

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1015

AN ACT

To amend chapter 632, RSMo, by adding thereto eight new sections relating to assisted outpatient treatment.

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

Section A. Chapter 632, RSMo, is amended by adding thereto eight new sections, to be known as sections 632.580, 632.585, 632.590, 632.593, 632.595, 632.600, 632.605, and 632.610, to read as follows:

632.580. The definitions set forth in section 632.005 shall apply to sections 632.580 to 632.610. In addition, as used in sections 632.580 to 632.610, unless the context clearly requires otherwise, the following terms mean:

(1) "Assisted outpatient treatment", court-ordered involuntary outpatient mental health care services that are provided by a mental health program under a treatment plan developed and monitored by a master's level mental health professional. Such services may include, but are not limited to:

(a) Case management;

(b) Medication management;

(c) Therapy or counseling;

(d) Substance use treatment, if applicable;

(e) Crisis intervention services; and

(f) Assistance with housing, employment, or other community resources necessary for an individual's stability;

(2) "Case manager", a mental health professional employed by a certified community mental health center who is assigned to a respondent to oversee the respondent's

compliance with the outpatient treatment plan ordered by the court under sections 632.580 to 632.610;

(3) "Community mental health center", the same meaning given to the term in section 205.975;

(4) "Comprehensive mental health services", the same meaning given to the term in section 205.975;

(5) "Local public health agency", a county health center board established under chapter 205, a county health department, a combined city and county health department or agency, a multicounty health department or agency, or any other county health authority;

(6) "Petition", a petition for assisted outpatient treatment filed under section 632.585 or for continued assisted outpatient treatment filed under section 632.600;

(7) "Respondent", a person who is alleged in a petition to meet the criteria for assisted outpatient treatment in section 632.590;

(8) "Service area", the same meaning given to the term in section 205.975.

632.585. 1. A petition for an order authorizing assisted outpatient treatment may be filed by:

(1) The director, administrator, or treating physician of a mental health program in which the respondent is hospitalized;

(2) The director, administrator, or treating physician of an emergency receiving center in which the respondent is receiving services;

(3) A licensed physician, a registered professional nurse designated by the community mental health center and approved by the department of mental health, or a mental health professional from whom the respondent is receiving services;

(4) The appointed guardian or limited guardian of a ward who is the respondent; or

(5) The department of health and senior services, the department of mental health, or any local public health agency located within the probate jurisdiction in which the petition is filed.

2. The petition may be filed in the court having probate jurisdiction in which the respondent is present or reasonably believed to be present or in the probate jurisdiction in which the respondent resides.

3. The petition shall allege under oath, without a notarization requirement, that the petitioner has reason to believe that the respondent meets the criteria for assisted outpatient treatment in section 632.590. The petition shall specify factual information on which such belief is based and shall contain the names and addresses of all persons known to the petitioner who have knowledge of such facts through personal observation.

4. No notarization shall be required for a petition or for any affidavits, declarations, or other documents supporting a petition. The petition and any affidavits, declarations, or other documents supporting the petition shall be subject to the provisions of section 492.060 allowing for declaration under penalty of perjury.

5. The prosecuting attorney of the county in which a hearing on a petition takes place shall represent the petitioner and file and prosecute in court all petitions. Such duty shall be fulfilled by the county counselor in counties having a county counselor and by the circuit attorney in any city not within a county.

632.590. Following receipt of a petition and completion of the procedures required in section 632.593, a

court may issue an order requiring a respondent to participate in assisted outpatient treatment if:

(1) The respondent:

(a) Is eighteen years of age or older;

(b) Is suffering from a mental illness;

(c) Will not obtain treatment in the community voluntarily; and

(d) Is unable to make an informed decision to seek or to comply with voluntary treatment; and

(2) Either:

(a) Because of the respondent's fulfillment of the criteria of subdivision (1) of this section, the respondent requires treatment to prevent a deterioration in the respondent's mental illness that would be likely to result in serious harm to the respondent or others as described in section 632.305; or

(b) The respondent has a history of a lack of compliance with treatment for the respondent's mental illness, and within the thirty-six months immediately preceding the date of the filing of the petition such lack of compliance has either:

a. At least twice, been a significant factor in necessitating a civil detention period for treatment instituted under sections 632.120 or 632.305 or receipt of services in a forensic or other mental health unit of any state or local correctional facility, not including any period during which the respondent was hospitalized or incarcerated immediately preceding the date of the filing of the petition; or

b. Resulted in one or more acts of violent behavior with the intention of causing serious physical injury toward self or others or threats of, or attempts of, serious physical harm to self or others, not including any period

during which the respondent was hospitalized or incarcerated immediately preceding the date of the filing of the petition.

