

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 727**  
97TH GENERAL ASSEMBLY

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Reported from the Committee on Seniors, Families and Pensions, May 16, 2013, with recommendation that the Senate Committee Substitute do pass.

1482S.06C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 208.146, 208.152, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, RSMo, and to enact in lieu thereof eleven new sections relating to individuals with disabilities, with a penalty provision, an expiration date for a certain section, and an emergency clause for certain sections.

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

Section A. Sections 208.146, 208.152, 209.150, 209.152, 209.200, 209.202, 2 301.143, 304.028, and 630.170, RSMo, are repealed and eleven new sections 3 enacted in lieu thereof, to be known as sections 161.870, 208.146, 208.152, 4 208.1050, 209.150, 209.152, 209.200, 209.202, 301.143, 304.028, and 630.170, to 5 read as follows:

**161.870. 1. By September 1, 2013, the department of elementary 2 and secondary education shall establish a work group to assess the 3 available resources needed for effective work experiences for students 4 and young adults with disabilities. The work group shall review all 5 interagency coordination of services that match young adults who have 6 disabilities with employers who need employees to ensure that these 7 services are adequately meeting the following needs of students and 8 young adults with disabilities who seek employment and need 9 assistance with job placement:**

- 10           **(1) Recruitment;**  
11           **(2) Assessment;**  
12           **(3) Counseling;**

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

- 13           **(4) Pre-employment skills training;**  
14           **(5) Vocational training;**  
15           **(6) Student wages for try-out employment;**  
16           **(7) Placement in unsubsidized employment; and**  
17           **(8) Other assistance with transition to a quality adult life.**

18           **2. The goal of the work group shall be to evaluate the current**  
19 **efforts and available resources and to promote the involvement of key**  
20 **stakeholders including students, families, educators, employers and**  
21 **other agencies in planning and implementing an array of services that**  
22 **will culminate in successful student transition to employment, lifelong**  
23 **learning, and quality of life. The work group shall focus on secondary**  
24 **students and young adults with disabilities.**

25           **3. The work group shall:**

26           **(1) Assess the strengths and need for improvement in services for**  
27 **transition services, instruction, and experiences that reinforce core**  
28 **curriculum concepts and skills leading to gainful employment for**  
29 **students and young adults with disabilities;**

30           **(2) Determine whether any additional state partnerships**  
31 **provided through nonfinancial interagency agreements among the**  
32 **department of health and senior services, the department of economic**  
33 **development, the department of mental health, and the department of**  
34 **social services, or in the private sector, are needed to enhance the**  
35 **employment potential of students and young adults with disabilities;**

36           **(3) Focus its efforts in developing careers for students and young**  
37 **adults with disabilities, to prevent economic and social dependence on**  
38 **state and community agencies and resources; and**

39           **(4) Report its findings to the director.**

40           **4. The department of elementary and secondary education shall**  
41 **make recommendations based on the findings of the work group and**  
42 **report them to the general assembly prior to January 1, 2014.**

43           **5. The work group shall be administered and its members chosen**  
44 **by the commissioner of education. Work group members shall include**  
45 **existing personnel and human resources available to the department of**  
46 **elementary and secondary education, including but not limited to**  
47 **representatives from state agencies and local advocacy groups and**  
48 **community members with valuable input regarding the needs of**  
49 **disabled students and individuals, or members of the general assembly.**

50           **6. The department of elementary and secondary education may**  
51 **promulgate all necessary rules and regulations for the administration**  
52 **of this section. Any rule or portion of a rule, as that term is defined in**  
53 **section 536.010, that is created under the authority delegated in this**  
54 **section shall become effective only if it complies with and is subject to**  
55 **all of the provisions of chapter 536 and, if applicable, section**  
56 **536.028. This section and chapter 536 are nonseverable and if any of**  
57 **the powers vested with the general assembly pursuant to chapter 536**  
58 **to review, to delay the effective date, or to disapprove and annul a rule**  
59 **are subsequently held unconstitutional, then the grant of rulemaking**  
60 **authority and any rule proposed or adopted after August 28, 2013, shall**  
61 **be invalid and void.**

208.146. 1. The program established under this section shall be known  
2 as the "Ticket to Work Health Assurance Program". Subject to appropriations  
3 and in accordance with the federal Ticket to Work and Work Incentives  
4 Improvement Act of 1999 (TWWIA), Public Law 106-170, the medical assistance  
5 provided for in section 208.151 may be paid for a person who is employed and  
6 who:

7           (1) Except for earnings, meets the definition of disabled under the  
8 Supplemental Security Income Program or meets the definition of an employed  
9 individual with a medically improved disability under TWWIA;

10           (2) Has earned income, as defined in subsection 2 of this section;

11           (3) Meets the asset limits in subsection 3 of this section;

12           (4) Has net income, as defined in subsection 3 of this section, that does  
13 not exceed the limit for permanent and totally disabled individuals to receive  
14 nonspenddown MO HealthNet under subdivision (24) of subsection 1 of section  
15 208.151; and

16           (5) Has a gross income of two hundred fifty percent or less of the federal  
17 poverty level, excluding any earned income of the worker with a disability  
18 between two hundred fifty and three hundred percent of the federal poverty  
19 level. For purposes of this subdivision, "gross income" includes all income of the  
20 person and the person's spouse that would be considered in determining MO  
21 HealthNet eligibility for permanent and totally disabled individuals under  
22 subdivision (24) of subsection 1 of section 208.151. Individuals with gross  
23 incomes in excess of one hundred percent of the federal poverty level shall pay a  
24 premium for participation in accordance with subsection 4 of this section.

25           2. For income to be considered earned income for purposes of this section,  
26 the department of social services shall document that Medicare and Social  
27 Security taxes are withheld from such income. Self-employed persons shall  
28 provide proof of payment of Medicare and Social Security taxes for income to be  
29 considered earned.

30           3. (1) For purposes of determining eligibility under this section, the  
31 available asset limit and the definition of available assets shall be the same as  
32 those used to determine MO HealthNet eligibility for permanent and totally  
33 disabled individuals under subdivision (24) of subsection 1 of section 208.151  
34 except for:

35           (a) Medical savings accounts limited to deposits of earned income and  
36 earnings on such income while a participant in the program created under this  
37 section with a value not to exceed five thousand dollars per year; and

38           (b) Independent living accounts limited to deposits of earned income and  
39 earnings on such income while a participant in the program created under this  
40 section with a value not to exceed five thousand dollars per year. For purposes  
41 of this section, an "independent living account" means an account established and  
42 maintained to provide savings for transportation, housing, home modification, and  
43 personal care services and assistive devices associated with such person's  
44 disability.

45           (2) To determine net income, the following shall be disregarded:

46           (a) All earned income of the disabled worker;

47           (b) The first sixty-five dollars and one-half of the remaining earned  
48 income of a nondisabled spouse's earned income;

49           (c) A twenty dollar standard deduction;

50           (d) Health insurance premiums;

51           (e) A seventy-five dollar a month standard deduction for the disabled  
52 worker's dental and optical insurance when the total dental and optical insurance  
53 premiums are less than seventy-five dollars;

54           (f) All Supplemental Security Income payments, and the first fifty dollars  
55 of SSDI payments;

56           (g) A standard deduction for impairment-related employment expenses  
57 equal to one-half of the disabled worker's earned income.

