

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 1082 & 1094

102ND GENERAL ASSEMBLY

2322H.02P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 441.740, 552.020, 552.050, 630.045, 630.140, 630.175, 631.120, 631.135, 631.140, 631.150, 631.165, 632.005, 632.150, 632.155, 632.300, 632.305, 632.310, 632.315, 632.320, 632.325, 632.330, 632.335, 632.340, 632.345, 632.350, 632.355, 632.370, 632.375, 632.385, 632.390, 632.392, 632.395, 632.400, 632.410, 632.415, 632.420, 632.430, 632.440, 632.455, and 633.125, RSMo, and to enact in lieu thereof forty-one new sections relating to mental health care.

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

Section A. Sections 441.740, 552.020, 552.050, 630.045, 630.140, 630.175, 631.120, 631.135, 631.140, 631.150, 631.165, 632.005, 632.150, 632.155, 632.300, 632.305, 632.310, 632.315, 632.320, 632.325, 632.330, 632.335, 632.340, 632.345, 632.350, 632.355, 632.370, 632.375, 632.385, 632.390, 632.392, 632.395, 632.400, 632.410, 632.415, 632.420, 632.430, 632.440, 632.455, and 633.125, RSMo, are repealed and forty-one new sections enacted in lieu thereof, to be known as sections 9.381, 167.027, 441.740, 552.020, 552.050, 630.045, 630.140, 630.175, 631.120, 631.135, 631.140, 631.150, 631.165, 632.005, 632.150, 632.155, 632.305, 632.310, 632.315, 632.320, 632.325, 632.330, 632.335, 632.340, 632.345, 632.350, 632.355, 632.370, 632.375, 632.385, 632.390, 632.392, 632.395, 632.400, 632.410, 632.415, 632.420, 632.430, 632.440, 632.455, and 633.125, to read as follows:

**9.381. October second of each year is hereby designated as "Premenstrual Dysphoric Disorder (PMDD) Awareness Day" in Missouri. The citizens of this state are encouraged to participate in appropriate events and activities to raise PMDD awareness.**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

167.027. 1. As used in this section, "student special education record" means the following:

- 2 (1) An individualized education program, or IEP, as such term is defined in 20
- 3 U.S.C. Section 1401, as amended;
- 4 (2) An individualized family service plan, or IFSP, as such term is defined in 20
- 5 U.S.C. Section 1401, as amended;
- 6 (3) A 504 plan created under Section 504 of the federal Rehabilitation Act of
- 7 1973, 29 U.S.C. Section 794, as amended;
- 8 (4) A record produced for a child with a disability, as such term is defined in 20
- 9 U.S.C. Section 1401, as amended; and
- 10 (5) Other records produced for a child under the federal Individuals with
- 11 Disabilities Education Act (IDEA), as amended.

12 2. For the 2023-24 school year and all subsequent school years, a student special

13 education record shall be deemed a permanent record and shall be maintained as a part

14 of a child's cumulative scholastic record.

15 3. Notwithstanding any other provision of law, rule, regulation, or policy to the

16 contrary, no school district or public school shall destroy a child's student special

17 education record.

441.740. 1. The court shall, subject to the provisions of sections 441.750 and

2 441.880, order the immediate eviction of a tenant as set forth in section 441.770, or issue an

3 order pursuant to section 441.830, if it finds any of the following:

- 4 (1) An emergency situation where dispossession of the tenant by other, less
- 5 expeditious legal means would, because of the passage of time, imminently cause with a
- 6 reasonable certainty either of the following:
  - 7 (a) Physical injury to other tenants or the lessor; or
  - 8 (b) Physical damage to lessor's property and the reasonable cost to repair such
  - 9 damage exceeds an amount equal to twelve months of rent; for the purposes of this paragraph,
  - 10 the term "rent" shall include the amount owed by the tenant along with any subsidy owed
  - 11 from any third party; No action shall be taken under this subdivision unless the lessor first
  - 12 makes a reasonable attempt to abate the emergency situation through public law enforcement
  - 13 authorities or local mental health services personnel authorized to take action pursuant to
  - 14 section ~~[632.300,]~~ 632.305 et seq., as appropriate[-];
- 15 (2) Drug-related criminal activity has occurred on or within the property leased to the
- 16 tenant;
- 17 (3) The property leased to the tenant was used in any way to further, promote, aid or
- 18 assist in drug-related criminal activity;

19 (4) The tenant, a member of the tenant's household or a guest has engaged in drug-  
20 related criminal activity either within, on or in the immediate vicinity of the leased property;

21 (5) The tenant has given permission to or invited a person to enter onto or remain on  
22 any portion of the leased property, and the tenant did so knowing that the person had been  
23 removed or barred from the leased property pursuant to the provisions of sections 441.710 to  
24 441.880; or

25 (6) The tenant has failed to promptly notify the plaintiff that a person whom the  
26 plaintiff previously had removed from the property leased by the tenant, with the knowledge  
27 of the tenant, has returned to, entered onto or remained on the property leased by the tenant.

28 2. The court shall, subject to the provisions of section 441.880, order the immediate  
29 removal of any person who engages in criminal activity described in this section on or in the  
30 immediate vicinity of the leased property. Persons removed from the leased premises  
31 pursuant to this section shall be immediately barred from entering onto or remaining on any  
32 portion of the leased property.

552.020. 1. No person who as a result of mental disease or defect lacks capacity to  
2 understand the proceedings against him or her or to assist in his or her own defense shall be  
3 tried, convicted or sentenced for the commission of an offense so long as the incapacity  
4 endures.

5 2. Whenever any judge has reasonable cause to believe that the accused lacks mental  
6 fitness to proceed, the judge shall, upon his or her own motion or upon motion filed by the  
7 state or by or on behalf of the accused, by order of record, appoint one or more private  
8 psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum  
9 of one year training or experience in providing treatment or services to persons with an  
10 intellectual disability or developmental disability or mental illness, who are neither  
11 employees nor contractors of the department of mental health for purposes of performing  
12 the examination in question, to examine the accused; or shall direct the director to have the  
13 accused so examined by one or more psychiatrists or psychologists, as defined in section  
14 632.005, or physicians with a minimum of one year training or experience in providing  
15 treatment or services to persons with an intellectual disability, developmental disability, or  
16 mental illness. The order shall direct that a written report or reports of such examination be  
17 filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be  
18 appointed by the court unless he or she has consented to act. The examinations ordered shall  
19 be made at such time and place and under such conditions as the court deems proper; except  
20 that, if the order directs the director of the department to have the accused examined, the  
21 director, or his or her designee, shall determine the time, place and conditions under which the  
22 examination shall be conducted. The order may include provisions for the interview of  
23 witnesses and may require the provision of police reports to the department for use in

24 evaluations. The department shall establish standards and provide training for those  
25 individuals performing examinations pursuant to this section and section 552.030. No  
26 individual who is employed by or contracts with the department shall be designated to  
27 perform an examination pursuant to this chapter unless the individual meets the qualifications  
28 so established by the department. Any examination performed pursuant to this subsection  
29 shall be completed and filed with the court within sixty days of the order unless the court for  
30 good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to  
31 permit psychologists to engage in any activity not authorized by chapter 337. One pretrial  
32 evaluation shall be provided at no charge to the defendant by the department. All costs of  
33 subsequent evaluations shall be assessed to the party requesting the evaluation.

34 3. A report of the examination made under this section shall include:

35 (1) Detailed findings;

36 (2) An opinion as to whether the accused has a mental disease or defect;

37 (3) An opinion based upon a reasonable degree of medical or psychological certainty  
38 as to whether the accused, as a result of a mental disease or defect, lacks capacity to  
39 understand the proceedings against him or her or to assist in his or her own defense;

40 (4) **An opinion, if the accused is found to lack capacity to understand the**  
41 **proceedings against him or her or to assist in his or her own defense, as to whether there**  
42 **is a substantial probability that the accused will be mentally fit to proceed in the**  
43 **reasonably foreseeable future;**

44 (5) A recommendation as to whether the accused should be held in custody in a  
45 suitable hospital facility for treatment pending determination, by the court, of mental fitness  
46 to proceed; ~~and~~

47 ~~(5)]~~ (6) A recommendation as to whether the accused, if found by the court to be  
48 mentally fit to proceed, should be detained in such hospital facility pending further  
49 proceedings;

50 (7) **A recommendation as to whether the accused, if found by the court to lack**  
51 **the mental fitness to proceed, should be committed to a suitable hospital facility for**  
52 **treatment to restore the mental fitness to proceed or if such treatment to restore the**  
53 **mental fitness to proceed can be provided in a county jail or other detention facility**  
54 **approved by the director or designee; and**

55 (8) **A recommendation as to whether the accused, if found by the court to lack**  
56 **the mental fitness to proceed and the accused is not charged with a dangerous felony as**  
57 **defined in section 556.061, murder in the first degree under section 565.020, or rape in**  
58 **the second degree under section 566.031, or the attempts thereof:**

59 (a) **Should be committed to a suitable hospital facility; or**

60 (b) **May be appropriately treated in the community; and**

61           **(c) Is able to comply with bond conditions as set forth by the court and is able to**  
62 **comply with treatment conditions and requirements as set forth by the director of the**  
63 **department or his or her designee.**

64           **4. When the court determines that the accused can comply with the bond and**  
65 **treatment conditions as referenced in subsection 3 of this section, the court shall order**  
66 **that the accused remain on bond while receiving treatment until the case is disposed of**  
67 **as set forth by subsection 12 of this section. If, at any time, the court finds that the**  
68 **accused has failed to comply with the bond and treatment conditions, the court may**  
69 **order that the accused be taken into law enforcement custody until such time as a**  
70 **department inpatient bed is available to provide treatment.**

71           **5.** If the accused has pleaded lack of responsibility due to mental disease or defect or  
72 has given the written notice provided in subsection 2 of section 552.030, the court shall order  
73 the report of the examination conducted pursuant to this section to include, in addition to the  
74 information required in subsection 3 of this section, an opinion as to whether at the time of the  
75 alleged criminal conduct the accused, as a result of mental disease or defect, did not know or  
76 appreciate the nature, quality, or wrongfulness of his or her conduct or as a result of mental  
77 disease or defect was incapable of conforming his or her conduct to the requirements of law.  
78 A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in  
79 the absence of any such pretrial evaluation which supports such a defense. In addition, if the  
80 accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is  
81 not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection  
82 10 of section 552.040, or the attempts thereof, the court shall order the report of the  
83 examination to include an opinion as to whether or not the accused should be immediately  
84 conditionally released by the court pursuant to the provisions of section 552.040 or should be  
85 committed to a mental health or developmental disability facility. If such an evaluation is  
86 conducted at the direction of the director of the department of mental health, the court shall  
87 also order the report of the examination to include an opinion as to the conditions of release  
88 which are consistent with the needs of the accused and the interest of public safety, including,  
89 but not limited to, the following factors:

90           (1) Location and degree of necessary supervision of housing;

91           (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and  
92 aftercare services, including the frequency of such services;

93           (3) Medication follow-up, including necessary testing to monitor medication  
94 compliance;

95           (4) At least monthly contact with the department's forensic case monitor;

96           (5) Any other conditions or supervision as may be warranted by the circumstances of  
97 the case.

