

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1015

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR NURRENBERN.

4051S.03P

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 632.305, RSMo, and to enact in lieu thereof nine new sections relating to court-ordered mental health treatment.

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

Section A. Section 632.305, RSMo, is repealed and nine
2 new sections enacted in lieu thereof, to be known as sections
3 632.305, 632.580, 632.585, 632.590, 632.593, 632.595, 632.600,
4 632.605, and 632.610, to read as follows:

632.305. 1. An application for detention for
2 evaluation and treatment at a mental health facility may be
3 executed by any adult person, who need not be an attorney or
4 represented by an attorney, on a form provided by the court
5 for such purpose, and shall allege under oath[, without a
6 notarization requirement,] that the applicant has reason to
7 believe that the respondent is suffering from a mental
8 disorder and presents a likelihood of serious harm to
9 himself or herself or to others. The application shall
10 specify the factual information on which such belief is
11 based and should contain the names and addresses of all
12 persons known to the applicant who have knowledge of such
13 facts through personal observation.

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

14 2. The filing of a written application in court by any
15 adult person, who need not be an attorney or represented by
16 an attorney, shall authorize the applicant to bring the
17 matter before the court on an ex parte basis to determine
18 whether the respondent should be taken into custody and
19 transported to a mental health facility. The application
20 may be filed in the court having probate jurisdiction in any
21 county where the respondent may be found. If the court
22 finds that there is probable cause, either upon testimony
23 under oath or upon a review of affidavits, declarations, or
24 other supporting documentation, to believe that the
25 respondent may be suffering from a mental disorder and
26 presents a likelihood of serious harm to himself or herself
27 or others, it shall direct a peace officer to take the
28 respondent into custody and transport him or her to a mental
29 health facility for detention for evaluation and treatment
30 for a period not to exceed ninety-six hours unless further
31 detention and treatment is authorized pursuant to this
32 chapter. Nothing herein shall be construed to prohibit the
33 court, in the exercise of its discretion, from giving the
34 respondent an opportunity to be heard.

35 3. A peace officer may take a person into custody for
36 detention for evaluation and treatment at a mental health
37 facility for a period not to exceed ninety-six hours only
38 when such peace officer has reasonable cause to believe that
39 such person is suffering from a mental disorder and that the
40 likelihood of serious harm by such person to himself or
41 herself or others is imminent unless such person is
42 immediately taken into custody. Upon arrival at the mental
43 health facility, the peace officer who conveyed such person
44 or caused him or her to be conveyed shall either present the
45 application for detention for evaluation and treatment upon

46 which the court has issued a finding of probable cause and
47 the respondent was taken into custody or complete an
48 application for initial detention for evaluation and
49 treatment for a period not to exceed ninety-six hours which
50 shall be based upon his or her own personal observations or
51 investigations and shall contain the information required in
52 subsection 1 of this section.

53 4. If a person presents himself or herself or is
54 presented by others to a mental health facility and a
55 licensed physician, a registered professional nurse or a
56 mental health professional designated by the head of the
57 facility and approved by the department for such purpose has
58 reasonable cause to believe that the person is mentally
59 disordered and presents an imminent likelihood of serious
60 harm to himself or herself or others unless he or she is
61 accepted for detention, the licensed physician, the mental
62 health professional or the registered professional nurse
63 designated by the facility and approved by the department
64 may complete an application for detention for evaluation and
65 treatment for a period not to exceed ninety-six hours. The
66 application shall be based on his or her own personal
67 observations or investigation and shall contain the
68 information required in subsection 1 of this section.

69 5. **(1)** No notarization shall be required for an
70 application, or for any affidavits, declarations, or other
71 documents supporting an application, **completed or executed,**
72 **by:**

73 **(a) A peace officer under subsection 3 of this section;**

74 **(b) A licensed physician, mental health professional,**
75 **or registered professional nurse under subsection 4 of this**
76 **section; or**

77 (c) An employee acting on behalf of a hospital, as
78 defined in section 197.020, under subsections 1 and 2 of
79 this section.

80 (2) The application and any affidavits, declarations,
81 or other documents supporting the application shall be
82 subject to the provisions of section 492.060 allowing for
83 declaration under penalty of perjury.

