

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 538

AN ACT

To repeal sections 441.740, 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 thirty-eight new sections relating to mental health coordinators.

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

Section A. Sections 441.740, 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632.390, 632.392, 632.395, 632.400, 632.410, 632.415, 632.420, 632.430, 632.440, 632.455, and 633.125, RSMo, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 441.740, 552.050, 630.045, 630.140, 630.175, 631.120, 631.135, 631.140, 631.150,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:

441.740. 1. The court shall, subject to the provisions of sections 441.750 and 441.880, order the immediate eviction of a tenant as set forth in section

441.770, or issue an order pursuant to section 441.830, if it finds any of the following:

(1) An emergency situation where dispossession of the tenant by other, less

expeditious legal means would, because of the passage of time, imminently cause with a reasonable certainty either of the following:

(a) Physical injury to other tenants or the lessor; or

(b) Physical damage to lessor's property and the reasonable cost to repair such damage exceeds an amount equal to twelve months of rent; for the purposes of this paragraph, the term "rent" shall include the amount owed by the tenant along with any subsidy owed from any third party; No action shall be taken under this subdivision unless the lessor first makes a reasonable attempt to abate the emergency situation through public law enforcement authorities or local mental health services personnel authorized to take action pursuant to section [632.300,] 632.305 et seq., as appropriate[.];

(2) Drug-related criminal activity has occurred on or within the property leased to the tenant;

(3) The property leased to the tenant was used in any way to further, promote, aid or assist in drug-related criminal activity;

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

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

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

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

552.050. 1. If the chief administrative officer of any correctional facility has reasonable cause to believe that any offender needs care in a mental hospital, he or she shall so certify to the division of classification and treatment, which shall then transfer the offender to a state mental hospital for custody, care and treatment. The hospital may detain and treat the offender for a period of time not to exceed ninety-six hours. At the expiration of the ninety-six hours, the offender shall be returned to a correctional facility designated by the department of corrections unless the individual admits himself or herself as a voluntary patient or the [mental health coordinator or] head of the facility files for involuntary detention and treatment pursuant to chapter 632. The petition filed pursuant to section 632.330 shall be filed in the court having probate jurisdiction over the mental health facility in which the offender is being detained. The offender shall have the rights afforded respondents in sections 632.330 and 632.335, except that at the conclusion of the hearing on the petition the court may order the offender detained for a period of time not to exceed ninety days. At the expiration

of the ninety-day commitment period ordered by the court, the offender may be detained and treated involuntarily for up to an additional one year under sections 632.355 and 632.360.

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

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

4. An offender who has been committed to or transferred to a state mental hospital and is still mentally ill at the expiration of his or her sentence may be discharged and delivered to any person who is able and willing to maintain him or her comfortably and to the satisfaction of the superintendent of the hospital, if, in the opinion of the superintendent, it is reasonably safe for the person to be at large. Before discharging the offender the superintendent shall receive verification of the expiration of the offender's sentence from the director of corrections. The person so discharged may, in the discretion of the superintendent, be provided with the whole or a portion of the allowances granted to discharged prisoners by section 217.285. The cost of such allowance

shall be paid from the same funds as are allowances granted to persons discharged directly from a correctional facility.

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

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

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

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

- (1) The parent of a minor patient, resident or client;
- (2) The guardian or other person having legal custody of the patient, resident or client;

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

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

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

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. Section

10801 et seq., as amended, shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state; and

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

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

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

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

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

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

(4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or

indirectly, any individual patient, resident or client in any report of such research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;

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

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

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

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

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

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

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

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

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

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

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

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

4. The use of security escort devices, including devices designed to restrict physical movement, which are used to maintain safety and security and to prevent escape during transport outside of a facility shall not be considered physical restraint within the meaning of this section. Individuals who have been civilly detained under sections ~~632.300~~ 632.305 to 632.475 may be placed in security escort devices when transported outside of the facility if it is determined by 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 that the use of security escort devices is necessary to protect the health and safety of the

patient, resident, client, or other persons or is necessary to prevent escape. Individuals who have been civilly detained under sections 632.480 to 632.513 or committed under chapter 552 shall be placed in security escort devices when transported outside of the facility unless it is determined by 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 that security escort devices are not necessary to protect the health and safety of the patient, resident, client, or other persons or is not necessary to prevent escape.

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

6. Orders issued under this section by 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 shall be reviewed in person by the attending licensed physician of the facility within twenty-four hours or the next regular working day of the order being issued, and such review shall be documented in the clinical record of the patient, resident, or client.