98           [5-] 6. If the report contains the recommendation that the accused should be  
99 committed to or held in a suitable hospital facility pending determination of the issue of  
100 mental fitness to proceed, and if the accused is not admitted to bail or released on other  
101 conditions, the court may order that the accused be committed to or held in a suitable hospital  
102 facility pending determination of the issue of mental fitness to proceed.

103           [6-] 7. The clerk of the court shall deliver copies of the report to the prosecuting or  
104 circuit attorney and to the accused or his or her counsel. The report shall not be a public  
105 record or open to the public. Within ten days after the filing of the report, both the defendant  
106 and the state shall, upon written request, be entitled to an order granting them an examination  
107 of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician  
108 with a minimum of one year training or experience in providing treatment or services to  
109 persons with an intellectual disability or developmental disability or mental illness, of their  
110 own choosing and at their own expense. An examination performed pursuant to this  
111 subsection shall be completed and a report filed with the court within sixty days of the date it  
112 is received by the department or private psychiatrist, psychologist or physician unless the  
113 court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

114           [7-] 8. If neither the state nor the accused nor his or her counsel requests a second  
115 examination relative to fitness to proceed or contests the findings of the report referred to in  
116 subsections 2 and 3 of this section, the court ~~may~~ **shall** make a determination and finding on  
117 the basis of the report filed or ~~may~~ hold a hearing on its own motion. If any such opinion is  
118 contested, the court shall hold a hearing on the issue. The court shall determine the issue of  
119 mental fitness to proceed and may impanel a jury of six persons to assist in making the  
120 determination. The report or reports may be received in evidence at any hearing on the issue  
121 but the party contesting any opinion therein shall have the right to summon and to cross-  
122 examine the examiner who rendered such opinion and to offer evidence upon the issue.

123           [8-] 9. At a hearing on the issue pursuant to subsection 7 of this section, the accused is  
124 presumed to have the mental fitness to proceed. The burden of proving that the accused does  
125 not have the mental fitness to proceed is by a preponderance of the evidence and the burden  
126 of going forward with the evidence is on the party raising the issue. The burden of going  
127 forward shall be on the state if the court raises the issue.

128           [9-] 10. If the court determines that the accused lacks mental fitness to proceed, the  
129 criminal proceedings shall be suspended and the court shall commit him or her to the director  
130 of the department of mental health. **The director of the department, or his or her designee,**  
131 **shall determine the locations and conditions under which treatment shall be provided.**  
132 **The director shall notify the court and the parties of the location and conditions for**  
133 **treatment as determined by the department.** After the person has been committed, legal

134 counsel for the department of mental health shall have standing to file motions and participate  
135 in hearings on the issue of involuntary medications.

136 ~~[10.]~~ **11.** Any person committed pursuant to subsection 9 of this section shall be  
137 entitled to the writ of habeas corpus upon proper petition to the court that committed him or  
138 her. The issue of the mental fitness to proceed after commitment under subsection 9 of this  
139 section may also be raised by a motion filed by the director of the department of mental health  
140 or by the state, alleging the mental fitness of the accused to proceed. A report relating to the  
141 issue of the accused's mental fitness to proceed may be attached thereto. When a motion to  
142 proceed is filed, legal counsel for the department of mental health shall have standing to  
143 participate in hearings on such motions. If the motion is not contested by the accused or his  
144 or her counsel or if after a hearing on a motion the court finds the accused mentally fit to  
145 proceed, or if he or she is ordered discharged from the director's custody upon a habeas  
146 corpus hearing, the criminal proceedings shall be resumed.

147 ~~[11.]~~ **12.** The following provisions shall apply after a commitment as provided in this  
148 section:

149 (1) Six months after such commitment, the court which ordered the accused  
150 committed shall order an examination by the head of the facility in which the accused is  
151 committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed  
152 and if not, whether there is a substantial probability that the accused will attain the mental  
153 fitness to proceed to trial in the foreseeable future. The order shall direct that written report or  
154 reports of the examination be filed with the clerk of the court within thirty days and the clerk  
155 shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his or  
156 her counsel. The report required by this subsection shall conform to the requirements under  
157 subsection 3 of this section with the additional requirement that it include an opinion, if the  
158 accused lacks mental fitness to proceed, as to whether there is a substantial probability that  
159 the accused will attain the mental fitness to proceed in the foreseeable future;

160 (2) Within ten days after the filing of the report, both the accused and the state shall,  
161 upon written request, be entitled to an order granting them an examination of the accused by a  
162 psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of  
163 one year training or experience in providing treatment or services to persons with an  
164 intellectual disability or developmental disability or mental illness, of their own choosing and  
165 at their own expense. An examination performed pursuant to this subdivision shall be  
166 completed and filed with the court within thirty days unless the court, for good cause, orders  
167 otherwise. A copy shall be furnished to the opposing party;

168 (3) If neither the state nor the accused nor his or her counsel requests a second  
169 examination relative to fitness to proceed or contests the findings of the report referred to in  
170 subdivision (1) of this subsection, the court may make a determination and finding on the

171 basis of the report filed, or may hold a hearing on its own motion. If any such opinion is  
172 contested, the court shall hold a hearing on the issue. The report or reports may be received in  
173 evidence at any hearing on the issue but the party contesting any opinion therein relative to  
174 fitness to proceed shall have the right to summon and to cross-examine the examiner who  
175 rendered such opinion and to offer evidence upon the issue;

176 (4) If the accused is found mentally fit to proceed, the criminal proceedings shall be  
177 resumed;

178 (5) If it is found that the accused lacks mental fitness to proceed but there is a  
179 substantial probability the accused will be mentally fit to proceed in the reasonably  
180 foreseeable future, the court shall continue such commitment for a period not longer than six  
181 months, after which the court shall reinstitute the proceedings required under subdivision (1)  
182 of this subsection;

183 (6) If it is found that the accused lacks mental fitness to proceed and there is no  
184 substantial probability that the accused will be mentally fit to proceed in the reasonably  
185 foreseeable future, the court shall dismiss the charges without prejudice and the accused shall  
186 be discharged, but only if proper proceedings have been filed under chapter 632 or chapter  
187 475, in which case those sections and no others will be applicable. The probate division of  
188 the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper  
189 pleading to determine if the accused shall be involuntarily detained under chapter 632, or to  
190 determine if the accused shall be declared incapacitated under chapter 475, and approved for  
191 admission by the guardian under section 632.120 or 633.120, to a mental health or  
192 developmental disability facility. When such proceedings are filed, the criminal charges shall  
193 be dismissed without prejudice if the court finds that the accused is mentally ill and should be  
194 committed or that he or she is incapacitated and should have a guardian appointed. The  
195 period of limitation on prosecuting any criminal offense shall be tolled during the period that  
196 the accused lacks mental fitness to proceed.

197 ~~[12.]~~ **13.** If the question of the accused's mental fitness to proceed was raised after a  
198 jury was impaneled to try the issues raised by a plea of not guilty and the court determines  
199 that the accused lacks the mental fitness to proceed or orders the accused committed for an  
200 examination pursuant to this section, the court may declare a mistrial. Declaration of a  
201 mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of  
202 this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution  
203 of the accused for the same offense after he or she has been found restored to competency.

204 ~~[13.]~~ **14.** The result of any examinations made pursuant to this section shall not be a  
205 public record or open to the public.

206 ~~[14.]~~ **15.** No statement made by the accused in the course of any examination or  
207 treatment pursuant to this section and no information received by any examiner or other



208 person in the course thereof, whether such examination or treatment was made with or  
209 without the consent of the accused or upon his or her motion or upon that of others, shall be  
210 admitted in evidence against the accused on the issue of guilt in any criminal proceeding then  
211 or thereafter pending in any court, state or federal. A finding by the court that the accused is  
212 mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged  
213 on the ground that at the time thereof he or she was afflicted with a mental disease or defect  
214 excluding responsibility, nor shall such finding by the court be introduced in evidence on that  
215 issue nor otherwise be brought to the notice of the jury.

552.050. 1. If the chief administrative officer of any correctional facility has  
2 reasonable cause to believe that any offender needs care in a mental hospital, he **or she** shall  
3 so certify to the division of classification and treatment, which shall then transfer the offender  
4 to a state mental hospital for custody, care and treatment. The hospital may detain and treat  
5 the offender for a period of time not to exceed ninety-six hours. At the expiration of the  
6 ninety-six hours, the offender shall be returned to a correctional facility designated by the  
7 department of corrections unless the individual admits himself **or herself** as a voluntary  
8 patient or the ~~[mental health coordinator or]~~ head of the facility files for involuntary detention  
9 and treatment pursuant to chapter 632. The petition filed pursuant to section 632.330 shall be  
10 filed in the court having probate jurisdiction over the mental health facility in which the  
11 offender is being detained. The offender shall have the rights afforded respondents in  
12 sections 632.330 and 632.335, except that at the conclusion of the hearing on the petition the  
13 court may order the offender detained for a period of time not to exceed ninety days. At the  
14 expiration of the ninety-day commitment period ordered by the court, the offender may be  
15 detained and treated involuntarily for up to an additional one year under sections 632.355 and  
16 632.360.

17 2. When an offender needs care in a mental hospital and is committed or transferred  
18 to a state mental hospital, the time spent at the mental hospital shall be calculated as a part of  
19 the sentence imposed upon him **or her** whether the sentence is an indeterminate one or for a  
20 definite period of time. The time spent at the mental hospital shall be deducted from the term  
21 of the sentence.

22 3. When an offender who has been transferred from a correctional facility to a state  
23 mental hospital recovers before the expiration of his **or her** sentence, the superintendent of  
24 the hospital shall so certify in writing to the division of classification and treatment. He **or**  
25 **she** shall thereupon be transferred to such correctional facility as the department may direct.

26 4. An offender who has been committed to or transferred to a state mental hospital  
27 and is still mentally ill at the expiration of his **or her** sentence may be discharged and  
28 delivered to any person who is able and willing to maintain him **or her** comfortably and to the  
29 satisfaction of the superintendent of the hospital, if, in the opinion of the superintendent, it is

30 reasonably safe for the person to be at large. Before discharging the offender the  
31 superintendent shall receive verification of the expiration of the offender's sentence from the  
32 director of corrections. The person so discharged may, in the discretion of the superintendent,  
33 be provided with the whole or a portion of the allowances granted to discharged prisoners by  
34 section 217.285. The cost of such allowance shall be paid from the same funds as are  
35 allowances granted to persons discharged directly from a correctional facility.

36 5. When the term of an offender who has been committed or transferred to a state  
37 mental hospital has expired and the person, in the opinion of the hospital superintendent, is  
38 still in need of care in a mental hospital and for the welfare and safety of himself ~~[and]~~ **or**  
39 **herself** or others should remain in the hospital for custody, care and treatment, he **or she** shall  
40 be retained in the hospital only if proper involuntary detention proceedings have been  
41 instituted and held as provided in chapter 632. Thereafter this chapter and no other shall be  
42 applicable to his **or her** continued hospitalization and discharge.

630.045. The director of the department may authorize such persons~~[-including~~  
2 ~~mental health coordinators,]~~ as are necessary to carry out the civil involuntary detention  
3 requirements of chapter 632.