58           4. Any person whose gross income exceeds one hundred percent of the  
59 federal poverty level shall pay a premium for participation in the medical  
60 assistance provided in this section. Such premium shall be:

61 (1) For a person whose gross income is more than one hundred percent  
62 but less than one hundred fifty percent of the federal poverty level, four percent  
63 of income at one hundred percent of the federal poverty level;

64 (2) For a person whose gross income equals or exceeds one hundred fifty  
65 percent but is less than two hundred percent of the federal poverty level, four  
66 percent of income at one hundred fifty percent of the federal poverty level;

67 (3) For a person whose gross income equals or exceeds two hundred  
68 percent but less than two hundred fifty percent of the federal poverty level, five  
69 percent of income at two hundred percent of the federal poverty level;

70 (4) For a person whose gross income equals or exceeds two hundred fifty  
71 percent up to and including three hundred percent of the federal poverty level,  
72 six percent of income at two hundred fifty percent of the federal poverty level.

73 5. Recipients of services through this program shall report any change in  
74 income or household size within ten days of the occurrence of such change. An  
75 increase in premiums resulting from a reported change in income or household  
76 size shall be effective with the next premium invoice that is mailed to a person  
77 after due process requirements have been met. A decrease in premiums shall be  
78 effective the first day of the month immediately following the month in which the  
79 change is reported.

80 6. If an eligible person's employer offers employer-sponsored health  
81 insurance and the department of social services determines that it is more cost  
82 effective, such person shall participate in the employer-sponsored insurance. The  
83 department shall pay such person's portion of the premiums, co-payments, and  
84 any other costs associated with participation in the employer-sponsored health  
85 insurance.

86 7. The provisions of this section shall expire [six years after] August 28,  
87 [2007] **2019**.

208.152. 1. MO HealthNet payments shall be made on behalf of those  
2 eligible needy persons as defined in section 208.151 who are unable to provide for  
3 it in whole or in part, with any payments to be made on the basis of the  
4 reasonable cost of the care or reasonable charge for the services as defined and  
5 determined by the MO HealthNet division, unless otherwise hereinafter provided,  
6 for the following:

7 (1) Inpatient hospital services, except to persons in an institution for  
8 mental diseases who are under the age of sixty-five years and over the age of  
9 twenty-one years; provided that the MO HealthNet division shall provide through

10 rule and regulation an exception process for coverage of inpatient costs in those  
11 cases requiring treatment beyond the seventy-fifth percentile professional  
12 activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay  
13 schedule; and provided further that the MO HealthNet division shall take into  
14 account through its payment system for hospital services the situation of  
15 hospitals which serve a disproportionate number of low-income patients;

16 (2) All outpatient hospital services, payments therefor to be in amounts  
17 which represent no more than eighty percent of the lesser of reasonable costs or  
18 customary charges for such services, determined in accordance with the principles  
19 set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the  
20 federal Social Security Act (42 U.S.C. 301, et seq.), but the MO HealthNet  
21 division may evaluate outpatient hospital services rendered under this section  
22 and deny payment for services which are determined by the MO HealthNet  
23 division not to be medically necessary, in accordance with federal law and  
24 regulations;

25 (3) Laboratory and X-ray services;

26 (4) Nursing home services for participants, except to persons with more  
27 than five hundred thousand dollars equity in their home or except for persons in  
28 an institution for mental diseases who are under the age of sixty-five years, when  
29 residing in a hospital licensed by the department of health and senior services or  
30 a nursing home licensed by the department of health and senior services or  
31 appropriate licensing authority of other states or government-owned and  
32 -operated institutions which are determined to conform to standards equivalent  
33 to licensing requirements in Title XIX of the federal Social Security Act (42  
34 U.S.C. 301, et seq.), as amended, for nursing facilities. The MO HealthNet  
35 division may recognize through its payment methodology for nursing facilities  
36 those nursing facilities which serve a high volume of MO HealthNet  
37 patients. The MO HealthNet division when determining the amount of the  
38 benefit payments to be made on behalf of persons under the age of twenty-one in  
39 a nursing facility may consider nursing facilities furnishing care to persons under  
40 the age of twenty-one as a classification separate from other nursing facilities;

41 (5) Nursing home costs for participants receiving benefit payments under  
42 subdivision (4) of this subsection for those days, which shall not exceed twelve per  
43 any period of six consecutive months, during which the participant is on a  
44 temporary leave of absence from the hospital or nursing home, provided that no  
45 such participant shall be allowed a temporary leave of absence unless it is

46 specifically provided for in his plan of care. As used in this subdivision, the term  
47 "temporary leave of absence" shall include all periods of time during which a  
48 participant is away from the hospital or nursing home overnight because he is  
49 visiting a friend or relative;

50 (6) Physicians' services, whether furnished in the office, home, hospital,  
51 nursing home, or elsewhere;

52 (7) Drugs and medicines when prescribed by a licensed physician, dentist,  
53 or podiatrist; except that no payment for drugs and medicines prescribed on and  
54 after January 1, 2006, by a licensed physician, dentist, or podiatrist may be made  
55 on behalf of any person who qualifies for prescription drug coverage under the  
56 provisions of P.L. 108-173;

57 (8) Emergency ambulance services and, effective January 1, 1990,  
58 medically necessary transportation to scheduled, physician-prescribed nonelective  
59 treatments;

60 (9) Early and periodic screening and diagnosis of individuals who are  
61 under the age of twenty-one to ascertain their physical or mental defects, and  
62 health care, treatment, and other measures to correct or ameliorate defects and  
63 chronic conditions discovered thereby. Such services shall be provided in  
64 accordance with the provisions of Section 6403 of P.L. 101-239 and federal  
65 regulations promulgated thereunder;

66 (10) Home health care services;

67 (11) Family planning as defined by federal rules and regulations;  
68 provided, however, that such family planning services shall not include abortions  
69 unless such abortions are certified in writing by a physician to the MO HealthNet  
70 agency that, in his professional judgment, the life of the mother would be  
71 endangered if the fetus were carried to term;

72 (12) Inpatient psychiatric hospital services for individuals under age  
73 twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C.  
74 1396d, et seq.);

75 (13) Outpatient surgical procedures, including presurgical diagnostic  
76 services performed in ambulatory surgical facilities which are licensed by the  
77 department of health and senior services of the state of Missouri; except, that  
78 such outpatient surgical services shall not include persons who are eligible for  
79 coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the  
80 federal Social Security Act, as amended, if exclusion of such persons is permitted  
81 under Title XIX, Public Law 89-97, 1965 amendments to the federal Social

