction and supervision of a physician or surgeon. With the exception of organ

54 procurement surgery, this supervision may be indirect supervision. For purposes of this
55 subsection, the term "indirect supervision" means that a physician or surgeon is responsible for
56 the medical actions of the coordinator, that the coordinator is acting under protocols expressly
57 approved by a physician or surgeon, and that a physician or surgeon is available, in person or by
58 telephone, to provide medical direction, consultation and advice in cases of organ and tissue
59 donation and procurement.

60 9. The department of health and senior services shall collect information and publish an
61 annual report which shall include the number of organ and tissue donations made in the state,
62 the number of organ or tissue donations received by citizens of the state of Missouri, the number
63 of organ or tissue donations transported outside the state boundaries and the cost of such organ
64 or tissue donations.] **Except as otherwise provided in subsection 7 of this section and subject
65 to subsection 6 of this section, in the absence of an express, contrary indication by the
66 donor, a person other than the donor is barred from making, amending, or revoking an
67 anatomical gift of a donor's body or a part if the donor made an anatomical gift of the
68 donor's body or the part under section 194.225 or an amendment to an anatomical gift of
69 the donor's body or the part under section 194.230.**

70 2. **A donor's revocation of an anatomical gift of the donor's body or a part under
71 section 194.230 is not a refusal and does not bar another person specified in section 194.220
72 or 194.245 from making an anatomical gift of the donor's body or a part under section
73 194.225 or 194.250.**

74 3. **If a person other than the donor makes an unrevoked anatomical gift of the
75 donor's body or part under section 194.225 or an amendment to an anatomical gift of the
76 donor's body or part under section 194.230, another person may not make, amend, or
77 revoke the gift of the donor's body or part under section 194.250.**

78 4. **A revocation of an anatomical gift of the donor's body or a part under section
79 194.230 by a person other than the donor does not bar another person from making an
80 anatomical gift of the body or a part under section 194.225 or 194.250.**

81 5. **In the absence of an express, contrary indication by the donor or other person
82 authorized to make an anatomical gift under section 194.220, an anatomical gift of a part
83 is neither a refusal to give another part nor a limitation on the making of an anatomical
84 gift of another part at a later time by the donor or another person made by a person.**

85 6. **In the absence of an express, contrary indication by the donor or other person
86 authorized to make an anatomical gift under section 194.220, an anatomical gift of a part
87 for one or more purposes set forth in section 194.220 is not limitation on the making of an
88 anatomical gift of the part for any other purpose by the donor or other person under
89 section 194.225 or 194.250.**

90 **7. If a donor who is an unemancipated minor dies, a parent of the donor who is**
91 **reasonably available may revoke or amend an anatomical gift of the donor's body or part.**

92 **8. If an unemancipated minor who signed a refusal dies, a parent of the minor who**
93 **is reasonably available may revoke the minor's refusal.**

194.245. 1. Subject to subsections 2 and 3 of this section and unless barred by
2 **section 194.235 or 194.240, an anatomical gift of a decedent's body or part for purposes of**
3 **transplantation, therapy, research, or education may be made, in the order of priority**
4 **listed, by any member of the following classes of persons who is reasonably available:**

5 **(1) An agent of the decedent at the time of death who could have made an**
6 **anatomical gift under subdivision (2) of section 194.220 immediately before the decedent's**
7 **death;**

8 **(2) The spouse of the decedent;**

9 **(3) Adult children of the decedent;**

10 **(4) Parents of the decedent;**

11 **(5) Adult siblings of the decedent;**

12 **(6) Adult grandchildren of the decedent;**

13 **(7) Grandparents of the decedent;**

14 **(8) An adult who exhibited special care and concern for the decedent;**

15 **(9) The persons who were acting as the guardian of the person of the decedent at**
16 **the time of death; and**

17 **(10) Any other person having the authority to dispose of the decedent's body.**

18 **2. If there is more than one member of a class listed in subdivision (1), (3), (4), (5),**
19 **(6), (7), or (9) of subsection 1 of this section entitled to make an anatomical gift, an**
20 **anatomical gift may be made by a member of the class unless that member or a person to**
21 **which the gift can pass under 194.255 knows of an objection by another member of the**
22 **class. If an objection is known, the gift may be made only by a majority of the members**
23 **of the class who are reasonably available.**

24 **3. A person may not make an anatomical gift if, at the time of the decedent's death,**
25 **a person in a prior class under subsection 1 of this section is reasonably available to make**
26 **or to object to the making of an anatomical gift.**

194.250. [If the gift is made by the donor to a specified donee, the will, card, or other
2 **document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate**
3 **procedures immediately after death. Delivery is not necessary to the validity of the gift. The**
4 **will, card, or other document, or an executed copy thereof, may be deposited in any hospital,**
5 **bank or storage facility or registry office that accepts it for safekeeping or for facilitation of**
6 **procedures after death. On request of any interested party upon or after the donor's death, the**

7 person in possession shall produce the document for examination.] **1. A person authorized to**
8 **make an anatomical gift under section 194.245 may make an anatomical gift by a document**
9 **of gift signed by the person making the gift or that person's oral communication that is**
10 **electronically recorded or is contemporaneously reduced to a record and signed by the**
11 **individual receiving the oral communication.**

12 **2. Subject to subsection 3 of this section, an anatomical gift by a person authorized**
13 **under section 194.245 may be amended or revoked orally or in a record by any member**
14 **of a prior class who is reasonably available. If more than one member of the prior class**
15 **is reasonably available, the gift made by a person authorized under section 194.245 may**
16 **be:**

17 **(1) Amended only if a majority of reasonably available members agree to the**
18 **revoking of the gift; or**

19 **(2) Revoked only if a majority of the reasonably available members agree to the**
20 **revoking of the gift or if they are equally divided as to whether to revoke the gift.**

21 **3. A revocation under subsection 2 of this section is effective only if, before an**
22 **incision has been made to remove a part from the donor's body or before invasive**
23 **procedures have begun to prepare the recipient, the procurement organization, transplant**
24 **hospital, or physician or technician knows of the revocation.**

194.255. 1. An anatomical gift of a body or part may be made to the following
2 **persons:**

3 **(1) A hospital, accredited medical school, dental school, college, university, or**
4 **procurement organization, or other appropriate person for research or education;**

5 **(2) Subject to subsection 2 of this section, an individual designated by the person**
6 **making the anatomical gift if the individual is the recipient of the part; or**

7 **(3) A named eye bank or tissue bank.**

8 **2. If an anatomical gift to an individual under subdivision (2) of subsection 1 of this**
9 **section cannot be transplanted into the individual, the part passes in accordance with**
10 **subsection 7 of this section in the absence of an express, contrary indication by the person**
11 **making the anatomical gift.**

12 **3. If an anatomical gift of one or more specific parts or of all parts is made in a**
13 **document of gift that does not name a person described in subsection 1 of this section but**
14 **identifies the purpose for which an anatomical gift may be used, the following rules apply:**

15 **(1) If the part is an eye and the gift is for the purpose of transplantation or therapy,**
16 **the gift passes to the appropriate eye bank;**

17 **(2) If the part is tissue and the gift is for the purpose of transplantation or therapy,**
18 **the gift passes to the appropriate tissue bank;**

19 **(3) If the part is an organ and the gift is for the purpose of transplantation or**
20 **therapy, the gift passes to the appropriate organ procurement organization as custodian**
21 **of the organ;**

22 **(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of**
23 **research or education, the gift passes to the appropriate procurement organization.**

24 **4. For the purpose of subsection 3 of this section, if there is more than one purpose**
25 **of an anatomical gift set forth in the document of gift but the purposes are not set forth in**
26 **any priority, the gift must be used for transplantation or therapy if suitable. If the gift**
27 **cannot be used for transplantation or therapy, the gift may be used for research or**
28 **education.**

29 **5. If an anatomical gift of one or more specific parts is made in a document of gift**
30 **that does not name a person described in subsection 1 of this section and does not identify**
31 **the purpose of the gift, the gift may be used only for transplantation or therapy, and the**
32 **gift passes in accordance with subsection 7 of this section.**

33 **6. If a document of gift specifies only a general intent to make an anatomical gift**
34 **by words such as "donor", "organ donor", or "body donor", or by a symbol or statement**
35 **of similar import, the gift may be used only for transplantation or therapy, and the gift**
36 **passes in accordance with subsection 7 of this section.**

37 **7. For purposes of subsections 2, 5, and 6 of this section, the following rules apply:**

38 **(1) If the part is an eye, the gift passes to the appropriate eye bank;**

39 **(2) If the part is tissue, the gift passes to the appropriate tissue bank;**

40 **(3) If the part is an organ, the gift passes to the appropriate organ procurement**
41 **organization as custodian of the organ.**

42 **8. An anatomical gift of an organ for transplantation or therapy, other than an**
43 **anatomical gift under subdivision (2) of subsection 1 of this section, passes to the organ**
44 **procurement organization as custodian of the organ.**

45 **9. If an anatomical gift does not pass under subsections 1 to 8 of this section or the**
46 **decedent's body or part is not used for transplantation, therapy, research, or education,**
47 **custody of the body or part passes to the person under obligation to dispose of the body or**
48 **part.**

49 **10. A person may not accept an anatomical gift if the person knows that the gift was**
50 **not effectively made under section 194.225 or 194.250 or if the person knows that the**
51 **decedent made a refusal under section 194.235 that was not revoked. For purposes of this**
52 **subsection, if a person knows that an anatomical gift was made on a document of gift, the**
53 **person is deemed to know of any amendment or revocation of the gift or any refusal to**
54 **make an anatomical gift on the same document of gift.**

55 **11. Except as otherwise provided in subdivision (2) of subsection 1 of this section,**
56 **nothing in this act affects the allocation of organs for transplantation or therapy.**

194.260. 1. [If the will, card, or other document or executed copy thereof, has been
2 delivered to a specified donee, the donor may amend or revoke the gift by:

3 (1) The execution and delivery to the donee of a signed statement, or

4 (2) An oral statement made in the presence of two persons and communicated to the
5 donee, or

6 (3) A statement during a terminal illness or injury addressed to an attending physician
7 and communicated to the donee, or

8 (4) A signed card or document found on his person or in his effects.

9 2. Any document of gift which has not been delivered to the donee may be revoked by
10 the donor in the manner set out in subsection 1, or by destruction, cancellation, or mutilation of
11 the document and all executed copies thereof.

12 3. Any gift made by a will may also be amended or revoked in the manner provided for
13 amendment or revocation of wills, or as provided in subsection 1.] **The following persons shall**
14 **make a reasonable search of an individual who the person reasonably believes is dead or**
15 **near death for a document of gift or other information identifying the individual as a donor**
16 **or as an individual who made a refusal:**

17 (1) **A law enforcement officer, firefighter, paramedic, or other emergency rescuer**
18 **finding the individual; and**

19 (2) **If no other source of the information is immediately available, a hospital, as**
20 **soon as practical after the individual's arrival at the hospital.**

21 2. **If a document of gift or a refusal to make an anatomical gift is located by the**
22 **search required by subdivision (1) of subsection 1 of this section and the individual or**
23 **deceased individual to whom it relates is taken to a hospital, the person responsible for**
24 **conducting the search shall send the document of gift or refusal to the hospital.**

25 3. **A person is not subject to criminal or civil liability for failing to discharge the**
26 **duties imposed by this section but may be subject to administrative sanctions.**

194.263. 1. **A document of gift need not be delivered during the donor's lifetime to**
2 **be effective.**

3 2. **Upon or after an individual's death, a person in possession of a document of gift**
4 **or a refusal to make an anatomical gift with respect to the individual shall allow**
5 **examination and copying of the document of gift or refusal by a person authorized to make**
6 **or object to the making of an anatomical gift with respect to the individual or by a person**
7 **to which the gift could pass under section 194.255.**

194.265. 1. When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of any donor registry and other applicable records that it knows exist for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

2. A procurement organization must be allowed reasonable access to information in the first person consent organ and tissue donor records of the department of health and senior services and department of revenue to ascertain whether an individual at or near death is a donor.

3. When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

4. Unless prohibited by law other than this act, at any time after a donor's death, the person to which a part passes under section 194.255 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

5. Unless prohibited by law other than this act, an examination under subsection 3 or 4 of this section may include an examination of all medical records of the donor or prospective donor.

6. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke a refusal.

7. Upon referral by a hospital under subsection 1 of this section, a procurement organization shall make a reasonable search for any person listed in section 194.245 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

8. Subject to subsection 8 of section 194.255 and section 58.785, RSMo, the rights of the person to which a part passes under section 194.255 are superior to rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this act, a person that accepts an anatomical gift of an entire body may allow embalming or cremation and use

37 of remains in a funeral service. If the gift is of a part, the person to which the part passes
38 under section 194.255, upon the death of the donor and before embalming, burial, or
39 cremation, shall cause the part to be removed without unnecessary mutilation.

40 **9. Neither the physician who attends the decedent at death nor the physician who**
41 **determines the time of the decedent's death may participate in the procedures for removing**
42 **or transplanting a part from the decedent.**

43 **10. A physician or technician may remove a donated part from the body of a donor**
44 **that the physician or technician is qualified to remove.**

194.270. [1. The donee may accept or reject the gift. If the donee accepts a gift of the
2 entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body
3 in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and
4 prior to embalming, shall cause the part to be removed without unnecessary mutilation. After
5 removal of the part, custody of the remainder of the body vests in the surviving spouse, next of
6 kin, or other persons under obligation to dispose of the body.

7 2. The time of death shall be determined by a physician who tends the donor at his death,
8 or, if none, the physician who certifies the death. The physician shall not participate, directly or
9 indirectly, in the procedures for removing or transplanting a part or be a relative within the fourth
10 degree of consanguinity of any donee of a body or part thereof which is removed or transplanted.

11 3. A person who acts without negligence and in good faith in accord with the terms of
12 this act or with the anatomical gift laws of another state or a foreign country is not liable for
13 damages in any civil action or subject to prosecution in any criminal proceeding for his act.