632.593. 1. At the time of filing the petition, the court clerk shall set a date and time for the hearing, which shall take place within two judicial days of the filing of the petition. An attorney shall be appointed to represent the respondent as required under section 632.450 from the register of attorneys described in section 632.415. An attorney so appointed shall be entitled to attorney's fees to the same extent as allowed under section 632.415. The clerk shall promptly notify the respondent, the respondent's attorney, the petitioner, and the petitioner's attorney of the date and time for the hearing. The court shall not grant continuances except upon a showing of good and sufficient cause.

2. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the respondent. The respondent shall have the following rights in addition to those specified elsewhere:

- (1) To be represented by an attorney;
- (2) To present evidence on his or her own behalf;
- (3) To cross-examine witnesses who testify against him or her;
- (4) To remain silent;
- (5) To view and copy all petitions and reports in the court file of his or her case;
- (6) To have the hearing open or closed to the public as he or she elects;
- (7) To be proceeded against according to the rules of evidence applicable to civil judicial proceedings; and
- (8) To have the hearing before a jury if requested by the respondent or his or her attorney.

3. The respondent shall be present at the hearing unless the respondent's physical condition is such that he or she cannot be present in the courtroom or if the court determines that the respondent's conduct in the courtroom is so disruptive that the proceedings cannot reasonably continue.

4. The burden of proof at the hearing shall be by clear and convincing evidence and shall be upon the petitioner.

5. If the matter is tried before a jury, the jury shall determine and shall be instructed only upon the issue of whether the respondent meets the criteria for assisted outpatient treatment in section 632.590. The remaining procedures for the jury trial shall be as in other civil matters.

6. The respondent shall not be required to file an answer or other responsive pleading.

7. At the conclusion of the hearing, if the court or jury finds, based upon clear and convincing evidence, that the respondent meets the criteria for assisted outpatient treatment in section 632.590, and the court finds that a mental health program appropriate to handle the respondent's condition has agreed to accept the respondent, the court shall issue an order requiring the respondent to participate in assisted outpatient treatment with the mental health program for a period not to exceed two years.

8. At the conclusion of the hearing, if the court or jury does not find by clear and convincing evidence that the respondent meets the criteria for assisted outpatient treatment in section 632.590, the court shall dismiss the petition.

9. An order requiring the respondent to participate in assisted outpatient treatment based on satisfaction of the

provisions of subparagraph a. of paragraph (b) of subdivision (2) of section 632.590 shall not be issued unless the court has considered, or the jury has been instructed to consider, at least the following factors:

(1) The respondent's ability to access finances in order to obtain food or medicine;

(2) The respondent's ability to obtain treatment for the respondent's medical condition;

(3) The respondent's ability to access necessary resources in the community without assistance;

(4) The degree to which there are risks to the respondent's safety;

(5) The likelihood that the respondent will decompensate without immediate care or treatment;

(6) The respondent's previous attempts to inflict physical injury on self or others;

(7) The respondent's history of behavioral health treatment in the community;

(8) The respondent's patterns of decompensation in the past;

(9) The respondent's risk of being victimized or harmed by others; and

(10) The respondent's access to the means to inflict harm on self or others.

10. Nothing in this section shall prevent the court or jury from considering any other factor not described in this section.

11. If requested by the respondent, the court shall appoint an available licensed physician or licensed psychologist to examine the respondent and testify at the respondent's request. If the respondent or the respondent's attorney so requests, the court shall not appoint a licensed physician or licensed psychologist who is an employee of any

entity in which the respondent is hospitalized or receiving services or who is an employee of any entity that filed the petition. The appointment procedures in section 632.420 shall apply to any appointment under this subsection.