82 Security Act, as amended;

83 (14) Personal care services which are medically oriented tasks having to  
84 do with a person's physical requirements, as opposed to housekeeping  
85 requirements, which enable a person to be treated by his physician on an  
86 outpatient rather than on an inpatient or residential basis in a hospital,  
87 intermediate care facility, or skilled nursing facility. Personal care services shall  
88 be rendered by an individual not a member of the participant's family who is  
89 qualified to provide such services where the services are prescribed by a physician  
90 in accordance with a plan of treatment and are supervised by a licensed  
91 nurse. Persons eligible to receive personal care services shall be those persons  
92 who would otherwise require placement in a hospital, intermediate care facility,  
93 or skilled nursing facility. Benefits payable for personal care services shall not  
94 exceed for any one participant one hundred percent of the average statewide  
95 charge for care and treatment in an intermediate care facility for a comparable  
96 period of time. Such services, when delivered in a residential care facility or  
97 assisted living facility licensed under chapter 198 shall be authorized on a tier  
98 level based on the services the resident requires and the frequency of the services.  
99 A resident of such facility who qualifies for assistance under section 208.030  
100 shall, at a minimum, if prescribed by a physician, qualify for the tier level with  
101 the fewest services. The rate paid to providers for each tier of service shall be set  
102 subject to appropriations. Subject to appropriations, each resident of such facility  
103 who qualifies for assistance under section 208.030 and meets the level of care  
104 required in this section shall, at a minimum, if prescribed by a physician, be  
105 authorized up to one hour of personal care services per day. Authorized units of  
106 personal care services shall not be reduced or tier level lowered unless an order  
107 approving such reduction or lowering is obtained from the resident's personal  
108 physician. Such authorized units of personal care services or tier level shall be  
109 transferred with such resident if her or she transfers to another such  
110 facility. Such provision shall terminate upon receipt of relevant waivers from the  
111 federal Department of Health and Human Services. If the Centers for Medicare  
112 and Medicaid Services determines that such provision does not comply with the  
113 state plan, this provision shall be null and void. The MO HealthNet division  
114 shall notify the revisor of statutes as to whether the relevant waivers are  
115 approved or a determination of noncompliance is made;

116 (15) Mental health services. The state plan for providing medical  
117 assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended,



118 shall include the following mental health services when such services are  
119 provided by community mental health facilities operated by the department of  
120 mental health or designated by the department of mental health as a community  
121 mental health facility or as an alcohol and drug abuse facility or as a  
122 child-serving agency within the comprehensive children's mental health service  
123 system established in section 630.097. The department of mental health shall  
124 establish by administrative rule the definition and criteria for designation as a  
125 community mental health facility and for designation as an alcohol and drug  
126 abuse facility. Such mental health services shall include:

127       (a) Outpatient mental health services including preventive, diagnostic,  
128 therapeutic, rehabilitative, and palliative interventions rendered to individuals  
129 in an individual or group setting by a mental health professional in accordance  
130 with a plan of treatment appropriately established, implemented, monitored, and  
131 revised under the auspices of a therapeutic team as a part of client services  
132 management;

133       (b) Clinic mental health services including preventive, diagnostic,  
134 therapeutic, rehabilitative, and palliative interventions rendered to individuals  
135 in an individual or group setting by a mental health professional in accordance  
136 with a plan of treatment appropriately established, implemented, monitored, and  
137 revised under the auspices of a therapeutic team as a part of client services  
138 management;

139       (c) Rehabilitative mental health and alcohol and drug abuse services  
140 including home and community-based preventive, diagnostic, therapeutic,  
141 rehabilitative, and palliative interventions rendered to individuals in an  
142 individual or group setting by a mental health or alcohol and drug abuse  
143 professional in accordance with a plan of treatment appropriately established,  
144 implemented, monitored, and revised under the auspices of a therapeutic team  
145 as a part of client services management. As used in this section, mental health  
146 professional and alcohol and drug abuse professional shall be defined by the  
147 department of mental health pursuant to duly promulgated rules. With respect  
148 to services established by this subdivision, the department of social services, MO  
149 HealthNet division, shall enter into an agreement with the department of mental  
150 health. Matching funds for outpatient mental health services, clinic mental  
151 health services, and rehabilitation services for mental health and alcohol and  
152 drug abuse shall be certified by the department of mental health to the MO  
153 HealthNet division. The agreement shall establish a mechanism for the joint

154 implementation of the provisions of this subdivision. In addition, the agreement  
155 shall establish a mechanism by which rates for services may be jointly developed;

156 (16) Such additional services as defined by the MO HealthNet division to  
157 be furnished under waivers of federal statutory requirements as provided for and  
158 authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to  
159 appropriation by the general assembly;

160 (17) Beginning July 1, 1990, the services of a certified pediatric or family  
161 nursing practitioner with a collaborative practice agreement to the extent that  
162 such services are provided in accordance with chapters 334 and 335, and  
163 regulations promulgated thereunder;

164 (18) Nursing home costs for participants receiving benefit payments under  
165 subdivision (4) of this subsection to reserve a bed for the participant in the  
166 nursing home during the time that the participant is absent due to admission to  
167 a hospital for services which cannot be performed on an outpatient basis, subject  
168 to the provisions of this subdivision:

169 (a) The provisions of this subdivision shall apply only if:

170 a. The occupancy rate of the nursing home is at or above ninety-seven  
171 percent of MO HealthNet certified licensed beds, according to the most recent  
172 quarterly census provided to the department of health and senior services which  
173 was taken prior to when the participant is admitted to the hospital; and

174 b. The patient is admitted to a hospital for a medical condition with an  
175 anticipated stay of three days or less;

176 (b) The payment to be made under this subdivision shall be provided for  
177 a maximum of three days per hospital stay;

178 (c) For each day that nursing home costs are paid on behalf of a  
179 participant under this subdivision during any period of six consecutive months  
180 such participant shall, during the same period of six consecutive months, be  
181 ineligible for payment of nursing home costs of two otherwise available temporary  
182 leave of absence days provided under subdivision (5) of this subsection; and

183 (d) The provisions of this subdivision shall not apply unless the nursing  
184 home receives notice from the participant or the participant's responsible party  
185 that the participant intends to return to the nursing home following the hospital  
186 stay. If the nursing home receives such notification and all other provisions of  
187 this subsection have been satisfied, the nursing home shall provide notice to the  
188 participant or the participant's responsible party prior to release of the reserved  
189 bed;

190 (19) Prescribed medically necessary durable medical equipment. An  
191 electronic web-based prior authorization system using best medical evidence and  
192 care and treatment guidelines consistent with national standards shall be used  
193 to verify medical need;

194 (20) **Subject to appropriations, comprehensive day rehabilitation**  
195 **services beginning early post-trauma as part of a coordinated system**  
196 **of care for individuals with disabling impairments. Rehabilitation**  
197 **services must be based on an individualized, goal-oriented,**  
198 **comprehensive, and coordinated treatment plan developed,**  
199 **implemented, and monitored through an interdisciplinary assessment**  
200 **designed to restore an individual to optimal levels of physical,**  
201 **cognitive, and behavioral function. The MO HealthNet division shall**  
202 **establish, by administrative rule, the definition and criteria for**  
203 **designation of a comprehensive day rehabilitation service facility,**  
204 **benefit limitations, and payment mechanism utilizing the expertise of**  
205 **brain injury rehabilitation service providers and the Missouri head**  
206 **injury advisory council created under section 192.745. Such services**  
207 **shall be provided in a community-based facility and be authorized on**  
208 **tier levels based on the services the patient requires and the frequency**  
209 **of the services as guided by a qualified rehabilitation professional**  
210 **associated with a health care home. Any rule or portion of a rule, as**  
211 **that term is defined in section 536.010, that is created under the**  
212 **authority delegated in this subdivision shall become effective only if it**  
213 **complies with and is subject to all of the provisions of chapter 536 and,**  
214 **if applicable, section 536.028. This section and chapter 536 are**  
215 **nonseverable and if any of the powers vested with the general assembly**  
216 **pursuant to chapter 536 to review, to delay the effective date, or to**  
217 **disapprove and annul a rule are subsequently held unconstitutional,**  
218 **then the grant of rulemaking authority and any rule proposed or**  
219 **adopted after August 28, 2013, shall be invalid and void;**