14 4. The provisions of this act are subject to the laws of this state prescribing powers and
15 duties with respect to autopsies.] **Each hospital in this state, shall enter into agreements or**
16 **affiliations with procurement organizations for coordination of procurement and use of**
17 **anatomical gifts.**

194.275. 1. Except as otherwise provided in subsection 2 of this section, a person
2 **that for valuable consideration, knowingly purchases or sells a part for transplantation or**
3 **therapy if removal of a part from an individual is intended to occur after the individual's**
4 **death commits a felony and upon conviction is subject to a fine not exceeding fifty**
5 **thousand dollars or imprisonment not exceeding seven years, or both.**

6 **2. A person may charge a reasonable amount for the removal, processing,**
7 **preservation, quality control, storage, transportation, implantation, or disposal of a part.**

194.280. [Sections 194.210 to 194.290 shall be so construed as to effectuate its general
2 purpose to make uniform the law of those states which enact it.] **Any person that in order to**
3 **obtain a financial gain intentionally falsifies, forges, conceals, defaces, or obliterates a**
4 **document of gift, an amendment or revocation of a document of gift, or a refusal commits**

5 a felony and upon conviction is subject to a fine not exceeding fifty thousand dollars or
6 imprisonment not exceeding seven years, or both.

194.285. 1. A person that acts in accordance with this act or with the applicable
2 anatomical gift law of another state or attempts in good faith to do so is not liable for the
3 act in any civil action, criminal, or administrative proceeding.

4 2. Neither the person making an anatomical gift nor the donor's estate is liable for
5 any injury or damage that results from the making or use of the gift.

6 3. In determining whether an anatomical gift has been made, amended, or revoked
7 under sections 194.210 to 194.294, a person may rely upon representations of individuals
8 listed in subdivisions (2), (3), (4), (5), (6), (7) or (8) of subsection 1 of section 194.245
9 relating to the individual's relationship to the donor or prospective donor unless the person
10 knows that representation is untrue.

194.290. [Sections 194.210 to 194.290 may be cited as the "Uniform Anatomical Gift
2 Act".] 1. As used in this section, the following terms mean:

3 (1) "Advance health-care directive", a power of attorney for health care or record
4 signed by a prospective donor containing the prospective donor's direction concerning a
5 health-care decision for the prospective donor;

6 (2) "Declaration", a record signed by a prospective donor specifying the
7 circumstances under which a life support system may be withheld or withdrawn;

8 (3) "Health-care decision", any decision made regarding the health care of the
9 prospective donor.

10 2. If a prospective donor has a declaration or advance health-care directive and the
11 terms of the declaration or directive and the express or implied terms of a potential
12 anatomical gift are in conflict with regard to the administration of measures necessary to
13 ensure the medical suitability of a part for transplantation or therapy, the prospective
14 donor's attending physician and prospective donor shall confer to resolve the conflict. If
15 the prospective donor is incapable of resolving the conflict, the agent acting under the
16 prospective donor's declaration or directive or, if no agent exists or the agent is not
17 reasonably available, another person authorized by law, other than under the revised
18 uniform anatomical gift act, to make health care decisions on behalf of the prospective
19 donor shall act for the donor to resolve the conflict. The conflict shall be resolved as
20 expeditiously as possible. Information relevant to the resolution of the conflict may be
21 obtained from the appropriate procurement organization and any other person authorized
22 to make an anatomical gift for the prospective donor under section 194.245. Before the
23 resolution of the conflict, measures necessary to ensure the medical suitability of an organ
24 for transplantation or therapy may not be withheld or withdrawn from the prospective

25 donor if withholding or withdrawing the measures is not contraindicated by appropriate
26 end-of-life care.

194.292. 1. A document of gift is valid if executed in accordance with:

2 (1) Sections 194.210 to 194.294;

3 (2) The laws of the state or country where it was executed; or

4 (3) The laws of the state or country where the person making the anatomical gift
5 was domiciled, has a place of residence, or was a national at the time the document of gift
6 was executed.

7 2. If a document of gift is valid under this section, the law of this state governs the
8 interpretation of the document of gift.

9 3. A person may presume that a document of gift or amendment of an anatomical
10 gift is valid unless that person knows that it was not validly executed or was revoked.

**194.293. In applying and construing this uniform act, consideration must be given
2 to the need to promote uniformity of the law with respect to its subject matter among states
3 that enact it.**

**194.294. Sections 194.210 to 194.294 modifies, limits, and supersedes the Electronic
2 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et. seq., but does
3 not modify, limit, or supersede Section 101(a) of that Act, 15 U.S.C. Section 7001, or
4 authorize electronic delivery of any of the notices described in Section 103(b) of that Act,
5 15 U.S.C. Section 7003(b).**

194.304. 1. [The department of health and senior services shall maintain a registry of
2 organ donors. The registry shall record any person who indicates through any means, including
3 completing the reverse side of a license to operate a motor vehicle as prescribed in subsection
4 6 of section 194.240, that the person desires to make an organ donation upon the person's death.
5 Information in such registry shall be released only to appropriate persons or organizations
6 designated by the advisory committee.

7 2. Any person who has previously put his or her name on the organ donor registry may
8 have that name deleted by filing the appropriate form with the department of health and senior
9 services.] **The department of revenue shall cooperate with any first person consent organ
10 and tissue donor registry that this state establishes, contracts for, or recognizes for the
11 purpose of transferring to the donor registry all relevant information regarding a donor's
12 making, amendment to, or revocation of an anatomical gift.**

13 2. A first person consent organ and tissue donor registry shall:

14 (1) Allow a donor or other person authorized under section 194.220 to include on
15 the first person consent organ and tissue donor registry a statement or symbol that the
16 donor has made, amended, or revoked an anatomical gift;

17 (2) Be accessible to a procurement organization to allow it to obtain relevant
18 information on the donor registry to determine, at or near death of the donor or a
19 prospective donor, whether the donor or prospective donor has made, amended, or
20 revoked an anatomical gift; and

21 (3) Be accessible for purposes of subdivisions (1) and (2) of this subsection seven
22 days a week on a twenty-four-hour basis.

23 3. Personally identifiable information on a first person consent organ and tissue
24 donor registry about a donor or prospective donor may not be used or disclosed without
25 the express consent of the donor, prospective donor, or the person that made the
26 anatomical gift for any purpose other than to determine, at or near death of the donor or
27 a prospective donor, whether the donor or prospective donor has made, amended, or
28 revoked an anatomical gift.

197.551. As used in sections 197.551 to 197.587, the following terms shall mean:

2 (1) "Department", the department of health and senior services;

3 (2) "Identifiable information", information that is presented in a form and manner
4 that allows the identification of any provider, patient, or reporter of patient safety work
5 product. With respect to patients, such information includes any individually identifiable
6 health information, as defined in federal regulations promulgated under Section 264(c) of
7 the Health Insurance Portability and Accountability Act of 1996, as amended;

8 (3) "Nonidentifiable information", information presented in a form and manner
9 that prevents the identification of any provider, patient, or reporter of patient safety work
10 product. With respect to patients, such information shall be deidentified consistent with
11 the federal regulations promulgated under Section 264(c) of the Health Insurance
12 Portability and Accountability Act of 1996, as amended;

13 (4) "Patient safety organization", any entity which:

14 (a) Is organized as an independent not-for-profit corporation under Section
15 501(c)(3) of the Internal Revenue Code of 1986, as amended, and applicable state law
16 governing not-for-profit corporations;

17 (b) Meets the statutory criteria for certification as a patient safety organization
18 under the federal Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. Section
19 299b-21, et seq and, effective one year after the effective date of federal regulations
20 promulgated to implement such act, meets the statutory and regulatory criteria for
21 certification as a patient safety organization under the act;

22 (c) Has a governing board that includes representatives of hospitals, physicians,
23 and a federally recognized quality improvement organization that contracts with the

24 **federal government to review medical necessity and quality assurance in the Medicare**
25 **program;**

26 **(d) Conducts, as the organization's primary activity, efforts to improve patient**
27 **safety and the quality of health care delivery;**

28 **(e) Collects and analyzes patient safety work product that is submitted by**
29 **providers;**

30 **(f) Develops and disseminates evidence-based information to providers with respect**
31 **to improving patient safety, such as recommendations, protocols, or information regarding**
32 **best practices;**

33 **(g) Utilizes patient safety work product to carry out activities limited to those**
34 **described under this section and for the purposes of encouraging a culture of safety and**
35 **of providing direct feedback and assistance to providers to effectively minimize patient**
36 **risk;**

37 **(h) Maintains confidentiality with respect to identifiable information;**

38 **(i) Implements appropriate security measures with respect to patient safety work**
39 **product;**

40 **(j) Submits, if authorized by its governing board and certified by federal law and**
41 **regulation, nonidentifiable information to a national patient safety database;**

42 **(k) Provides technical support to health care providers in the collection,**
43 **submission, and analysis of data and patient safety activities as described in sections**
44 **197.554 and 197.566;**

45 **(l) May establish a formula for fees and/or assessments for the performance of**
46 **activities as described in sections 197.554 and 197.566;**

47 **(5) "Patient safety work product", any data, reports, records, memoranda,**
48 **analyses, deliberative work, statements, root cause analyses, or reportable incident**
49 **prevention plans or processes that are:**

50 **(a) Created or developed by a provider solely for the purposes of reporting to a**
51 **patient safety organization;**

52 **(b) Reported to a patient safety organization;**

53 **(c) Requested by a patient safety organization, including the contents of such**
54 **request;**

55 **(d) Reported to a provider by a patient safety organization;**

56 **(e) Created by a provider to evaluate corrective actions following a report by or to**
57 **a patient safety organization;**

58 **(f) Created or developed by a patient safety organization; or**

59 (g) Reported to a national patient safety database under federal law or regulation.
60 Patient safety work product shall not include information, documents, or records otherwise
61 available from original sources merely because they were collected for or submitted to a
62 patient safety organization. Patient safety work product also shall not include documents,
63 investigations, records, or reports otherwise required by law;

64 (6) "Provider", any physician, hospital, ambulatory surgical center, residential care
65 facility, assisted living facility, intermediate care facility, skilled nursing facility, dentist,
66 registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor,
67 professional physical therapist, psychologist, hospice, home health agency, and any other
68 person or entity that provides health care services under the authority of a license or
69 certificate;

70 (7) "Reportable incident", an occurrence of a serious reportable event in health
71 care;

72 (8) "Reportable incident prevention plan", a written plan that:

73 (a) Defines, based on a root cause analysis, specific changes in organizational
74 policies and procedures designed to reduce the risk of similar incidents occurring in the
75 future or that provides a rationale acceptable to the department that no such changes are
76 warranted;

77 (b) Sets deadlines for the implementation of such changes;

78 (c) Establishes who is responsible for making the changes; and

79 (d) Provides a mechanism for evaluating the effectiveness of such changes;

80 (9) "Root cause analysis", a structured process for identifying basic or causal
81 factors that underlie variation in performance, including but not limited to the occurrence
82 or possible occurrence of a reportable incident. A root cause analysis focuses primarily on
83 systems and processes rather than individual performance and progresses from special
84 causes in clinical processes to common causes in organizational processes and identifies
85 potential improvements in processes or systems that would tend to decrease the likelihood
86 of such events in the future, or determines after analysis that no such improvement
87 opportunities exist;

88 (10) "Serious reportable event in health care", as initially defined by the National
89 Quality Forum in its March 2002 report and subsequently updated by the National Quality
90 Forum, including all criteria established for identifying such events.

197.554. 1. A hospital shall report each reportable incident to a patient safety
2 organization and the department under sections 197.551 to 197.566. The department shall,
3 by rule, define the form and content of information submitted. Such rules shall protect
4 patient confidentiality by requiring that patient-identifiable data be redacted from

5 information provided to the patient safety organization or the department. The
6 department's rules may provide for identification of the patient using an alternative patient
7 identification system.

8 2. The hospital's initial report of the incident shall be submitted to the patient
9 safety organization no later than the close of business on the next business day following
10 discovery of the incident. The initial report shall include a description of immediate
11 actions to be taken by the hospital to minimize the risk of harm to patients and prevent a
12 reoccurrence and verification that the hospital's patient safety and performance
13 improvement review processes are responding to the reportable incident. Upon receiving
14 a hospital's notice of a reportable incident, the patient safety organization shall forward
15 the incident report and the description of immediate actions to the department. The
16 hospital shall, within forty-five days after the incident occurs, submit a completed root
17 cause analysis and a reportable incident prevention plan to the patient safety organization,
18 which shall forward such analysis and plan to the department.

19 3. Upon request of the hospital, a patient safety organization may provide technical
20 assistance in the development of a root cause analysis or reportable incident prevention
21 plan relating to a reportable incident.

197.557. 1. Upon receiving notice of a reportable incident under section 197.554,
2 the department shall investigate the incident. Based on its findings, the department shall
3 determine whether the hospital's response is expected to be sufficient to reduce the risk of
4 future occurrences of that type of reportable incident. The department shall also verify
5 in subsequent licensure surveys or follow-up visits or contacts that the reportable incident
6 prevention plan is being implemented as approved and the results of an evaluation
7 mechanism for the plan are reviewed.

8 2. The department may by rule charge a fee for investigating and responding to
9 reports of reportable incidents under sections 197.551 to 197.566. Any such fee shall not
10 exceed the reasonable cost of such investigative and administrative activities.

11 3. The department shall periodically evaluate the performance of the patient safety
12 organization regarding report submission processes and its reviews of reportable incident
13 prevention plans and root cause analyses submitted by hospitals.

14 4. If the department determines that the reportable incident prevention plan
15 initially submitted by the hospital is not sufficient to reduce the risk of future occurrences
16 of that specific incident, the department shall provide notice to the hospital of such
17 determination. In doing so, the department shall provide the hospital with specific areas
18 of concern. The hospital shall have twenty days to resubmit a revised reportable incident
19 prevention plan. A reportable incident prevention plan shall be deemed approved by the

20 department unless written notice of a deficiency is provided to the hospital within thirty
21 days after the plan is submitted or resubmitted to the department for review.