630.140. 1. Information and records compiled, obtained, prepared or maintained by  
2 the residential facility, mental health program operated, funded or licensed by the department  
3 or otherwise, specialized service, or by any mental health facility or mental health program in  
4 which people may be civilly detained pursuant to chapter 632 in the course of providing  
5 services to either voluntary or involuntary patients, residents or clients shall be confidential.

6 2. The facilities or programs shall disclose information and records including  
7 medication given, dosage levels, and individual ordering such medication to the following  
8 upon their request:

9 (1) The parent of a minor patient, resident or client;

10 (2) The guardian or other person having legal custody of the patient, resident or  
11 client;

12 (3) The attorney of a patient, resident or client who is a ward of the juvenile court, an  
13 alleged incompetent, an incompetent ward or a person detained under chapter 632, as  
14 evidenced by court orders of the attorney's appointment;

15 (4) An attorney or personal physician as authorized by the patient, resident or client;

16 (5) Law enforcement officers and agencies, information about patients, residents or  
17 clients committed pursuant to chapter 552, but only to the extent necessary to carry out the  
18 responsibilities of their office, and all such law enforcement officers shall be obligated to  
19 keep such information confidential;

20 (6) The entity or agency authorized to implement a system to protect and advocate the  
21 rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections

22 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person  
23 with developmental disabilities who is a client of the entity or agency if such person has  
24 authorized the entity or agency to have such access; and the records of any person with  
25 developmental disabilities who, by reason of mental or physical condition is unable to  
26 authorize the entity or agency to have such access, if such person does not have a legal  
27 guardian, conservator or other legal representative, and a complaint has been received by the  
28 entity or agency with respect to such person or there is probable cause to believe that such  
29 person has been subject to abuse or neglect. The entity or agency obtaining access to a  
30 person's records shall meet all requirements for confidentiality as set out in this section;

31 (7) The entity or agency authorized to implement a system to protect and advocate the  
32 rights of persons with mental illness under the provisions of 42 U.S.C. Section 10801 **et seq.**,  
33 **as amended**, shall be able to obtain access to the records of a patient, resident or client who  
34 by reason of mental or physical condition is unable to authorize the system to have such  
35 access, who does not have a legal guardian, conservator or other legal representative and with  
36 respect to whom a complaint has been received by the system or there is probable cause to  
37 believe that such individual has been subject to abuse or neglect. The entity or agency  
38 obtaining access to a person's records shall meet all requirements for confidentiality as set out  
39 in this section. The provisions of this subdivision shall apply to a person who has a  
40 significant mental illness or impairment as determined by a mental health professional  
41 qualified under the laws and regulations of the state; **and**

42 (8) ~~[To mental health coordinators, but only to the extent necessary to carry out their~~  
43 ~~duties under chapter 632;~~

44 (9) To individuals, designated by the department of mental health as community  
45 mental health liaisons, for the purpose of coordination of care and services.

46 3. The facilities or services may disclose information and records under any of the  
47 following:

48 (1) As authorized by the patient, resident or client;

49 (2) To persons or agencies responsible for providing health care services to such  
50 patients, residents or clients as permitted by the federal Health Insurance Portability and  
51 Accountability Act of 1996 (HIPAA), as amended;

52 (3) To the extent necessary for a recipient to make a claim or for a claim to be made  
53 on behalf of a recipient for aid or insurance;

54 (4) To qualified personnel for the purpose of conducting scientific research,  
55 management audits, financial audits, program evaluations or similar studies; provided, that  
56 such personnel shall not identify, directly or indirectly, any individual patient, resident or  
57 client in any report of such research, audit or evaluation, or otherwise disclose patient,  
58 resident or client identities in any manner;

59 (5) To the courts as necessary for the administration of chapter 211, 475, 552, or 632;

60 (6) To law enforcement officers or public health officers, but only to the extent  
61 necessary to carry out the responsibilities of their office, and all such law enforcement and  
62 public health officers shall be obligated to keep such information confidential;

63 (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

64 (8) To the attorney representing petitioners, but only to the extent necessary to carry  
65 out their duties under chapter 632;

66 (9) To the department of social services or the department of health and senior  
67 services as necessary to report or have investigated abuse, neglect, or rights violations of  
68 patients, residents, or clients;

69 (10) To a county board established pursuant to sections 205.968 to ~~[205.972, RSMo~~  
70 ~~1986]~~ **205.973**, but only to the extent necessary to carry out their statutory responsibilities.  
71 The county board shall not identify, directly or indirectly, any individual patient, resident or  
72 client;

73 (11) To parents, legal guardians, treatment professionals, law enforcement officers,  
74 and other individuals who by having such information could mitigate the likelihood of a  
75 suicide. The facility treatment team shall have determined that the consumer's safety is at  
76 some level of risk;

77 (12) To individuals, designated by the department of mental health as community  
78 mental health liaisons, for the purpose of coordination of care and services.

79 4. The facility or program shall document the dates, nature, purposes and recipients of  
80 any records disclosed under this section and sections 630.145 and 630.150.

81 5. The records and files maintained in any court proceeding under chapter 632 shall  
82 be confidential and available only to the patient, the patient's attorney, guardian, or, in the  
83 case of a minor, to a parent or other person having legal custody of the patient, to the  
84 petitioner and the petitioner's attorney, and to the Missouri state highway patrol for reporting  
85 to the National Instant Criminal Background Check System (NICS), and to individuals  
86 designated by the department of mental health as community mental health liaisons for the  
87 purpose of coordination of care and services. In addition, the court may order the release or  
88 use of such records or files only upon good cause shown, and the court may impose such  
89 restrictions as the court deems appropriate.

90 6. Nothing contained in this chapter shall limit the rights of discovery in judicial or  
91 administrative procedures as otherwise provided for by statute or rule.

92 7. The fact of admission of a voluntary or involuntary patient to a mental health  
93 facility under chapter 632 may only be disclosed as specified in subsections 2 and 3 of this  
94 section.

630.175. 1. No person admitted on a voluntary or involuntary basis to any mental health facility or mental health program in which people are civilly detained pursuant to chapter 632 and no patient, resident or client of a residential facility or day program operated, funded or licensed by the department shall be subject to physical or chemical restraint, isolation or seclusion unless it is determined by the head of the facility, the attending licensed physician, or in the circumstances specifically set forth in this section, by an advanced practice registered nurse in a collaborative practice arrangement, or a physician assistant or an assistant physician with a collaborative practice arrangement, with the attending licensed physician that the chosen intervention is imminently necessary to protect the health and safety of the patient, resident, client or others and that it provides the least restrictive environment. An advanced practice registered nurse in a collaborative practice arrangement, or a physician assistant or an assistant physician with a collaborative practice arrangement, with the attending licensed physician may make a determination that the chosen intervention is necessary for patients, residents, or clients of facilities or programs operated by the department, in hospitals as defined in section 197.020 that only provide psychiatric care and in dedicated psychiatric units of general acute care hospitals as hospitals are defined in section 197.020. Any determination made by the advanced practice registered nurse, physician assistant, or assistant physician shall be documented as required in subsection 2 of this section and reviewed in person by the attending licensed physician if the episode of restraint is to extend beyond:

- (1) Four hours duration in the case of a person under eighteen years of age;
- (2) Eight hours duration in the case of a person eighteen years of age or older; or
- (3) For any total length of restraint lasting more than four hours duration in a twenty-four-hour period in the case of a person under eighteen years of age or beyond eight hours duration in the case of a person eighteen years of age or older in a twenty-four-hour period.

The review shall occur prior to the time limit specified under subsection 6 of this section and shall be documented by the licensed physician under subsection 2 of this section.

2. Every use of physical or chemical restraint, isolation or seclusion and the reasons therefor shall be made a part of the clinical record of the patient, resident or client under the signature of the head of the facility, or the attending licensed physician, or the advanced practice registered nurse in a collaborative practice arrangement, or a physician assistant or an assistant physician with a collaborative practice arrangement, with the attending licensed physician.

3. Physical or chemical restraint, isolation or seclusion shall not be considered standard treatment or habilitation and shall cease as soon as the circumstances causing the need for such action have ended.

38           4. The use of security escort devices, including devices designed to restrict physical  
39 movement, which are used to maintain safety and security and to prevent escape during  
40 transport outside of a facility shall not be considered physical restraint within the meaning of  
41 this section. Individuals who have been civilly detained under sections ~~[632.300]~~ **632.305** to  
42 632.475 may be placed in security escort devices when transported outside of the facility if it  
43 is determined by the head of the facility, or the attending licensed physician, or the advanced  
44 practice registered nurse in a collaborative practice arrangement, or a physician assistant or an  
45 assistant physician with a collaborative practice arrangement, with the attending licensed  
46 physician that the use of security escort devices is necessary to protect the health and safety of  
47 the patient, resident, client, or other persons or is necessary to prevent escape. Individuals  
48 who have been civilly detained under sections 632.480 to 632.513 or committed under  
49 chapter 552 shall be placed in security escort devices when transported outside of the facility  
50 unless it is determined by the head of the facility, or the attending licensed physician, or the  
51 advanced practice registered nurse in a collaborative practice arrangement, or a physician  
52 assistant or an assistant physician with a collaborative practice arrangement, with the  
53 attending licensed physician that security escort devices are not necessary to protect the  
54 health and safety of the patient, resident, client, or other persons or is not necessary to prevent  
55 escape.

56           5. Extraordinary measures employed by the head of the facility to ensure the safety  
57 and security of patients, residents, clients, and other persons during times of natural or man-  
58 made disasters shall not be considered restraint, isolation, or seclusion within the meaning of  
59 this section.

60           6. Orders issued under this section by the advanced practice registered nurse in a  
61 collaborative practice arrangement, or a physician assistant or an assistant physician with a  
62 collaborative practice arrangement, with the attending licensed physician shall be reviewed in  
63 person by the attending licensed physician of the facility within twenty-four hours or the next  
64 regular working day of the order being issued, and such review shall be documented in the  
65 clinical record of the patient, resident, or client.

66           7. For purposes of this subsection, "division" shall mean the division of  
67 developmental disabilities. Restraint or seclusion shall not be used in habilitation centers  
68 or community programs that serve persons with developmental disabilities that are operated  
69 or funded by the division unless such procedure is part of an emergency intervention system  
70 approved by the division and is identified in such person's individual support plan. Direct-  
71 care staff that serve persons with developmental disabilities in habilitation centers or  
72 community programs operated or funded by the division shall be trained in an emergency  
73 intervention system approved by the division when such emergency intervention system is  
74 identified in a consumer's individual support plan.

631.120. 1. A [~~mental health coordinator,~~] mental health professional, peace officer, 2 registered nurse, licensed physician, or qualified counselor may complete an application for 3 detention, treatment, or rehabilitation for up to ninety-six hours under the procedures of 4 section 632.305 for a person presenting an imminent likelihood of serious harm to himself **or** 5 **herself** or others as a result of alcohol or drug abuse, or both.

6 2. If a peace officer has reasonable cause to believe that unless a person is taken into 7 custody the likelihood of serious harm is imminent as a result of alcohol or drug abuse, or 8 both, the officer may take the person into custody and convey him **or her** to an alcohol or 9 drug abuse facility. The officer shall complete an application for detention indicating the 10 facts upon which the belief is based.

