

SECOND REGULAR SESSION

# SENATE BILL NO. 880

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Pre-filed December 18, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3986S.011

## AN ACT

To repeal sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 610.010, 630.005, 630.165, 630.167, 630.410, 630.705, 630.715, 630.755, and 633.005, RSMo, and to enact in lieu thereof twenty new sections relating to private mental health facilities and group homes, with penalty provisions.

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

Section A. Sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 610.010, 630.005, 630.165, 630.167, 630.410, 630.705, 630.715, 630.755, and 633.005, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 610.010, 630.005, 630.165, 630.167, 630.410, 630.705, 630.715, 630.755, 633.005, 633.300, 633.303, 633.306, and 633.309, to read as follows:

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

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

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005, RSMo. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

15 (4) "Elder-care provider", any operator licensed pursuant to chapter 198,

16 RSMo, or any person, corporation, or association who provides in-home services

17 under contract with the division of aging, or any employer of nurses or nursing

18 assistants of home health agencies licensed pursuant to sections 197.400 to

19 197.477, RSMo, or any nursing assistants employed by a hospice pursuant to

20 sections 197.250 to 197.280, RSMo, or that portion of a hospital for which

21 subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

22 (5) "Elder-care worker", any person who is employed by an elder-care

23 provider, or who receives state or federal funds, either by direct payment,

24 reimbursement or voucher payment, as remuneration for elder-care services;

25 (6) ["Patrol", the Missouri state highway patrol;

26 (7)] "Employer", any child-care provider, elder-care provider, or

27 personal-care provider as defined in this section;

28 (7) **"Mental health provider", any private mental health facility**

29 **or group home, as defined in section 633.005, RSMo;**

30 (8) **"Mental health worker", any person employed by a mental**

31 **health provider or group home;**

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

33 [(8)] (10) "Personal-care attendant" or "personal-care worker", a person

34 who performs routine services or supports necessary for a person with a physical

35 or mental disability to enter and maintain employment or to live independently;

36 [(9)] (11) "Personal-care provider", any person, corporation, or association

37 who provides personal-care services or supports under contract with the

38 department of mental health, the division of aging, the department of health and

39 senior services or the department of elementary and secondary education;

40 [(10)] (12) "Related child care", child care provided only to a child or

41 children by such child's or children's grandparents, great-grandparents, aunts or

42 uncles, or siblings living in a residence separate from the child or children;

43 [(11)] (13) "Related elder care", care provided only to an elder by an

44 adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

210.903. 1. To protect children, the elderly, [and] **the disabled, and**

2 **mentally retarded and developmentally disabled** individuals in this state,

3 and to promote family and community safety by providing information concerning

4 family caregivers, there is hereby established within the department of health

5 and senior services a "Family Care Safety Registry and Access Line" which shall

6 be available by January 1, 2001.

7           2. The family care safety registry shall contain information on child-care  
8 workers', elder-care workers', **mental health workers'**, and personal-care  
9 workers' background and on child-care, elder-care, **mental health**, and  
10 personal-care providers through:

11           (1) The patrol's criminal record check system pursuant to section 43.540,  
12 RSMo, including state and national information, to the extent possible;

13           (2) Probable cause findings of abuse and neglect prior to August 28, 2004,  
14 or findings of abuse and neglect by a preponderance of the evidence after August  
15 28, 2004, pursuant to sections 210.109 to 210.183 and, as of January 1, 2003,  
16 financial exploitation of the elderly or disabled, pursuant to section 570.145,  
17 RSMo;

18           (3) The division of aging's employee disqualification list pursuant to  
19 section 660.315, RSMo;

20           (4) As of January 1, 2003, the department of mental health's employee  
21 disqualification registry;

22           (5) Foster parent licensure denials, revocations and involuntary  
23 suspensions pursuant to section 210.496;

24           (6) Child-care facility license denials, revocations and suspensions  
25 pursuant to sections 210.201 to 210.259;

26           (7) Residential living facility and nursing home license denials,  
27 revocations, suspensions and probationary status pursuant to chapter 198, RSMo;  
28 and

29           (8) As of January 1, 2004, a check of the patrol's Missouri uniform law  
30 enforcement system (MULES) for sexual offender registrations pursuant to  
31 section 589.400, RSMo.

210.906. 1. Every child-care worker or elder-care worker hired on or after  
2 January 1, 2001, or personal-care worker hired on or after January 1, 2002, **or**  
3 **mental health worker hired on or after January 1, 2009**, shall complete  
4 a registration form provided by the department. The department shall make such  
5 forms available no later than January 1, 2001, and may, by rule, determine the  
6 specific content of such form, but every form shall:

7           (1) Request the valid Social Security number of the applicant;

8           (2) Include information on the person's right to appeal the information  
9 contained in the registry pursuant to section 210.912;

10           (3) Contain the signed consent of the applicant for the background checks

11 required pursuant to this section; and

12 (4) Contain the signed consent for the release of information contained in  
13 the background check for employment purposes only.

14 2. Every child-care worker or elder-care worker hired on or after January  
15 1, 2001, and every personal-care worker hired on or after January 1, 2002, **and**  
16 **every mental health worker hired on or after January 1, 2009**, shall  
17 complete a registration form within fifteen days of the beginning of such person's  
18 employment. Any person employed as a child-care, elder-care, **mental health**,  
19 or personal-care worker who fails to submit a completed registration form to the  
20 department of health and senior services as required by sections 210.900 to  
21 210.936 without good cause, as determined by the department, is guilty of a class  
22 B misdemeanor.