220 (21) Hospice care. As used in this subdivision, the term "hospice care"  
221 means a coordinated program of active professional medical attention within a  
222 home, outpatient and inpatient care which treats the terminally ill patient and  
223 family as a unit, employing a medically directed interdisciplinary team. The  
224 program provides relief of severe pain or other physical symptoms and supportive  
225 care to meet the special needs arising out of physical, psychological, spiritual,  
226 social, and economic stresses which are experienced during the final stages of

227 illness, and during dying and bereavement and meets the Medicare requirements  
228 for participation as a hospice as are provided in 42 CFR Part 418. The rate of  
229 reimbursement paid by the MO HealthNet division to the hospice provider for  
230 room and board furnished by a nursing home to an eligible hospice patient shall  
231 not be less than ninety-five percent of the rate of reimbursement which would  
232 have been paid for facility services in that nursing home facility for that patient,  
233 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus  
234 Budget Reconciliation Act of 1989);

235        ~~[(21)]~~ **(22)** Prescribed medically necessary dental services. Such services  
236 shall be subject to appropriations. An electronic web-based prior authorization  
237 system using best medical evidence and care and treatment guidelines consistent  
238 with national standards shall be used to verify medical need;

239        ~~[(22)]~~ **(23)** Prescribed medically necessary optometric services. Such  
240 services shall be subject to appropriations. An electronic web-based prior  
241 authorization system using best medical evidence and care and treatment  
242 guidelines consistent with national standards shall be used to verify medical  
243 need;

244        **(24) Prescribed medically necessary hearing aids. Such services**  
245 **shall be subject to appropriations. An electronic web-based prior**  
246 **authorization system using best medical evidence and care and**  
247 **treatment guidelines consistent with national standards shall be used**  
248 **to verify medical need;**

249        ~~[(23)]~~ **(25)** Blood clotting products-related services. For persons  
250 diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood  
251 clotting products, as defined in section 338.400, such services include:

252        (a) Home delivery of blood clotting products and ancillary infusion  
253 equipment and supplies, including the emergency deliveries of the product when  
254 medically necessary;

255        (b) Medically necessary ancillary infusion equipment and supplies  
256 required to administer the blood clotting products; and

257        (c) Assessments conducted in the participant's home by a pharmacist,  
258 nurse, or local home health care agency trained in bleeding disorders when  
259 deemed necessary by the participant's treating physician;

260        ~~[(24)]~~ **(26)** The MO HealthNet division shall, by January 1, 2008, and  
261 annually thereafter, report the status of MO HealthNet provider reimbursement  
262 rates as compared to one hundred percent of the Medicare reimbursement rates

263 and compared to the average dental reimbursement rates paid by third-party  
264 payors licensed by the state. The MO HealthNet division shall, by July 1, 2008,  
265 provide to the general assembly a four-year plan to achieve parity with Medicare  
266 reimbursement rates and for third-party payor average dental reimbursement  
267 rates. Such plan shall be subject to appropriation and the division shall include  
268 in its annual budget request to the governor the necessary funding needed to  
269 complete the four-year plan developed under this subdivision.

270 2. Additional benefit payments for medical assistance shall be made on  
271 behalf of those eligible needy children, pregnant women and blind persons with  
272 any payments to be made on the basis of the reasonable cost of the care or  
273 reasonable charge for the services as defined and determined by the division of  
274 medical services, unless otherwise hereinafter provided, for the following:

275 (1) Dental services;

276 (2) Services of podiatrists as defined in section 330.010;

277 (3) Optometric services as defined in section 336.010;

278 (4) Orthopedic devices or other prosthetics, including eye glasses,  
279 dentures, hearing aids, and wheelchairs;

280 (5) Hospice care. As used in this subsection, the term "hospice care"  
281 means a coordinated program of active professional medical attention within a  
282 home, outpatient and inpatient care which treats the terminally ill patient and  
283 family as a unit, employing a medically directed interdisciplinary team. The  
284 program provides relief of severe pain or other physical symptoms and supportive  
285 care to meet the special needs arising out of physical, psychological, spiritual,  
286 social, and economic stresses which are experienced during the final stages of  
287 illness, and during dying and bereavement and meets the Medicare requirements  
288 for participation as a hospice as are provided in 42 CFR Part 418. The rate of  
289 reimbursement paid by the MO HealthNet division to the hospice provider for  
290 room and board furnished by a nursing home to an eligible hospice patient shall  
291 not be less than ninety-five percent of the rate of reimbursement which would  
292 have been paid for facility services in that nursing home facility for that patient,  
293 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus  
294 Budget Reconciliation Act of 1989);

295 (6) Comprehensive day rehabilitation services beginning early posttrauma  
296 as part of a coordinated system of care for individuals with disabling  
297 impairments. Rehabilitation services must be based on an individualized,  
298 goal-oriented, comprehensive and coordinated treatment plan developed,

299 implemented, and monitored through an interdisciplinary assessment designed  
300 to restore an individual to optimal level of physical, cognitive, and behavioral  
301 function. The MO HealthNet division shall establish by administrative rule the  
302 definition and criteria for designation of a comprehensive day rehabilitation  
303 service facility, benefit limitations and payment mechanism. Any rule or portion  
304 of a rule, as that term is defined in section 536.010, that is created under the  
305 authority delegated in this subdivision shall become effective only if it complies  
306 with and is subject to all of the provisions of chapter 536 and, if applicable,  
307 section 536.028. This section and chapter 536 are nonseverable and if any of the  
308 powers vested with the general assembly pursuant to chapter 536 to review, to  
309 delay the effective date, or to disapprove and annul a rule are subsequently held  
310 unconstitutional, then the grant of rulemaking authority and any rule proposed  
311 or adopted after August 28, 2005, shall be invalid and void.

312           3. The MO HealthNet division may require any participant receiving MO  
313 HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an  
314 additional payment after July 1, 2008, as defined by rule duly promulgated by the  
315 MO HealthNet division, for all covered services except for those services covered  
316 under subdivisions (14) and (15) of subsection 1 of this section and sections  
317 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the  
318 federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations  
319 thereunder. When substitution of a generic drug is permitted by the prescriber  
320 according to section 338.056, and a generic drug is substituted for a name-brand  
321 drug, the MO HealthNet division may not lower or delete the requirement to  
322 make a co-payment pursuant to regulations of Title XIX of the federal Social  
323 Security Act. A provider of goods or services described under this section must  
324 collect from all participants the additional payment that may be required by the  
325 MO HealthNet division under authority granted herein, if the division exercises  
326 that authority, to remain eligible as a provider. Any payments made by  
327 participants under this section shall be in addition to and not in lieu of payments  
328 made by the state for goods or services described herein except the participant  
329 portion of the pharmacy professional dispensing fee shall be in addition to and  
330 not in lieu of payments to pharmacists. A provider may collect the co-payment  
331 at the time a service is provided or at a later date. A provider shall not refuse  
332 to provide a service if a participant is unable to pay a required payment. If it is  
333 the routine business practice of a provider to terminate future services to an  
334 individual with an unclaimed debt, the provider may include uncollected

335 co-payments under this practice. Providers who elect not to undertake the  
336 provision of services based on a history of bad debt shall give participants  
337 advance notice and a reasonable opportunity for payment. A provider,  
338 representative, employee, independent contractor, or agent of a pharmaceutical  
339 manufacturer shall not make co-payment for a participant. This subsection shall  
340 not apply to other qualified children, pregnant women, or blind persons. If the  
341 Centers for Medicare and Medicaid Services does not approve the Missouri MO  
342 HealthNet state plan amendment submitted by the department of social services  
343 that would allow a provider to deny future services to an individual with  
344 uncollected co-payments, the denial of services shall not be allowed. The  
345 department of social services shall inform providers regarding the acceptability  
346 of denying services as the result of unpaid co-payments.