631.135. If a respondent is accepted for treatment and rehabilitation pursuant to this 2 chapter, he **or she** shall be advised, orally and in writing, of the information contained in 3 subdivisions (1) to (11) of this section. The respondent's guardian, if any, and, with the 4 respondent's consent, a responsible member of the respondent's immediate family shall be 5 advised if possible, either orally or in writing, of his **or her** admission to the facility. The 6 personnel of the alcohol or drug abuse facility to which the respondent is taken shall advise 7 the respondent that unless the respondent is released or voluntarily admits himself **or herself** 8 within ninety-six hours of the initial detention:

9 (1) He **or she** may be detained for ninety-six hours from the time of his **or her** initial 10 detention to receive treatment and rehabilitation;

11 (2) Within the ninety-six hours, the head of the alcohol or drug abuse facility [~~or the~~ 12 ~~mental health coordinator~~] may file a petition to have him **or her** detained, after a court 13 hearing, for an additional period not to exceed thirty days;

14 (3) He **or she** will be given a judicial hearing within two judicial days after the day 15 the petition for additional detention is filed, unless continued for good cause;

16 (4) An attorney has been appointed who will represent him **or her** before and after the 17 hearing and who will be notified as soon as possible; except that, he **or she** also has the right 18 to private counsel of his **or her** own choosing and at his **or her** own expense;

19 (5) He **or she** has the right to communicate with counsel at all reasonable times and to 20 have assistance in contacting such counsel;

21 (6) Anything he **or she** says to personnel at the alcohol or drug abuse facility may be 22 used in making a determination regarding detention, may result in involuntary detention 23 proceedings being filed concerning him **or her**, and may be used at the court hearing;

24 (7) He **or she** has the right to present evidence and to cross-examine witnesses who 25 testify on behalf of the petitioner at the hearing;

26 (8) During the period prior to being examined by a licensed physician, he **or she** may  
27 refuse medication unless he **or she** presents an imminent likelihood of serious harm to  
28 himself **or herself** or others;

29 (9) He **or she** has the right to refuse medication except for lifesaving treatment  
30 beginning twenty-four hours prior to the hearing for thirty-day detention;

31 (10) He **or she** has the right to request that the hearing be held in his **or her** county of  
32 residence if he **or she** is a resident of this state; **and**

33 (11) He **or she** has the right to have an interpreter assist him **or her** to communicate  
34 at the facility or during the hearing, or both, if he **or she** has impaired hearing or does not  
35 speak English.

631.140. 1. At the expiration of the ninety-six-hour period, the respondent may be  
2 detained and treated involuntarily for an additional two judicial days only if the head of the  
3 alcohol or drug abuse facility [~~or a mental health coordinator~~] has filed a petition for  
4 additional detention not to exceed thirty days.

5 2. Within ninety-six hours following initial detention, the head of the facility [~~or the~~  
6 ~~mental health coordinator~~] may file, or cause to be filed, a petition for a thirty-day involuntary  
7 detention, treatment, or rehabilitation period provided he **or she** has reasonable cause to  
8 believe that the person abuses alcohol or drugs and presents a likelihood of serious harm to  
9 himself **or herself** or others as a result of alcohol or drug abuse, or both. The court shall serve  
10 the petition and list of prospective witnesses for the petitioner upon the respondent and his **or**  
11 **her** attorney at least twenty-four hours before the hearing. [~~The head of the facility shall also~~  
12 ~~notify the mental health coordinator if the petition is not filed by the mental health~~  
13 ~~coordinator.~~] The petition shall:

14 (1) Allege that the respondent, by reason of alcohol or drug abuse, or both, presents a  
15 likelihood of serious harm to himself **or herself** or to others;

16 (2) Allege that the respondent is in need of continued detention, treatment, and  
17 rehabilitation;

18 (3) Allege the specific behavior of the respondent or the facts which support such  
19 conclusion;

20 (4) Allege that an alcohol or drug abuse facility which is appropriate to handle the  
21 respondent's condition has agreed to accept the respondent; and

22 (5) Be signed by a licensed physician who has examined the respondent.

631.150. 1. Before the expiration of the thirty-day period of detention, treatment, and  
2 rehabilitation ordered pursuant to section 631.145, the court may order the respondent to be  
3 detained for treatment and rehabilitation for an additional period not to exceed ninety days;  
4 provided that:



5 (1) The respondent, as the result of alcohol or drug abuse, or both, continues to  
6 present a likelihood of serious harm to himself **or herself** or to others; and

7 (2) The court, after a hearing, orders the respondent detained for treatment and  
8 rehabilitation for the additional period.

9 2. If, within twenty-five days of the court hearing described in section 631.145, the  
10 head of the alcohol or drug abuse facility [~~or the mental health coordinator~~] has reasonable  
11 cause to believe that the respondent, as the result of alcohol or drug abuse, or both, presents a  
12 likelihood of serious harm to himself **or herself** or others, and believes that further detention  
13 and treatment is necessary, he **or she** shall file, or cause to be filed, with the court a petition  
14 for ninety days additional detention, treatment, and rehabilitation. The court shall  
15 immediately set a date and time for a hearing on the petition, which shall take place  
16 within four judicial days of the date of the filing of the petition. The court shall serve a copy  
17 of the petition and the notice of the date and time of the hearing upon the petitioner, the  
18 respondent, and their attorneys as promptly as possible, but not later than two judicial days  
19 after the filing of the petition. The petitioner shall also file with the court, for the court to  
20 serve upon the respondent's attorney not later than two days after the filing of the petition, a  
21 list of the proposed witnesses for the petitioner. [~~The head of the alcohol or drug abuse  
22 facility shall notify the mental health coordinator if the petition is not filed by the mental  
23 health coordinator.~~] The petition shall comply with the requirements of section 631.140, and  
24 an individualized treatment and rehabilitation plan for the respondent shall be attached  
25 thereto.

631.165. If the head of the alcohol or drug abuse facility finds that a person who is  
2 detained for treatment and rehabilitation is presenting a likelihood of serious harm as a result  
3 of mental disorder other than alcohol or drug abuse, or both, the head of the facility shall  
4 arrange for the transfer of the person to a mental health facility through [~~a mental health  
5 coordinator, or through~~] a licensed physician, registered professional nurse, qualified  
6 counselor or mental health professional designated by the mental health facility. The person  
7 may be detained for up to ninety-six hours for evaluation and treatment, under the procedures  
8 of sections 632.310, 632.315, 632.320 and 632.325, before filing a petition for further  
9 detention under sections 632.330 and 632.335.

632.005. As used in chapter 631 and this chapter, unless the context clearly requires  
2 otherwise, the following terms shall mean:

3 (1) "Comprehensive psychiatric services", any one, or any combination of two or  
4 more, of the following services to persons affected by mental disorders other than intellectual  
5 disabilities or developmental disabilities: inpatient, outpatient, day program or other partial  
6 hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education,

7 rehabilitation, prevention, screening, transitional living, medical prevention and treatment for  
8 alcohol abuse, and medical prevention and treatment for drug abuse;

9 (2) "Council", the Missouri advisory council for comprehensive psychiatric services;

10 (3) "Court", the court which has jurisdiction over the respondent or patient;

11 (4) "Division", the division of comprehensive psychiatric services of the department  
12 of mental health;

13 (5) "Division director", director of the division of comprehensive psychiatric services  
14 of the department of mental health, or his **or her** designee;

15 (6) "Head of mental health facility", superintendent or other chief administrative  
16 officer of a mental health facility, or his **or her** designee;

17 (7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the  
18 court is open for business, but excluding Saturdays, Sundays and legal holidays;

19 (8) "Licensed physician", a physician licensed pursuant to the provisions of chapter  
20 334 or a person authorized to practice medicine in this state pursuant to the provisions of  
21 section 334.150;

22 (9) "Licensed professional counselor", a person licensed as a professional counselor  
23 under chapter 337 and with a minimum of one year training or experience in providing  
24 psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a  
25 mental disorder;

26 (10) "Likelihood of serious harm" means any one or more of the following but does  
27 not require actual physical injury to have occurred:

28 (a) A substantial risk that serious physical harm will be inflicted by a person upon his  
29 **or her** own person, as evidenced by recent threats, including verbal threats, or attempts to  
30 commit suicide or inflict physical harm on himself **or herself**. Evidence of substantial risk  
31 may also include information about patterns of behavior that historically have resulted in  
32 serious harm previously being inflicted by a person upon himself **or herself**;

33 (b) A substantial risk that serious physical harm to a person will result or is occurring  
34 because of an impairment in his **or her** capacity to make decisions with respect to his **or her**  
35 hospitalization and need for treatment as evidenced by his **or her** current mental disorder or  
36 mental illness which results in an inability to provide for his **or her** own basic necessities of  
37 food, clothing, shelter, safety or medical care or his **or her** inability to provide for his **or her**  
38 own mental health care which may result in a substantial risk of serious physical harm.  
39 Evidence of that substantial risk may also include information about patterns of behavior that  
40 historically have resulted in serious harm to the person previously taking place because of a  
41 mental disorder or mental illness which resulted in his **or her** inability to provide for his **or**  
42 **her** basic necessities of food, clothing, shelter, safety or medical or mental health care; or

43 (c) A substantial risk that serious physical harm will be inflicted by a person upon  
44 another as evidenced by recent overt acts, behavior or threats, including verbal threats, which  
45 have caused such harm or which would place a reasonable person in reasonable fear of  
46 sustaining such harm. Evidence of that substantial risk may also include information about  
47 patterns of behavior that historically have resulted in physical harm previously being inflicted  
48 by a person upon another person;

49 ~~(11) ["Mental health coordinator", a mental health professional who has knowledge of~~  
50 ~~the laws relating to hospital admissions and civil commitment and who is authorized by the~~  
51 ~~director of the department, or his designee, to serve a designated geographic area or mental~~  
52 ~~health facility and who has the powers, duties and responsibilities provided in this chapter;~~

53 ~~(12)~~ (12) "Mental health facility", any residential facility, public or private, or any public  
54 or private hospital, which can provide evaluation, treatment and, inpatient care to persons  
55 suffering from a mental disorder or mental illness and which is recognized as such by the  
56 department or any outpatient treatment program certified by the department of mental health.  
57 No correctional institution or facility, jail, regional center or developmental disability facility  
58 shall be a mental health facility within the meaning of this chapter;

59 ~~(13)~~ (12) "Mental health professional", a psychiatrist, resident in psychiatry,  
60 psychiatric physician assistant, psychiatric assistant physician, psychiatric advanced practice  
61 registered nurse, psychologist, psychiatric nurse, licensed professional counselor, or  
62 psychiatric social worker;

63 ~~(14)~~ (13) "Mental health program", any public or private residential facility, public  
64 or private hospital, public or private specialized service or public or private day program that  
65 can provide care, treatment, rehabilitation or services, either through its own staff or through  
66 contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or  
67 mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such  
68 by the department. No correctional institution or facility or jail may be a mental health  
69 program within the meaning of this chapter;