23 3. The costs of the criminal background check may be paid by the  
24 individual applicant, or by the provider if the applicant is so employed, or for  
25 those applicants receiving public assistance, by the state through the terms of the  
26 self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to  
27 the patrol for the costs of the criminal background check shall be deposited to the  
28 credit of the criminal record system fund as required by section 43.530, RSMo.

29 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be  
30 automatically registered in the family care safety registry at no additional cost  
31 other than the costs required pursuant to sections 210.481 to 210.565.

32 5. Any person not required to register pursuant to the provisions of  
33 sections 210.900 to 210.936 may also be included in the registry if such person  
34 voluntarily applies to the department for registration and meets the requirements  
35 of this section and section 210.909, including submitting to the background checks  
36 in subsection 1 of section 210.909.

37 6. The provisions of sections 210.900 to 210.936 shall not extend to related  
38 child care, related elder care or related personal care.

210.909. 1. Upon submission of a completed registration form by a  
2 child-care worker, elder-care worker, **mental health worker**, or personal-care  
3 attendant, the department shall:

4 (1) Determine if a probable cause finding of child abuse or neglect prior  
5 to August 28, 2004, or a finding of child abuse or neglect by a preponderance of  
6 the evidence after August 28, 2004, involving the applicant has been recorded  
7 pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a  
8 probable cause finding of financial exploitation of the elderly or disabled pursuant

9 to section 570.145, RSMo;

10 (2) Determine if the applicant has been refused licensure or has  
11 experienced involuntary licensure suspension or revocation pursuant to section  
12 210.496;

13 (3) Determine if the applicant has been placed on the employee  
14 disqualification list pursuant to section 660.315, RSMo;

15 (4) As of January 1, 2003, determine if the applicant is listed on the  
16 department of mental health's employee disqualification registry;

17 (5) Determine through a request to the patrol pursuant to section 43.540,  
18 RSMo, whether the applicant has any criminal history record for a felony or  
19 misdemeanor or any offense for which the person has registered pursuant to  
20 sections 589.400 to 589.425, RSMo; and

21 (6) If the background check involves a provider, determine if a facility has  
22 been refused licensure or has experienced licensure suspension, revocation or  
23 probationary status pursuant to sections 210.201 to 210.259 or chapter 198,  
24 RSMo; and

25 (7) As of January 1, 2004, determine through a request to the patrol if the  
26 applicant is a registered sexual offender pursuant to section 589.400, RSMo,  
27 listed in the Missouri uniform law enforcement system (MULES).

28 2. Upon completion of the background check described in subsection 1 of  
29 this section, the department shall include information in the registry for each  
30 registrant as to whether any convictions, employee disqualification listings,  
31 registry listings, probable cause findings, pleas of guilty or nolo contendere, or  
32 license denial, revocation or suspension have been documented through the  
33 records checks authorized pursuant to the provisions of sections 210.900 to  
34 210.936.

35 3. The department shall notify such registrant in writing of the results of  
36 the determination recorded on the registry pursuant to this section.

210.915. The department of corrections, the department of public safety,  
2 the department of social services and the department of mental health shall  
3 collaborate with the department to compare records on child-care, elder-care,  
4 **mental health**, and personal-care workers, and the records of persons with  
5 criminal convictions and the background checks pursuant to subdivisions (1) to  
6 (6) of subsection 2 of section 210.903, and to enter into any interagency  
7 agreements necessary to facilitate the receipt of such information and the ongoing  
8 updating of such information. The department shall promulgate rules and

9 regulations concerning such updating, including subsequent background reviews  
10 as listed in subsection 1 of section 210.909.

210.921. 1. The department shall not provide any registry information  
2 pursuant to this section unless the department obtains the name and address of  
3 the person calling, and determines that the inquiry is for employment purposes  
4 only. For purposes of sections 210.900 to 210.936, "employment purposes"  
5 includes direct employer-employee relationships, prospective employer-employee  
6 relationships, and screening and interviewing of persons or facilities by those  
7 persons contemplating the placement of an individual in a child-care, elder-care,  
8 **mental health**, or personal-care setting. Disclosure of background information  
9 concerning a given applicant recorded by the department in the registry shall be  
10 limited to:

11 (1) Confirming whether the individual is listed in the registry; and

12 (2) Indicating whether the individual has been listed or named in any of  
13 the background checks listed in subsection 2 of section 210.903. If such  
14 individual has been so listed, the department of health and senior services shall  
15 only disclose the name of the background check in which the individual has been  
16 identified. With the exception of any agency licensed by the state to provide child  
17 care, elder care, **mental health services**, or personal care which shall receive  
18 specific information immediately if requested, any specific information related to  
19 such background check shall only be disclosed after the department has received  
20 a signed request from the person calling, with the person's name, address and  
21 reason for requesting the information.

22 2. Any person requesting registry information shall be informed that the  
23 registry information provided pursuant to this section consists only of information  
24 relative to the state of Missouri and does not include information from other  
25 states or information that may be available from other states.

26 3. Any person who uses the information obtained from the registry for any  
27 purpose other than that specifically provided for in sections 210.900 to 210.936  
28 is guilty of a class B misdemeanor.

29 4. When any registry information is disclosed pursuant to subdivision (2)  
30 of subsection 1 of this section, the department shall notify the registrant of the  
31 name and address of the person making the inquiry.