7. For purposes of this subsection, "division" shall mean the division of developmental disabilities. Restraint or seclusion shall not be used in habilitation centers or community programs that serve persons with developmental

disabilities that are operated or funded by the division unless such procedure is part of an emergency intervention system approved by the division and is identified in such person's individual support plan. Direct-care staff that serve persons with developmental disabilities in habilitation centers or community programs operated or funded by the division shall be trained in an emergency intervention system approved by the division when such emergency intervention system is identified in a consumer's individual support plan.

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

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

631.135. If a respondent is accepted for treatment and rehabilitation pursuant to this chapter, he or she shall be advised, orally and in writing, of the information contained in subdivisions (1) to (11) of this section. The respondent's guardian, if any, and, with the respondent's consent, a responsible member of the respondent's immediate family shall be advised if possible, either orally or in writing, of his or her admission to the facility. The

personnel of the alcohol or drug abuse facility to which the respondent is taken shall advise the respondent that unless the respondent is released or voluntarily admits himself or herself within ninety-six hours of the initial detention:

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

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

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

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

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

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

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

(8) During the period prior to being examined by a licensed physician, he or she may refuse medication unless

he or she presents an imminent likelihood of serious harm to himself or herself or others;

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

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

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

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

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

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

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

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

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

(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 rehabilitation ordered pursuant to section 631.145, the court may order the respondent to be detained for treatment and rehabilitation for an additional period not to exceed ninety days; provided that:

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

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

2. If, within twenty-five days of the court hearing described in section 631.145, the head of the alcohol or drug abuse facility [or the mental health coordinator] has reasonable cause to believe that the respondent, as the result of alcohol or drug abuse, or both, presents a likelihood of serious harm to himself or herself or others, and believes that further detention and treatment is necessary, he or she shall file, or cause to be filed, with the court a petition for ninety days additional detention,

treatment, and rehabilitation. The court shall immediately set a date and time for a hearing on the petition, which shall take place within four judicial days of the date of the filing of the petition. The court shall serve a copy of the petition and the notice of the date and time of the hearing upon the petitioner, the respondent, and their attorneys as promptly as possible, but not later than two judicial days after the filing of the petition. The petitioner shall also file with the court, for the court to serve upon the respondent's attorney not later than two days after the filing of the petition, a list of the proposed witnesses for the petitioner. [The head of the alcohol or drug abuse facility shall notify the mental health coordinator if the petition is not filed by the mental health coordinator.] The petition shall comply with the requirements of section 631.140, and an individualized treatment and rehabilitation plan for the respondent shall be attached thereto.

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

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

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than intellectual disabilities or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(16)] (15) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

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

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

[(19)] (18) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335 and who has had at least two years of experience as a registered

professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

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

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

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

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

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

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

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

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

2. If the request for release is refused, the mental health facility may detain the person only if a [mental health coordinator, a] licensed physician, a registered professional nurse designated by the facility and approved by the department, a mental health professional or a peace officer completes an application for detention for evaluation and treatment to begin the 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 either orally or in writing, or whose release is requested in writing to the head of the facility by his or her parent, spouse, adult next of kin, or person entitled to his or her custody, shall be released immediately; except, that if the patient was admitted on the application of another person, his or her release shall be conditioned upon receiving the consent of the person applying for his or her admission.

2. If the head of the mental health facility determines that the minor is mentally disordered and, as a result, presents a likelihood of serious physical harm to

himself or herself or others, the head of the facility may refuse the release. The mental health facility may detain the minor only if a [mental health coordinator, a] licensed physician, a mental health professional or a registered professional nurse designated by the facility and approved by the department completes an application for detention for evaluation and treatment to begin the involuntary detention of the minor under this chapter or, if appropriate, the minor is detained in the facility under the provisions of chapter 211.

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

2. The filing of a written application in court by any adult person, who need not be an attorney or represented by an attorney, [including the mental health coordinator,] shall authorize the applicant to bring the matter before the court on an ex parte basis to determine whether the respondent should be taken into custody and transported to a mental health facility. The application may be filed in the court having probate jurisdiction in any county where the respondent may be found. If the court finds that there is

probable cause, either upon testimony under oath or upon a review of affidavits, to believe that the respondent may be suffering from a mental disorder and presents a likelihood of serious harm to himself or herself or others, it shall direct a peace officer to take the respondent into custody and transport him or her to a mental health facility for detention for evaluation and treatment for a period not to exceed ninety-six hours unless further detention and treatment is authorized pursuant to this chapter. Nothing herein shall be construed to prohibit the court, in the exercise of its discretion, from giving the respondent an opportunity to be heard.