197.560. 1. If a reportable incident is disclosed to the department and a patient
2 safety organization under sections 197.551 to 197.566 and a reportable incident prevention
3 plan and root cause analysis is submitted and approved by the department, the incident
4 shall not be deemed to be grounds for a finding of a licensure deficiency under sections
5 197.010 to 197.120, except as otherwise authorized by section 197.563.

6 2. The provisions of this section shall not be construed to:

7 (1) Restrict the availability of information gleaned from original sources;

8 (2) Limit the disclosure or use of information regarding a reportable incident to:

9 (a) State or federal agencies or law enforcement under law or regulation; or

10 (b) Health care facility accreditation agencies.

11 3. Nothing in sections 197.551 to 197.566 shall modify the duty of a hospital to
12 report disciplinary actions or medical malpractice actions against a health care
13 professional under law.

197.563. 1. The department shall promulgate rules establishing criteria for
2 defining cases in which reportable incidents have occurred in a hospital with a frequency
3 or possible pattern of adverse outcomes so as to necessitate departmental intervention to
4 protect the public. The department may impose license sanctions against such hospitals
5 based on such reportable incidents, notwithstanding the provisions of section 197.560.

6 2. In developing such criteria, the department shall consult with affected
7 organizations, which shall include but not be limited to the patient safety organization and
8 representatives of hospitals of diverse size and geographic location.

197.566. The patient safety organization shall, in collaboration with the
2 department, publish an annual report to the public on reportable incidents. The first
3 report shall include twelve months of reported data and shall be published not more than
4 fifteen months after the effective date of rules promulgated by the department to
5 implement the provisions of sections 197.551 to 197.563. The report shall indicate the
6 number and rate per patient encounter by region and by category of reportable incident,
7 as such categories are established by the National Quality Forum in defining reportable
8 incidents, and may identify reportable incidents by type of facility. For purposes of the
9 annual report, the state shall be divided into no fewer than three regions, with the St. Louis
10 metropolitan statistical area being one of the regions.

197.569. A hospital may report adverse events other than reportable incidents to
2 a patient safety organization and the department under sections 197.551 to 197.566 and

3 such reports shall be subject to the same protections and requirements as provided by
4 sections 197.551 to 197.566 for reportable incidents.

197.572. No person shall disclose the actions, decisions, proceedings, discussions,
2 or deliberations occurring at a meeting of a patient safety organization except to the extent
3 necessary to carry out one or more of the purposes of a patient safety organization. A
4 meeting of the patient safety organization shall include any meetings of the patient safety
5 organization; its staff; its governing board; any and all committees, work groups, and task
6 forces of the patient safety organization, whether or not formally appointed by the
7 governing board; its president and its chairperson; and any meeting in any setting in which
8 patient safety work product is discussed in the normal course of carrying out the business
9 of the patient safety organization. The proceedings and records of a patient safety
10 organization shall not be subject to discovery or introduction into evidence in any civil
11 action against a provider arising out of the matter or matters that are the subject of
12 consideration by a patient safety organization. Information, documents, or records
13 otherwise available from original sources shall not be immune from discovery or use in any
14 civil action merely because they were presented during proceedings of a patient safety
15 organization. The provisions of this section shall not be construed to prevent a person
16 from testifying to or reporting information obtained independently of the activities of a
17 patient safety organization or which is public information.

197.575. Patient safety work product shall be privileged and confidential and shall
2 not be disclosed for any purpose and, further, shall not be subject to disclosure in any
3 criminal, civil, or administrative proceeding.

197.578. 1. Any reference to or offer into evidence in the presence of the jury or
2 other fact-finder or admission into evidence of patient safety work product during any
3 proceeding that is contrary to the provisions of sections 197.551 to 197.566 shall constitute
4 grounds for a mistrial or a similar termination of the proceeding and reversible error on
5 appeal from any judgment or order entered in favor of any party who so discloses or offers
6 into evidence patient safety work product.

7 2. The prohibition against discovery, disclosure, or admission into evidence of
8 patient safety work product is in addition to any other protections provided by law.

197.581. A patient safety organization may disclose nonidentifiable information and
2 nonidentifiable aggregate trend data identifying the number and types of patient safety
3 events that occur. A patient safety organization shall publish educational and evidence-
4 based information from the summary reports that can be used by all providers to improve
5 the care provided.

197.584. 1. The confidentiality of patient safety work product shall in no way be
2 impaired or otherwise adversely affected solely by reason of the submission of the same to
3 a patient safety organization. The confidentiality of patient safety work product submitted
4 in compliance with sections 197.551 to 197.587 to a patient safety organization shall not be
5 adversely affected if the entity later ceases to meet the statutory definition of a patient
6 safety organization.

7 2. The exchange or disclosure of patient safety work product by a patient safety
8 organization shall not constitute a waiver of confidentiality or privilege by the health care
9 provider who submitted the data.

197.587. Any provider furnishing services to a patient safety organization shall not
2 be liable for civil damages as a result of such acts, omissions, decisions, or other such
3 conduct in connection with the lawful duties on behalf of a patient safety organization,
4 except for acts, omissions, decisions, or conduct done with actual malice, fraudulent intent,
5 or bad faith.

198.006. As used in sections 198.003 to 198.186, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm, **including**
4 **financial exploitation by any person, firm, or corporation as defined in section 570.145,**
5 **RSMo;**

6 (2) "Activities of daily living" or "ADL", one or more of the following activities of daily
7 living:

8 (a) Eating;

9 (b) Dressing;

10 (c) Bathing;

11 (d) Toileting;

12 (e) Transferring; and

13 (f) Walking;

14 (3) "Administrator", the person who is in general administrative charge of a facility;

15 (4) "Affiliate":

16 (a) With respect to a partnership, each partner thereof;

17 (b) With respect to a limited partnership, the general partner and each limited partner
18 with an interest of five percent or more in the limited partnership;

19 (c) With respect to a corporation, each person who owns, holds or has the power to vote
20 five percent or more of any class of securities issued by the corporation, and each officer and
21 director;

22 (d) With respect to a natural person, any parent, child, sibling, or spouse of that person;

23 (5) "Appropriately trained and qualified individual", an individual who is licensed or
24 registered with the state of Missouri in a health care-related field or an individual with a degree
25 in a health care-related field or an individual with a degree in a health care, social services, or
26 human services field or an individual licensed under chapter 344, RSMo, and who has received
27 facility orientation training under 19 CSR 30-86042(18), and dementia training under section
28 660.050, RSMo, and twenty-four hours of additional training, approved by the department,
29 consisting of definition and assessment of activities of daily living, assessment of cognitive
30 ability, service planning, and interview skills;

31 (6) "Assisted living facility", any premises, other than a residential care facility,
32 intermediate care facility, or skilled nursing facility, that is utilized by its owner, operator, or
33 manager to provide twenty-four-hour care and services and protective oversight to three or more
34 residents who are provided with shelter, board, and who may need and are provided with the
35 following:

36 (a) Assistance with any activities of daily living and any instrumental activities of daily
37 living;

38 (b) Storage, distribution, or administration of medications; and

39 (c) Supervision of health care under the direction of a licensed physician, provided that
40 such services are consistent with a social model of care;

41

42 Such term shall not include a facility where all of the residents are related within the fourth
43 degree of consanguinity or affinity to the owner, operator, or manager of the facility;

44 (7) "Community-based assessment", documented basic information and analysis
45 provided by appropriately trained and qualified individuals describing an individual's abilities
46 and needs in activities of daily living, instrumental activities of daily living, vision/hearing,
47 nutrition, social participation and support, and cognitive functioning using an assessment tool
48 approved by the department of health and senior services that is designed for community-based
49 services and that is not the nursing home minimum data set;

50 (8) "Dementia", a general term for the loss of thinking, remembering, and reasoning so
51 severe that it interferes with an individual's daily functioning, and may cause symptoms that
52 include changes in personality, mood, and behavior;

53 (9) "Department", the Missouri department of health and senior services;

54 (10) "Emergency", a situation, physical condition or one or more practices, methods or
55 operations which presents imminent danger of death or serious physical or mental harm to
56 residents of a facility;

57 (11) "Facility", any residential care facility, assisted living facility, intermediate care
58 facility, or skilled nursing facility;

59 (12) "Health care provider", any person providing health care services or goods to
60 residents and who receives funds in payment for such goods or services under Medicaid;

61 (13) "Instrumental activities of daily living", or "IADL", one or more of the following
62 activities:

- 63 (a) Preparing meals;
- 64 (b) Shopping for personal items;
- 65 (c) Medication management;
- 66 (d) Managing money;
- 67 (e) Using the telephone;
- 68 (f) Housework; and
- 69 (g) Transportation ability;

70 (14) "Intermediate care facility", any premises, other than a residential care facility,
71 assisted living facility, or skilled nursing facility, which is utilized by its owner, operator, or
72 manager to provide twenty-four-hour accommodation, board, personal care, and basic health and
73 nursing care services under the daily supervision of a licensed nurse and under the direction of
74 a licensed physician to three or more residents dependent for care and supervision and who are
75 not related within the fourth degree of consanguinity or affinity to the owner, operator or
76 manager of the facility;

77 (15) "Manager", any person other than the administrator of a facility who contracts or
78 otherwise agrees with an owner or operator to supervise the general operation of a facility,
79 providing such services as hiring and training personnel, purchasing supplies, keeping financial
80 records, and making reports;

81 (16) "Medicaid", medical assistance under section 208.151, RSMo, et seq., in
82 compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42
83 U.S.C. 301, et seq.), as amended;

84 (17) "Neglect", the failure to provide, by those responsible for the care, custody, and
85 control of a resident in a facility, the services which are reasonable and necessary to maintain the
86 physical and mental health of the resident, when such failure presents either an imminent danger
87 to the health, safety or welfare of the resident or a substantial probability that death or serious
88 physical harm would result;

89 (18) "Operator", any person licensed or required to be licensed under the provisions of
90 sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

91 (19) "Owner", any person who owns an interest of five percent or more in:

- 92 (a) The land on which any facility is located;
- 93 (b) The structure or structures in which any facility is located;

94 (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by
95 the land or structure in or on which a facility is located; or

96 (d) Any lease or sublease of the land or structure in or on which a facility is located.

97

98 "Owner" does not include a holder of a debenture or bond purchased at public issue nor does it
99 include any regulated lender unless the entity or person directly or through a subsidiary operates
100 a facility;

101 (20) "Protective oversight", an awareness twenty-four hours a day of the location of a
102 resident, the ability to intervene on behalf of the resident, the supervision of nutrition,
103 medication, or actual provisions of care, and the responsibility for the welfare of the resident,
104 except where the resident is on voluntary leave;

105 (21) "Resident", a person who by reason of aging, illness, disease, or physical or mental
106 infirmity receives or requires care and services furnished by a facility and who resides or boards
107 in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding
108 twenty-four consecutive hours;

109 (22) "Residential care facility", any premises, other than an assisted living facility,
110 intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or
111 manager to provide twenty-four-hour care to three or more residents, who are not related within
112 the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility
113 and who need or are provided with shelter, board, and with protective oversight, which may
114 include storage and distribution or administration of medications and care during short-term
115 illness or recuperation, except that, for purposes of receiving supplemental welfare assistance
116 payments under section 208.030, RSMo, only any residential care facility licensed as a
117 residential care facility II immediately prior to August 28, 2006, and that continues to meet such
118 licensure requirements for a residential care facility II licensed immediately prior to August 28,
119 2006, shall continue to receive after August 28, 2006, the payment amount allocated immediately
120 prior to August 28, 2006, for a residential care facility II under section 208.030;

121 (23) "Skilled nursing facility", any premises, other than a residential care facility, an
122 assisted living facility, or an intermediate care facility, which is utilized by its owner, operator
123 or manager to provide for twenty-four-hour accommodation, board and skilled nursing care and
124 treatment services to at least three residents who are not related within the fourth degree of
125 consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care
126 and treatment services are those services commonly performed by or under the supervision of
127 a registered professional nurse for individuals requiring twenty-four-hours-a-day care by licensed
128 nursing personnel including acts of observation, care and counsel of the aged, ill, injured or

129 infirm, the administration of medications and treatments as prescribed by a licensed physician
130 or dentist, and other nursing functions requiring substantial specialized judgment and skill;

131 (24) "Social model of care", long-term care services based on the abilities, desires, and
132 functional needs of the individual delivered in a setting that is more home-like than institutional
133 and promotes the dignity, individuality, privacy, independence, and autonomy of the individual.
134 Any facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as
135 being more home-like than institutional with respect to construction and physical plant standards;

136 (25) "Vendor", any person selling goods or services to a health care provider;

137 (26) "Voluntary leave", an off-premise leave initiated by:

138 (a) A resident that has not been declared mentally incompetent or incapacitated by a
139 court; or

140 (b) A legal guardian of a resident that has been declared mentally incompetent or
141 incapacitated by a court.