347         4. The MO HealthNet division shall have the right to collect medication  
348 samples from participants in order to maintain program integrity.

349         5. Reimbursement for obstetrical and pediatric services under subdivision  
350 (6) of subsection 1 of this section shall be timely and sufficient to enlist enough  
351 health care providers so that care and services are available under the state plan  
352 for MO HealthNet benefits at least to the extent that such care and services are  
353 available to the general population in the geographic area, as required under  
354 subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated  
355 thereunder.

356         6. Beginning July 1, 1990, reimbursement for services rendered in  
357 federally funded health centers shall be in accordance with the provisions of  
358 subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget  
359 Reconciliation Act of 1989) and federal regulations promulgated thereunder.

360         7. Beginning July 1, 1990, the department of social services shall provide  
361 notification and referral of children below age five, and pregnant, breast-feeding,  
362 or postpartum women who are determined to be eligible for MO HealthNet  
363 benefits under section 208.151 to the special supplemental food programs for  
364 women, infants and children administered by the department of health and senior  
365 services. Such notification and referral shall conform to the requirements of  
366 Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

367         8. Providers of long-term care services shall be reimbursed for their costs  
368 in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security  
369 Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

370         9. Reimbursement rates to long-term care providers with respect to a total

371 change in ownership, at arm's length, for any facility previously licensed and  
372 certified for participation in the MO HealthNet program shall not increase  
373 payments in excess of the increase that would result from the application of  
374 Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

375 10. The MO HealthNet division, may enroll qualified residential care  
376 facilities and assisted living facilities, as defined in chapter 198, as MO  
377 HealthNet personal care providers.

378 11. Any income earned by individuals eligible for certified extended  
379 employment at a sheltered workshop under chapter 178 shall not be considered  
380 as income for purposes of determining eligibility under this section.

**208.1050. 1. There is hereby created in the state treasury the**  
2 **"Missouri Senior Services Protection Fund", which shall consist of**  
3 **money collected under subsection 2 of this section. The state treasurer**  
4 **shall be custodian of the fund. In accordance with sections 30.170 and**  
5 **30.180, the state treasurer may approve disbursements. The fund shall**  
6 **be a dedicated fund and, upon appropriation, money in the fund shall**  
7 **be used solely for the administration of subsection 2 of this**  
8 **section. Notwithstanding the provisions of section 33.080 to the**  
9 **contrary, any moneys remaining in the fund at the end of the biennium**  
10 **shall not revert to the credit of the general revenue fund. The state**  
11 **treasurer shall invest moneys in the fund in the same manner as other**  
12 **funds are invested. Any interest and moneys earned on such**  
13 **investments shall be credited to the fund.**

14 **2. The state treasurer shall deposit from moneys that otherwise**  
15 **would have been deposited into the general revenue fund an amount**  
16 **equal to fifty-five million one hundred thousand dollars into the**  
17 **Missouri senior services protection fund. At least one-quarter of such**  
18 **amount shall be deposited on or before July 15, 2013, an additional one-**  
19 **quarter by October 15, 2013, and an additional one-quarter by January**  
20 **15, 2014. The remaining amount shall be deposited by March 15,**  
21 **2014. Moneys in the fund shall be allocated for services for low-income**  
22 **seniors and people with disabilities.**

209.150. 1. Every person with a visual, aural or [physical] **other**  
2 **disability including diabetes, as defined in section 213.010, shall have the**  
3 **same rights afforded to a person with no such disability to the full and free use**  
4 **of the streets, highways, sidewalks, walkways, public buildings, public facilities,**



5 and other public places.

6           2. Every person with a visual, aural or **[physical] other** disability  
7 **including diabetes, as defined in section 213.010**, is entitled to full and  
8 equal accommodations, advantages, facilities, and privileges of all common  
9 carriers, airplanes, motor vehicles, railroad trains, motor buses, taxis, streetcars,  
10 boats or any other public conveyances or modes of transportation, hotels, lodging  
11 places, places of public accommodation, amusement or resort, and other places to  
12 which the general public is invited, subject only to the conditions and limitations  
13 established by law and applicable alike to all persons.

14           3. Every person with a visual, aural or **[physical] other** disability  
15 **including diabetes, as defined in section 213.010**, shall have the right to be  
16 accompanied by a guide dog, hearing dog, or service dog, which is especially  
17 trained for the purpose, in any of the places listed in subsection 2 of this section  
18 without being required to pay an extra charge for the guide dog, hearing dog or  
19 service dog; provided that such person shall be liable for any damage done to the  
20 premises or facilities by such dog.

21           4. As used in sections 209.150 to 209.190, the term "service dog" means  
22 any dog specifically trained to assist a person with a physical **or mental**  
23 disability by performing necessary **[physical] tasks or doing work** which the  
24 person cannot perform. Such tasks shall include, but not be limited to, pulling  
25 a wheelchair, retrieving items, **[and] carrying supplies, and search and rescue**  
26 **of an individual with a disability.**

          209.152. **Not to exceed the provisions of the Americans With**  
2 **Disabilities Act**, any trainer, from a recognized training center, of a guide dog,  
3 hearing assistance dog or service dog, **or any member of a service dog team,**  
4 **as defined in section 209.200**, shall have the right to be accompanied by such  
5 dog in or upon any of the premises listed in section 209.150 while engaged in the  
6 training of the dog without being required to pay an extra charge for such  
7 dog. Such trainer **or service dog team member** shall be liable for any damage  
8 done to the premise of facilities by such dog.