32 5. The department of health and senior services staff providing  
33 information pursuant to sections 210.900 to 210.936 shall have immunity from  
34 any liability, civil or criminal, that otherwise might result by reason of such

35 actions; provided, however, any department of health and senior services staff  
36 person who releases registry information in bad faith or with ill intent shall not  
37 have immunity from any liability, civil or criminal. Any such person shall have  
38 the same immunity with respect to participation in any judicial proceeding  
39 resulting from the release of registry information. The department is prohibited  
40 from selling the registry or any portion of the registry for any purpose including  
41 "employment purposes" as defined in subsection 1 of this section.

210.927. The department of health and senior services shall make an  
2 annual report, no later than July first of each year, to the speaker of the house  
3 of representatives and the president pro tem of the senate on the operation of the  
4 family care safety registry and toll-free telephone service, including data on the  
5 number of information requests received from the public, identification of any  
6 barriers encountered in administering the provisions of sections 210.900 to  
7 210.936, recommendations for removing or minimizing the barriers so identified,  
8 and any recommendations for improving the delivery of information on child-care,  
9 elder-care, **mental health**, and personal-care workers to the public.

610.010. As used in this chapter, unless the context otherwise indicates,  
2 the following terms mean:

3 (1) "Closed meeting", "closed record", or "closed vote", any meeting, record  
4 or vote closed to the public;

5 (2) "Copying", if requested by a member of the public, copies provided as  
6 detailed in section 610.026, if duplication equipment is available;

7 (3) "Public business", all matters which relate in any way to the  
8 performance of the public governmental body's functions or the conduct of its  
9 business;

10 (4) "Public governmental body", any legislative, administrative or  
11 governmental entity created by the constitution or statutes of this state, by order  
12 or ordinance of any political subdivision or district, judicial entities when  
13 operating in an administrative capacity, or by executive order, including:

14 (a) Any body, agency, board, bureau, council, commission, committee,  
15 board of regents or board of curators or any other governing body of any  
16 institution of higher education, including a community college, which is supported  
17 in whole or in part from state funds, including but not limited to the  
18 administrative entity known as "The Curators of the University of Missouri" as  
19 established by section 172.020, RSMo;

20 (b) Any advisory committee or commission appointed by the governor by

21 executive order;

22 (c) Any department or division of the state, of any political subdivision of  
23 the state, of any county or of any municipal government, school district or special  
24 purpose district including but not limited to sewer districts, water districts, and  
25 other subdistricts of any political subdivision;

26 (d) Any other legislative or administrative governmental deliberative body  
27 under the direction of three or more elected or appointed members having  
28 rulemaking or quasi-judicial power;

29 (e) Any committee appointed by or at the direction of any of the entities  
30 and which is authorized to report to any of the above-named entities, any  
31 advisory committee appointed by or at the direction of any of the named entities  
32 for the specific purpose of recommending, directly to the public governmental  
33 body's governing board or its chief administrative officer, policy or policy revisions  
34 or expenditures of public funds including, but not limited to, entities created to  
35 advise bi-state taxing districts regarding the expenditure of public funds, or any  
36 policy advisory body, policy advisory committee or policy advisory group  
37 appointed by a president, chancellor or chief executive officer of any college or  
38 university system or individual institution at the direction of the governing body  
39 of such institution which is supported in whole or in part with state funds for the  
40 specific purpose of recommending directly to the public governmental body's  
41 governing board or the president, chancellor or chief executive officer policy,  
42 policy revisions or expenditures of public funds provided, however, the staff of the  
43 college or university president, chancellor or chief executive officer shall not  
44 constitute such a policy advisory committee. The custodian of the records of any  
45 public governmental body shall maintain a list of the policy advisory committees  
46 described in this subdivision;

47 (f) Any quasi-public governmental body. The term "quasi-public  
48 governmental body" means any person, corporation or partnership organized or  
49 authorized to do business in this state pursuant to the provisions of chapter 352,  
50 353, or 355, RSMo, or unincorporated association which either:

51 a. Has as its primary purpose to enter into contracts with public  
52 governmental bodies, or to engage primarily in activities carried out pursuant to  
53 an agreement or agreements with public governmental bodies; or

54 b. Performs a public function as evidenced by a statutorily based capacity  
55 to confer or otherwise advance, through approval, recommendation or other  
56 means, the allocation or issuance of tax credits, tax abatement, public debt,



57 tax-exempt debt, rights of eminent domain, or the contracting of leaseback  
58 agreements on structures whose annualized payments commit public tax  
59 revenues; or any association that directly accepts the appropriation of money from  
60 a public governmental body, but only to the extent that a meeting, record, or vote  
61 relates to such appropriation; [and]

62 (g) Any bi-state development agency established pursuant to section  
63 70.370, RSMo; **and**

64 **(h) Any private mental health facility or group home as defined**  
65 **in section 633.005, RSMo;**

66 (5) "Public meeting", any meeting of a public governmental body subject  
67 to sections 610.010 to 610.030 at which any public business is discussed, decided,  
68 or public policy formulated, whether such meeting is conducted in person or by  
69 means of communication equipment, including, but not limited to, conference call,  
70 video conference, Internet chat, or Internet message board. The term "public  
71 meeting" shall not include an informal gathering of members of a public  
72 governmental body for ministerial or social purposes when there is no intent to  
73 avoid the purposes of this chapter, but the term shall include a public vote of all  
74 or a majority of the members of a public governmental body, by electronic  
75 communication or any other means, conducted in lieu of holding a public meeting  
76 with the members of the public governmental body gathered at one location in  
77 order to conduct public business;