70 ~~(15)~~ (14) "Ninety-six hours" shall be construed and computed to exclude Saturdays,  
71 Sundays and legal holidays which are observed either by the court or by the mental health  
72 facility where the respondent is detained;

73 ~~(16)~~ (15) "Peace officer", a sheriff, deputy sheriff, county or municipal police  
74 officer or highway patrolman;

75 ~~(17)~~ (16) "Psychiatric advanced practice registered nurse", a registered nurse who is  
76 currently recognized by the board of nursing as an advanced practice registered nurse, who  
77 has at least two years of experience in providing psychiatric treatment to individuals suffering  
78 from mental disorders;

79           ~~[(18)]~~ (17) "Psychiatric assistant physician", a licensed assistant physician under  
80 chapter 334 and who has had at least two years of experience as an assistant physician in  
81 providing psychiatric treatment to individuals suffering from mental health disorders;

82           ~~[(19)]~~ (18) "Psychiatric nurse", a registered professional nurse who is licensed under  
83 chapter 335 and who has had at least two years of experience as a registered professional  
84 nurse in providing psychiatric nursing treatment to individuals suffering from mental  
85 disorders;

86           ~~[(20)]~~ (19) "Psychiatric physician assistant", a licensed physician assistant under  
87 chapter 334 and who has had at least two years of experience as a physician assistant in  
88 providing psychiatric treatment to individuals suffering from mental health disorders or a  
89 graduate of a postgraduate residency or fellowship for physician assistants in psychiatry;

90           ~~[(21)]~~ (20) "Psychiatric social worker", a person with a master's or further advanced  
91 degree from an accredited school of social work, practicing pursuant to chapter 337, and with  
92 a minimum of one year training or experience in providing psychiatric care, treatment or  
93 services in a psychiatric setting to individuals suffering from a mental disorder;

94           ~~[(22)]~~ (21) "Psychiatrist", a licensed physician who in addition has successfully  
95 completed a training program in psychiatry approved by the American Medical Association,  
96 the American Osteopathic Association or other training program certified as equivalent by the  
97 department;

98           ~~[(23)]~~ (22) "Psychologist", a person licensed to practice psychology under chapter  
99 337 with a minimum of one year training or experience in providing treatment or services to  
100 mentally disordered or mentally ill individuals;

101           ~~[(24)]~~ (23) "Resident in psychiatry", a licensed physician who is in a training program  
102 in psychiatry approved by the American Medical Association, the American Osteopathic  
103 Association or other training program certified as equivalent by the department;

104           ~~[(25)]~~ (24) "Respondent", an individual against whom involuntary civil detention  
105 proceedings are instituted pursuant to this chapter;

106           ~~[(26)]~~ (25) "Treatment", any effort to accomplish a significant change in the mental or  
107 emotional conditions or the behavior of the patient consistent with generally recognized  
108 principles or standards in the mental health professions.

632.150. 1. A voluntary patient who has applied for his **or her** own admission may  
2 request his **or her** release either orally or in writing to the head of the mental health facility  
3 and shall be released immediately; except, that if the head of the facility determines that he **or**  
4 **she** is mentally disordered and, as a result, presents a likelihood of serious physical harm to  
5 himself **or herself** or others, the head of the facility may refuse the request for release.

6           2. If the request for release is refused, the mental health facility may detain the person  
7 only if a ~~[mental health coordinator, a]~~ licensed physician, a registered professional nurse

8 designated by the facility and approved by the department, a mental health professional or a  
9 peace officer completes an application for detention for evaluation and treatment to begin the  
10 involuntary detention of the patient under this chapter.

632.155. 1. A voluntary patient who is a minor and who requests his **or her** release  
2 either orally or in writing, or whose release is requested in writing to the head of the facility  
3 by his **or her** parent, spouse, adult next of kin, or person entitled to his **or her** custody, shall  
4 be released immediately; except, that if the patient was admitted on the application of another  
5 person, his **or her** release shall be conditioned upon receiving the consent of the person  
6 applying for his **or her** admission.

7 2. If the head of the mental health facility determines that the minor is mentally  
8 disordered and, as a result, presents a likelihood of serious physical harm to himself **or**  
9 **herself** or others, the head of the facility may refuse the release. The mental health facility  
10 may detain the minor only if a [~~mental health coordinator, a~~] licensed physician, a mental  
11 health professional or a registered professional nurse designated by the facility and approved  
12 by the department completes an application for detention for evaluation and treatment to  
13 begin the involuntary detention of the minor under this chapter or, if appropriate, the minor is  
14 detained in the facility under the provisions of chapter 211.

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

10 2. The filing of a written application in court by any adult person, who need not be an  
11 attorney or represented by an attorney, [~~including the mental health coordinator,~~] shall  
12 authorize the applicant to bring the matter before the court on an ex parte basis to determine  
13 whether the respondent should be taken into custody and transported to a mental health  
14 facility. The application may be filed in the court having probate jurisdiction in any county  
15 where the respondent may be found. If the court finds that there is probable cause, either  
16 upon testimony under oath or upon a review of affidavits, **declarations, or other supporting**  
17 **documentation**, to believe that the respondent may be suffering from a mental disorder and  
18 presents a likelihood of serious harm to himself or herself or others, it shall direct a peace  
19 officer to take the respondent into custody and transport him or her to a mental health facility  
20 for detention for evaluation and treatment for a period not to exceed ninety-six hours unless

21 further detention and treatment is authorized pursuant to this chapter. Nothing herein shall be  
22 construed to prohibit the court, in the exercise of its discretion, from giving the respondent an  
23 opportunity to be heard.

24 3. A ~~[mental health coordinator may request a peace officer to take or a]~~ peace officer  
25 may take a person into custody for detention for evaluation and treatment **at a mental health**  
26 **facility** for a period not to exceed ninety-six hours only when such ~~[mental health coordinator~~  
27 ~~or]~~ peace officer has reasonable cause to believe that such person is suffering from a mental  
28 disorder and that the likelihood of serious harm by such person to himself or herself or others  
29 is imminent unless such person is immediately taken into custody. Upon arrival at the mental  
30 health facility, the peace officer ~~[or mental health coordinator]~~ who conveyed such person or  
31 caused him or her to be conveyed shall either present the application for detention for  
32 evaluation and treatment upon which the court has issued a finding of probable cause and the  
33 respondent was taken into custody or complete an application for initial detention for  
34 evaluation and treatment for a period not to exceed ninety-six hours which shall be based  
35 upon his or her own personal observations or investigations and shall contain the information  
36 required in subsection 1 of this section.

37 4. If a person presents himself or herself or is presented by others to a mental health  
38 facility and a licensed physician, a registered professional nurse or a mental health  
39 professional designated by the head of the facility and approved by the department for such  
40 purpose has reasonable cause to believe that the person is mentally disordered and presents an  
41 imminent likelihood of serious harm to himself or herself or others unless he or she is  
42 accepted for detention, the licensed physician, the mental health professional or the registered  
43 professional nurse designated by the facility and approved by the department may complete  
44 an application for detention for evaluation and treatment for a period not to exceed ninety-six  
45 hours. The application shall be based on his or her own personal observations or  
46 investigation and shall contain the information required in subsection 1 of this section.

47 5. ~~[Any oath required by the provisions of this section-]~~ **No notarization shall be**  
48 **required for an application or for any affidavits, declarations, or other documents**  
49 **supporting an application. The application and any affidavits, declarations, or other**  
50 **documents supporting the application** shall be subject to the provisions of section 492.060  
51 **allowing for declaration under penalty of perjury.**

632.310. 1. Whenever a court has authorized the initial detention and evaluation of a  
2 respondent pursuant to subsection 2 of section 632.305, ~~[or whenever a mental health~~  
3 ~~coordinator submits an application for initial detention and evaluation pursuant to subsection~~  
4 ~~3 of section 632.305,]~~ or whenever a licensed physician, a registered professional nurse  
5 designated by the facility and approved by the department, or a mental health professional  
6 submits an application for initial detention and evaluation pursuant to subsection 4 of section

7 632.305, a public mental health facility shall, and a private mental health facility may  
8 immediately accept such application and the respondent on a provisional basis, and the  
9 facility shall then evaluate the respondent's condition and admit him **or her** for treatment or  
10 release him **or her** in accordance with the provisions of this chapter.

11 2. Whenever a peace officer applies for initial detention and evaluation pursuant to  
12 subsection 3 of section 632.305, the mental health facility may, but is not required to, accept  
13 the application and the respondent. If the facility accepts the application and the respondent,  
14 the facility shall evaluate the respondent's condition and admit him **or her** for treatment or  
15 release him **or her** in accordance with the provisions of this chapter.

16 3. If the respondent is not accepted for admission by a facility providing ninety-six-  
17 hour evaluation and treatment, the facility shall immediately furnish transportation, if not  
18 otherwise available, to return the respondent to his **or her** place of residence or other  
19 appropriate place; provided, that in the case of a person transported to the facility by a peace  
20 officer or other governmental agency, such peace officer or agency shall furnish or arrange for  
21 such transportation.

22 4. The department may require, pursuant to an affiliation agreement and contract with  
23 a community-based service certified by the department to serve the catchment area where a  
24 respondent whose mental disorder consists of alcohol or drug abuse resides, that the service  
25 immediately accept the application and respondent engaging in alcohol or drug abuse on a  
26 provisional basis and that the service then evaluate such respondent's condition and admit him  
27 **or her** for treatment for up to ninety-six hours, petition for further detention and treatment, or  
28 release him **or her** in accordance with the provisions of chapter 631.

632.315. Any mental health facility accepting a respondent pursuant to section  
2 632.310 shall be furnished a copy of the application for initial detention and evaluation. If a  
3 person is involuntarily detained in a mental health facility pursuant to section 632.310, no  
4 later than twenty-four hours after his **or her** arrival, excluding Saturdays, Sundays and legal  
5 holidays, the head of the mental health facility [~~or the mental health coordinator~~] shall file  
6 with the court the application, a copy of the notice required by section 632.325 and proof that  
7 the notice was given. The person's designated attorney shall receive a copy of all documents.  
8 [~~The head of the mental health facility shall send copies of all completed applications,~~  
9 ~~whether accepted for admission or not, to the designated mental health coordinator for the~~  
10 ~~region.~~]

632.320. 1. Within three hours of the time at which the respondent arrives at a mental  
2 health facility he **or she** shall:

3 (1) Be seen by a mental health professional or registered professional nurse; and

4 (2) Be given a copy of the application for initial detention and evaluation, a notice of  
5 rights pursuant to section 632.325 and a notice giving the name, business address and  
6 telephone number of the attorney appointed to represent him **or her**; and

7 (3) Be provided assistance in contacting the appointed attorney or an attorney of his  
8 **or her** own choosing, if so requested.

9 2. Within eighteen hours after the respondent arrives at the mental health facility, he  
10 **or she** shall be examined by a licensed physician.

11 3. Within [~~four days~~] **forty-eight hours** after the respondent arrives at the mental  
12 health facility, unless sooner released, [~~the mental health coordinator~~] **designated staff at the**  
13 **mental health facility** shall meet with the respondent and explain his **or her** statutory rights  
14 under this chapter.