          209.200. As used in sections 209.200 to 209.204, **not to exceed the**  
2 **provisions of the Americans With Disabilities Act**, the following terms shall  
3 mean:

- 4           (1) "Disability", as defined in section 213.010 **including diabetes**;
- 5           (2) "Service dog", a dog that is being or has been specially trained to do  
6 work or perform tasks which benefit a particular person with a disability. Service

7 dog includes **but is not limited to:**

8 (a) "Guide dog", a dog that is being or has been specially trained to assist  
9 a particular blind or visually impaired person;

10 (b) "Hearing dog", a dog that is being or has been specially trained to  
11 assist a particular deaf or hearing-impaired person;

12 (c) "Medical alert or respond dog", a dog that is being or has been trained  
13 to alert a person with a disability that a particular medical event is about to  
14 occur or to respond to a medical event that has occurred;

15 (d) "Mobility dog", a dog that is being or has been specially trained to  
16 assist a person with a disability caused by physical impairments;

17 (e) **"Search and rescue dog", a dog that is being or has been**  
18 **trained to search for or prevent a person with a mental disability,**  
19 **including but not limited to verbal and nonverbal autism, from**  
20 **becoming lost;**

21 (3) **"Service dog team", a team consisting of a trained service dog,**  
22 **a disabled person or child, and a person who is an adult and who has**  
23 **been trained to handle the service dog.**

209.202. 1. Any person who [knowingly, intentionally, or recklessly  
2 causes substantial physical injury to or the death of a service dog], **with**  
3 **reckless disregard, injures, kills, or permits a dog that he or she owns**  
4 **or is in the immediate control of to injure or kill a service animal is**  
5 guilty of a class A misdemeanor. [The provisions of this subsection shall not  
6 apply to the destruction of a service dog for humane purposes.]

7 2. Any person who [knowingly or intentionally fails to exercise sufficient  
8 control over an animal such person owns, keeps, harbors, or exercises control over  
9 to prevent the animal from causing the substantial physical injury to or death of  
10 a service dog, or the subsequent inability to function as a service dog as a result  
11 of the animal's attacking, chasing, or harassing the service dog], **with reckless**  
12 **disregard, interferes with or permits a dog that he or she owns or is in**  
13 **the immediate control of to interfere with the use of a service animal**  
14 **by obstructing, intimidating, or otherwise jeopardizing the safety of the**  
15 **service animal or its user is guilty of a class B misdemeanor. Any**  
16 **second or subsequent violation of this section is [guilty of] a class A**  
17 misdemeanor.

18 3. Any person who [harasses or chases a dog known to such person to be  
19 a service dog is guilty of a class B misdemeanor.

20 4. Any person who owns, keeps, harbors, or exercises control over an  
21 animal and who knowingly or intentionally fails to exercise sufficient control over  
22 the animal to prevent such animal from chasing or harassing a service dog while  
23 such dog is carrying out the dog's function as a service dog, to the extent that the  
24 animal temporarily interferes with the service dog's ability to carry out the dog's  
25 function is guilty of a class B misdemeanor] **intentionally injures, kills, or**  
26 **permits a dog that he or she owns or is in the immediate control of to**  
27 **injure or kill a service animal is guilty of a class D felony.**

28 [5. An owner of a service dog or a person with a disability who uses a  
29 service dog may file a cause of action to recover civil damages against any person  
30 who:

- 31 (1) Violates the provisions of subsection 1 or 2 of this section; or  
32 (2) Steals a service dog resulting in the loss of the services of the service  
33 dog.

34 6. Any civil damages awarded under subsection 5 of this section shall be  
35 based on the following:

- 36 (1) The replacement value of an equally trained service dog, without any  
37 differentiation for the age or experience of the service dog;  
38 (2) The cost and expenses incurred by the owner of a service dog or the  
39 person with a disability who used the service dog, including:  
40 (a) The cost of temporary replacement services, whether provided by  
41 another service dog or by a person;  
42 (b) The reasonable costs incurred in efforts to recover a stolen service dog;  
43 and  
44 (c) Court costs and attorney's fees incurred in bringing a civil action under  
45 subsection 5 of this section.

46 7. An owner of a service dog or a person with a disability who uses a  
47 service dog may file a cause of action to recover civil damages against a person  
48 who:

- 49 (1) Violates the provisions of subsections 1 to 4 of this section resulting  
50 in injury from which the service dog recovers to an extent that the dog is able to  
51 function as a service dog for the person with a disability; or  
52 (2) Steals a service dog and the service dog is recovered resulting in the  
53 service dog being able to function as a service dog for the person with a disability.

54 8. Any civil damages awarded under subsection 7 of this section shall be  
55 based on the following:

- 56 (1) Veterinary medical expenses;  
57 (2) Retraining expenses;  
58 (3) The cost of temporary replacement services, whether provided by  
59 another service dog or by a person;  
60 (4) Reasonable costs incurred in the recovery of the service dog; and  
61 (5) Court costs and attorney's fees incurred in bringing the civil action  
62 under subsection 7 of this section]

63 **4. (1) In addition to any other penalty, a person who is convicted**  
64 **of a violation of this section shall make full restitution for all damages**  
65 **that arise out of or are related to the offense, including, but not limited**  
66 **to, incidental and consequential damages incurred by the service**  
67 **animal's user.**

68 **(2) Restitution includes, but is not limited to:**

69 **(a) The value of the animal;**

70 **(b) Replacement and training or retraining expenses for the**  
71 **service animal and the user;**

72 **(c) Veterinary and other medical and boarding expenses for the**  
73 **service animal;**

74 **(d) Medical expenses for the user; and**

75 **(e) Lost wages or income incurred by the user during any period**  
76 **that the user is without the services of the service animal.**

77 [9.] **5.** The provisions of this section shall not apply:

78 **(1) If a person with a disability, an owner, or a person having custody or**  
79 **supervision of a service dog commits criminal or civil trespass; or**

80 **(2) To the destruction of a service dog for humane purposes.**

81 [10.] **6.** Nothing in this section shall be construed to preclude any other  
82 remedies available at law.

301.143. 1. As used in this section, the term "vehicle" shall have the same  
2 meaning given it in section 301.010, and the term "physically disabled" shall have  
3 the same meaning given it in section 301.142.

4 2. Political subdivisions of the state may by ordinance or resolution  
5 designate parking spaces for the exclusive use of vehicles which display a  
6 distinguishing license plate or [card] **placard** issued pursuant to section 301.071  
7 or 301.142. Owners of private property used for public parking shall also  
8 designate parking spaces for the exclusive use of vehicles which display a  
9 distinguishing license plate or [card] **placard** issued pursuant to section 301.071

10 or 301.142. Whenever a political subdivision or owner of private property so  
11 designates a parking space, the space shall be indicated by a sign upon which  
12 shall be inscribed the international symbol of accessibility and may also include  
13 any appropriate wording such as "Accessible Parking" to indicate that the space  
14 is reserved for the exclusive use of vehicles which display a distinguishing license  
15 plate or [card] **placard**. The sign described in this subsection shall also state,  
16 or an additional sign shall be posted below or adjacent to the sign stating, the  
17 following: "\$50 to \$300 fine.". [Beginning August 28, 2011, When any political  
18 subdivision or owner of private property restripes a parking lot or constructs a  
19 new parking lot, one in every four accessible spaces, but not less than one, shall  
20 be served by an access aisle a minimum of ninety-six inches wide and shall be  
21 designated "lift van accessible only" with signs that meet the requirements of the  
22 federal Americans with Disabilities Act, as amended, and any rules or regulations  
23 established pursuant thereto.] **When any political subdivision or owner of**  
24 **private property restripes a parking lot or constructs a new parking lot**  
25 **with twenty-five or more parking spaces, the parking lot and accessible**  
26 **signs shall meet the minimum requirements of the federal Americans**  
27 **with Disabilities Act, as amended, and any rules or regulations**  
28 **established pursuant thereto, for the number of required accessible**  
29 **parking spaces, which shall not be less than one, shall be served by an**  
30 **access aisle a minimum of ninety-six inches wide and shall be**  
31 **designated "van accessible". If any accessible space is one hundred**  
32 **thirty-two inches wide or wider, then the adjacent access aisle shall be**  
33 **a minimum of sixty inches wide. If any accessible space is less than one**  
34 **hundred thirty-two inches wide, then the adjacent access aisle shall be**  
35 **a minimum of ninety-six inches wide.**

36 3. Any political subdivision, by ordinance or resolution, and any person  
37 or corporation in lawful possession of a public off-street parking facility or any  
38 other owner of private property may designate reserved parking spaces for the  
39 exclusive use of vehicles which display a distinguishing license plate or [card]  
40 **placard** issued pursuant to section 301.071 or 301.142 as close as possible to the  
41 nearest accessible entrance. Such designation shall be made by posting  
42 immediately adjacent to, and visible from, each space, a sign upon which is  
43 inscribed the international symbol of accessibility, and may also include any  
44 appropriate wording to indicate that the space is reserved for the exclusive use  
45 of vehicles which display a distinguishing license plate or [card] **placard**.