198.090. 1. An operator may make available to any resident the service of holding in
2 trust personal possessions and funds of the resident and shall, as authorized by the resident,
3 expend the funds to meet the resident's personal needs. In providing this service the operator
4 shall:

5 (1) At the time of admission, provide each resident or his next of kin or legal guardian
6 with a written statement explaining the resident's rights regarding personal funds;

7 (2) Accept funds and personal possessions from or for a resident for safekeeping and
8 management, only upon written authorization by the resident or by his designee, or guardian in
9 the case of an adjudged incompetent;

10 (3) Deposit any personal funds received from or on behalf of a resident in an account
11 separate from the facility's funds, except that an amount to be established by rule of the division
12 of aging may be kept in a petty cash fund for the resident's personal needs;

13 (4) Keep a written account, available to a resident and his designee or guardian,
14 maintained on a current basis for each resident, with written receipts, for all personal possessions
15 and funds received by or deposited with the facility and for all disbursements made to or on
16 behalf of the resident;

17 (5) Provide each resident or his designee or guardian with a quarterly accounting of all
18 financial transactions made on behalf of the resident;

19 (6) Within five days of the discharge of a resident, provide the resident, or his designee
20 or guardian, with an up-to-date accounting of the resident's personal funds and return to the
21 resident the balance of his funds and all his personal possessions;

22 (7) Upon the death of a resident who has been a recipient of aid, assistance, care,
23 services, or who has had moneys expended on his behalf by the department of social services,

24 provide the department a complete account of all the resident's personal funds within sixty days
25 from the date of death. The total amount paid to the decedent or expended upon his behalf by
26 the department shall be a debt due the state and recovered from the available funds upon the
27 department's claim on such funds. The department shall make a claim on the funds within sixty
28 days from the date of the accounting of the funds by the facility. The nursing facility shall pay
29 the claim made by the department of social services from the resident's personal funds within
30 sixty days. Where the name and address are reasonably ascertainable, the department of social
31 services shall give notice of the debt due the state to the person whom the recipient had
32 designated to receive the quarterly accounting of all financial transactions made under this
33 section, or the resident's guardian or conservator or the person or persons listed in nursing home
34 records as a responsible party or the fiduciary of the resident's estate. If any funds are available
35 after the department's claim, the remaining provisions of this section shall apply to the balance,
36 unless the funds belonged to a person other than the resident, in which case the funds shall be
37 paid to that person;

38 (8) Upon the death of a resident who has not been a recipient of aid, assistance, care,
39 services, or who has not had moneys expended on his behalf by the department of social services
40 or the department has not made a claim on the funds, provide the fiduciary of resident's estate,
41 at the fiduciary's request, a complete account of all the resident's personal funds and possessions
42 and deliver to the fiduciary all possessions of the resident and the balance of the resident's funds.
43 If, after one year from the date of death, no fiduciary makes claim upon such funds or
44 possessions, the operator shall notify the department that the funds remain unclaimed. Such
45 unclaimed funds or possessions shall be disposed of as follows:

46 (a) If the unclaimed funds or possessions have a value totaling one hundred and fifty
47 dollars or less, the funds or the proceeds of the sale of the possessions may be deposited in a fund
48 to be used for the benefit of all residents of the facility by providing the residents social or
49 educational activities. The facility shall keep an accounting of the acquisitions and expenditure
50 of these funds; or

51 (b) If the unclaimed funds or possessions have a value greater than one hundred and fifty
52 dollars, the funds or possessions shall be immediately presumed to be abandoned property under
53 sections 447.500 to 447.585, RSMo, and the procedures provided for in those sections shall
54 apply notwithstanding any other provisions of those sections which require a period greater than
55 two years for a presumption of abandonment;

56 (9) Upon ceasing to be the operator of a facility, all funds and property held in trust
57 pursuant to this section shall be transferred to the new operator in accordance with sound
58 accounting principles, and a closeout report signed by both the outgoing operator and the
59 successor operator shall be prepared. The closeout report shall include a list of current balances

60 of all funds held for residents respectively and an inventory of all property held for residents
61 respectively. If the outgoing operator refuses to sign the closeout report, he shall state in writing
62 the specific reasons for his failure to so sign, and the successor operator shall complete the report
63 and attach an affidavit stating that the information contained therein is true to the best of his
64 knowledge and belief. Such report shall be retained with all other records and accounts required
65 to be maintained under this section;

66 (10) Not be required to invest any funds received from or on behalf of a resident, nor to
67 increase the principal of any such funds.

68 2. Any owner, operator, manager, employee, or affiliate of an owner or operator who
69 receives any personal property or anything else of value from a resident, shall, if the thing
70 received has a value of ten dollars or more, make a written statement giving the date it was
71 received, from whom it was received, and its estimated value. Statements required to be made
72 pursuant to this subsection shall be retained by the operator and shall be made available for
73 inspection by the department, or by the department of mental health when the resident has been
74 placed by that department, and by the resident, and his designee or legal guardian. Any person
75 who fails to make a statement required by this subsection is guilty of a class C misdemeanor.

76 3. No owner, operator, manager, employee, or affiliate of an owner or operator shall in
77 one calendar year receive any personal property or anything else of value from the residents of
78 any facility which have a total estimated value in excess of one hundred dollars.

79 4. Subsections 2 and 3 of this section shall not apply if the property or other thing of
80 value is held in trust in accordance with subsection 1 of this section, is received in payment for
81 services rendered or pursuant to the terms of a lawful contract, or is received from a resident who
82 is related to the recipient within the fourth degree of consanguinity or affinity.

83 5. Any operator who fails to maintain records or who fails to maintain any resident's
84 personal funds in an account separate from the facility's funds as required by this section shall
85 be guilty of a class C misdemeanor.

86 6. Any operator, or any affiliate or employee of an operator, who puts to his own use or
87 the use of the facility or otherwise diverts from the resident's use any personal funds of the
88 resident shall be guilty of a class A misdemeanor.

89 [7. Any person having reasonable cause to believe that a misappropriation of a resident's
90 funds or property has occurred may report such information to the department.

91 8. For each report the division shall attempt to obtain the name and address of the
92 facility, the name of the facility employee, the name of the resident, information regarding the
93 nature of the misappropriation, the name of the complainant, and any other information which
94 might be helpful in an investigation.

95 9. Upon receipt of a report, the department shall initiate an investigation.

96 10. If the investigation indicates probable misappropriation of property or funds of a
97 resident, the investigator shall refer the complaint together with his report to the department
98 director or his designee for appropriate action.

99 11. Reports shall be confidential, as provided under section 660.320, RSMo.

100 12. Anyone, except any person participating in or benefiting from the misappropriation
101 of funds, who makes a report pursuant to this section or who testifies in any administrative or
102 judicial proceeding arising from the report shall be immune from any civil or criminal liability
103 for making such a report or for testifying except for liability for perjury, unless such person acted
104 negligently, recklessly, in bad faith, or with malicious purpose.

105 13. Within five working days after a report required to be made under this section is
106 received, the person making the report shall be notified in writing of its receipt and of the
107 initiation of the investigation.

108 14. No person who directs or exercises any authority in a facility shall evict, harass,
109 dismiss or retaliate against a resident or employee because he or any member of his family has
110 made a report of any violation or suspected violation of laws, ordinances or regulations applying
111 to the facility which he has reasonable cause to believe has been committed or has occurred.

112 15. The department shall maintain the employee disqualification list and place on the
113 employee disqualification list the names of any persons who have been finally determined by the
114 department, pursuant to section 660.315, RSMo, to have misappropriated any property or funds
115 of a resident while employed in any facility.]

198.097. **1.** Any person who assumes the responsibility of managing the financial affairs
2 of an elderly **or disabled** person who is a resident of [a nursing home] **any facility licensed**
3 **under chapter 198**, shall be guilty of a class D felony if such person misappropriates the funds
4 and fails to pay for the [nursing home] **facility** care of the elderly **or disabled** person. **For the**
5 **purposes of this section, a person assumes the responsibility of managing the financial**
6 **affairs of an elderly or disabled person when he or she receives, has access to, handles or**
7 **controls the elderly or disabled person's monetary funds, including but not limited to**
8 **Social Security income, pension, cash or other resident income.**

9 **2. Evidence of misappropriating funds and failing to pay for the care of an elderly**
10 **or disabled person may include, but shall not be limited to proof that the facility has sent,**
11 **by certified mail with confirmation receipt requested, notification of failure to pay facility**
12 **care expenses incurred by a resident to the person who has assumed responsibility of**
13 **managing the financial affairs of the resident.**

14 **3. Nothing in subsection 2 of this section shall be construed as limiting the**
15 **investigations or prosecutions of violations of subsection 1 of this section or the crime of**
16 **financial exploitation of an elderly or disabled person as defined by section 570.145, RSMo.**

198.532. 1. Complaints filed with the department of health and senior services against
 2 a long-term care facility which allege that harm has occurred or is likely to occur to a resident
 3 or residents of the facility due to actions or the lack of actions taken by the facility shall be
 4 investigated within thirty days of receipt of such complaints. The purpose of such investigation
 5 shall be to ensure the safety, protection and care of all residents of the facility likely to be
 6 affected by the alleged action or inaction. Such investigation shall be in addition to the
 7 investigation requirements for abuse and neglect reports pursuant to section [198.070] **192.2150,**
 8 **RSMo.**

9 2. The department shall provide the results of all investigations in accordance with
 10 section [660.320] **192.2150,** RSMo. The department shall provide the results of such
 11 investigation in writing to all parties to the complaint, and if requested, to any of the facility's
 12 residents, or their family members or guardians. Complaints and written results will be readily
 13 available for public access and review at the department of health and senior services and at the
 14 long-term care facility. Personal information identifying the resident will be blanked out, except
 15 in regard to immediate family, the attorney-in-fact or the legal guardian of the resident in
 16 question. This information will remain readily available for a period of time determined by the
 17 department of health and senior services.

[660.600.] **198.700.** As used in sections [660.600 to 660.608] **198.700 to 198.708,** the
 2 following terms mean:

- 3 (1) ["Division", the division of aging of the department of social services]
 4 **"Department", the department of health and senior services;**
 5 (2) "Long-term care facility", any facility licensed pursuant to chapter 198, RSMo, and
 6 long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;
 7 (3) "Office", the office of the state ombudsman for long-term care facility residents;
 8 (4) "Ombudsman", the state ombudsman for long-term care facility residents;
 9 (5) "Regional ombudsman coordinators", designated individuals working for, or under
 10 contract with, the area agencies on aging, and who are so designated by the area agency on aging
 11 and certified by the ombudsman as meeting the qualifications established by the [division]
 12 **department;**
 13 (6) "Resident", any person who is receiving care or treatment in a long-term care facility.

[660.603.] **198.703.** 1. There is hereby established within the department of health and
 2 senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the
 3 purpose of helping to assure the adequacy of care received by residents of long-term care
 4 facilities and to improve the quality of life experienced by them, in accordance with the federal
 5 Older Americans Act, 42 U.S.C. 3001, et seq.

6 2. The office shall be administered by the state ombudsman, who shall devote his or her
7 entire time to the duties of his or her position.

8 3. The office shall establish and implement procedures for receiving, processing,
9 responding to, and resolving complaints made by or on behalf of residents of long-term care
10 facilities relating to action, inaction, or decisions of providers, or their representatives, of
11 long-term care services, of public agencies or of social service agencies, which may adversely
12 affect the health, safety, welfare or rights of such residents.

13 4. The department shall establish and implement procedures for resolution of complaints.
14 The ombudsman or representatives of the office shall have the authority to:

15 (1) Enter any long-term care facility and have access to residents of the facility at a
16 reasonable time and in a reasonable manner. The ombudsman shall have access to review
17 resident records, if given permission by the resident or the resident's legal guardian. Residents
18 of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

19 (2) Make the necessary inquiries and review such information and records as the
20 ombudsman or representative of the office deems necessary to accomplish the objective of
21 verifying these complaints.

22 5. The office shall acknowledge complaints, report its findings, make recommendations,
23 gather and disseminate information and other material, and publicize its existence.

24 6. The ombudsman may recommend to the relevant governmental agency changes in the
25 rules and regulations adopted or proposed by such governmental agency which do or may
26 adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility.
27 The office shall analyze and monitor the development and implementation of federal, state and
28 local laws, regulations and policies with respect to long-term care facilities and services in the
29 state and shall recommend to the department changes in such laws, regulations and policies
30 deemed by the office to be appropriate.

31 7. The office shall promote community contact and involvement with residents of
32 facilities through the use of volunteers and volunteer programs directed by the regional
33 ombudsman coordinators.

34 8. The office shall develop and establish by regulation of the department statewide
35 policies and standards for implementing the activities of the ombudsman program, including the
36 qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

37 9. The office shall develop and propose programs for use, training and coordination of
38 volunteers in conjunction with the regional ombudsman coordinators and may:

39 (1) Establish and conduct recruitment programs for volunteers;

40 (2) Establish and conduct training seminars, meetings and other programs for volunteers;

41 and

42 (3) Supply personnel, written materials and such other reasonable assistance, including
43 publicizing their activities, as may be deemed necessary.

44 10. The regional ombudsman coordinators and ombudsman volunteers shall have the
45 authority to report instances of abuse and neglect to the ombudsman hotline operated by the
46 department.

47 11. If the regional ombudsman coordinator or volunteer finds that a nursing home
48 administrator is not willing to work with the ombudsman program to resolve complaints, the
49 state ombudsman shall be notified. The department shall establish procedures by rule in
50 accordance with chapter 536, RSMo, for implementation of this subsection.

51 12. The office shall prepare and distribute to each facility written notices which set forth
52 the address and telephone number of the office, a brief explanation of the function of the office,
53 the procedure to follow in filing a complaint and other pertinent information.

54 13. The administrator of each facility shall ensure that such written notice is given to
55 every resident or the resident's guardian upon admission to the facility and to every person
56 already in residence, or to his guardian. The administrator shall also post such written notice in
57 a conspicuous, public place in the facility in the number and manner set forth in the regulations
58 adopted by the department.

59 14. The office shall inform residents, their guardians or their families of their rights and
60 entitlements under state and federal laws and rules and regulations by means of the distribution
61 of educational materials and group meetings.

[660.605.] **198.705.** 1. Any files maintained by the ombudsman program shall be
2 disclosed only at the discretion of the ombudsman having authority over the disposition of such
3 files, except that the identity of any complainant or resident of a long-term care facility shall not
4 be disclosed by such ombudsman unless:

5 (1) Such complainant or resident, or the complainant's or resident's legal representative,
6 consents in writing to such disclosure; or

7 (2) Such disclosure is required by court order.

8 2. Any representative of the office conducting or participating in any examination of a
9 complaint who shall knowingly and willfully disclose to any person other than the office, or
10 those authorized by the office to receive it, the name of any witness examined or any information
11 obtained or given upon such examination, shall be guilty of a class A misdemeanor. However,
12 the ombudsman conducting or participating in any examination of a complaint shall disclose the
13 final result of the examination to the facility with the consent of the resident.