632.325. If the respondent is accepted for evaluation or for evaluation and treatment  
2 pursuant to this chapter, he **or she** shall be advised, orally and in writing, of the information  
3 contained in subdivisions (1) through (11) of this section. The respondent's guardian and, if  
4 possible and the respondent consents, a responsible member of his **or her** immediate family  
5 shall be advised, within eight hours either orally or in writing, of the information contained in  
6 subdivisions (1) through (11) of this section. The personnel of the mental health facility to  
7 which the respondent is taken [~~or the mental health coordinator~~] shall advise the  
8 aforementioned individuals that unless the respondent is released or voluntarily admits  
9 himself **or herself** within ninety-six hours of the initial detention:

10 (1) He **or she** may be detained for ninety-six hours from the time of his **or her** initial  
11 detention to be evaluated and treated;

12 (2) Within the ninety-six hours, the head of the mental health facility [~~or the mental~~  
13 ~~health coordinator~~] may file a petition to have him **or her** detained for an additional period  
14 not to exceed twenty-one days, after a court hearing;

15 (3) He **or she** will be given a judicial hearing within two judicial days after the day  
16 the petition for additional detention is filed;

17 (4) An attorney has been appointed who will represent him **or her** before and after the  
18 hearing and who will be notified as soon as possible; provided, however, that he **or she** also  
19 has the right to private counsel of his **or her** own choosing and at his **or her** own expense;

20 (5) He **or she** has the right to communicate with counsel at all reasonable times and to  
21 have assistance in contacting such counsel;

22 (6) The purpose of the evaluation is to determine whether he **or she** meets the criteria  
23 for civil detention under this chapter and that anything he **or she** says to personnel at the  
24 mental health facility may be used in making that determination, may result in involuntary  
25 detention proceedings being filed against him **or her** and may be used at the court hearing;



26 (7) He **or she** has the right to present evidence and to cross-examine witnesses who  
27 testify against him **or her** at the hearing;

28 (8) During the period prior to being examined by a licensed physician, he **or she** may  
29 refuse medication unless he **or she** presents an imminent likelihood of serious physical injury  
30 to himself **or herself** or others;

31 (9) He **or she** has the right to refuse medication except for lifesaving treatment  
32 beginning twenty-four hours prior to the hearing for twenty-one-day detention;

33 (10) He **or she** has the right to request that the hearing be held in his **or her** county of  
34 residence if he **or she** is a resident of this state; **and**

35 (11) He **or she** has the right to have an interpreter assist him **or her** to communicate,  
36 at the facility or during the hearing, or both, if he **or she** has impaired hearing or does not  
37 speak English.

632.330. 1. At the expiration of the ninety-six hour period, the respondent may be  
2 detained and treated involuntarily for an additional two judicial days only if the head of the  
3 mental health facility [~~or a mental health coordinator either~~] has filed a petition for additional  
4 inpatient detention and treatment not to exceed twenty-one days or has filed a petition for  
5 outpatient detention and treatment for a period not to exceed one hundred eighty days.

6 2. Within ninety-six hours following initial detention, the head of the facility [~~or the~~  
7 ~~mental health coordinator~~] may file or cause to be filed either a petition for a twenty-one-day  
8 inpatient involuntary detention and treatment period or a petition for outpatient detention and  
9 treatment for a period not to exceed one hundred eighty days, provided he **or she** has  
10 reasonable cause to believe that the person is mentally ill and as a result presents a likelihood  
11 of serious harm to himself **or herself** or others. The court shall serve the petition and list of  
12 prospective witnesses for the petitioner upon the respondent and his **or her** attorney at least  
13 twenty-four hours before the hearing. [~~The head of the facility shall also notify the mental~~  
14 ~~health coordinator if the petition is not filed by the mental health coordinator.~~] The petition  
15 shall:

16 (1) Allege that the respondent, by reason of mental illness, presents a likelihood of  
17 serious harm to himself **or herself** or to others;

18 (2) Allege that the respondent is in need of continued detention and treatment either  
19 on an inpatient basis or on an outpatient basis;

20 (3) Allege the specific behavior of the respondent or the facts which support such  
21 conclusion;

22 (4) Affirm that attempts were made to provide necessary care, treatment and services  
23 in the least restrictive environment to the respondent on a voluntary basis, but either the  
24 petitioner believes that the respondent lacks the capacity to voluntarily consent to care,  
25 treatment and services or the respondent refuses to voluntarily consent to care, treatment and

26 services such that proceeding with a petition for the respondent's civil detention in the least  
27 restrictive environment is necessary;

28 (5) Allege that there will be appropriate support from family, friends, case managers  
29 or others during the period of outpatient detention and treatment in the community if such  
30 commitment is sought;

31 (6) Specify the mental health program that is appropriate to handle the respondent's  
32 condition and that has agreed to accept the respondent;

33 (7) Specify the range of care, treatment and services that shall be provided to the  
34 respondent if the petition for further detention is sustained by the court;

35 (8) Name the entities that have agreed to fund and provide the specified interventions;  
36 and

37 (9) Be verified by a psychiatrist or by a licensed physician and a mental health  
38 professional who have examined the respondent.

39 3. The petitioner shall consider whether based on the respondent's condition and  
40 treatment history, the respondent meets the criteria in chapter 475, so that appointment of a  
41 full or limited guardian or conservator is appropriate for the court to consider, and if deemed  
42 so, the petitioner then shall proceed as specified in subsection 4 of this section.

43 4. If the head of the mental health facility, or his **or her** designee, [~~or the mental~~  
44 ~~health coordinator~~] believes that the respondent, because of a mental illness or mental  
45 disorder, may be incapacitated or disabled as defined in chapter 475, the head of the mental  
46 health facility [~~or mental health coordinator~~] shall cause a petition to be filed pursuant to  
47 section 475.060 and section 475.061, if applicable, with the court having probate jurisdiction  
48 as determined by section 475.035. In addition, if the head of the mental health facility, **or** his  
49 **or her** designee [~~or the mental health coordinator~~], believes it appropriate, he **or she** shall  
50 proceed with obtaining an order for the respondent's temporary emergency detention as  
51 provided for in section 475.355. Furthermore, the hearing on the petition filed pursuant to  
52 chapter 475 shall be conducted pursuant to the requirements of section 475.075 and other  
53 appropriate sections of chapter 475, and shall be held within two judicial days after  
54 termination of the ninety-six-hour civil detention period unless continued for good cause  
55 shown. Nothing contained in this subsection shall restrict or prohibit the head of the mental  
56 health facility, **or** his **or her** designee [~~or the mental health coordinator~~], from proceeding  
57 under the appropriate provisions of this chapter if the petition for guardianship or  
58 conservatorship is denied.

632.335. 1. The petition for additional inpatient detention and treatment not to  
2 exceed twenty-one days or the petition for outpatient detention and treatment not to exceed  
3 one hundred eighty days shall be filed with the court having probate jurisdiction. At the time  
4 of filing the petition, the court clerk shall set a date and time for the hearing which shall take

5 place within two judicial days of the filing of the petition. The clerk shall promptly notify the  
6 respondent, his **or her** attorney, the petitioner and the petitioner's attorney of the date and time  
7 for the hearing. The court shall not grant continuances except upon a showing of good and  
8 sufficient cause. If a continuance is granted, the court, in its discretion, may order the person  
9 released pending the hearing upon conditions prescribed by the court. The court may order  
10 the continued detention and treatment of the person at a mental health facility pending the  
11 continued hearing, and a copy of such order shall be furnished to the facility.

12 2. The hearing shall be conducted in as informal a manner as may be consistent with  
13 orderly procedure and in a physical setting not likely to have a harmful effect on the  
14 respondent. Due consideration shall be given by the court to holding a hearing at the mental  
15 health facility. The respondent shall have the following rights in addition to those specified  
16 elsewhere:

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

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

30 4. At the conclusion of the hearing, if the court finds, based upon clear and  
31 convincing evidence, that respondent, as the result of mental illness, presents a likelihood of  
32 serious harm to himself **or herself** or to others, and that a mental health program appropriate  
33 to handle the respondent's condition has agreed to accept him **or her**, the court shall order  
34 either that the respondent be detained for inpatient involuntary treatment in the least  
35 restrictive environment for a period not to exceed twenty-one days or be detained for  
36 outpatient detention and treatment under the supervision of a mental health program in the  
37 least restrictive environment for a period not to exceed one hundred eighty days.

632.340. 1. Before the expiration of the twenty-one-day inpatient detention and  
2 treatment period ordered pursuant to section 632.335, the court may order the respondent to  
3 be detained and treated involuntarily for an additional period not to exceed ninety inpatient

4 days or may order the respondent to be detained for outpatient detention and treatment for a  
5 period not to exceed one hundred eighty days; provided, that:

6 (1) The respondent is mentally ill and continues to present a likelihood of serious  
7 harm to himself **or herself** or others; and

8 (2) The court, after a hearing, orders the respondent detained and treated for the  
9 additional period.

10 2. If, within seventeen days of the court hearing described in section 632.335, the  
11 head of the mental health program [~~or the mental health coordinator~~] has reasonable cause to  
12 believe that the respondent is mentally ill and as a result presents a likelihood of serious harm  
13 to himself **or herself** or others, and believes that further detention and treatment is necessary,  
14 he **or she** shall file, or cause to be filed, with the court a petition for ninety days additional  
15 detention and treatment or a petition for outpatient detention and treatment for a period not to  
16 exceed one hundred eighty days. The court shall immediately set a date and time for a  
17 hearing on the petition, which shall take place within four judicial days of the date of the  
18 filing of the petition. The court shall serve a copy of the petition and the notice of the date  
19 and time of the hearing upon the petitioner, the respondent, and their attorneys as promptly as  
20 possible, but not later than two judicial days after the filing of the petition. The petitioner  
21 shall also file with the court, for the court to serve upon the respondent's attorney not later  
22 than two judicial days after the filing of the petition, a list of the proposed witnesses for the  
23 petitioner. [~~The head of the mental health program shall notify the mental health coordinator~~  
24 ~~if the petition is not filed by the mental health coordinator.~~] The petition shall comply with  
25 the requirements of section 632.330, and an individualized treatment plan for the respondent  
26 shall be attached thereto.

632.345. 1. If requested by the respondent, the court shall appoint an available  
2 licensed physician or licensed psychologist to examine him **or her** and testify at the  
3 respondent's request. If the respondent or his **or her** counsel so request, the court shall not  
4 appoint a physician or licensed psychologist who is on the staff of the program wherein the  
5 person is detained, and if the respondent is detained in a program operated by the department  
6 and respondent or his **or her** counsel so request, the court shall not appoint a physician or  
7 licensed psychologist who is an employee of the department.

8 2. The court may grant continuances but shall do so only upon a showing of good and  
9 sufficient cause.

10 3. The respondent shall continue to be detained and treated pending the hearing  
11 unless released by order of the court. If a continuance is granted, the court, in its discretion,  
12 may order respondent released upon conditions described by the court pending the hearing. If  
13 no order has been made within thirty days after the filing of the petition, not including  
14 extensions of time requested by the respondent and granted, the respondent shall be released.