46           4. The local police or sheriff's department may cause the removal of any  
47 vehicle not displaying a distinguishing license plate or **[card] placard** on which  
48 is inscribed the international symbol of accessibility and the word "disabled"  
49 issued pursuant to section 301.142 or a "disabled veteran" license plate issued  
50 pursuant to section 301.071 or a distinguishing license plate or **[card] placard**  
51 issued by any other state from a space designated for physically disabled persons  
52 if there is posted immediately adjacent to, and readily visible from, such space a  
53 sign on which is inscribed the international symbol of accessibility and may  
54 include any appropriate wording to indicate that the space is reserved for the  
55 exclusive use of vehicles which display a distinguishing license plate or **[card]**  
56 **placard**. Any person who parks in a space reserved for physically disabled  
57 persons and is not displaying distinguishing license plates or a **[card] placard**  
58 is guilty of an infraction and upon conviction thereof shall be punished by a fine  
59 of not less than fifty dollars nor more than three hundred dollars. Any vehicle  
60 which has been removed and which is not properly claimed within thirty days  
61 thereafter shall be considered to be an abandoned vehicle.

62           5. Spaces designated for use by vehicles displaying the distinguishing  
63 "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet  
64 the requirements of the federal Americans with Disabilities Act, as amended, and  
65 any rules or regulations established pursuant thereto. Notwithstanding the other  
66 provisions of this section, on-street parking spaces designated by political  
67 subdivisions in residential areas for the exclusive use of vehicles displaying a  
68 distinguishing license plate or **[card] placard** issued pursuant to section 301.071  
69 or 301.142 shall meet the requirements of the federal Americans with Disabilities  
70 Act pursuant to this subsection and any such space shall have clearly and visibly  
71 painted upon it the international symbol of accessibility [and any curb adjacent  
72 to the space shall be clearly and visibly painted blue].

73           6. Any person who, without authorization, uses a distinguishing license  
74 plate or **[card] placard** issued pursuant to section 301.071 or 301.142 to park in  
75 a parking space reserved under authority of this section shall be guilty of a class  
76 B misdemeanor.

77           7. Law enforcement officials may enter upon private property open to  
78 public use to enforce the provisions of this section and section 301.142, including  
79 private property designated by the owner of such property for the exclusive use  
80 of vehicles which display a distinguishing license plate or **[card] placard** issued  
81 pursuant to section 301.071 or 301.142.

82 8. Nonconforming signs or spaces otherwise required pursuant to this  
83 section which are in use prior to August 28, 2011, shall not be in violation of this  
84 section during the useful life of such signs or spaces. Under no circumstances  
85 shall the useful life of the nonconforming signs or spaces be extended by means  
86 other than those means used to maintain any sign or space on the owner's  
87 property which is not used for vehicles displaying a disabled license plate.

88 9. Beginning August 28, 2011, all new signs erected under this section  
89 shall not contain the words "Handicap Parking" or "Handicapped Parking".

304.028. 1. There is hereby created in the state treasury for use by the  
2 department of health and senior services a fund to be known as the "Brain Injury  
3 Fund". All judgments collected pursuant to this section, federal grants, private  
4 donations and any other moneys designated for the brain injury fund shall be  
5 deposited in the fund. Moneys deposited in the fund shall, upon appropriation  
6 by the general assembly to the department of health and senior services, be  
7 received and expended by the department for the purpose of transition [and],  
8 integration, **and provision of [medical,] consumer-based consumer services**  
9 **in comprehensive brain injury day rehabilitation therapy; vocational,**  
10 **home, and community support; and** social and educational [services or]  
11 activities for purposes of outreach and [supports] **support** to enable individuals  
12 with [traumatic] brain injury and their families to live in the  
13 community. Notwithstanding the provisions of section 33.080 to the contrary, any  
14 unexpended balance in the brain injury fund at the end of any biennium shall not  
15 be transferred to the general revenue fund.

16 2. In all criminal cases including violations of any county **or**  
17 **municipality** ordinance or any violation of criminal or traffic laws of this state,  
18 including an infraction, there shall be assessed as costs a surcharge in the  
19 amount of two dollars. No such surcharge shall be collected in any proceeding  
20 involving a violation of an ordinance or state law when the proceeding or  
21 defendant has been dismissed by the court or when costs are to be paid by the  
22 state, county or municipality.

23 3. Such surcharge shall be collected and distributed by the clerk of the  
24 court as provided in sections 488.010 to 488.020. The surcharge collected  
25 pursuant to this section shall be paid to the state treasury to the credit of the  
26 brain injury fund established in this section.

27 4. **The department of health and senior services, in cooperation**  
28 **with the department of social services, shall seek waivers from the**

29 federal Centers for Medicare and Medicaid Services to allow moneys  
30 from the brain injury fund to be used under the MO HealthNet program  
31 to provide services under this section. Upon the granting of such  
32 waiver, forty percent of all moneys in the fund shall be designated as  
33 MO HealthNet federal match moneys under the waiver. The waivers  
34 under this subsection shall be designed so that parity is established in  
35 funding for each of the eligible MO HealthNet home- and community-  
36 based services for adults with brain injuries.

37 5. A committee shall be created to develop service descriptions,  
38 regulations, and parity of funding for eligible MO HealthNet service  
39 areas, as needed. The ten-member volunteer committee shall be  
40 organized by the department and shall be composed of two  
41 representatives from each of the following: Missouri Association of  
42 Rehabilitation Facilities, the Brain Injury Association, the Brain Injury  
43 Advisory Council, the department of social services, and the  
44 department of health and senior services. The committee composition  
45 shall include at least one individual with a brain injury. After services  
46 are established under this section, the committee shall, at a minimum,  
47 meet annually to review services using the most current department of  
48 health and senior services brain injury needs assessment. The review  
49 process shall require the ten-member volunteer committee to be  
50 responsible for addressing any modifications needed in the program  
51 services. Such review process shall ensure that services are meeting  
52 the needs of brain injury consumers.

