

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 2135

98TH GENERAL ASSEMBLY

5760H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 190.102, 190.103, 190.165, 321.130, and 321.210, RSMo, and to enact in lieu thereof eight new sections relating to regional emergency medical services.

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

Section A. Sections 190.102, 190.103, 190.165, 321.130, and 321.210, RSMo, are  
2 repealed and eight new sections enacted in lieu thereof, to be known as sections 190.102,  
3 190.103, 190.144, 190.165, 190.173, 190.240, 321.130, and 321.210, to read as follows:

190.102. 1. The department shall designate through regulation EMS regions and  
2 committees. The purpose of the regional EMS advisory committees is to advise and make  
3 recommendations to the region and the department on:

4 (1) Coordination of emergency resources in the region;

5 (2) Improvement of public and professional education;

6 (3) Cooperative research endeavors;

7 (4) Development of standards, protocols and policies; [and]

8 (5) Voluntary multiagency quality improvement committee and process; **and**

9 **(6) Development, review, and recommendation for action to be taken on community**  
10 **and regional time critical diagnosis plans.**

11 2. The members of the committees shall serve without compensation except that the  
12 department of health and senior services shall budget for reasonable travel expenses and meeting  
13 expenses related to the functions of the committees.

14 3. The director will appoint personnel to no less than six regional EMS committees from  
15 recommendations provided by recognized professional organizations. Appointments will be for

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.

16 four years with individuals serving until reappointed or replaced. **The regional EMS medical**  
17 **director shall serve as a member of the regional EMS committee.**

190.103. 1. One physician with expertise in emergency medical services from each of  
2 the EMS regions shall be elected by that region's EMS medical directors to serve as a regional  
3 EMS medical director. The regional EMS medical directors shall constitute the state EMS  
4 medical director's advisory committee and shall advise the department and their region's  
5 ambulance services on matters relating to medical control and medical direction in accordance  
6 with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections  
7 190.001 to 190.245. **The regional EMS medical director shall serve a term of four years.**  
8 **The southwest, northwest, and Kansas City regional EMS medical directors shall be**  
9 **elected to an initial two-year term. The central, east central, and southeast regional EMS**  
10 **medical directors shall be elected to an initial four-year term. All subsequent terms**  
11 **following the initial terms shall be four years.**

12 2. A medical director is required for all ambulance services and emergency medical  
13 response agencies that provide: advanced life support services; basic life support services  
14 utilizing medications or providing assistance with patients' medications; or basic life support  
15 services performing invasive procedures including invasive airway procedures. The medical  
16 director shall provide medical direction to these services and agencies in these instances.

17 3. The medical director, in cooperation with the ambulance service or emergency  
18 medical response agency administrator, shall have the responsibility and the authority to ensure  
19 that the personnel working under their supervision are able to provide care meeting established  
20 standards of care with consideration for state and national standards as well as local area needs  
21 and resources. The medical director, in cooperation with the ambulance service or emergency  
22 medical response agency administrator, shall establish and develop triage, treatment and  
23 transport protocols, which may include authorization for standing orders.

24 4. All ambulance services and emergency medical response agencies that are required  
25 to have a medical director shall establish an agreement between the service or agency and their  
26 medical director. The agreement will include the roles, responsibilities and authority of the  
27 medical director beyond what is granted in accordance with sections 190.001 to 190.245 and  
28 rules adopted by the department pursuant to sections 190.001 to 190.245. The agreement shall  
29 also include grievance procedures regarding the emergency medical response agency or  
30 ambulance service, personnel and the medical director.

**190.144. No emergency medical technician licensed under sections 190.142 or**  
2 **190.143, if acting in good faith and without gross negligence, shall be liable for:**

3 **(1) Transporting a person for whom an application for detention for evaluation and**  
4 **treatment has been filed under section 631.115 or 632.305; or**

5           **(2) Physically or chemically restraining an at-risk behavioral health patient as that**  
6 **term is defined under section 190.240 if such restraint is to ensure the safety of the patient**  
7 **or technician.**

190.165. 1. The department may refuse to issue or deny renewal of any certificate,  
2 permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with the  
3 provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the  
4 department to implement its provisions as described in subsection 2 of this section. The  
5 department shall notify the applicant in writing of the reasons for the refusal and shall advise the  
6 applicant of his or her right to file a complaint with the administrative hearing commission as  
7 provided by chapter 621.