14 3. Any statement or communication made by the office relevant to a complaint received
15 by, proceedings before or activities of the office and any complaint or information made or

16 provided in good faith by any person, shall be absolutely privileged and such person shall be
17 immune from suit.

18 4. The office shall not be required to testify in any court with respect to matters held to
19 be confidential in this section except as the court may deem necessary to enforce the provisions
20 of sections [660.600 to 660.608] **198.700 to 198.708**, or where otherwise required by court order.

[660.608.] **198.708.** 1. Any regional coordinator or local program staff, whether an
2 employee or an unpaid volunteer, shall be treated as a representative of the office. No
3 representative of the office shall be held liable for good faith performance of his **or her** official
4 duties under the provisions of sections [660.600 to 660.608] **198.700 to 198.708** and shall be
5 immune from suit for the good faith performance of such duties. Every representative of the
6 office shall be considered a state employee under section 105.711, RSMo.

7 2. No reprisal or retaliatory action shall be taken against any resident or employee of a
8 long-term care facility for any communication made or information given to the office. Any
9 person who knowingly or willfully violates the provisions of this subsection shall be guilty of
10 a class A misdemeanor. Any person who serves or served on a quality assessment and assurance
11 committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as
12 amended, shall be immune from civil liability only for acts done directly as a member of such
13 committee so long as the acts are performed in good faith, without malice and are required by
14 the activities of such committee as defined in 42 CFR sec. 483.75(r).

199.001. As used in sections 199.001 to 199.055, the following terms mean:

2 (1) "[Division] **Department**", the [division of injury prevention, head injury
3 rehabilitation and local health services of the] department of health and senior [services]
4 **services' adult head injury program;**

5 (2) "[Head] **Brain injury**" [includes head injury, traumatic head injury, and spinal cord
6 injury as defined in section 192.735, RSMo] **or "traumatic brain injury", a sudden insult or**
7 **damage to the brain or its coverings, not of a degenerative nature. Such insult or damage**
8 **may produce an altered state of consciousness and may result in a decrease of one or more**
9 **of the following: mental, cognitive, behavioral, or physical functioning resulting in partial**
10 **or total disability. Cerebral vascular accidents, aneurisms, and congenital deficits are**
11 **excluded from this definition;**

12 (3) "Injury or trauma", any unintentional or intentional damage to the body resulting
13 from acute exposure to thermal, mechanical, electrical, or chemical energy or from the absence
14 of such essentials as heat or oxygen;

15 (4) "Rehabilitation", a comprehensive series of interventions for physical, medical,
16 cognitive and psychological disabilities designed to restore a person to his maximum functional
17 potential.

199.003. 1. [The "Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services" is hereby created and shall be a division of the department of health and senior services.] The [division] **department** shall have the responsibility, **subject to appropriations**, of ensuring that injury prevention and [head] **brain** injury rehabilitation evaluation, [case management] **service coordination**, treatment, rehabilitation, and community support services are accessible, wherever possible. [The division shall have and exercise supervision of division rehabilitation facilities, residential programs and specialized services operated by the division and oversight of facilities, programs and services funded by the division. The division may also plan for prevention, treatment, rehabilitation and care, including hospice, for persons with other diseases as determined by the general assembly by appropriations. The division shall also have responsibilities for the support, development, and coordination of local health services.]

2. The powers, functions and duties of the [division] **department** shall include the following:

(1) [Provision of funds for] **Planning and implementing**, in cooperation with the Missouri [head] **brain** injury advisory council [and implementation of], accessible programs to [rehabilitate and care for] **promote rehabilitation and community reintegration of** persons with [head injuries, injury prevention and research] **brain injuries**;

(2) Provision of technical assistance and training to community-based programs [and assistance and cooperation to programs of political subdivisions designed to assist in planning and implementing quality services] **assisting persons with brain injuries**;

(3) Assurance of [program] quality [in compliance with such appropriate standards for residential facilities, day programs, and specialized programs as may be established by the division] **for brain injury services funded by the department**;

(4) Sponsorship and encouragement of research into the causes, effects, prevention, treatment and rehabilitation of injuries and appropriateness and cost and benefit effectiveness of [head] **brain** injury rehabilitation, residential programs and specialized services;

(5) Provision of public information relating to injury prevention and [head] **brain** injury treatment and rehabilitation;

(6) Cooperation with nonstate governmental agencies and [the] private sector [in establishing, conducting, integrating and coordinating] programs and projects relating to injury prevention and [head] **brain** injury treatment and rehabilitation;

(7) [Review and oversight of those portions of the department's annual budget which are directed for injury prevention and head injury services];

(8) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by head injuries to be accepted and integrated into normal community activities;

37 (9) Support, development, and coordination of local health services, which shall include
38 but shall not be limited to:

39 (a) Professional resources and staff development;

40 (b) Services assessment and coordination;

41 (c) Standards development, implementation and quality assurance;

42 (d) Provision of basic public health services in areas not served by local public health
43 agencies;

44 (e) Fiscal resources and management;

45 (f) Technical assistance; and

46 (g) Assistance with public health problems, emergencies and conditions] **Receiving**
47 **federal grants and aids for injury prevention and for persons with brain injuries and brain**
48 **injury rehabilitation under the terms of the grants and aids and administering or paying**
49 **them out. The director shall approve such applications for federal assistance administered**
50 **through the department as may be considered advisable in consultation with the Missouri**
51 **brain injury advisory council;**

52 (8) **Promulgating rules under the provisions of this section, as necessary to**
53 **prescribe policies or standards which affect charging and funding of adult brain injury**
54 **rehabilitation services. The rules applicable to each program or service operated or funded**
55 **by the department shall be available for public inspection and review at such program or**
56 **service. The rules and policies shall be compatible with and appropriate to the program**
57 **mission, population served, size, type of service, and other reasonable classifications;**

58 (9) **Promulgating reasonable rules relative to the implementation of participant**
59 **rights described in sections 199.001 to 199.051;**

60 (10) **Promulgating rules setting forth a reasonable standard means test which shall**
61 **be applied to all programs and services funded by the department in determining eligibility**
62 **for such services.**

63 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
64 **that is created under the authority delegated in this section shall become effective only if**
65 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
66 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
67 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
68 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
69 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
70 **adopted after August 28, 2007, shall be invalid and void.**

199.007. The Missouri [head] **brain** injury advisory council, created by section 192.745,
2 RSMo, shall act as the advisory body to the [division and the division] **department and the**

3 **department** director. Any power or function of the [division] **department** requiring planning
4 activities shall be undertaken with the direct input and cooperation of the advisory council. The
5 [division] **department** shall not undertake or duplicate any activity or function of the council
6 under the provisions of section 192.745, RSMo.

199.009. 1. The [division] **department** may provide injury prevention, and [head] **brain**
2 injury evaluation, care, treatment, rehabilitation and such related services directly or through
3 contracts from private and public vendors in this state, the quality of the services being equal,
4 appropriate and consistent with professional advice in the least restrictive environment and as
5 close to an individual's home community as possible, with funds appropriated for this purpose.

6 2. If it is determined through a comprehensive evaluation that a person [is suffering from
7 a head] **has a traumatic brain** injury so as to require the coordination of provision of services,
8 including other state governmental agencies, nongovernmental and the private sector, and if such
9 person, such person's parent, if the person is a minor, or legal guardian, so requests, the [division]
10 **department** shall, within the limits of available resources and subject to relevant federal and
11 state laws, secure a comprehensive program of any necessary services for such person. Such
12 services [may include, but need not be limited to, the following:

- 13 (1) Assessment and evaluation;
- 14 (2) Case management;
- 15 (3) Counseling;
- 16 (4) Respite care;
- 17 (5) Recreation;
- 18 (6) Rehabilitation;
- 19 (7) Cognitive retraining;
- 20 (8) Prevocational rehabilitation;
- 21 (9) Residential care;
- 22 (10) Homemaker services;
- 23 (11) Day activity programs;
- 24 (12) Supported living;
- 25 (13) Referral to appropriate services;
- 26 (14) Transportation;
- 27 (15) Supported work]

28 **, if provided by the department, shall be directed toward**
29 **preparation for education or vocational achievement, independent living, and community**
30 **participation. Long-term needs shall be identified and efforts made to link participants**
31 **with appropriate resources.**

32 3. In securing the comprehensive program of services, the [division] **department** shall
involve the [patient] **participant**, his **or her** family or his **or her** legal guardian in decisions

33 affecting his **or her** care, rehabilitation, services or referral. The quality of the services being
34 equal, appropriate and consistent with professional advice, services shall be offered in the least
35 restrictive environment and as close to an individual's home community as possible.

36 **4. In accordance with state and federal law, no service or program operated or**
37 **funded by the department shall deny admission or other services to any person because of**
38 **the person's race, sex, creed, marital status, national origin, handicap, or age.**

199.010. The curators of the University of Missouri shall provide for the care of persons
2 needing [head] **brain** injury and other rehabilitation and further, for the treatment and
3 commitment of persons having tuberculosis subject to appropriation by the general assembly.

199.029. 1. The [division] **department** shall promulgate rules under the provisions of
2 this section and chapter 536, RSMo, as necessary to prescribe policies or standards which affect
3 charging and funding of residential care rehabilitation programs and specialized services for
4 persons with [head] **brain** injuries available to the public. The rules applicable to each facility,
5 program or service operated or funded by the [division] **department** shall be available for public
6 inspection and review at such facility, program or service. These rules shall not apply to
7 facilities, programs or services operated or provided by curators of the University of Missouri.

8 2. The rules, operating regulations and facility policies shall be compatible with and
9 appropriate to the facility or program mission, population served, size, type of service and other
10 reasonable classifications. No rule or portion of a rule promulgated under the authority of this
11 chapter shall become effective unless it has been promulgated pursuant to the provisions of
12 section 536.024, RSMo.

199.031. 1. The [division] **department** may receive federal grants and aids for injury
2 prevention and for persons with [head] **brain** injuries and [head] **brain** injury rehabilitation
3 under the terms of the grants and aids and administer or pay them out subject to the provisions
4 attached.

5 2. The director shall approve such applications for federal assistance administered
6 through the [division] **department** as may be considered advisable after consultation with the
7 Missouri [head] **brain** injury advisory council.

199.037. The director of the [division] **department** shall promulgate reasonable rules
2 relative to the implementation of patient rights described in sections 199.001 to 199.055. These
3 rules shall not apply to facilities, programs or services operated or provided by the curators of
4 the University of Missouri.

199.039. The director of the [division] **department** shall promulgate rules setting forth
2 a reasonable standard means test which shall be applied to all facilities, programs and services
3 operated or funded by the [division] **department** in determining the amount to be charged to
4 persons receiving services. Notwithstanding other provisions of sections 199.001 to 199.055,

5 the department shall accept funds from federal reimbursement, third-party reimbursement,
6 private pay or other funding sources.

199.041. 1. Any probate division of the circuit court having knowledge of the existence
2 of an estate of a patient receiving services from residential facilities or other programs operated
3 or funded by the [division] **department** shall promptly notify the director of the nature and
4 extent of the estate and the identity of the attorney of record and conservator. The director shall
5 then apply the standard means test contained in the rules of the [division] **department** to
6 determine if the estate shall be charged for services rendered by the [division] **department**.

7 2. If the director determines that the estate should be charged for the evaluation, care,
8 treatment, rehabilitation or room and board provided or funded by the [division] **department**,
9 and notifies the conservator, the conservator shall pay the charges. If the conservator fails to pay
10 for the charges, after reasonable delay, the head of the [division] **department**, residential facility
11 or day program may discharge the patient.

12 3. The decision of the director shall be final, and appeal may be made to the circuit court
13 of Cole County or the county where the person responsible for payment resides in the manner
14 provided by chapter 536, RSMo. The director shall notify the conservator and the supervising
15 court of such failure to pay for services rendered by a facility or program operated or funded by
16 the [division] **department** at least thirty days before the patient is discharged. If the conservator
17 appeals the decision of the director, the patient shall remain in the facility or program pending
18 final disposition of the appeal.

199.043. In accordance with state and federal law, no residential facility, day program
2 or specialized service operated or funded by the [division] **department** shall deny admission or
3 other services to any person because of his race, sex, creed, marital status, national origin,
4 handicap or age.

199.051. The [division] **department** may inspect any facility or program at any time if
2 a contract has been issued or an application for a contract has been filed.

208.909. 1. Consumers receiving personal care assistance services shall be responsible
2 for:

- 3 (1) Supervising their personal care attendant;
- 4 (2) Verifying wages to be paid to the personal care attendant;
- 5 (3) Preparing and submitting time sheets, signed by both the consumer and personal care
6 attendant, to the vendor on a biweekly basis;
- 7 (4) Promptly notifying the department within ten days of any changes in circumstances
8 affecting the personal care assistance services plan or in the consumer's place of residence; and
- 9 (5) Reporting any problems resulting from the quality of services rendered by the
10 personal care attendant to the vendor. If the consumer is unable to resolve any problems

11 resulting from the quality of service rendered by the personal care attendant with the vendor, the
12 consumer shall report the situation to the department.

13 2. Participating vendors shall be responsible for:

14 (1) Collecting time sheets and certifying their accuracy;

15 (2) The Medicaid reimbursement process, including the filing of claims and reporting
16 data to the department as required by rule;

17 (3) Transmitting the individual payment directly to the personal care attendant on behalf
18 of the consumer;

19 (4) Monitoring the performance of the personal care assistance services plan.

20 3. No state or federal financial assistance shall be authorized or expended to pay for
21 services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the
22 services is to the household unit, or is a household task that the members of the consumer's
23 household may reasonably be expected to share or do for one another when they live in the same
24 household, unless such service is above and beyond typical activities household members may
25 reasonably provide for another household member without a disability.