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

13 2. A person who has been [convicted] **found guilty** of or [pled] **pleaded**



14 guilty or nolo contendere to **any felony offense as defined in chapter 195;**  
15 any felony offense against persons as defined in chapter 565; any felony [sexual]  
16 offense as defined in chapter 566; any felony offense defined in section 568.020,  
17 568.045, 568.050, 568.060, **568.175**, 569.020, 569.025, 569.030, 569.035, 569.040,  
18 569.050, 569.070, [or] 569.160, **570.030, 570.040, 570.090, 570.145, 570.223,**  
19 **575.230, or 576.080**, or of an equivalent felony offense **in another state, or an**  
20 **equivalent federal felony offense, or an equivalent offense under the**  
21 **Uniform Code of Military Justice**, or who has been [convicted] **found guilty**  
22 of or [pled] **pleaded** guilty or nolo contendere to any violation of subsection 3 of  
23 section 198.070, or has been [convicted] **found guilty** of or [pled] **pleaded** guilty  
24 or nolo contendere to any offense requiring registration under section 589.400, **or**  
25 **any employee hired after January 1, 2014, who has been found guilty of**  
26 **or pleaded guilty or nolo contendere to a violation of section 577.010 or**  
27 **section 577.012 and who is alleged and found by the court to be an**  
28 **aggravated or chronic offender under section 577.023**, shall be disqualified  
29 from holding any direct-care position in any public or private facility, day  
30 program, residential facility or specialized service operated, licensed, certified,  
31 accredited, in possession of deemed status, or funded by the department or any  
32 mental health facility or mental health program in which people are admitted on  
33 a voluntary basis or are civilly detained pursuant to chapter 632.

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

38 4. Any person disqualified pursuant to the provisions of subsection 1 or  
39 2 of this section may seek an exception to the disqualification from the director  
40 of the department or the director's designee, **especially if the person is in**  
41 **recovery and the disqualifying felony offense was alcohol or drug**  
42 **related**. The request shall be written and may not be made more than once  
43 every six months. The request may be granted by the director or designee if in  
44 the judgment of the director or designee a clear showing has been made by  
45 written submission only, that the person will not commit any additional acts for  
46 which the person had originally been disqualified for or any other acts that would  
47 be harmful to a patient, resident or client of a facility, program or service. The  
48 director or designee may grant an exception subject to any conditions deemed  
49 appropriate and failure to comply with such terms may result in the person again

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

64         5. An applicant for a position in any public or private facility, day  
65 program, residential facility, or specialized service operated, licensed, certified,  
66 accredited, in possession of deemed status, or funded by the department or any  
67 mental health facility or mental health program in which people are admitted on  
68 a voluntary basis or are civilly detained pursuant to chapter 632 shall:

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

71             (2) Disclose the applicant's criminal history. For the purposes of this  
72 subdivision "criminal history" includes any suspended imposition of sentence, any  
73 suspended execution of sentence, or any period of probation or parole; and

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

77         6. Any person who has received a good cause waiver issued by the  
78 department of health and senior services or its predecessor under subsection [9]  
79 10 of section 660.317 shall not require an additional exception under this section  
80 in order to be employed in a long-term care facility licensed under chapter 198.

81         7. Any public or private residential facility, day program, or specialized  
82 service operated, licensed, certified, accredited, in possession of deemed status,  
83 or funded by the department or any mental health facility or mental health  
84 program in which people are admitted on a voluntary basis or are civilly detained  
85 pursuant to chapter 632 shall, not later than two working days after hiring any

86 person for a full-time, part-time, or temporary position that will have contact with  
87 clients, residents, or patients:

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

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

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

95 8. An applicant who knowingly fails to disclose his or her criminal history  
96 as required in subsection 5 of this section is guilty of a class A misdemeanor. A  
97 provider is guilty of a class A misdemeanor if the provider hires a person to hold  
98 a direct-care position knowing that such person has been disqualified pursuant  
99 to the provisions of subsection 2 of this section. A provider is guilty of a class A  
100 misdemeanor if the provider hires a person to hold any position knowing that  
101 such person has been disqualified pursuant to the provisions of subsection 1 of  
102 this section.

103 9. Any public or private residential facility, day program, or specialized  
104 service operated, licensed, certified, accredited, in possession of deemed status or  
105 funded by the department or any mental health facility or mental health program  
106 in which people are admitted on a voluntary basis or are civilly detained  
107 pursuant to chapter 632 that declines to employ or discharges a person who is  
108 disqualified pursuant to the provisions of subsection 1 or 2 of this section shall  
109 be immune from suit by that person or anyone else acting for or in behalf of that  
110 person for the failure to employ or for the discharge of the person due to  
111 disqualification.

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

117 11. The department shall maintain a disqualification registry and place  
118 on the registry the names of any persons who have been finally determined by the  
119 department to be disqualified based upon administrative substantiations made  
120 against them for abuse or neglect pursuant to department rule or  
121 regulation. Such list shall reflect that the person is barred from holding any

122 position in any public or private facility, day program, residential facility, or  
123 specialized service operated, licensed, certified, accredited, in possession of  
124 deemed status, or funded by the department, or any mental health facility or  
125 mental health program in which persons are admitted on a voluntary basis or are  
126 civilly detained pursuant to chapter 632. The length of time the person's name  
127 shall appear on the disqualification registry shall be determined by the director  
128 or the director's designee, based upon the criteria contained in subsection 13 of  
129 this section.

130           12. Persons notified that their name will be placed on the disqualification  
131 registry may appeal such determination pursuant to department rule or  
132 regulation. If the person appeals, the hearing tribunal shall not modify the  
133 length of time the person's name shall appear on the disqualification registry if  
134 the hearing tribunal upholds all of the administrative substantiations made by  
135 the director or the director's designee. If the hearing tribunal overturns part of  
136 the administrative substantiations made by the director or the director's designee,  
137 the hearing tribunal may consider modifying the length of time the person's name  
138 shall appear on the disqualification registry based upon testimony and evidence  
139 received during the hearing.

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

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

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

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

149           (4) The degree of misappropriation or conversion of patient, resident, or  
150 client funds or property;

151           (5) Whether the person has previously been listed on the department's  
152 disqualification registry;

153           (6) Any mitigating circumstances; and

154           (7) Any aggravating circumstances.

155           14. The department shall provide the disqualification registry maintained  
156 pursuant to this section to other state and federal agencies upon request. The  
157 department may provide the disqualification registry maintained pursuant to this

158 section to any public or private facility, day program, residential facility, or  
159 specialized service operated, licensed, certified, accredited, in possession of  
160 deemed status, or funded by the department or to any mental health facility or  
161 mental health program in which people are admitted on a voluntary or  
162 involuntary basis or are civilly detained pursuant to chapter 632. The  
163 department may also provide the disqualification registry to a recognized school  
164 of nursing, medicine, or other health profession for the purpose of determining  
165 whether students scheduled to participate in clinical rotations are included in the  
166 employee disqualification registry.

Section B. The provisions of section 161.870 of this act shall terminate on  
2 January 1, 2014.

Section C. Because immediate action is necessary to ensure compliance  
2 with the federal Americans With Disabilities Act and to protect low-income  
3 seniors and disabled persons, the enactment of section 208.1050 and the repeal  
4 and reenactment of section 301.143 of this act is deemed necessary for the  
5 immediate preservation of the public health, welfare, peace, and safety, and is  
6 hereby declared to be an emergency act within the meaning of the constitution,  
7 and the enactment of section 208.1050 and the repeal and reenactment of section  
8 301.143 of this act shall be in full force and effect upon its passage and approval.

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