78 (6) "Public record", any record, whether written or electronically stored,  
79 retained by or of any public governmental body including any report, survey,  
80 memorandum, or other document or study prepared for the public governmental  
81 body by a consultant or other professional service paid for in whole or in part by  
82 public funds, including records created or maintained by private contractors  
83 under an agreement with a public governmental body or on behalf of a public  
84 governmental body; provided, however, that personally identifiable student  
85 records maintained by public educational institutions shall be open for inspection  
86 by the parents, guardian or other custodian of students under the age of eighteen  
87 years and by the parents, guardian or other custodian and the student if the  
88 student is over the age of eighteen years. The term "public record" shall not  
89 include any internal memorandum or letter received or prepared by or on behalf  
90 of a member of a public governmental body consisting of advice, opinions and  
91 recommendations in connection with the deliberative decision-making process of  
92 said body, unless such records are retained by the public governmental body or

93 presented at a public meeting. Any document or study prepared for a public  
94 governmental body by a consultant or other professional service as described in  
95 this subdivision shall be retained by the public governmental body in the same  
96 manner as any other public record;

97 (7) "Public vote", any vote, whether conducted in person, by telephone, or  
98 by any other electronic means, cast at any public meeting of any public  
99 governmental body.

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

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

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

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

13 (4) "Client", any person who is placed by the department in a facility or  
14 program, **including private mental health facilities and group homes**,  
15 licensed and funded by the department or who is a recipient of services from a  
16 regional center, as defined in section 633.005, RSMo;

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

18 (6) "Consumer", a person:

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

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

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

26 (7) "Day program", a **privately or publicly funded** place conducted or  
27 maintained by any person who advertises or holds himself out as providing  
28 prevention, evaluation, treatment, habilitation or rehabilitation for persons  
29 affected by mental disorders, mental illness, mental retardation, developmental

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

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

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

35 (a) Which is attributable to:

36 a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or  
37 a learning disability related to a brain dysfunction; or

38 b. Any other mental or physical impairment or combination of mental or  
39 physical impairments; and

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

41 (c) Is likely to continue indefinitely; and

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

44 a. Self-care;

45 b. Receptive and expressive language development and use;

46 c. Learning;

47 d. Self-direction;

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

49 f. Mobility; and

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

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

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

60 (12) "Drug abuse", the use of any drug without compelling medical reason,  
61 which use results in a temporary mental, emotional or physical impairment and  
62 causes socially dysfunctional behavior, or in psychological or physiological  
63 dependency resulting from continued use, which dependency induces a mental,  
64 emotional or physical impairment and causes socially dysfunctional behavior;

65 (13) "Habilitation", a process of treatment, training, care or specialized

66 attention which seeks to enhance and maximize the mentally retarded or  
67 developmentally disabled person's abilities to cope with the environment and to  
68 live as normally as possible;

69 (14) "Habilitation center", a residential facility operated by the  
70 department **or a private mental health facility or group home, as defined**  
71 **in section 633.005, RSMo**, and serving only persons who are mentally retarded,  
72 including developmentally disabled;

73 (15) "Head of the facility", the chief administrative officer, or his **or her**  
74 designee, of any residential facility;

75 (16) "Head of the program", the chief administrative officer, or his **or her**  
76 designee, of any day program;

77 (17) "Individualized habilitation plan", a document which sets forth  
78 habilitation goals and objectives for mentally retarded or developmentally  
79 disabled residents and clients, and which details the habilitation program as  
80 required by law, rules and funding sources;

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

85 (19) "Individualized treatment plan", a document which sets forth the  
86 care, treatment and rehabilitation goals and objectives for mentally disordered  
87 or mentally ill patients and clients, and which details the treatment program as  
88 required by law, rules and funding sources;

89 (20) "Investigator", an employee [or contract agent] of the department of  
90 mental health who is performing an investigation regarding an allegation of  
91 abuse or neglect or an investigation at the request of the director of the  
92 department of mental health or his **or her** designee;

93 (21) "Least restrictive environment", a reasonably available setting or  
94 mental health program where care, treatment, habilitation or rehabilitation is  
95 particularly suited to the level and quality of services necessary to implement a  
96 person's individualized treatment, habilitation or rehabilitation plan and to  
97 enable the person to maximize his **or her** functioning potential to participate as  
98 freely as feasible in normal living activities, giving due consideration to  
99 potentially harmful effects on the person and the safety of other facility or  
100 program clients and public safety. For some mentally disordered or mentally  
101 retarded persons, the least restrictive environment may be a facility operated by

102 the department, a private facility, a supported community living situation, or an  
103 alternative community program designed for persons who are civilly detained for  
104 outpatient treatment or who are conditionally released pursuant to chapter 632,  
105 RSMo;

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

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

117 (a) Mental retardation, developmental disability or narcolepsy;

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

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

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

123 (24) "Mental retardation", significantly subaverage general intellectual  
124 functioning which:

125 (a) Originates before age eighteen; and

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

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

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

131 (27) "Psychosurgery",

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

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

137 (28) "Rehabilitation", a process of restoration of a person's ability to attain

138 or maintain normal or optimum health or constructive activity through care,  
139 treatment, training, counseling or specialized attention;