26 4. No state or federal financial assistance shall be authorized or expended to pay for
27 personal care assistance services provided by a personal care attendant [who is listed on any of
28 the background check lists in the family care safety registry under sections 210.900 to 210.937,
29 RSMo, unless a good cause waiver is first obtained from the department in accordance with
30 section 660.317, RSMo] **who:**

31 (1) **Is listed on the employee disqualification list maintained by the department of**
32 **health and senior services under section 192.2150, RSMo;**

33 (2) **Is registered as a sexual offender under section 589.400, RSMo; or**

34 (3) **Has a disqualifying criminal history under section 192.2178, RSMo, unless a**
35 **good cause waiver is first obtained from the department in accordance with section**
36 **192.2178, RSMo.**

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

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

4 (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed
5 or license-exempt child-care center, **in-home provider under contract with the department**
6 **of health and senior services**, child-placing agency, residential care facility for children, group
7 home, foster family group home, foster family home, employment agency that refers a child-care
8 worker to parents or guardians as defined in section 289.005, RSMo. The term "child-care
9 provider" does not include summer camps or voluntary associations designed primarily for
10 recreational or educational purposes;

11 (2) "Child-care worker", any person who is employed by a child-care provider, or
12 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as
13 remuneration for child-care services;

14 (3) "Department", the department of health and senior services;

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

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

24 (6) "Patrol", the Missouri state highway patrol;

25 (7) "Employer", any child-care provider, elder-care provider, or personal-care provider
26 as defined in this section;

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

30 (9) "Personal-care provider", any person, corporation, or association who provides
31 personal-care services or supports under contract with the department of mental health, [the
32 division of aging,] the department of health and senior services or the department of elementary
33 and secondary education;

34 (10) "Related child care", child care provided only to a child or children by such child's
35 or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence
36 separate from the child or children;

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

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1,
2 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration
3 form provided by the department. The department shall make such forms available no later than
4 January 1, 2001, and may, by rule, determine the specific content of such form, but every form
5 shall:

6 (1) Request the valid Social Security number of the applicant;

7 (2) Include information on the person's right to appeal the information contained in the
8 registry pursuant to section 210.912;

9 (3) Contain the signed consent of the applicant for the background checks required
10 pursuant to this section; and

11 (4) Contain the signed consent for the release of information contained in the
12 background check for employment purposes only.

13 2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and
14 every personal-care worker hired on or after January 1, 2002, shall complete a registration form
15 within fifteen days of the beginning of such person's employment. Any person employed as a
16 child-care, elder-care or personal-care worker who fails to submit a completed registration form
17 to the department of health and senior services as required by sections 210.900 to 210.936
18 without good cause, as determined by the department, is guilty of a class B misdemeanor.

19 3. The costs of the criminal background check may be paid by the individual applicant,
20 or by the provider if the applicant is so employed, or for those applicants receiving public
21 assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325,
22 RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall
23 be deposited to the credit of the criminal record system fund as required by section 43.530,
24 RSMo.

25 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically
26 registered in the family care safety registry at no additional cost other than the costs required
27 pursuant to sections 210.481 to 210.565.

28 5. Any person not required to register pursuant to the provisions of sections 210.900 to
29 210.936 may also be included in the registry if such person voluntarily applies to the department
30 for registration and meets the requirements of this section and section 210.909, including
31 submitting to the background checks in subsection 1 of section 210.909.

32 6. The provisions of sections 210.900 to 210.936 shall not extend to related child care,
33 related elder care or related personal care **workers or attendants who do not receive state or**
34 **federal moneys for services.**

302.171. 1. Beginning July 1, 2005, the director shall verify that an applicant for a
2 driver's license is lawfully present in the United States before accepting the application. The
3 director shall not issue a driver's license for a period that exceeds an applicant's lawful presence
4 in the United States. The director may establish procedures to verify the lawful presence of the
5 applicant and establish the duration of any driver's license issued under this section. An
6 application for a license shall be made upon an approved form furnished by the director. Every
7 application shall state the full name, Social Security number, age, height, weight, color of eyes,
8 sex, residence, mailing address of the applicant, and the classification for which the applicant
9 has been licensed, and, if so, when and by what state, and whether or not such license has ever
10 been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and

11 reason for such suspension, revocation or disqualification and whether the applicant is making
12 a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this
13 section. A driver's license, nondriver's license, or instruction permit issued under this chapter
14 shall contain the applicant's legal name as it appears on a birth certificate or as legally changed
15 through marriage or court order. No name change by common usage based on common law shall
16 be permitted. The application shall also contain such information as the director may require to
17 enable the director to determine the applicant's qualification for driving a motor vehicle; and
18 shall state whether or not the applicant has been convicted in this or any other state for violating
19 the laws of this or any other state or any ordinance of any municipality, relating to driving
20 without a license, careless driving, or driving while intoxicated, or failing to stop after an
21 accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's
22 consent. The application shall contain a certification by the applicant as to the truth of the facts
23 stated therein. Every person who applies for a license to operate a motor vehicle who is less than
24 twenty-one years of age shall be provided with educational materials relating to the hazards of
25 driving while intoxicated, including information on penalties imposed by law for violation of the
26 intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than
27 eighteen years of age, the applicant must comply with all requirements for the issuance of an
28 intermediate driver's license pursuant to section 302.178.

29 2. An applicant for a license may make a donation of one dollar to promote an organ
30 donor program. The director of revenue shall collect the donations and deposit all such
31 donations in the state treasury to the credit of the organ donor program fund established in
32 sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used
33 solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the
34 department of revenue shall retain no more than one percent for its administrative costs. The
35 donation prescribed in this subsection is voluntary and may be refused by the applicant for the
36 license at the time of issuance or renewal of the license. The director shall make available an
37 informational booklet or other informational sources on the importance of organ donations to
38 applicants for licensure as designed by the organ donation advisory committee established in
39 sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the
40 licensee presents the completed application to the director whether the applicant is interested in
41 making the one dollar donation prescribed in this subsection and whether the applicant is
42 interested in inclusion in the organ donor registry and shall also specifically inform the licensee
43 of the ability to consent to organ donation by completing the form on the reverse of the license
44 that the applicant will receive in the manner prescribed by [subsection 6 of section 194.240]
45 **subdivision (1) of subsection 1 of section 194.225**, RSMo. The director shall notify the
46 department of health and senior services of information obtained from applicants who indicate

47 to the director that they are interested in registry participation, and the department of health and
48 senior services shall enter the complete name, address, date of birth, race, gender and a unique
49 personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

50 3. An applicant for a license may make a donation of one dollar to promote a blindness
51 education, screening and treatment program. The director of revenue shall collect the donations
52 and deposit all such donations in the state treasury to the credit of the blindness education,
53 screening and treatment program fund established in section 192.935, RSMo. Moneys in the
54 blindness education, screening and treatment program fund shall be used solely for the purposes
55 established in section 192.935, RSMo, except that the department of revenue shall retain no more
56 than one percent for its administrative costs. The donation prescribed in this subsection is
57 voluntary and may be refused by the applicant for the license at the time of issuance or renewal
58 of the license. The director shall inquire of each applicant at the time the licensee presents the
59 completed application to the director whether the applicant is interested in making the one dollar
60 donation prescribed in this subsection.

61 4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who
62 commits fraud or deception during the examination process or who makes application for an
63 instruction permit, driver's license, or nondriver's license which contains or is substantiated with
64 false or fraudulent information or documentation, or who knowingly conceals a material fact or
65 otherwise commits a fraud in any such application. The period of denial shall be one year from
66 the effective date of the denial notice sent by the director. The denial shall become effective ten
67 days after the date the denial notice is mailed to the person. The notice shall be mailed to the
68 person at the last known address shown on the person's driving record. The notice shall be
69 deemed received three days after mailing unless returned by the postal authorities. No such
70 individual shall reapply for a driver's examination, instruction permit, driver's license, or
71 nondriver's license until the period of denial is completed. No individual who is denied the
72 driving privilege under this section shall be eligible for a limited driving privilege issued under
73 section 302.309.

74 5. All appeals of denials under this section shall be made as required by section 302.311.

75 6. The period of limitation for criminal prosecution under this section shall be extended
76 under subdivision (1) of subsection 3 of section 556.036, RSMo.

77 7. The director may promulgate rules and regulations necessary to administer and enforce
78 this section. No rule or portion of a rule promulgated pursuant to the authority of this section
79 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

80 8. Notwithstanding any provisions of this chapter that requires an applicant to provide
81 proof of lawful presence for renewal of a noncommercial driver's license, noncommercial
82 instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who

83 was previously issued a Missouri noncommercial driver's license, noncommercial instruction
84 permit, or Missouri nondriver's license is exempt from showing proof of lawful presence.

85 9. Notwithstanding any other provision of this chapter, if an applicant does not meet the
86 requirements of subsection 8 of this section and does not have the required documents to prove
87 lawful presence, the department may issue a one-year driver's license renewal. This one-time
88 renewal shall only be issued to an applicant who previously has held a Missouri noncommercial
89 driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen
90 years or more and who does not have the required documents to prove lawful presence. After
91 the expiration of the one-year period, no further renewal shall be provided without the applicant
92 producing proof of lawful presence.

304.028. 1. There is hereby created in the state treasury for use by the [Missouri Head
2 Injury Advisory Council] **department of health and senior services** a fund to be known as the
3 "[Head] **Brain** Injury Fund". All judgments collected pursuant to this section, federal grants,
4 private donations and any other moneys designated for the [head] **brain** injury fund shall be
5 deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general
6 assembly to the [office of administration] **department of health and senior services**, be
7 received and expended by the [council] **department** for the purpose of transition and integration
8 of medical, social and educational services or activities for purposes of outreach and [short-term]
9 supports to enable individuals with traumatic [head] **brain** injury and their families to live in the
10 community[, including counseling and mentoring the families]. Notwithstanding the provisions
11 of section 33.080, RSMo, to the contrary, any unexpended balance in the [head] **brain** injury
12 fund at the end of any biennium shall not be transferred to the general revenue fund.

13 2. In all criminal cases including violations of any county ordinance or any violation of
14 criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a
15 surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding
16 involving a violation of an ordinance or state law when the proceeding or defendant has been
17 dismissed by the court or when costs are to be paid by the state, county or municipality.

18 3. Such surcharge shall be collected and distributed by the clerk of the court as provided
19 in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall
20 be paid to the state treasury to the credit of the [head] **brain** injury fund established in this
21 section.

559.100. 1. The circuit courts of this state shall have power, herein provided, to place
2 on probation or to parole persons convicted of any offense over which they have jurisdiction,
3 except as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo,
4 section 559.115, [section] **sections 565.020, 565.180, 565.182, 565.200, and 565.320**, RSMo,

5 sections 566.030, 566.060, 566.067, 566.151, and 566.213, RSMo, **section 570.145, RSMo,**
6 **section 571.015, RSMo,** and subsection 3 of section 589.425, RSMo.

7 2. The circuit court shall have the power to revoke the probation or parole previously
8 granted and commit the person to the department of corrections. The circuit court shall
9 determine any conditions of probation or parole for the defendant that it deems necessary to
10 ensure the successful completion of the probation or parole term, including the extension of any
11 term of supervision for any person while on probation or parole. The circuit court may require
12 that the defendant pay restitution for his crime. The probation or parole may be revoked for
13 failure to pay restitution or for failure to conform his behavior to the conditions imposed by the
14 circuit court. The circuit court may, in its discretion, credit any period of probation or parole as
15 time served on a sentence.

565.180. 1. A person commits the crime of elder abuse in the first degree if he attempts
2 to kill, knowingly causes or attempts to cause serious physical injury, as defined in section
3 565.002, to any person sixty years of age or older or an eligible adult as defined in section
4 [660.250] **192.2100, RSMo.**

5 2. Elder abuse in the first degree is a class A felony.

6 **3. No court shall suspend the imposition or execution of sentence or impose a fine**
7 **in lieu of a term of imprisonment when a person pleads guilty to or is found guilty of elder**
8 **abuse in the first degree.**

565.182. 1. A person commits the crime of elder abuse in the second degree if [he] **the**
2 **person:**

3 (1) Knowingly causes, attempts to cause physical injury to any person sixty years of age
4 or older or an eligible adult, as defined in section [660.250] **192.2100, RSMo,** by means of a
5 deadly weapon or dangerous instrument; or

6 (2) Recklessly [and purposely] causes serious physical injury, as defined in section
7 565.002, to a person sixty years of age or older or an eligible adult as defined in section
8 [660.250] **192.2100, RSMo.**

9 2. Elder abuse in the second degree is a class B felony.

10 **3. No court may suspend the imposition or execution of sentence or impose a fine**
11 **in lieu of a term of imprisonment when a person pleads guilty to or is found guilty under**
12 **subdivision (1) of subsection 1 of this section.**

565.184. 1. A person commits the crime of elder abuse in the third degree if [he] **the**
2 **person:**

3 (1) Knowingly causes or attempts to cause physical contact with any person sixty years
4 of age or older or an eligible adult as defined in section [660.250] **192.2100, RSMo,** knowing
5 the other person will regard the contact as harmful or provocative; or

6 (2) Purposely engages in conduct involving more than one incident that causes grave
 7 emotional distress to a person sixty years of age or older or an eligible adult, as defined in section
 8 [660.250] **192.2100**, RSMo. The course of conduct shall be such as would cause a reasonable
 9 person age sixty years of age or older or an eligible adult, as defined in section [660.250]
 10 **192.2100**, RSMo, to suffer substantial emotional distress[; or] .

11 **2. Elder abuse in the third degree is a class D felony.**

12 **3. A person commits the crime of elder abuse in the fourth degree if the person:**

13 [(3)] (1) Purposely or knowingly places a person sixty years of age or older or an eligible
 14 adult, as defined in section [660.250] **192.2100**, RSMo, in apprehension of immediate physical
 15 injury; or

16 [(4)] (2) Intentionally fails to provide care, goods or services to a person sixty years of
 17 age or older or an eligible adult, as defined in section [660.250] **192.2100**, RSMo. The [cause]
 18 **result** of the conduct shall be such as would cause a reasonable person age sixty or older or an
 19 eligible adult, as defined in section [660.250] **192.2100**, RSMo, to suffer physical or emotional
 20 distress; or

21 [(5)] (3) Knowingly acts or knowingly fails to act in a manner which results in a grave
 22 risk to the life, body or health of a person sixty years of age or older or an eligible adult, as
 23 defined in section [660.250] **192.2100**, RSMo.