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

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

- 11 (a) Case management;
- 12 (b) Medication management;
- 13 (c) Therapy or counseling;
- 14 (d) Substance use treatment, if applicable;
- 15 (e) Crisis intervention services; and
- 16 (f) Assistance with housing, employment, or other
17 community resources necessary for an individual's stability;

18 (2) "Case manager", a mental health professional
19 employed by a certified community mental health center who
20 is assigned to a respondent to oversee the respondent's
21 compliance with the outpatient treatment plan ordered by the
22 court under sections 632.580 to 632.610;

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

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

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

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

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

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

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

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

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

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

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

16 (5) The department of health and senior services, the
17 department of mental health, or any local public health

18 agency located within the probate jurisdiction in which the
19 petition is filed.

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

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

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

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

632.590. Following receipt of a petition and
2 completion of the procedures required in section 632.593, a
3 court may issue an order requiring a respondent to
4 participate in assisted outpatient treatment if:

5 (1) The respondent:

6 (a) Is eighteen years of age or older;

7 (b) Is suffering from a mental illness;

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

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

12 (2) Either:

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

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

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

32 b. Resulted in one or more acts of violent behavior
33 with the intention of causing serious physical injury toward
34 self or others or threats of, or attempts of, serious
35 physical harm to self or others, not including any period
36 during which the respondent was hospitalized or incarcerated
37 immediately preceding the date of the filing of the petition.

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

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

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

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

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

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

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

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

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

63 9. An order requiring the respondent to participate in
64 assisted outpatient treatment based on satisfaction of the
65 provisions of subparagraph a. of paragraph (b) of
66 subdivision (2) of section 632.590 shall not be issued
67 unless the court has considered, or the jury has been
68 instructed to consider, at least the following factors:

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

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

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

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

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

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

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

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

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

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

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

92 11. If requested by the respondent, the court shall
93 appoint an available licensed physician or licensed
94 psychologist to examine the respondent and testify at the

95 respondent's request. If the respondent or the respondent's
96 attorney so requests, the court shall not appoint a licensed
97 physician or licensed psychologist who is an employee of any
98 entity in which the respondent is hospitalized or receiving
99 services or who is an employee of any entity that filed the
100 petition. The appointment procedures in section 632.420
101 shall apply to any appointment under this subsection.

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

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

114 14. Assisted outpatient treatment shall not be deemed
115 outpatient detention for purposes of this chapter, and no
116 provision of this chapter relating to the requirements for
117 inpatient or outpatient detention proceedings shall apply to
118 assisted outpatient treatment under sections 632.580 to
119 632.610 unless such provision has been specifically
120 incorporated into sections 632.580 to 632.610 by reference
121 or otherwise.

122 15. The provisions of section 632.440 shall apply to
123 assisted outpatient treatment under sections 632.580 to
124 632.610.

632.595. 1. The court shall assign a case manager
2 from a certified community behavioral health clinic to each

3 respondent ordered to participate in assisted outpatient
4 treatment.

5 2. The case manager and the respondent shall report to
6 the court at least once every ninety days. The court may,
7 at its discretion, request more frequent appearances. The
8 case manager shall immediately report to the court a
9 substantial failure of the respondent or the mental health
10 program providing the assisted outpatient treatment to
11 comply with the conditions of the assisted outpatient
12 treatment.

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

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

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

6 mental health program or mental health professional shall
7 notify the court immediately.

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

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

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

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

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

33 4. A respondent hospitalized without a hearing as
34 provided in subsection 2 of this section may object to the
35 hospitalization. Upon transfer of the respondent to the
36 hospital, the hospital shall notify the respondent of his or
37 her right to object under this section. Upon receipt of an

38 objection to the hospitalization, the court shall schedule a
39 hearing for a determination that the individual requires
40 hospitalization. The respondent shall have all rights
41 specified in section 632.593 at the hearing. The court
42 shall order the respondent discharged from hospitalization
43 unless the court or jury finds, based upon clear and
44 convincing evidence, that the respondent requires
45 hospitalization as a result of the respondent's failure to
46 comply with the order for assisted outpatient treatment.

632.610. Beginning December 1, 2028, the office of
2 state courts administrator shall submit an annual report to
3 the general assembly summarizing:

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

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

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

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