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

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

147 (31) "Residential facility", any premises, **public or private**, where  
148 residential prevention, evaluation, care, treatment, habilitation or rehabilitation  
149 is provided for persons affected by mental disorders, mental illness, mental  
150 retardation, developmental disabilities or alcohol or drug abuse; except the  
151 person's dwelling;

152 (32) "Specialized service", an entity which provides prevention, evaluation,  
153 transportation, care, treatment, habilitation or rehabilitation services to persons  
154 affected by mental disorders, mental illness, mental retardation, developmental  
155 disabilities or alcohol or drug abuse;

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

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

630.165. 1. When any physician, physician assistant, dentist,  
2 chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner,  
3 medical examiner, social worker, licensed professional counselor, certified  
4 substance abuse counselor, psychologist, other health practitioner, minister,  
5 Christian Science practitioner, peace officer, pharmacist, physical therapist,  
6 facility administrator, nurse's aide [or], orderly **or any other direct care staff**  
7 in a residential facility, day program, **including privately funded**, or  
8 specialized service operated, funded or licensed by the department or in a mental  
9 health facility or mental health program in which people may be admitted on a  
10 voluntary basis or are civilly detained pursuant to chapter 632, RSMo, or  
11 employee of the departments of social services, mental health, or health and  
12 senior services; or home health agency or home health agency employee; hospital

13 and clinic personnel engaged in examination, care, or treatment of persons;  
14 in-home services owner, provider, operator, or employee; law enforcement officer,  
15 long-term care facility administrator or employee; mental health professional,  
16 probation or parole officer, or other nonfamilial person with responsibility for the  
17 care of a patient, resident, or client of a facility, program, or service has  
18 reasonable cause to suspect that a patient, resident or client of a facility, program  
19 or service; **or employee of any private mental health facility or group**  
20 **home, as defined in section 633.005, RSMo,** has been subjected to abuse or  
21 neglect or observes such person being subjected to conditions or circumstances  
22 that would reasonably result in abuse or neglect, he or she shall immediately  
23 report or cause a report to be made to the department in accordance with section  
24 630.163.

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

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

41         4. Any person who knowingly files a false report of vulnerable person  
42 abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine  
43 up to one thousand dollars. Penalties collected for violations of this subsection  
44 shall be transferred to the state school moneys fund as established in section  
45 166.051, RSMo, and distributed to the public schools of this state in the manner  
46 provided in section 163.031, RSMo. Such penalties shall not considered  
47 charitable for tax purposes.

48         5. Every person who has been previously convicted of or pled guilty to

49 making a false report to the department and who is subsequently convicted of  
50 making a false report under subsection 4 of this section is guilty of a class D  
51 felony and shall be subject to a fine up to five thousand dollars. Penalties  
52 collected for violations of this subsection shall be transferred to the state school  
53 moneys fund as established in section 166.051, RSMo, and distributed to the  
54 public schools of this state in the manner provided in section 163.031,  
55 RSMo. Such penalties shall not considered charitable for tax purposes.

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

59           7. Any residential facility, day program, or specialized service operated,  
60 funded, or licensed by the department that prevents or discourages a patient,  
61 resident, or client, employee, or other person from reporting that a patient,  
62 resident, or client of a facility, program, or service has been abused or neglected  
63 shall be subject to loss of their license issued pursuant to sections 630.705 to  
64 630.760 and civil fines of up to five thousand dollars for each attempt to prevent  
65 or discourage reporting.

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

5           2. If the investigation indicates possible abuse or neglect of a patient,  
6 resident or client, the investigator shall refer the complaint together with the  
7 investigator's report to the department director for appropriate action. If, during  
8 the investigation or at its completion, the department **or any private mental**  
9 **health facility or group home, as defined in section 633.005, RSMo,** has  
10 reasonable cause to believe that immediate removal from a facility not operated  
11 or funded by the department is necessary to protect the residents from abuse or  
12 neglect, the department or the local prosecuting attorney may, or the attorney  
13 general upon request of the department shall, file a petition for temporary care  
14 and protection of the residents in a circuit court of competent jurisdiction. The  
15 circuit court in which the petition is filed shall have equitable jurisdiction to  
16 issue an ex parte order granting the department authority for the temporary care  
17 and protection of the resident for a period not to exceed thirty days.

18           3. (1) Except as otherwise provided in this section, reports referred to in  
19 section 630.165 and the investigative reports referred to in this section shall be