24 [2.] **4.** Elder abuse in the [third] **fourth** degree is a class A misdemeanor.

565.188. 1. When any adult day care worker; chiropractor; Christian Science
 2 practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental
 3 health, or health and senior services; employee of a local area agency on aging or an organized
 4 area agency on aging program; funeral director; home health agency or home health agency
 5 employee; hospital and clinic personnel engaged in examination, care, or treatment of persons;
 6 in-home services owner, provider, operator, or employee; law enforcement officer; long-term
 7 care facility administrator or employee; medical examiner; medical resident or intern; mental
 8 health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner;
 9 peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist;
 10 probation or parole officer; psychologist; social worker; or other person with responsibility for
 11 the care of a person sixty years of age or older has reasonable cause to suspect that such a person
 12 has been subjected to abuse or neglect, **or financial exploitation**, or observes such a person
 13 being subjected to conditions or circumstances which would reasonably result in abuse or
 14 neglect, **or financial exploitation**, he or she shall immediately report or cause a report to be
 15 made to the department in accordance with the provisions of sections [660.250 to 660.295]
 16 **192.2100 to 192.2130**, RSMo. Any other person who becomes aware of circumstances which

17 may reasonably be expected to be the result of or result in abuse or neglect, **or financial**
18 **exploitation**, may report to the department.

19 2. Any person who knowingly fails to make a report as required in subsection 1 of this
20 section is guilty of a class A misdemeanor.

21 3. Any person who purposely files a false report of elder abuse or neglect **or financial**
22 **exploitation of the elderly** is guilty of a class A misdemeanor.

23 4. Every person who has been previously convicted of or pled guilty to making a false
24 report to the department and who is subsequently convicted of making a false report under
25 subsection 3 of this section is guilty of a class D felony.

26 5. Evidence of prior convictions of false reporting shall be heard by the court, out of the
27 hearing of the jury, prior to the submission of the case to the jury, and the court shall determine
28 the existence of the prior convictions.

565.200. 1. Any owner or employee of a skilled nursing facility, as defined in section
2 198.006, RSMo, or an Alzheimer's special unit or program, as defined in section 198.505,
3 RSMo, who:

4 (1) Has sexual contact, as defined in section 566.010, RSMo, with a resident is guilty
5 of a class [B] **A** misdemeanor. Any person who commits a second or subsequent violation of
6 this subdivision is guilty of a class [A misdemeanor] **D felony**; or

7 (2) Has sexual intercourse or deviate sexual intercourse, as defined in section 566.010,
8 RSMo, with a resident is guilty of a class [A misdemeanor] **C felony**. Any person who commits
9 a second or subsequent violation of this subdivision is guilty of a class [D] **B felony**. **No court**
10 **may suspend the imposition or execution of sentence or impose a fine in lieu of a term of**
11 **imprisonment when a person pleads guilty to or is found guilty of committing a second or**
12 **subsequent violation of this subdivision.**

13 2. The provisions of this section shall not apply to an owner or employee of a skilled
14 nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined
15 in section 566.010, RSMo, with a resident to whom the owner or employee is married.

16 3. Consent of the victim is not a defense to a prosecution pursuant to this section.

565.320. 1. As used in this section the following terms shall mean:

2 (1) **"Crime of violence", any crime which involved the threat or use of physical**
3 **force against an elderly person;**

4 (2) **"Elderly person", a person sixty years of age or older.**

5 **2. Notwithstanding any other provision of law no court shall sentence a person who**
6 **has pled guilty or nolo contendere to or has been found guilty of a crime of violence against**
7 **an elderly person to a term of imprisonment of less than thirty consecutive days or to pay**
8 **a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or**

9 **probation until such person has served a minimum of thirty consecutive days of**
10 **imprisonment.**

570.145. 1. A person commits the crime of financial exploitation of an elderly or
2 disabled person if such person knowingly and by deception, intimidation, or force obtains control
3 over the elderly or disabled person's property [with the intent to permanently deprive] **and/or**
4 **deprives** the elderly or disabled person of the use, benefit or possession of his or her property
5 thereby benefiting such person or detrimentally affecting the elderly or disabled person.
6 Financial exploitation of an elderly or disabled person is a class A misdemeanor if the value of
7 the property is less than fifty dollars, a class D felony if the value of the property is fifty dollars
8 but less than five hundred dollars, a class C felony if the value of the property is five hundred
9 dollars but less than one thousand dollars, a class B felony if the value of the property is one
10 thousand dollars [but less than fifty thousand dollars, and a class A felony if the value of the
11 property is fifty thousand dollars] or more.

12 2. For purposes of this section, the following terms mean:

13 (1) "Deception", a misrepresentation or concealment of material fact relating to the terms
14 of a contract or agreement entered into with the elderly or disabled person or to the existing or
15 preexisting condition of any of the property involved in such contract or agreement, or the use
16 or employment of any misrepresentation, false pretense or false promise in order to induce,
17 encourage or solicit the elderly or disabled person to enter into a contract or agreement.
18 Deception includes:

19 (a) Creating or confirming another person's impression which is false and which the
20 offender does not believe to be true; or

21 (b) Failure to correct a false impression which the offender previously has created or
22 confirmed; or

23 (c) Preventing another person from acquiring information pertinent to the disposition of
24 the property involved; or

25 (d) Selling or otherwise transferring or encumbering property, failing to disclose a lien,
26 adverse claim or other legal impediment to the enjoyment of the property, whether such
27 impediment is or is not valid, or is or is not a matter of official record; or

28 (e) Promising performance which the offender does not intend to perform or knows will
29 not be performed. Failure to perform standing alone is not sufficient evidence to prove that the
30 offender did not intend to perform;

31 (2) "Disabled person", a person with a mental, physical, or developmental disability that
32 substantially impairs the person's ability to provide adequately for the person's care or protection;

33 (3) "Elderly person", a person sixty years of age or older;

34 (4) "Intimidation", a threat of physical or emotional harm to an elderly or disabled
35 person, or the communication to an elderly or disabled person that he or she will be deprived of
36 food and nutrition, shelter, prescribed medication, or medical care and treatment.

37 3. Nothing in this section shall be construed to limit the remedies available to the victim
38 pursuant to any state law relating to domestic violence.

39 4. Nothing in this section shall be construed to impose criminal liability on a person who
40 has made a good faith effort to assist the elderly or disabled person in the management of his or
41 her property, but through no fault of his or her own has been unable to provide such assistance.

42 5. Nothing in this section shall limit the ability to engage in bona fide estate planning,
43 to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that
44 such actions do not adversely impact the standard of living to which the elderly or disabled
45 person has become accustomed at the time of such actions.

46 6. It shall not be a defense to financial exploitation of an elderly or disabled person that
47 the accused reasonably believed that the victim was not an elderly or disabled person.

**620.510. 1. There is hereby established the "Missouri Health Profession Shortage
2 Planning Commission" within the department of economic development to develop
3 recommendations regarding the health professions workforce in this state.**

4 2. As used in this section, the following terms mean:

**5 (1) "Economic cluster", a grouping of industries linked together through customer,
6 supplier, or other relationships.**

**7 (2) "Health professions workforce" and "health care professionals", professionals
8 or paraprofessionals who are qualified by special training, education, skills, and experience
9 in providing health care, treatment, diagnostic services, and physical therapy under the
10 supervision of or in collaboration with a licensed practitioner, and includes but is not
11 limited to those listed in chapters 332, 334, 335, 336, and 338, RSMo, and dentists and
12 pharmacists.**

13 3. The commission shall consist of the following members:

14 (1) A member appointed by the speaker of the house of representatives;

15 (2) A member appointed by the president pro tem of the senate;

16 (3) A member appointed by the minority leader of the house of representatives;

17 (4) A member appointed by the minority leader of the senate;

**18 (5) The director of the departments of health and senior services, the commissioner
19 of elementary and secondary education, and the commissioner of the coordinating board
20 of higher education, or their designees;**

**21 (6) The chairpersons and ranking members of the standing committees of the house
22 of representatives and senate having cognizance of matters relating to public health,**

23 secondary education, and higher education and employment advancement, or their
24 designees;

25 (7) A representative of the Missouri conference of community colleges; and

26 (8) A representative of the health care professions of the land grant university
27 system training health care professionals.

28
29 Members appointed under this section shall be a recognized expert in the field of health,
30 finance, economics, or health facility management. All appointments to the board shall be
31 made no later than thirty days after the effective date of this section. Any vacancy shall
32 be filled by the appointing authority. The term of each nonlegislative member of the
33 commission shall be three years from the date of appointment. Legislative members of the
34 commission shall serve for the duration of their current term of office.

35 4. The commission shall elect a chairperson from among its members. Members
36 of the commission shall serve without compensation, but may be reimbursed for actual and
37 necessary expenses incurred in the performance of their duties as members of the
38 commission. The commission shall convene its first meeting not later than sixty days after
39 the effective date of this section.

40 5. The commission shall:

41 (1) Monitor data and trends in the health professions workforce, including but not
42 limited to:

43 (a) The state's current and future supply and demand for health care professionals;
44 and

45 (b) The current and future capacity of the state system area career centers and two-
46 year and four-year institutions of higher education to educate and train students pursuing
47 health care professions, and the capacity to utilize distance education in training and
48 education of high school professionals;

49 (2) Develop recommendations for the formation and promotion of an economic
50 cluster for health care professions;

51 (3) Identify recruitment and retention strategies for public and independent
52 institutions of higher education with health care programs;

53 (4) Develop recommendations for promoting diversity in the health professions
54 workforce, including but not limited to racial, ethnic, and gender diversity and for
55 enhancing the attractiveness of health care professions;

56 (5) Develop recommendations regarding financial and other assistance to students
57 enrolled in or considering enrolling in health care programs offered at area career centers
58 public or private two-year and four-year institutions of higher education; and

59 **(6) Identify recruitment and retention strategies for health care employers.**

60 **6. On or before January 1, 2008, and annually thereafter, the board shall submit**
61 **a report on its findings and recommendations, including recommendations for legislation**
62 **to address health professions workforce shortages in this state to the appropriate standing**
63 **committees of the house of representatives and senate having cognizance of matters**
64 **relating to public health and secondary education and higher education and employment**
65 **advancement.**

66 **7. The provisions of this section shall expire August 30, 2012.**

660.010. 1. There is hereby created a "Department of Social Services" in charge of a
2 director appointed by the governor, by and with the advice and consent of the senate. All the
3 powers, duties and functions of the director of the department of public health and welfare,
4 chapters 191 and 192, RSMo and others, not previously reassigned by executive reorganization
5 plan number 2 of 1973 as submitted by the governor under chapter 26, RSMo, except those
6 assigned to the department of mental health, are transferred by type I transfer to the director of
7 the department of social services and the office of the director, department of public health and
8 welfare is abolished. The department of public health and welfare is abolished. All employees
9 of the department of social services shall be covered by the provisions of chapter 36, RSMo,
10 except the director of the department and his secretary, all division directors and their secretaries,
11 and no more than three additional positions in each division which may be designated by the
12 division director.

13 2. It is the intent of the general assembly in establishing the department of social
14 services, as provided herein, to authorize the director of the department to coordinate the state's
15 programs devoted to those unable to provide for themselves and for the rehabilitation of victims
16 of social disadvantage. The director shall use the resources provided to the department to
17 provide comprehensive programs and leadership striking at the roots of dependency, disability
18 and abuse of society's rules with the purpose of improving service and economical operations.
19 The department is directed to take all steps possible to consolidate and coordinate the field
20 operations of the department to maximize service to the citizens of the state.

21 3. All the powers, duties and functions of the division of welfare, chapters 205, 207, 208,
22 209, and 210, RSMo, and others, are transferred by type I transfer to the "Division of Family
23 Services" which is hereby created in the department of social services. The director of the
24 division shall be appointed by the director of the department. All references to the division of
25 welfare shall hereafter be construed to mean the division of family services of the department
26 of social services.

27 4. [All the powers, duties and functions of the board of nursing home administrators,
28 chapter 344, RSMo, are transferred by type I transfer to the department of social services. The
29 public members of the board shall be appointed by the director of the department.

30 5.] The state's responsibility under public law 452 of the eighty-eighth Congress and
31 others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the
32 department of social services.

33 [6.] 5. The state's responsibility under public law 73, Older Americans Act of 1965, of
34 the eighty-ninth Congress is transferred by type I transfer to the department of social services.

35 [7.] 6. All the powers, duties and functions vested by law in the curators of the
36 University of Missouri relating to crippled children's services, chapter 201, RSMo, are
37 transferred by type I transfer to the department of social services.

38 [8.] 7. All the powers, duties and functions vested in the state board of training schools,
39 chapter 219, RSMo, and others, are transferred by type I transfer to the "Division of Youth
40 Services" hereby authorized in the department of social services headed by a director appointed
41 by the director of the department. The state board of training schools shall be reconstituted as
42 an advisory board on youth services, appointed by the director of the department. The advisory
43 board shall visit each facility of the division as often as possible, shall file a written report with
44 the director of the department and the governor on conditions they observed relating to the care
45 and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility
46 and any other matters pertinent in their judgment. Copies of these reports shall be filed with the
47 legislative library. Members of the advisory board shall receive reimbursement for their
48 expenses and twenty-five dollars a day for each day they engage in official business relating to
49 their duties. The members of the board shall be provided with identification means by the
50 director of the division permitting immediate access to all facilities enabling them to make
51 unannounced entrance to facilities they wish to inspect.

2 [194.233. 1. The chief executive officer of each hospital in this state
3 shall designate one or more trained persons to request anatomical gifts which
4 persons shall not be connected with determination of death. The hospital official
5 may designate a representative of an organ or tissue procurement organization to
6 request consent.