632.350. 1. The hearing for a ninety-day inpatient detention and treatment period or  
2 for outpatient detention and treatment for a period not to exceed one hundred eighty days  
3 shall be conducted in as informal a manner as may be consistent with orderly procedure and  
4 in a physical setting not likely to have a harmful effect on the mental health of the respondent.  
5 If a jury trial is not requested, due consideration shall be given by the court to holding a  
6 hearing at the mental health program. The hearing shall be held in accordance with the  
7 provisions set forth in section 632.335.

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

10 3. If the matter is tried before a jury, the jury shall determine and shall be instructed  
11 only upon the issues of whether or not the respondent is mentally ill and, as a result, presents  
12 a likelihood of serious harm to himself **or herself** or others. The remaining procedures for the  
13 jury trial shall be as in other civil matters.

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

15 5. At the conclusion of the hearing, if the court or jury finds that the respondent, as  
16 the result of mental illness, presents a likelihood of serious harm to himself **or herself** or to  
17 others, and the court finds that a program appropriate to handle the respondent's condition has  
18 agreed to accept him **or her**, the court shall order the respondent to be detained for  
19 involuntary treatment in the least restrictive environment for a period not to exceed ninety  
20 days or for outpatient detention and treatment under the supervision of a mental health  
21 program in the least restrictive environment for a period not to exceed one hundred eighty  
22 days.

632.355. 1. At the expiration of the ninety-day inpatient commitment period ordered  
2 by the court pursuant to section 632.350, the respondent may be detained and treated as an  
3 involuntarily inpatient for an additional period of time not to exceed one year or such lesser  
4 period of time as determined by the court or may be detained for outpatient detention and  
5 treatment for a period of time not to exceed one hundred eighty days; provided, that:

6 (1) The respondent is mentally ill and continues to present a likelihood of serious  
7 harm to himself **or herself** or to others; and

8 (2) The court after a hearing orders the person detained and treated for the additional  
9 period.

10 2. Within the ninety-day commitment period, the head of the mental health program  
11 [~~or the mental health coordinator~~] may file or cause to be filed, in compliance with the  
12 requirements of section 632.330, a petition for a one-year inpatient detention and treatment  
13 period or a petition for outpatient detention and treatment for a period not to exceed one  
14 hundred eighty days if he **or she** has reasonable cause to believe that the respondent is  
15 mentally ill and as a result presents a likelihood of serious harm to himself **or herself** or

16 others, and that further detention and treatment is necessary pursuant to an individualized  
17 treatment plan prepared by the program and filed with the court. Procedures specified in  
18 sections 632.340, 632.345 and 632.350 shall be followed.

19         3. At the conclusion of the hearing, if the court or jury finds that the respondent, as  
20 the result of mental illness, presents a likelihood of serious harm to himself **or herself** or  
21 others, and the court finds that a program appropriate to handle the respondent's condition has  
22 agreed to accept him **or her**, the court shall order that the respondent be detained for  
23 involuntary treatment in the least restrictive environment for a period not to exceed one year  
24 or for outpatient detention and treatment under the supervision of a mental health program in  
25 the least restrictive environment for a period not to exceed one hundred eighty days.

632.370. 1. The department may transfer, or authorize the transfer of, an involuntary  
2 patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental  
3 health program to another if the department determines that it would be consistent with the  
4 medical needs of the patient to do so. If a minor is transferred from a ward for minors to an  
5 adult ward, the department shall conduct a due process hearing within six days of such  
6 transfer during which hearing the head of the program shall have the burden to show that the  
7 transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred,  
8 written notice thereof shall be given after obtaining the consent of the patient, his **or her**  
9 parent if he **or she** is a minor or his **or her** legal guardian to his **or her** legal guardian, parents  
10 and spouse, or, if none be known, his **or her** nearest known relative or friend. In all such  
11 transfers, due consideration shall be given to the relationship of the patient to his **or her**  
12 family, legal guardian or friends, so as to maintain relationships and encourage visits  
13 beneficial to the patient. The head of the mental health program shall notify the court  
14 ordering detention or commitment, the patient's last known attorney of record [~~and the mental~~  
15 ~~health coordinator for the region~~], and if the person was committed pursuant to chapter 552,  
16 to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any  
17 transfer from one mental health facility to another. The prosecutor of the jurisdiction where  
18 the person was tried and acquitted shall use their best efforts to notify the victims of  
19 dangerous felonies. Notification by the appropriate person or agency by certified mail to the  
20 most current address provided by the victim shall constitute compliance with the victim  
21 notification requirement of this section. In the case of a patient committed under chapter 211,  
22 the court, on its own motion, may hold a hearing on the transfer to determine whether such  
23 transfer is appropriate to the medical needs of the patient.

24         2. Upon receipt of a certificate of an agency of the United States that facilities are  
25 available for the care or treatment of any individual heretofore ordered involuntarily detained,  
26 treated and evaluated pursuant to this chapter in any facility for the care or treatment of  
27 persons with a mental illness or an intellectual disability or a developmental disability and

28 that such individual is eligible for care or treatment in a hospital or institution of such agency,  
29 the department may cause his **or her** transfer to such agency of the United States for  
30 hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal  
31 guardian, spouse and parents, or, if none be known, his **or her** nearest known relative or  
32 friend shall be notified thereof immediately by the department. No person shall be transferred  
33 to an agency of the United States if he **or she** is confined pursuant to a conviction for any  
34 felony or misdemeanor or if he **or she** has been acquitted of any felony or misdemeanor  
35 solely on the ground of mental illness, unless prior to transfer the court originally ordering  
36 confinement of such person enters an order for the transfer after appropriate motion and  
37 hearing. Any person transferred to an agency of the United States shall be deemed to be  
38 hospitalized by such agency pursuant to the original order of hospitalization.

632.375. 1. At least once every one hundred eighty days, the head of each mental  
2 health program shall have each respondent who is detained at the program for a one-year  
3 period under this chapter examined and evaluated to determine if the respondent continues to  
4 be mentally ill, and as a result presents a likelihood of serious harm to himself **or herself** or  
5 others. The court, [~~the mental health coordinator for the region,~~] the respondent, and the  
6 respondent's attorney shall be provided copies of the report of the examination and evaluation  
7 described by this section and the respondent's individualized treatment plan.

8 2. Upon receipt of the report, the court may, upon its own motion, or shall, upon the  
9 motion of the respondent, order a hearing to be held as to the need for continued detention and  
10 involuntary treatment. At the conclusion of the hearing, the court may order:

- 11 (1) The discharge of the respondent; or
- 12 (2) An appropriate least restrictive course of detention and involuntary treatment; or
- 13 (3) The respondent to be remanded to the mental health program for the unexpired  
14 portion of the original commitment order.

632.385. 1. The head of a mental health facility shall release a patient, whether  
2 voluntary or involuntary, from the facility to the least restrictive environment, including  
3 referral to and subsequent placement in the placement program of the department, when he **or**  
4 **she** believes that such release is in the best interests of the patient. Release to the least  
5 restrictive environment shall include provisions for continuing responsibility to and by the  
6 facility.

7 2. Release to the least restrictive environment may be conditioned on the patient  
8 receiving outpatient care as prescribed by the head of the mental health facility from which  
9 the patient is being released. The period of treatment in the least restrictive environment shall  
10 not exceed the period of one year.

11 3. The facility or agency which is to provide treatment in the least restrictive  
12 environment must agree in writing to assume such responsibility. A copy of the conditions

13 for release shall be given to the patient, to the probate division of the circuit court having  
14 jurisdiction and the mental health facility providing treatment.

15 4. The head of a mental health facility may permit a respondent detained for treatment  
16 to leave the facility for prescribed short periods on trial visit during his **or her** detention  
17 subject to conditions prescribed by the head of the mental health facility.

18 5. The head of the mental health facility providing treatment may modify the  
19 conditions for continued release from the facility to the least restrictive environment when  
20 such modification is in the best interest of the patient. Notification of any changes shall be  
21 sent to the patient and to the court within ninety-six hours if the patient is involuntarily  
22 detained under this chapter. Upon a receipt of a notification returning the patient to the  
23 facility as an inpatient, the committing court shall, if necessary, order the sheriff or other law  
24 enforcement official to apprehend and transport the patient to the facility. The committing  
25 court may, on its own motion or shall upon the respondent's motion, order a hearing to be held  
26 on the need for such change.

632.390. 1. The head of a mental health program shall release any person who is  
2 involuntarily detained under this chapter when, in his **or her** opinion, the person is no longer  
3 mentally ill or **the person**, although mentally ill, does not present a likelihood of serious harm  
4 to himself **or herself** or others, even though the detention period has not expired.

5 2. Whenever the head of a mental health program discharges a person prior to the  
6 expiration of the detention order, he **or she** shall notify, in writing, the court [~~and the mental~~  
7 ~~health coordinator~~].

8 3. Whenever a respondent voluntarily admits himself **or herself** and the head of a  
9 mental health program accepts the admission application submitted by respondent in good  
10 faith under section 632.105, the respondent's involuntary detention shall cease, and the head  
11 of the program shall notify, in writing, the court [~~and the mental health coordinator~~].

632.392. 1. Notwithstanding the provisions of subsection 1 of section 630.140, a  
2 mental health program and any treating physician, upon release of a patient who was  
3 committed or who is civilly detained and consents to voluntary treatment during the course of  
4 the inpatient stay pursuant to section 632.150, 632.155, [~~632.300,~~] 632.305, 632.330,  
5 632.335, 632.340, 632.350, 632.355 or 632.375:

6 (1) Shall provide to the patient and his **or her** care provider a written packet of  
7 educational information developed and supplied by the department of mental health  
8 describing symptoms of common mental illnesses, early warning signs of decompensation,  
9 and availability of other education, community and statewide services. The packet shall also  
10 include the telephone number of the department of mental health information line and  
11 information specific to the laws and procedures addressing civil detention and guardianship;



12 (2) May disclose confidential treatment information to the primary care provider or  
13 care providers, when such information is medically necessary for the provision of appropriate  
14 health care or treatment by the care provider or is related to the safety of the patient or care  
15 provider.

16 2. Prior to disclosure of the information specified under subdivision (2) of subsection  
17 1 of this section, the mental health facility shall provide written notice to the patient; request  
18 in writing the consent of the patient; work with the patient and care provider to encourage and  
19 secure appropriate patient authorization; function as a mediator, negotiating the boundaries of  
20 confidentiality to meet the needs of the client and care provider; and work with the client to  
21 stress the importance of keeping the care provider informed and involved with his **or her**  
22 treatment process. If the patient refuses to consent and the treating physician deems the  
23 information is medically necessary for the appropriate provision of health care or treatment  
24 by the care provider or is related to the safety of the patient or care provider, the information  
25 may still be released to the appropriate care provider. The reason for the intended disclosure,  
26 the specific information to be released and the persons to whom the disclosure is to be made,  
27 even if consent has not been obtained, will be provided to the client and care provider. All  
28 these procedures shall be documented by the treating physician in the client record, including  
29 a specific notation as to whether client consent was given.

30 3. As used in this section, the term "care provider" means the person or persons who  
31 can demonstrate that they are primarily responsible for the health care of the person with a  
32 mental illness. The term does not apply to any person providing care through hospitals,  
33 nursing homes, group homes or any other such facility.