20 confidential, shall not be deemed a public record, and shall not be subject to the  
21 provisions of section 109.180, RSMo, or chapter 610, RSMo. Investigative reports  
22 pertaining to abuse and neglect shall remain confidential until a final report is  
23 complete, subject to the conditions contained in this section. Final reports of  
24 substantiated abuse or neglect issued on or after August 28, 2007, are open and  
25 shall be available for release in accordance with chapter 610, RSMo. The names  
26 and all other identifying information in such final substantiated reports,  
27 including diagnosis and treatment information about the patient, resident, or  
28 client who is the subject of such report, shall be confidential and may only be  
29 released to the patient, resident, or client who has not been adjudged  
30 incapacitated under chapter 475, RSMo, the custodial parent or guardian parent,  
31 or other guardian of the patient, resident or client. The names and other  
32 descriptive information of the complainant, witnesses, or other persons for whom  
33 findings are not made against in the final substantiated report shall be  
34 confidential and not deemed a public record. Final reports of unsubstantiated  
35 allegations of abuse and neglect shall remain closed records and shall only be  
36 released to the parents or other guardian of the patient, resident, or client who  
37 is the subject of such report, patient, resident, or client and the department  
38 vendor, provider, agent, or facility where the patient, resident, or client was  
39 receiving department services at the time of the unsubstantiated allegations of  
40 abuse and neglect, but the names and any other descriptive information of the  
41 complainant or any other person mentioned in the reports shall not be disclosed  
42 unless such complainant or person specifically consents to such  
43 disclosure. Requests for final reports of substantiated or unsubstantiated abuse  
44 or neglect from a patient, resident or client who has not been adjudged  
45 incapacitated under chapter 475, RSMo, may be denied or withheld if the director  
46 of the department or his or her designee determines that such release would  
47 jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation,  
48 or the safety of others and provided that the reasons for such denial or  
49 withholding are submitted in writing to the patient, resident or client who has  
50 not been adjudged incapacitated under chapter 475, RSMo. All reports referred  
51 to in this section shall be admissible in any judicial proceedings or hearing in  
52 accordance with section 36.390, RSMo, or any administrative hearing before the  
53 director of the department of mental health, or the director's designee. All such  
54 reports may be disclosed by the department of mental health to law enforcement  
55 officers and public health officers, but only to the extent necessary to carry out

56 the responsibilities of their offices, and to the department of social services, and  
57 the department of health and senior services, and to boards appointed pursuant  
58 to sections 205.968 to 205.990, RSMo, that are providing services to the patient,  
59 resident or client as necessary to report or have investigated abuse, neglect, or  
60 rights violations of patients, residents or clients provided that all such law  
61 enforcement officers, public health officers, department of social services' officers,  
62 department of health and senior services' officers, and boards shall be obligated  
63 to keep such information confidential;

64 (2) Except as otherwise provided in this section, the proceedings, findings,  
65 deliberations, reports and minutes of committees of health care professionals as  
66 defined in section 537.035, RSMo, or mental health professionals as defined in  
67 section 632.005, RSMo, who have the responsibility to evaluate, maintain, or  
68 monitor the quality and utilization of mental health services are privileged and  
69 shall not be subject to the discovery, subpoena or other means of legal compulsion  
70 for their release to any person or entity or be admissible into evidence into any  
71 judicial or administrative action for failure to provide adequate or appropriate  
72 care. Such committees may exist, either within department facilities or its  
73 agents, contractors, or vendors, as applicable. Except as otherwise provided in  
74 this section, no person who was in attendance at any investigation or committee  
75 proceeding shall be permitted or required to disclose any information acquired in  
76 connection with or in the course of such proceeding or to disclose any opinion,  
77 recommendation or evaluation of the committee or board or any member thereof;  
78 provided, however, that information otherwise discoverable or admissible from  
79 original sources is not to be construed as immune from discovery or use in any  
80 proceeding merely because it was presented during proceedings before any  
81 committee or in the course of any investigation, nor is any member, employee or  
82 agent of such committee or other person appearing before it to be prevented from  
83 testifying as to matters within their personal knowledge and in accordance with  
84 the other provisions of this section, but such witness cannot be questioned about  
85 the testimony or other proceedings before any investigation or before any  
86 committee;

87 (3) Nothing in this section shall limit authority otherwise provided by law  
88 of a health care licensing board of the state of Missouri to obtain information by  
89 subpoena or other authorized process from investigation committees or to require  
90 disclosure of otherwise confidential information relating to matters and  
91 investigations within the jurisdiction of such health care licensing boards;

92 provided, however, that such information, once obtained by such board and  
93 associated persons, shall be governed in accordance with the provisions of this  
94 subsection;

95 (4) Nothing in this section shall limit authority otherwise provided by law  
96 in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to  
97 records by the entity or agency authorized to implement a system to protect and  
98 advocate the rights of persons with developmental disabilities under the  
99 provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency  
100 authorized to implement a system to protect and advocate the rights of persons  
101 with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing  
102 in this section shall serve to negate assurances that have been given by the  
103 governor of Missouri to the U.S. Administration on Developmental Disabilities,  
104 Office of Human Development Services, Department of Health and Human  
105 Services concerning access to records by the agency designated as the protection  
106 and advocacy system for the state of Missouri. However, such information, once  
107 obtained by such entity or agency, shall be governed in accordance with the  
108 provisions of this subsection.

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

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

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

122 7. Any person who is discharged as a result of an administrative  
123 substantiation of allegations contained in a report of abuse or neglect may, after  
124 exhausting administrative remedies as provided in chapter 36, RSMo, appeal such  
125 decision to the circuit court of the county in which such person resides within  
126 ninety days of such final administrative decision. The court may accept an  
127 appeal up to twenty-four months after the party filing the appeal received notice

128 of the department's determination, upon a showing that:

129 (1) Good cause exists for the untimely commencement of the request for  
130 the review;

131 (2) If the opportunity to appeal is not granted it will adversely affect the  
132 party's opportunity for employment; and

133 (3) There is no other adequate remedy at law.

630.410. 1. The department shall evaluate any proposed contract to  
2 determine whether it meets the following criteria:

3 (1) Conformance with the conditions and priorities of the regional and  
4 state division plans;

5 (2) Compliance with department rules and regulations.