12. The physician-patient privilege recognized by section 491.060 and the psychologist-patient privilege recognized by section 337.055 shall be deemed waived in proceedings under sections 632.580 to 632.610. The fact that such privileges have been waived in accordance with this section shall not by itself waive the privileges in any other proceeding, civil or criminal. The waiver of the privileges shall extend only to that evidence that is directly material and relevant to the proceedings under sections 632.580 to 632.610.

13. Appeals from court orders under this section may be made as described in section 632.430.

14. Assisted outpatient treatment shall not be deemed outpatient detention for purposes of this chapter, and no provision of this chapter relating to the requirements for inpatient or outpatient detention proceedings shall apply to assisted outpatient treatment under sections 632.580 to 632.610 unless such provision has been specifically incorporated into sections 632.580 to 632.610 by reference or otherwise.

15. The provisions of section 632.440 shall apply to assisted outpatient treatment under sections 632.580 to 632.610.

632.595. 1. The court shall assign a case manager from a certified community behavioral health clinic to each respondent ordered to participate in assisted outpatient treatment.

2. The case manager and the respondent shall report to the court at least once every ninety days. The court may,

at its discretion, request more frequent appearances. The case manager shall immediately report to the court a substantial failure of the respondent or the mental health program providing the assisted outpatient treatment to comply with the conditions of the assisted outpatient treatment.

632.600. 1. The court order for assisted outpatient treatment shall expire at the end of the period specified in the order unless a petition for an extension has been filed. If any person or entity authorized to file a petition under section 632.585 determines that a respondent requires further involuntary assisted outpatient treatment, the person or entity shall file a petition for continued assisted outpatient treatment before the expiration of the involuntary assisted outpatient treatment ordered by the court.

2. The procedure for obtaining an extension shall be the same as for obtaining the original order, except that the thirty-six-month time period provided in paragraph (b) of subdivision (2) of section 632.590 shall not be applicable in determining the appropriateness of an extension.

632.605. 1. During the period of an order for assisted outpatient treatment, if the mental health program or mental health professional who is providing the respondent's assisted outpatient treatment determines that the respondent is not complying with the court order, the mental health program or mental health professional shall notify the court immediately.

2. If it comes to the attention of the court that a respondent subject to an order of assisted outpatient treatment is not complying with the order, the court may require one or more of the following, without a hearing:

(1) That the respondent be taken for evaluation to a community mental health center providing comprehensive mental health services to individuals residing in the service area in which the respondent resides;

(2) That the respondent be hospitalized in a psychiatric hospital for a period of not more than ten days; and

(3) Upon recommendation by the community mental health center providing comprehensive mental health services to individuals residing in the service area in which the respondent resides, that the individual be hospitalized for a period of more than ten days, but not longer than the duration of the order for assisted outpatient treatment, or not longer than ninety days, whichever is less.

3. The court may direct peace officers to transport the respondent to a designated facility or a community mental health center, as applicable, and the court may specify conditions under which the respondent may return to assisted outpatient treatment before the order expires. Reimbursement for transportation costs shall be allowed as provided under section 632.312.

4. A respondent hospitalized without a hearing as provided in subsection 2 of this section may object to the hospitalization. Upon transfer of the respondent to the hospital, the hospital shall notify the respondent of his or her right to object under this section. Upon receipt of an objection to the hospitalization, the court shall schedule a hearing for a determination that the individual requires hospitalization. The respondent shall have all rights specified in section 632.593 at the hearing. The court shall order the respondent discharged from hospitalization unless the court or jury finds, based upon clear and convincing evidence, that the respondent requires

hospitalization as a result of the respondent's failure to  
comply with the order for assisted outpatient treatment.

632.610. The office of state courts administrator  
shall submit an annual report to the general assembly  
summarizing:

(1) The number of individuals subject to orders for  
assisted outpatient treatment;

(2) Statistics on compliance and noncompliance rates  
with assisted outpatient treatment; and

(3) Any impact that assisted outpatient treatment has  
on hospitalization and incarceration rates.