8           2. The department may cause a complaint to be filed with the administrative hearing  
9 commission as provided by chapter 621 against any holder of any certificate, permit or license  
10 required by sections 190.100 to 190.245 or any person who has failed to renew or has  
11 surrendered his or her certificate, permit or license for failure to comply with the provisions of  
12 sections 190.100 to 190.245 or any lawful regulations promulgated by the department to  
13 implement such sections. Those regulations shall be limited to the following:

14           (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,  
15 or alcoholic beverage to an extent that such use impairs a person's ability to perform the work  
16 of any activity licensed or regulated by sections 190.100 to 190.245;

17           (2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo  
18 contendere, in a criminal prosecution under the laws of any state or of the United States, for any  
19 offense reasonably related to the qualifications, functions or duties of any activity licensed or  
20 regulated pursuant to sections 190.100 to 190.245, for any offense an essential element of which  
21 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether  
22 or not sentence is imposed;

23           (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate,  
24 permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to  
25 take any examination given or required pursuant to sections 190.100 to 190.245;

26           (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
27 fraud, deception or misrepresentation;

28           (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
29 in the performance of the functions or duties of any activity licensed or regulated by sections  
30 190.100 to 190.245;

31           (6) Violation of, or assisting or enabling any person to violate, any provision of sections  
32 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to  
33 sections 190.100 to 190.245;

34 (7) Impersonation of any person holding a certificate, permit or license or allowing any  
35 person to use his or her certificate, permit, license or diploma from any school;

36 (8) Disciplinary action against the holder of a license or other right to practice any  
37 activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal  
38 agency or country upon grounds for which revocation or suspension is authorized in this state;

39 (9) For an individual being finally adjudged insane or incompetent by a court of  
40 competent jurisdiction;

41 (10) Assisting or enabling any person to practice or offer to practice any activity licensed  
42 or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice  
43 pursuant to sections 190.100 to 190.245;

44 (11) Issuance of a certificate, permit or license based upon a material mistake of fact;

45 (12) Violation of any [professional trust or confidence] **legally protected privacy rights**  
46 **of a patient by means of an unauthorized or unlawful disclosure;**

47 (13) Use of any advertisement or solicitation which is false, misleading or deceptive to  
48 the general public or persons to whom the advertisement or solicitation is primarily directed;

49 (14) Violation of the drug laws or rules and regulations of this state, any other state or  
50 the federal government;

51 (15) Refusal of any applicant or licensee to [cooperate with the] **respond to reasonable**  
52 **department of health and senior [services during any investigation] services' requests for**  
53 **necessary information to process an application or to determine license status or license**  
54 **eligibility;**

55 (16) Any conduct or practice which is or might be harmful or dangerous to the mental  
56 or physical health **or safety** of a patient or the public **as defined by applicable national**  
57 **standards;**

58 (17) Repeated **acts of negligence or recklessness** in the performance of the functions  
59 or duties of any activity licensed or regulated by sections 190.100 to 190.245.

60 **3. If the department conducts investigations, the department, prior to interviewing**  
61 **a licensee who is the subject of the investigation, shall explain to the licensee that he or she**  
62 **has the right to:**

63 **(1) Consult legal counsel or have legal counsel present;**

64 **(2) Have anyone present whom he or she deems to be necessary or desirable; and**

65 **(3) Refuse to answer any question or refuse to provide or sign any written**  
66 **statement.**

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68 **The assertion of any right listed in this subsection shall not be deemed by the department**  
69 **to be a failure to cooperate with any department investigation.**

70           **4.** After the filing of such complaint, the proceedings shall be conducted in accordance  
71 with the provisions of chapter 621. Upon a finding by the administrative hearing commission  
72 that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the  
73 department may, singly or in combination, censure or place the person named in the complaint  
74 on probation on such terms and conditions as the department deems appropriate for a period not  
75 to exceed five years, or may suspend, for a period not to exceed three years, or revoke the  
76 license, certificate or permit. **Notwithstanding any provision of law to the contrary, the**  
77 **department shall be authorized to impose a suspension or revocation as a disciplinary**  
78 **action only if it first files the requisite complaint with the administrative hearing**  
79 **commission. The commission shall not be permitted to grant summary decision in such**  
80 **instances if the licensee files an answer contesting the department's intended licensure**  
81 **action.**

82           [4.] **5.** An individual whose license has been revoked shall wait one year from the date  
83 of revocation to apply for relicensure. Relicensure shall be at the discretion of the department  
84 after compliance with all the requirements of sections 190.100 to 190.245 relative to the  
85 licensing of an applicant for the first time. Any individual whose license has been revoked twice  
86 within a ten-year period shall not be eligible for relicensure.

87           [5.] **6.** The department may notify the proper licensing authority of any other state in  
88 which the person whose license was suspended or revoked was also licensed of the suspension  
89 or revocation.

90           [6.] **7.** Any person, organization, association or corporation who reports or provides  
91 information to the department pursuant to the provisions of sections 190.100 to 190.245 and who  
92 does so in good faith shall not be subject to an action for civil damages as a result thereof.

93           [7.] **8.** The department of health and senior services may suspend any certificate, permit  
94 or license required pursuant to sections 190.100 to 190.245 simultaneously with the filing of the  
95 complaint with the administrative hearing commission as set forth in subsection 2 of this section,  
96 if the department finds that there is an imminent threat to the public health. The notice of  
97 suspension shall include the basis of the suspension and notice of the right to appeal such  
98 suspension. The licensee may appeal the decision to suspend the license, certificate or permit  
99 to the department. The appeal shall be filed within ten days from the date of the filing of the  
100 complaint. A hearing shall be conducted by the department within ten days from the date the  
101 appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings,  
102 including review thereof, unless sooner withdrawn by the department, dissolved by a court of  
103 competent jurisdiction or stayed by the administrative hearing commission.