7 2. When there is a patient who is a suitable candidate for organ or tissue
8 donation based on hospital accepted criteria the designee shall request consent
9 to a donation from the persons authorized to give consent as specified in
10 subdivision (1), (2), (3), (4), (5) or (6) of subsection 2 of section 194.220. The
11 request shall be made in the order of priority stated in subsection 2 of section
12 194.220. When the hospital cannot, from available information, ascertain that the
13 patient has next-of-kin authorized to give consent as specified in subdivision (2),
(3), (4), (5) or (6) of subsection 2 of section 194.220, then the hospital shall

14 notify and request consent to a donation from a member of the class described in
15 subdivision (7) of subsection 2 of section 194.220. Such notification to a
16 member of the class described in subdivision (7) of subsection 2 of section
17 194.220 shall occur before death where practicable.

18 3. No request shall be required if the hospital designee has actual notice
19 of a gift by the decedent under subsection 1 of section 194.220 or actual notice
20 of contrary indications by the decedent.

21 4. Consent shall be obtained by the methods specified in section 194.240.

22 5. Where a donation is requested, the designee shall verify such request
23 in the patient's medical record. Such verification of request for organ donation
24 shall include a statement to the effect that a request for consent to an anatomical
25 gift has been made, and shall further indicate thereupon whether or not consent
26 was granted, the name of the person granting or refusing the consent, and his or
27 her relationship to the decedent.

28 6. Upon the approval of the designated next of kin or other individual,
29 as set forth in subsection 2 of section 194.220, the hospital shall then notify an
30 organ or tissue procurement organization and cooperate in the procurement of the
31 anatomical gift or gifts pursuant to applicable provisions of sections 194.210 to
32 194.290.

33 7. No hospital shall have an obligation to retrieve the organ or tissue
34 donated pursuant to this section.]
35

2 [197.500. 1. The department shall maintain an employee disqualification
3 list and place on the employee disqualification list the names of any persons who
4 are or who have been employed by any entity licensed pursuant to this chapter
5 and who have been finally determined by the department pursuant to section
6 660.315, RSMo, to have knowingly or recklessly abused or neglected a patient.
7 For the purpose of this section, "abuse" and "neglect" shall have the same
8 meanings as such terms are defined in section 198.006, RSMo. For purposes of
9 this section only, "knowingly" and "recklessly" shall have the meanings that are
10 ascribed to them in this section. A person acts "knowingly" with respect to the
11 person's conduct when a reasonable person should be aware of the result caused
12 by his or her conduct. A person acts "recklessly" when the person consciously
13 disregards a substantial and unjustifiable risk that the person's conduct will result
14 in serious physical injury and such disregard constitutes a gross deviation from
15 the standard of care that a reasonable person would exercise in the situation.

16 2. The department shall compile and maintain an employee
17 disqualification list in the same manner as the employee disqualification list
18 compiled and maintained by the department pursuant to section 660.315, RSMo.]

2 [208.912. 1. When any adult day care worker; chiropractor, Christian
3 Science practitioner, coroner, dentist, embalmer, employee of the departments of
social services, mental health, or health and senior services; employee of a local

4 area agency on aging or an organized area agency on aging program; funeral
5 director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home
7 services owner, provider, operator, or employee; law enforcement officer;
8 long-term care facility administrator or employee; medical examiner; medical
9 resident or intern; mental health professional; minister; nurse; nurse practitioner;
10 optometrist; other health practitioner; peace officer; pharmacist; physical
11 therapist; physician; physician's assistant; podiatrist; probation or parole officer;
12 psychologist; vendor as defined in section 208.900; personal care attendant; or
13 social worker has reasonable cause to believe that a consumer has been abused
14 or neglected as defined in section 660.250, RSMo, as a result of the delivery of
15 or failure to deliver personal care assistance services, he or she shall immediately
16 report or cause a report to be made to the department. If the report is made by a
17 physician of the consumer, the department shall maintain contact with the
18 physician regarding the progress of the investigation.

19 2. When a report of deteriorating physical condition resulting in possible
20 abuse or neglect of a consumer is received by the department, the department's
21 case manager and the department nurse shall be notified. The case manager shall
22 investigate and immediately report the results of the investigation to the
23 department nurse.

24 3. If requested, local area agencies on aging shall provide volunteer
25 training to those persons listed in subsection 1 of this section regarding the
26 detection and reporting of abuse and neglect under this section.

27 4. Any person required in subsection 1 of this section to report or cause
28 a report to be made to the department who fails to do so within a reasonable time
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 5. The report shall contain the names and addresses of the vendor, the
31 personal care attendant, and the consumer, and information regarding the nature
32 of the abuse or neglect, the name of the complainant, and any other information
33 which might be helpful in an investigation.

34 6. In addition to those persons required to report under subsection 1 of
35 this section, any other person having reasonable cause to believe that a consumer
36 has been abused or neglected by a personal care attendant may report such
37 information to the department.

38 7. If the investigation indicates possible abuse or neglect of a consumer,
39 the investigator shall refer the complaint together with his or her report to the
40 department director or his or her designee for appropriate action. If, during the
41 investigation or at its completion, the department has reasonable cause to believe
42 that immediate action is necessary to protect the consumer from abuse or neglect,
43 the department or the local prosecuting attorney may, or the attorney general
44 upon request of the department shall, file a petition for temporary care and
45 protection of the consumer in a circuit court of competent jurisdiction. The
46 circuit court in which the petition is filed shall have equitable jurisdiction to issue

47 an ex parte order granting the department authority for the temporary care and
48 protection of consumer, for a period not to exceed thirty days.

49 8. Reports shall be confidential, as provided under section 660.320,
50 RSMo.

51 9. Anyone, except any person who has abused or neglected a consumer,
52 who makes a report pursuant to this section or who testifies in any administrative
53 or judicial proceeding arising from the report shall be immune from any civil or
54 criminal liability for making such a report or for testifying, except for liability for
55 perjury, unless such person acted negligently, recklessly, in bad faith, or with
56 malicious purpose.

57 10. Within five working days after a report required to be made under
58 this section is received, the person making the report shall be notified of its
59 receipt and of the initiation of the investigation.

60 11. No person who directs or exercises any authority as a vendor, and no
61 personal care attendant, shall harass, dismiss or retaliate against a consumer
62 because he or she or any member of his or her family has made a report of any
63 violation or suspected violation of laws, standards or regulations applying to the
64 vendor or personal care attendant which he or she has reasonable cause to believe
65 has been committed or has occurred.

66 12. The department shall place on the employee disqualification list
67 established in section 660.315, RSMo, the names of any persons who have been
68 finally determined by the department to have recklessly, knowingly or purposely
69 abused or neglected a consumer while employed by a vendor, or employed by a
70 consumer as a personal care attendant.

71 13. The department shall provide the list maintained pursuant to section
72 660.315, RSMo, to vendors as defined in section 208.900.

73 14. Any person, corporation or association who received the employee
74 disqualification list under subsection 13 of this section, or any person responsible
75 for providing health care service, who declines to employ or terminates a person
76 whose name is listed in this section shall be immune from suit by that person or
77 anyone else acting for or in behalf of that person for the failure to employ or for
78 the termination of the person whose name is listed on the employee
79 disqualification list.]

80

2 [208.915. 1. Any person having reasonable cause to believe that a
3 misappropriation of a consumer's property or funds, or the falsification of any
4 documents verifying personal care assistance services delivery to the consumer,
5 has occurred may report such information to the department.

6 2. For each report the department shall attempt to obtain the name and
7 address of the vendor, the personal care attendant, the personal care assistance
8 services consumer, information regarding the nature of the misappropriation or
9 falsification, the name of the complainant, and any other information which
might be helpful in an investigation.

10 3. Any personal care assistance services vendor, or personal care
11 attendant who puts to his or her own use or the use of the personal care assistance
12 services vendor or otherwise diverts from the personal care assistance services
13 consumer's use any personal property or funds of the consumer, or falsifies any
14 documents for service delivery, is guilty of a class A misdemeanor.

15 4. Upon receipt of a report, the department shall immediately initiate an
16 investigation and report information gained from such investigation to
17 appropriate law enforcement authorities.

18 5. If the investigation indicates probable misappropriation of property or
19 funds, or falsification of any documents for service delivery of a personal care
20 assistance services consumer, the investigator shall refer the complaint together
21 with the investigator's report to the department director or the director's designee
22 for appropriate action.

23 6. Reports shall be confidential, as provided under section 660.320,
24 RSMo.

25 7. Anyone, except any person participating in or benefitting from the
26 misappropriation of funds, who makes a report under this section or who testifies
27 in any administrative or judicial proceeding arising from the report shall be
28 immune from any civil or criminal liability for making such a report or for
29 testifying except for liability for perjury, unless such person acted negligently,
30 recklessly, in bad faith, or with malicious purpose.

31 8. Within five working days after a report required to be made under this
32 section is received, the person making the report shall be notified in writing of
33 its receipt and of the initiation of the investigation.

34 9. No person who directs or exercises any authority in a personal care
35 assistance services vendor agency shall harass, dismiss or retaliate against a
36 personal care assistance services consumer or a personal care attendant because
37 he or she or any member of his or her family has made a report of any violation
38 or suspected violation of laws, ordinances or regulations applying to the personal
39 care assistance services vendor or any personal care attendant which he or she has
40 reasonable cause to believe has been committed or has occurred.

41 10. The department shall maintain the employee disqualification list and
42 place on the employee disqualification list the names of any personal care
43 attendants who are or have been employed by a personal care assistance services
44 consumer, and the names of any persons who are or have been employed by a
45 vendor as defined in subdivision (10) of section 208.900, and who have been
46 finally determined by the department under section 660.315, RSMo, to have
47 misappropriated any property or funds, or falsified any documents for service
48 delivery to a personal care assistance services consumer and who came to be
49 known to the consumer, directly or indirectly by virtue of the consumer's
50 participation in the personal care assistance services program.]

51

2 [210.933. For any elder-care worker listed in the registry or who has
3 submitted the registration form as required by sections 210.900 to 210.936, an
4 elder-care provider may access the registry in lieu of the requirements established
5 pursuant to section 660.315, RSMo, or to subsections 3, 4 and 5 of section
6 660.317, RSMo.]

2 [660.305. 1. Any person having reasonable cause to believe that a
3 misappropriation of an in-home services client's property or funds, or the
4 falsification of any documents verifying service delivery to the in-home services
5 client has occurred, may report such information to the department.

6 2. For each report the department shall attempt to obtain the names and
7 addresses of the in-home services provider agency, the in-home services
8 employee, the in-home services client, information regarding the nature of the
9 misappropriation or falsification, the name of the complainant, and any other
10 information which might be helpful in an investigation.

11 3. Any in-home services provider agency or in-home services employee
12 who puts to his or her own use or the use of the in-home services provider agency
13 or otherwise diverts from the in-home services client's use any personal property
14 or funds of the in-home services client, or falsifies any documents for service
15 delivery, is guilty of a class A misdemeanor.

16 4. Upon receipt of a report, the department shall immediately initiate an
17 investigation and report information gained from such investigation to
18 appropriate law enforcement authorities.

19 5. If the investigation indicates probable misappropriation of property or
20 funds, or falsification of any documents for service delivery of an in-home
21 services client, the investigator shall refer the complaint together with the
22 investigator's report to the department director or the director's designee for
23 appropriate action.

24 6. Reports shall be confidential, as provided under section 660.320.

25 7. Anyone, except any person participating in or benefiting from the
26 misappropriation of funds, who makes a report pursuant to this section or who
27 testifies in any administrative or judicial proceeding arising from the report shall
28 be immune from any civil or criminal liability for making such a report or for
29 testifying except for liability for perjury, unless such person acted negligently,
30 recklessly, in bad faith, or with malicious purpose.

31 8. Within five working days after a report required to be made under this
32 section is received, the person making the report shall be notified in writing of
33 its receipt and of the initiation of the investigation.

34 9. No person who directs or exercises any authority in an in-home
35 services provider agency shall harass, dismiss or retaliate against an in-home
36 services client or employee because he or she or any member of his or her family
37 has made a report of any violation or suspected violation of laws, ordinances or
regulations applying to the in-home services provider agency or any in-home

38 services employee which he or she has reasonable cause to believe has been
39 committed or has occurred.

40 10. The department shall maintain the employee disqualification list and
41 place on the employee disqualification list the names of any persons who are or
42 have been employed by an in-home service provider agency and who have been
43 finally determined by the department to, pursuant to section 660.315, have
44 misappropriated any property or funds, or falsified any documents for service
45 delivery of an in-home services client and who came to be known to the person,
46 directly, or indirectly while employed by an in-home services provider agency.]
47

2 [660.320. 1. Reports confidential under section 198.070, RSMo, and
3 sections 660.300 to 660.315 shall not be deemed a public record and shall not be
4 subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo. The
5 name of the complainant or any person mentioned in the reports shall not be
6 disclosed unless:

7 (1) The complainant, resident or the in-home services client mentioned
8 agrees to disclosure of his or her name;

9 (2) The department determines that disclosure is necessary in order to
10 prevent further abuse, neglect, misappropriation of property or funds, or
11 falsification of any documents verifying service delivery to an in-home services
12 client;

13 (3) Release of a name is required for conformance with a lawful
14 subpoena;

15 (4) Release of a name is required in connection with a review by the
16 administrative hearing commission in accordance with section 198.039, RSMo;

17 (5) The department determines that release of a name is appropriate when
18 forwarding a report of findings of an investigation to a licensing authority; or

19 (6) Release of a name is requested by the division of family services for
20 the purpose of licensure under chapter 210, RSMo.

21 2. The department shall, upon request, provide to the division of
22 employment security within the department of labor and industrial relations
23 copies of the investigative reports that led to an employee being placed on the
24 disqualification list.]

2 [660.512. No rule or portion of a rule promulgated under the authority of
3 chapter 210, RSMo, shall become effective unless it has been promulgated
pursuant to the provisions of section 536.024, RSMo.]