6 **2. The department shall terminate a contract with a vendor**  
7 **having a pattern of abuse and neglect of patients, residents, or clients**  
8 **or misappropriation of client funds or property.**

630.705. 1. The department shall promulgate rules setting forth  
2 reasonable standards for residential facilities and day programs for persons who  
3 are affected by a mental disorder, mental illness, mental retardation or  
4 developmental disability, **including private mental health facilities and**  
5 **group homes as defined in section 633.005, RSMo. The exemptions from**  
6 **licensure under subdivision (6) of subsection 3 of this section shall not**  
7 **apply to such private mental health facilities and group homes.**

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

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

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

18 (2) Any educational, special educational or vocational program operated,  
19 certified or approved by the state board of education pursuant to chapters 161,  
20 162 and 178, RSMo, and regulations promulgated by the board;

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

23 standards;

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

29 (5) Any hospital licensed by the department of social services as a  
30 psychiatric hospital pursuant to chapter 197, RSMo;

31 (6) Any facility or program accredited by the Joint Commission on  
32 Accreditation of Hospitals, the American Osteopathic Association, Accreditation  
33 Council for Services for Mentally Retarded or other Developmentally Disabled  
34 Persons, Council on Accreditation of Services for Children and Families, Inc., or  
35 the Commission on Accreditation of Rehabilitation Facilities;

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

38 **4. In establishing standards for each type of facility, program, or**  
39 **group home listed in subsection 1 of this section, the department shall**  
40 **classify the standards into three categories for each type of facility,**  
41 **program, or group home as follows:**

42 (1) **Class I standards are standards the violation of which would**  
43 **present either an imminent danger to the health, safety, or welfare of**  
44 **any resident or client or a substantial probability that death or serious**  
45 **physical harm would result;**

46 (2) **Class II standards are standards which have a direct or**  
47 **immediate relationship to the health, safety, or welfare of any resident**  
48 **or client, but which do not create imminent danger;**

49 (3) **Class III standards are standards which have an indirect or**  
50 **a potential impact on the health, safety, or welfare of any resident or**  
51 **client.**

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

7 (1) General medical and health care;

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

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

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

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

630.755. 1. An action may be brought by the department, or by the  
2 attorney general on his own volition or at the request of the department or any  
3 other appropriate state agency, to temporarily or permanently enjoin or restrain  
4 any violation of sections 630.705 to 630.760, to enjoin the acceptance of new  
5 residents until substantial compliance with sections 630.705 to 630.760 is

6 achieved, or to enjoin any specific action or practice of the residential facility or  
7 day program, **including any private mental health facility or group home**  
8 **as defined in section 633.005, RSMo.** Any action brought under the  
9 provisions of this section shall be placed at the head of the docket by the court  
10 and the court shall hold a hearing on any action brought under the provisions of  
11 this section no less than fifteen days after the filing of the action.

12 2. [Any facility or program which has received a notice of noncompliance  
13 as provided by sections 630.745 to 630.750 is liable to the state for civil penalties  
14 of up to ten thousand dollars for each day that noncompliance continues after the  
15 notice of noncompliance is received.] The attorney general shall, upon the request  
16 of the department, bring an action in a circuit court of competent jurisdiction to  
17 recover [the] a civil penalty **against the operator of the facility, group**  
18 **home, or program. Such action shall be brought in the circuit court for**  
19 **the county in which the facility, group home, or program is**  
20 **located.** The circuit court shall [have the authority to] determine the amount  
21 of civil penalty to be assessed within the limits set out in this section. Appeals  
22 may be taken from the judgment of the circuit court as in other civil cases.

23 3. **The operator of any facility, group home, or program which**  
24 **has been cited with a violation of sections 630.705 to 630.760 or the**  
25 **rules established thereunder is liable to the state for civil penalties of**  
26 **up to twenty-five thousand dollars for each day that the violations**  
27 **existed or continue to exist. Violations shall be presumed to continue**  
28 **to exist from the time they are found until the time the department of**  
29 **mental health finds them to have been corrected. When applicable, the**  
30 **amount of the penalty shall be determined as follows:**

31 (1) **For each violation of a class I standard, not less than one**  
32 **thousand dollars nor more than ten thousand dollars;**

33 (2) **For each violation of a class II standard, not less than two**  
34 **hundred fifty dollars nor more than one thousand dollars;**

35 (3) **For each violation of a class III standard, not less than fifty**  
36 **dollars nor more than two hundred fifty dollars;**

37 (4) **For each specific class I violation by the same operator at a**  
38 **particular facility, program, or group home which has been previously**  
39 **cited within the past twenty-four months and for each specific class II**  
40 **or III violation by the same operator at a particular facility, program,**  
41 **or group home which has been previously cited within the past twelve**

42 **months, double the amount last imposed;**

43 **(5) In accordance with the provisions of this section, if the**  
44 **department imposes a civil monetary penalty for a class I violation, the**  
45 **liability for such penalty shall be incurred immediately upon the**  
46 **imposition of the penalty for the violation regardless of any subsequent**  
47 **correction of the violation by the facility, program, or group home. For**  
48 **class II or III violations, if the department imposes a civil monetary**  
49 **penalty, the liability for such penalty shall be incurred if a breach of**  
50 **a specific state law or regulation remains uncorrected and not in**  
51 **accord with the accepted plan of correction at the time of the**  
52 **reinspection conducted under subsection 3 of section 630.745.**

53 **A judgment rendered against the operator of a facility, program, or**  
54 **group home under this subsection shall bear interest as provided in**  
55 **subsection 1 of section 408.040, RSMo.**