**190.173. 1. All complaints, investigatory reports, and information pertaining to any**  
2 **applicant; holder of any certificate, permit, or license; or other individual are confidential**

3 and shall only be disclosed upon written consent of the person whose records are involved  
4 or to other administrative or law enforcement agencies acting with the scope of their  
5 statutory authority. However, no applicant; holder of any certificate, permit, or license;  
6 or other individual shall have access to any complaints, investigatory reports, or  
7 information concerning an investigation in progress until such time as the investigation has  
8 been completed as required by subsection 1 of section 190.248.

9       2. Any information regarding the identity, name, address, license, final disciplinary  
10 action taken, or currency of the license of the person possessing a license in accordance  
11 with sections 190.100 to 190.245, of any applicant shall not be confidential.

12       3. This section shall not be construed to authorize the release of records, reports,  
13 or other information that may be held in department files for any holder of any certificate,  
14 permit, or license, or applicant which is subject to other specific state or federal laws  
15 concerning their disclosure.

190.240. 1. Any hospital licensed under chapter 197 or any nursing home facility  
2 licensed under chapter 198 shall have policies and procedures that require the hospital or  
3 facility to give advance notification to emergency medical services personnel prior to the  
4 transportation of any at-risk behavioral health patient.

5       2. Any emergency medical services personnel licensed under this chapter who  
6 conducts interfacility transfers of at-risk behavioral health patients may be properly  
7 trained as determined by the ambulance services and emergency medical response agency  
8 medical director, established under section 190.103, with regard to proper restraining  
9 procedures and nonmedical management techniques, such as verbal de-escalation  
10 techniques, to handle such patients before their transportation.

11       3. Any physician treating an at-risk behavioral patient in an emergency situation  
12 who, after assessing the patient, determines that there is a reasonable cause to believe there  
13 is a likelihood that the patient may cause an imminent serious harm to himself, herself, or  
14 others unless the patient is immediately transported to another appropriate facility may  
15 place the patient on a temporary involuntary hold for a period of time necessary to  
16 effectuate the patient's transport. During the transport, the emergency medical services  
17 personnel may rely on the physician's hold order as a basis for implied consent to treat and  
18 transport the patient and shall not be liable for any claims of negligence, false  
19 imprisonment, or invasion of privacy based on such temporary hold, treatment, or  
20 transport of the patient.

21       4. Nothing in this section shall be construed to limit the patient's rights under the  
22 federal Mental Health Patient's Bill of Rights under 42 U.S.C. Section 9501(1)(A) and (F).

23           **5. For the purposes of this section, "at-risk behavioral health patient" shall mean**  
24 **any patient who displays violent, homicidal, or suicidal ideation or behavior.**

          321.130. [1.] A person, to be qualified to serve as a director, shall be a **resident and**  
2 voter of the district **for** at least one year before the election or appointment and be over the age  
3 of [twenty-five] **twenty-four** years [; except as provided in subsections 2 and 3 of this section.  
4 The person shall also be a resident of such fire protection district]. In the event the person is no  
5 longer a resident of the district, the person's office shall be vacated, and the vacancy shall be  
6 filled as provided in section 321.200. Nominations and declarations of candidacy shall be filed  
7 at the headquarters of the fire protection district by paying a [ten dollar] filing fee **equal to the**  
8 **amount of a candidate for county office as set forth under section 115.357**, and filing a  
9 statement under oath that such person possesses the required qualifications.

10           [2. In any fire protection district located in more than one county one of which is a first  
11 class county without a charter form of government having a population of more than one hundred  
12 ninety-eight thousand and not adjoining any other first class county or located wholly within a  
13 first class county as described herein, a resident shall have been a resident of the district for more  
14 than one year to be qualified to serve as a director.

15           3. In any fire protection district located in a county of the third or fourth classification,  
16 a person to be qualified to serve as a director shall be over the age of twenty-five years and shall  
17 be a voter of the district for more than one year before the election or appointment, except that  
18 for the first board of directors in such district, a person need only be a voter of the district for one  
19 year before the election or appointment.

20           4. A person desiring to become a candidate for the first board of directors of the  
21 proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and  
22 shall file with the election authority a statement under oath that such person possesses all of the  
23 qualifications set out in this chapter for a director of a fire protection district.] Thereafter, such  
24 candidate shall have the candidate's name placed on the ballot as a candidate for director.

          321.210. On the first Tuesday in April after the expiration of at least two full calendar  
2 years from the date of the election of the first board of directors, and on the first Tuesday in April  
3 every two years thereafter, an election for members of the board of directors shall be held in the  
4 district. Nominations shall be filed at the headquarters of the fire protection district in which a  
5 majority of the district is located by paying a filing fee [up] **equal** to the amount of a candidate  
6 for [state representative] **county office** as set forth under section 115.357 and filing a statement  
7 under oath that [he] **the candidate** possesses the required qualifications. The candidate  
8 receiving the most votes shall be elected. Any new member of the board shall qualify in the  
9 same manner as the members of the first board qualify.

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