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

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

5. Any oath required by the provisions of this section shall be subject to the provisions of section 492.060.

632.310. 1. Whenever a court has authorized the initial detention and evaluation of a respondent pursuant to subsection 2 of section 632.305, [or whenever a mental health coordinator submits an application for initial detention and evaluation pursuant to subsection 3 of section 632.305,] or whenever a licensed physician, a registered professional nurse designated by the facility and approved by the department, or a mental health professional submits an application for initial detention and evaluation pursuant to subsection 4 of section 632.305, a public mental health facility shall, and a private mental health facility may immediately accept such application and the respondent on a provisional basis, and the facility shall then evaluate the respondent's condition and admit him or her for treatment or

release him or her in accordance with the provisions of this chapter.

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

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

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

632.315. Any mental health facility accepting a respondent pursuant to section 632.310 shall be furnished a copy of the application for initial detention and

evaluation. If a person is involuntarily detained in a mental health facility pursuant to section 632.310, no later than twenty-four hours after his or her arrival, excluding Saturdays, Sundays and legal holidays, the head of the mental health facility [or the mental health coordinator] shall file with the court the application, a copy of the notice required by section 632.325 and proof that the notice was given. The person's designated attorney shall receive a copy of all documents. [The head of the mental health facility shall send copies of all completed applications, whether accepted for admission or not, to the designated mental health coordinator for the region.]

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

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

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

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

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

3. Within [four days] forty-eight hours after the respondent arrives at the mental health facility, unless sooner released, [the mental health coordinator] designated staff at the mental health facility shall meet with the

respondent and explain his or her statutory rights under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

days or has filed a petition for outpatient detention and treatment for a period not to exceed one hundred eighty days.

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

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

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

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

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

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

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

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

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

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

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

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

4. If the head of the mental health facility, or his or her designee, [or the mental health coordinator] believes that the respondent, because of a mental illness or mental disorder, may be incapacitated or disabled as defined in chapter 475, the head of the mental health facility [or mental health coordinator] shall cause a petition to be filed pursuant to section 475.060 and section 475.061, if applicable, with the court having probate jurisdiction as determined by section 475.035. In addition, if the head of the mental health facility, or his or her designee [or the

mental health coordinator], he or she believes it appropriate, he or she shall proceed with obtaining an order for the respondent's temporary emergency detention as provided for in section 475.355. Furthermore, the hearing on the petition filed pursuant to chapter 475 shall be conducted pursuant to the requirements of section 475.075 and other appropriate sections of chapter 475, and shall be held within two judicial days after termination of the ninety-six-hour civil detention period unless continued for good cause shown. Nothing contained in this subsection shall restrict or prohibit the head of the mental health facility, or his or her designee [or the mental health coordinator], from proceeding under the appropriate provisions of this chapter if the petition for guardianship or conservatorship is denied.

632.335. 1. The petition for additional inpatient detention and treatment not to exceed twenty-one days or the petition for outpatient detention and treatment not to exceed one hundred eighty days shall be filed with the court having probate jurisdiction. At the time of filing the petition, the court clerk shall set a date and time for the hearing which shall take place within two judicial days of the filing of the petition. The clerk shall promptly notify the respondent, his or her attorney, the petitioner and the petitioner's attorney of the date and time for the hearing. The court shall not grant continuances except upon a showing of good and sufficient cause. If a continuance is granted, the court, in its discretion, may order the person released pending the hearing upon conditions prescribed by the court. The court may order the continued detention and treatment of the person at a mental health facility pending the continued hearing, and a copy of such order shall be furnished to the facility.

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

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

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

4. At the conclusion of the hearing, if the court finds, based upon clear and convincing evidence, that respondent, as the result of mental illness, presents a likelihood of serious harm to himself or herself or to others, and that a mental health program appropriate to handle the respondent's condition has agreed to accept him or her, the court shall order either that the respondent be

detained for inpatient involuntary treatment in the least restrictive environment for a period not to exceed twenty-one days or be detained for outpatient detention and treatment under the supervision of a mental health program in the 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 treatment period ordered pursuant to section 632.335, the court may order the respondent to be detained and treated involuntarily for an additional period not to exceed ninety inpatient days or may order the respondent to be detained for outpatient detention and treatment for a period not to exceed one hundred eighty days; provided, that:

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

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

2. If, within seventeen days of the court hearing described in section 632.335, the head of the mental health program [or the mental health coordinator] has reasonable cause to believe that the respondent is mentally ill and as a result presents a likelihood of serious harm to himself or herself or others, and believes that further detention and treatment is necessary, he or she shall file, or cause to be filed, with the court a petition for ninety days additional detention and treatment or a petition for outpatient detention and treatment for a period not to exceed one hundred eighty days. The court shall immediately set a date and time for a hearing on the petition, which shall take place within four judicial days of the date of the filing of the petition. The court shall serve a copy of the petition

and the notice of the date and time of the hearing upon the petitioner, the respondent, and their attorneys as promptly as possible, but not later than two judicial days after the filing of the petition. The petitioner shall also file with the court, for the court to serve upon the respondent's attorney not later than two judicial days after the filing of the petition, a list of the proposed witnesses for the petitioner. [The head of the mental health program shall notify the mental health coordinator if the petition is not filed by the mental health coordinator.] The petition shall comply with the requirements of section 632.330, and an individualized treatment plan for the respondent shall be attached thereto.

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

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

3. The respondent shall continue to be detained and treated pending the hearing unless released by order of the court. If a continuance is granted, the court, in its discretion, may order respondent released upon conditions described by the court pending the hearing. If no order has been made within thirty days after the filing of the

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

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

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

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

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

supervision of a mental health program in the least restrictive environment for a period not to exceed one hundred eighty days.

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

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

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

2. Within the ninety-day commitment period, the head of the mental health program [or the mental health coordinator] may file or cause to be filed, in compliance with the requirements of section 632.330, a petition for a one-year inpatient detention and treatment period or a petition for outpatient detention and treatment for a period not to exceed one hundred eighty days if he or she has reasonable cause to believe that the respondent is mentally ill and as a result presents a likelihood of serious harm to himself or herself or others, and that further detention and treatment is necessary pursuant to an individualized treatment plan prepared by the program and filed with the court. Procedures specified in sections 632.340, 632.345 and 632.350 shall be followed.

3. At the conclusion of the hearing, if the court or jury finds that the respondent, as the result of mental illness, presents a likelihood of serious harm to himself or

herself or others, and the court finds that a program appropriate to handle the respondent's condition has agreed to accept him or her, the court shall order that the respondent be detained for involuntary treatment in the least restrictive environment for a period not to exceed one year or for outpatient detention and treatment under the supervision of a mental health program in 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 patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the consent of the patient, his or her parent if he or she is a minor or his or her legal guardian to his or her legal guardian, parents and spouse, or, if none be known, his or her nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his or her family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head of the mental health program shall notify the court ordering detention or commitment, the patient's last known attorney of record [and the mental health coordinator for the region], and if the person was committed pursuant to chapter

552, to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer is appropriate to the medical needs of the patient.

2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in any facility for the care or treatment of persons with a mental illness or an intellectual disability or a developmental disability and that such individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his or her transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known, his or her nearest known relative or friend shall be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if he or she is confined pursuant to a conviction for any felony or misdemeanor or if he or she has been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person enters an

order for the transfer after appropriate motion and hearing. Any person transferred to an agency of the United States shall be deemed to be 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 health program shall have each respondent who is detained at the program for a one-year period under this chapter examined and evaluated to determine if the respondent continues to be mentally ill, and as a result presents a likelihood of serious harm to himself or herself or others. The court, [the mental health coordinator for the region,] the respondent, and the respondent's attorney shall be provided copies of the report of the examination and evaluation described by this section and the respondent's individualized treatment plan.

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

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

632.385. 1. The head of a mental health facility shall release a patient, whether voluntary or involuntary, from the facility to the least restrictive environment, including referral to and subsequent placement in the placement program of the department, when he or she believes that such release is in the best interests of the patient. Release to the least restrictive environment shall include

provisions for continuing responsibility to and by the facility.

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

3. The facility or agency which is to provide treatment in the least restrictive environment must agree in writing to assume such responsibility. A copy of the conditions for release shall be given to the patient, to the probate division of the circuit court having jurisdiction and the mental health facility providing treatment.

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

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

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

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

3. Whenever a respondent voluntarily admits himself or herself and the head of a mental health program accepts the admission application submitted by respondent in good faith under section 632.105, the respondent's involuntary detention shall cease, and the head 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 mental health program and any treating physician, upon release of a patient who was committed or who is civilly detained and consents to voluntary treatment during the course of the inpatient stay pursuant to section 632.150, 632.155, **[632.300,]** 632.305, 632.330, 632.335, 632.340, 632.350, 632.355 or 632.375:

(1) Shall provide to the patient and his or her care provider a written packet of educational information developed and supplied by the department of mental health describing symptoms of common mental illnesses, early warning signs of decompensation, and availability of other education, community and statewide services. The packet shall also include the telephone number of the department of mental health information line and information specific to

the laws and procedures addressing civil detention and guardianship;

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

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

3. As used in this section, the term "care provider" means the person or persons who can demonstrate that they are primarily responsible for the health care of the person

with a mental illness. The term does not apply to any person providing care through hospitals, nursing homes, group homes or any other such facility.