56 **4. The imposition of any remedy provided for in sections 630.705 to**  
57 **630.760 shall not bar the imposition of any other remedy.**

58 **[4.] 5. Penalties collected for violations of this section shall be**  
59 **transferred to the state schools moneys established under section 166.051, RSMo,**  
60 **and distributed to the public schools of this state in the manner**  
61 **provided in section 163.031, RSMo. Such penalties shall not be considered**  
62 **a charitable contribution for tax purposes.**

63 **[5.] 6. To recover any civil penalty, the moving party shall prove by a**  
64 **preponderance of the evidence that the violation occurred.**

65 **7. The operator of a facility, group home, or program against**  
66 **whom an action to recover a civil penalty is brought under this section**  
67 **may confess judgment as provided in section 511.070, RSMo, at any time**  
68 **prior to hearing. If such operator agrees to confess judgment, the**  
69 **amount of the civil penalty recommended by the moving party in its**  
70 **petition shall be reduced by twenty-five percent and the confessed**  
71 **judgment shall be entered by the circuit court at the reduced amount.**

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

3 (1) "Comprehensive evaluation", a study, including a sequence of  
4 observations and examinations, of an individual leading to conclusions and  
5 recommendations formulated jointly by an interdisciplinary team of persons with  
6 special training and experience in the diagnosis and habilitation of the mentally



7 retarded and developmentally disabled;

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

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

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

19 (5) "Mental retardation facility", a private or department facility, other  
20 than a regional center, which admits persons who are mentally retarded or  
21 developmentally disabled for residential habilitation and other services and which  
22 is qualified or licensed as such by the department pursuant to chapter 630,  
23 RSMo. Such terms shall include, but shall not be limited to, habilitation centers,  
24 **group homes**, and private or public residential facilities for persons who are  
25 developmentally disabled;

26 [(5)] (6) "Regional center", an entity so designated by the department to  
27 provide, directly or indirectly, for comprehensive mental retardation and  
28 developmental disability services under this chapter in a particular region;

29 [(6)] (7) "Respite care", temporary and short-term residential care,  
30 sustenance and supervision of a mentally retarded or developmentally disabled  
31 person who otherwise resides in a family home;

32 [(7)] (8) "State advisory council", the Missouri advisory council on mental  
33 retardation and developmental disabilities as created in section 633.020.

**633.300. 1. All private group homes and mental health facilities  
2 shall be licensed by the department of mental health and shall be  
3 subject to the same state laws and regulations as the state-operated  
4 mental health facilities, including but not limited to sections 630.705 to  
5 630.805, RSMo.**

6 **2. All employees of private group homes and mental health  
7 facilities shall:**

8 (1) **Be subject to the same training requirements established for  
9 state mental health workers with comparable positions in public group**

10 homes and mental health facilities. Such required training shall be  
11 paid for by the employer; and

12 (2) Be compensated by the employer in an amount at least equal  
13 to the average hourly wage paid by the state to mental health workers  
14 with comparable positions in public group homes and mental health  
15 facilities.

16 3. Private facilities and group homes that are Medicaid-waiver  
17 providers shall be subject to the same medical errors reporting  
18 requirements of other mental health facilities and group homes.

19 4. The division shall promulgate rules or amend existing rules to  
20 implement the provisions of this section. Any rule or portion of a rule,  
21 as that term is defined in section 536.010, RSMo, that is created under  
22 the authority delegated in this section shall become effective only if it  
23 complies with and is subject to all of the provisions of chapter 536,  
24 RSMo, and, if applicable, section 536.028, RSMo. This section and  
25 chapter 536, RSMo, are nonseverable and if any of the powers vested  
26 with the general assembly pursuant to chapter 536, RSMo, to review, to  
27 delay the effective date, or to disapprove and annul a rule are  
28 subsequently held unconstitutional, then the grant of rulemaking  
29 authority and any rule proposed or adopted after August 28, 2008, shall  
30 be invalid and void.

633.303. Any employee, including supervisory personnel, of a  
2 private mental health facility who purposely, knowingly, and willfully  
3 violates a stated or written policy of the division, any rule promulgated  
4 by the division, or any state law directly related to provision of mental  
5 health services regulated by the division shall be dismissed; except  
6 that, an employee's good faith efforts to follow the stated or written  
7 policies of the division, the rules promulgated by the division, or the  
8 state laws directly related to the provision of mental health services  
9 shall be a mitigating factor in determining whether an employee of a  
10 private group home is dismissed under this section.

633.306. 1. Beginning January 1, 2009, all private mental health  
2 facilities and group homes shall, on a quarterly basis, submit a  
3 comprehensive report to the department on any staff and personnel  
4 turnover at the facility or group home. Such report shall include the  
5 number, job description, salary, and duration of employment regarding  
6 such staff and personnel turnover. Such reports shall be submitted no

7 later than thirty days after the end of each calendar quarter.

8           2. Beginning January 1, 2010, the department shall collect the  
9 information submitted under subsection 1 of this section and submit an  
10 annual report to the general assembly on or before March fifteenth of  
11 each year regarding the staff and personnel turnover at private mental  
12 health facilities and group homes. Such report shall include  
13 information that is specific to each facility and group home, as well as  
14 information inclusive of all such facilities and group homes.

          633.309. The department of mental health shall not transfer any  
2 person to or utilize the services of any private mental health facility or  
3 group home after the effective date of this section until such time as  
4 the department has fully implemented the requirements of this act.

✓

Bill

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