632.395. 1. If an individual ordered to be involuntarily detained or committed,  
2 treated and evaluated pursuant to this chapter is eligible for hospital care or treatment by any  
3 agency of the United States, the court, upon receipt of a certificate from such agency showing  
4 that facilities are available and that the individual is eligible for care or treatment therein, may  
5 order him **or her** to be placed in the custody of such agency for hospitalization. When any  
6 individual is admitted pursuant to the order of the court to any hospital or institution operated  
7 by any agency of the United States within or without this state, he **or she** shall be subject to  
8 the rules and regulations of such agency. The chief officer of any hospital or institution  
9 operated by such agency and in which the individual is so hospitalized shall, with respect to  
10 such individual, be vested with the same powers as the heads of hospitals or the division  
11 within this state have with respect to detention, custody, transfer, conditional release and  
12 discharge of patients. Jurisdiction is retained in the appropriate courts of this state at any time  
13 to inquire into the mental condition of an individual so hospitalized and to determine the  
14 necessity for continuance of his **or her** hospitalization, and every order of hospitalization  
15 issued pursuant to this section is so conditioned.

16           2. An order of a court of competent jurisdiction of another state, or of the District of  
17 Columbia, authorizing hospitalization of an individual by any agency of the United States  
18 shall have the same force and effect as to the individual while in this state as in the  
19 jurisdiction in which is situated the court entering the order, and the courts of the state or  
20 District of Columbia issuing the order shall be deemed to have retained jurisdiction of the  
21 individual so hospitalized for the purpose of inquiring into his **or her** mental condition and of  
22 determining the necessity for continuance of his **or her** hospitalization, as is provided in  
23 subsection 1 of this section with respect to individuals ordered hospitalized by the courts of  
24 this state. Consent is hereby given to the application of the law of the state or District of  
25 Columbia in which is located the court issuing the order for hospitalization with respect to the  
26 authority of the chief officer of any hospital or institution operated in this state by any agency  
27 of the United States to retain custody, transfer, conditional release or discharge the individual  
28 hospitalized.

632.400. Any respondent ordered detained for ninety-day or one-year periods of  
2 involuntary inpatient treatment or ordered detained for a period of up to one hundred eighty  
3 days of outpatient detention and treatment under this chapter shall be entitled to a  
4 reexamination of the order for his **or her** detention on his **or her** own motion, or that of his **or**  
5 **her** legal guardian, parent, spouse, relative, friend or attorney to the court. Upon receipt of  
6 the motion, the court shall conduct or cause to be conducted by a special commissioner  
7 proceedings in accordance with section 632.340.

632.410. Venue for proceedings for involuntary detentions pursuant to the provisions  
2 of this chapter shall be in the court having probate jurisdiction in the county in which the  
3 mental health program is located wherein the respondent is detained; provided, however, that  
4 if the respondent is a resident of this state and makes application for the hearing to be held in  
5 his **or her** county of residence, the court shall order the proceedings, with all papers, files and  
6 transcripts of the proceedings, to be transferred to the court having probate jurisdiction in the  
7 respondent's county of residence. Once a court has assumed jurisdiction with respect to  
8 involuntary detention proceedings, no other court shall assume jurisdiction until the court  
9 having prior jurisdiction has transferred jurisdiction and all papers, files, and transcripts. If  
10 the court having jurisdiction receives notice that a respondent has been transferred to a mental  
11 health program in another county, the court shall transfer jurisdiction, along with all papers,  
12 files and transcripts, to the court in the county where the respondent has been transferred.

632.415. 1. The judge having probate jurisdiction in each county where a mental  
2 health program is located shall prepare and maintain a current register of attorneys who have  
3 agreed to be appointed to represent respondents against whom involuntary civil detention  
4 proceedings have been instituted in such county. The judge may choose lawyers who are paid  
5 by any public or private agency or other lawyers who are appointed to the register. [The

6 ~~register shall be provided to the mental health coordinator for the area which includes the~~  
7 ~~county for which the list was prepared. A new register shall be provided to the mental health~~  
8 ~~coordinator each time a new attorney is added.]~~

9         2. If the judge finds that the respondent is unable to pay attorney's fees for the  
10 services rendered in the proceedings, the judge shall allow a reasonable attorney's fee for the  
11 services, which fee shall be assessed as costs and paid together with all other costs in the  
12 proceeding by the state, in accordance with rules and regulations promulgated by the state  
13 court administrator, from funds appropriated to the office of administration for such purposes  
14 provided that no attorney's fees shall be allowed for services rendered by any attorney who is  
15 a salaried employee of a public agency or a private agency which receives public funds.

632.420. The court having probate jurisdiction in appointing licensed physicians  
2 pursuant to section 632.345 shall choose, if available, physicians who have agreed to serve  
3 without fee or physicians paid by any private or public agency, if they are found suitable;  
4 provided, that if the court finds no suitable physicians from such sources, the court shall  
5 appoint an available licensed physician and he **or she** shall be paid a reasonable fee, as  
6 determined by the court, by the state from funds appropriated to the office of administration  
7 for this purpose.

632.430. 1. Appeals from court orders made under this chapter may be made by the  
2 respondent or by the petitioner to the appropriate appellate court pursuant to the rules of civil  
3 procedure of the supreme court of Missouri pertaining to appeals. Such appeal shall have  
4 priority on the docket of the appellate court and shall be expedited in all respects. The court  
5 shall notify the attorney general's office whenever an appeal is filed under this subsection, and  
6 the attorney general shall represent the state when it is a party to such appeal.

7         2. A motion to stay any order restricting an individual's liberty may be filed in either  
8 the court or the appropriate appellate court. A stay order shall not be granted in any case  
9 where the court finds that the person is so mentally ill that there is an imminent likelihood of  
10 serious physical harm to himself **or herself** or others if he **or she** is not detained or treated  
11 pending appeal. Any refusal to grant a stay by the court may be reviewed by the appropriate  
12 appellate court on motion.

632.440. No officer of a public or private agency, mental health facility or mental  
2 health program; no head, attending staff or consultant of any such agency, facility or mental  
3 health program; no ~~[mental health coordinator]~~ **behavioral health liaison**, registered  
4 professional nurse, licensed physician, mental health professional nor any other public official  
5 performing functions necessary for the administration of this chapter; no peace officer  
6 responsible for detaining a person pursuant to this chapter; and no peace officer responsible  
7 for detaining or transporting, or both, any person upon the request of any ~~[mental health~~  
8 ~~coordinator]~~ **behavioral health liaison** pursuant to section ~~[632.300 or]~~ 632.305 or acting

9 pursuant to the request of a guardian who is acting pursuant to chapter 475, or upon the  
10 request of the head of any supervisory mental health program who is acting pursuant to  
11 section 632.337, regardless of whether such peace officer is outside the jurisdiction for which  
12 he **or she** serves as a peace officer during the course of such detention or transportation, or  
13 both, shall be civilly liable for investigating, detaining, transporting, conditionally releasing  
14 or discharging a person pursuant to this chapter or chapter 475, at or before the end of the  
15 period for which the person was admitted or detained for evaluation or treatment so long as  
16 such duties were performed in good faith and without gross negligence.

632.455. 1. If requested to do so by the head of a mental health program, the sheriff  
2 of the county where a patient absent without authorization is found shall apprehend and return  
3 him **or her** to the program.

4 2. The head of the program may request the return of an absent patient under  
5 subsection 1 of this section only under one or more of the following circumstances:

6 (1) The patient is a minor whose admission was applied for by his **or her** parent or  
7 legal custodian, who has not requested the minor patient's release;

8 (2) The patient is a minor under jurisdiction of the juvenile court;

9 (3) The patient has been declared legally incapacitated and his **or her** guardian has  
10 not requested his **or her** release;

11 (4) The patient was committed to the department under chapter 552 or this chapter;

12 (5) The patient's condition is of such a nature that, for the protection of the patient or  
13 others, the head of the program determines that the patient's return to the program is necessary  
14 as noted in the patient's records, in which case civil detention procedures shall be initiated  
15 upon return to the program.

633.125. 1. A resident admitted to a developmental disability facility pursuant to  
2 section 633.120 shall be discharged immediately when the person who applied for his **or her**  
3 admission requests the release orally, in writing or otherwise from the head of the  
4 developmental disability facility; except, that if the head of the developmental disability  
5 facility regards the resident as presenting a likelihood of serious harm to himself **or herself** or  
6 others, the head of the facility may initiate involuntary detention procedures pursuant to  
7 chapter 632, if appropriate, or any individual, including the head of the facility [~~or the mental~~  
8 ~~health coordinator~~], may initiate guardianship proceedings and, if appropriate, obtain an  
9 emergency commitment order pursuant to chapter 475.

10 2. A resident shall be discharged from a department developmental disability facility  
11 if it is determined in a comprehensive evaluation or periodic review that the person is not  
12 intellectually disabled or developmentally disabled, and if the resident, parent, if a minor, or  
13 guardian consents to the discharge. If consent is not obtained, the head of the facility shall  
14 initiate appeal proceedings under section 633.135, before a resident can be discharged.

15 3. A resident shall either be discharged from a department developmental disability  
16 facility or shall be referred to a regional center for placement in a least restrictive environment  
17 pursuant to section 630.610, if it is determined in a comprehensive evaluation or periodic  
18 review that the following criteria exist:

19 (1) The resident's condition is not of such a nature that for the protection or adequate  
20 care of the resident or others the resident needs department residential habilitation or other  
21 services;

22 (2) The developmental disability facility does not offer a program which best meets  
23 the resident's needs; or

24 (3) The developmental disability facility does not provide the least restrictive  
25 environment feasible. A resident may not be discharged without his **or her** consent or the  
26 consent of his **or her** parent, if he **or she** is a minor, or guardian unless proceedings have been  
27 completed under section 633.135.

28 4. After a resident's discharge pursuant to subsection 3 of this section, the resident  
29 shall be referred to an appropriate regional center for assistance in obtaining any necessary  
30 services.

2 ~~[632.300. 1. When a mental health coordinator receives information  
3 alleging that a person, as the result of a mental disorder, presents a likelihood  
4 of serious harm to himself or others, he shall:~~

4 ~~(1) Conduct an investigation;~~

5 ~~(2) Evaluate the allegations and the data developed by investigation;~~

6 ~~and~~

7 ~~(3) Evaluate the reliability and credibility of all sources of  
8 information.~~

9 ~~2. If, as the result of personal observation or investigation, the mental  
10 health coordinator has reasonable cause to believe that such person is mentally  
11 disordered and, as a result, presents a likelihood of serious harm to himself or  
12 others, the mental health coordinator may file an application with the court  
13 having probate jurisdiction pursuant to the provisions of section 632.305;  
14 provided, however, that should the mental health coordinator have reasonable  
15 cause to believe, as the result of personal observation or investigation, that the  
16 likelihood of serious harm by such person to himself or others as a result of a  
17 mental disorder is imminent unless the person is immediately taken into  
18 custody, the mental health coordinator shall request a peace officer to take or  
19 cause such person to be taken into custody and transported to a mental health  
20 facility in accordance with the provisions of subsection 3 of section 632.305.~~

21 ~~3. If the mental health coordinator determines that involuntary  
22 commitment is not appropriate, he should inform either the person, his family  
23 or friends about those public and private agencies and courts which might be  
24 of assistance.]~~