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

2. An order of a court of competent jurisdiction of another state, or of the District of Columbia, authorizing hospitalization of an individual by any agency of the United States shall have the same force and effect as to the individual while in this state as in the jurisdiction in which is situated the court entering the order, and the

courts of the state or District of Columbia issuing the order shall be deemed to have retained jurisdiction of the individual so hospitalized for the purpose of inquiring into his or her mental condition and of determining the necessity for continuance of his or her hospitalization, as is provided in subsection 1 of this section with respect to individuals ordered hospitalized by the courts of this state. Consent is hereby given to the application of the law of the state or District of Columbia in which is located the court issuing the order for hospitalization with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, transfer, conditional release or discharge the individual hospitalized.

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

632.410. Venue for proceedings for involuntary detentions pursuant to the provisions of this chapter shall be in the court having probate jurisdiction in the county in which the mental health program is located wherein the respondent is detained; provided, however, that if the respondent is a resident of this state and makes application for the hearing to be held in his or her county of residence, the court shall order the proceedings, with all

papers, files and transcripts of the proceedings, to be transferred to the court having probate jurisdiction in the respondent's county of residence. Once a court has assumed jurisdiction with respect to involuntary detention proceedings, no other court shall assume jurisdiction until the court having prior jurisdiction has transferred jurisdiction and all papers, files, and transcripts. If the court having jurisdiction receives notice that a respondent has been transferred to a mental health program in another county, the court shall transfer jurisdiction, along with all papers, 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 health program is located shall prepare and maintain a current register of attorneys who have agreed to be appointed to represent respondents against whom involuntary civil detention proceedings have been instituted in such county. The judge may choose lawyers who are paid by any public or private agency or other lawyers who are appointed to the register. [The register shall be provided to the mental health coordinator for the area which includes the county for which the list was prepared. A new register shall be provided to the mental health coordinator each time a new attorney is added.]

2. If the judge finds that the respondent is unable to pay attorney's fees for the services rendered in the proceedings, the judge shall allow a reasonable attorney's fee for the services, which fee shall be assessed as costs and paid together with all other costs in the proceeding by the state, in accordance with rules and regulations promulgated by the state court administrator, from funds appropriated to the office of administration for such purposes provided that no attorney's fees shall be allowed

for services rendered by any attorney who is 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 pursuant to section 632.345 shall choose, if available, physicians who have agreed to serve without fee or physicians paid by any private or public agency, if they are found suitable; provided, that if the court finds no suitable physicians from such sources, the court shall appoint an available licensed physician and he or she shall be paid a reasonable fee, as determined by the court, by the state from funds appropriated to the office of administration for this purpose.

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

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

632.440. No officer of a public or private agency, mental health facility or mental health program; no head, attending staff or consultant of any such agency, facility or mental health program; no [mental health coordinator] behavioral health liaison, registered professional nurse, licensed physician, mental health professional nor any other public official performing functions necessary for the administration of this chapter; no peace officer responsible for detaining a person pursuant to this chapter; and no peace officer responsible for detaining or transporting, or both, any person upon the request of any [mental health coordinator] behavioral health liaison pursuant to section [632.300 or] 632.305 or acting pursuant to the request of a guardian who is acting pursuant to chapter 475, or upon the request of the head of any supervisory mental health program who is acting pursuant to section 632.337, regardless of whether such peace officer is outside the jurisdiction for which he or she serves as a peace officer during the course of such detention or transportation, or both, shall be civilly liable for investigating, detaining, transporting, conditionally releasing or discharging a person pursuant to this chapter or chapter 475, at or before the end of the period for which the person was admitted or detained for evaluation or treatment so long as 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 of the county where a patient absent without authorization is found shall apprehend and return him or her to the program.

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

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

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

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

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

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

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

2. A resident shall be discharged from a department developmental disability facility if it is determined in a comprehensive evaluation or periodic review that the person

is not intellectually disabled or developmentally disabled, and if the resident, parent, if a minor, or guardian consents to the discharge. If consent is not obtained, the head of the facility shall initiate appeal proceedings under section 633.135, before a resident can be discharged.

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

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

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

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

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

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

(1) Conduct an investigation;

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

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

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

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