

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 774
95TH GENERAL ASSEMBLY

4370L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 630.155 and 630.220, RSMo, and to enact in lieu thereof four new sections relating to department of mental health protection measures, with penalty provisions.

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

Section A. Sections 630.155 and 630.220, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 565.086, 630.155, 630.220, and 1, to read as
3 follows:

**565.086. 1. An offender commits the crime of endangering a department of mental
2 health employee, a visitor or other person at a secure facility, or another offender if he or
3 she attempts to cause or knowingly causes such individual to come into contact with blood,
4 seminal fluid, urine, feces, or saliva.**

5 2. For purposes of this section, the following terms mean:

**6 (1) "Department of mental health employee", a person who is an employee of the
7 department of mental health, an employee or contracted employee of a subcontractor of
8 the department of mental health, or an employee or contracted employee of a
9 subcontractor of an entity responsible for confining offenders as authorized by section
10 632.495;**

**11 (2) "Offender", persons ordered to the department of mental health after a
12 determination by the court that such persons may meet the definition of a sexually violent
13 predator, persons ordered to the department of mental health after a finding of probable
14 cause under section 632.489, and persons committed for control, care, and treatment by
15 the department of mental health under sections 632.480 to 632.513;**

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 (3) "Secure facility", a facility operated by the department of mental health or an
17 entity responsible for confining offenders as authorized by section 632.495.

18 3. Endangering a department of mental health employee, a visitor or other person
19 at a secure facility, or another offender is a class D felony unless the substance is
20 unidentified, in which case it is a class A misdemeanor. If an offender is knowingly
21 infected with the human immunodeficiency virus (HIV), hepatitis B, or hepatitis C and
22 exposes another individual to HIV or hepatitis B or hepatitis C by committing the crime
23 of endangering a department of mental health employee, a visitor or other person at a
24 mental health facility, or another offender, it is a class C felony.

630.155. 1. A person commits the crime of "patient, resident or client abuse or neglect"
2 against any person admitted on a voluntary or involuntary basis to any mental health facility or
3 mental health program in which people may be civilly detained pursuant to chapter 632, RSMo,
4 or any patient, resident or client of any residential facility, day program or specialized service
5 operated, funded or licensed by the department if [he] **such person** knowingly does any of the
6 following:

7 (1) Beats, strikes or injures any person, patient, resident or client, **except in self-defense**
8 **or defense of others;**

9 (2) Mistreats or maltreats, handles or treats any such person, patient, resident or client
10 in a brutal or inhuman manner;

11 (3) Uses any more force than is reasonably necessary for the proper control, treatment
12 or management of such person, patient, resident or client, **or for self-defense or defense of**
13 **others;**

14 (4) Fails to provide services which are reasonable and necessary to maintain the physical
15 and mental health of any person, patient, resident or client when such failure presents either an
16 imminent danger to the health, safety or welfare of the person, patient, resident or client, or a
17 substantial probability that death or serious physical harm will result.

18 2. Patient, resident or client abuse or neglect is a class A misdemeanor unless committed
19 under subdivision (2) or (4) of subsection 1 of this section in which case such abuse or neglect
20 shall be a class D felony.

21 3. For purposes of this section and section 1 of this act, self-defense and defense of
22 others shall justify only the use of the minimal amount of force reasonably necessary to
23 deter an imminent threat of harm to oneself or another person, or to end an assault on
24 oneself or another person. Any person who acts in self-defense or defense of others in the
25 course of employment and not in violation of this section shall not be terminated from such
26 employment based on such actions taken in self-defense or defense of others and the

27 **employment record of such person shall be expunged of any documentation regarding such**
28 **acts in self-defense or defense of others.**

29 **4. The provisions of subsection 3 of this section shall apply only in the case of**
30 **employees who are employed at facilities designated as maximum or medium security**
31 **facilities by the department of mental health.**

630.220. For all debts and demands whatsoever to any of the residential facilities or day
2 programs subject to the control of the department, and for all damages for failure of contract, for
3 trespass and other wrongs to a facility operated by the department, or any of its property thereof,
4 real or personal, actions in any court of competent jurisdiction may be maintained in the name
5 of the director. Interest shall be recovered on any and all sums due any facility or program
6 operated or funded by the department on account of any patient or resident thereof, the account
7 therefor, certified by the [head of the facility, with the seal of the institution attached,] **director**
8 **or his or her designee** shall be prima facie evidence of the amount due.

Section 1. 1. The department of mental health shall not terminate or otherwise
2 **sanction the employment of any person who acts in self-defense or defense of others in the**
3 **course of employment against any person, patient, resident, or client who is dangerous or**
4 **violent, has a history of dangerous or violent behavior, or whose mental state or condition**
5 **includes dangerous or violent tendencies.**

6 **2. If a person asserts self-defense or defense of others, the department shall conduct**
7 **a hearing in accordance to chapter 536 to determine whether such person acted in self-**
8 **defense or defense of others. Any adverse determination by the department shall be**
9 **subject to appeal in accordance with chapter 536.**

10 **3. If a person acts in self-defense or defense of others, such person's employment**
11 **record shall be expunged of any documentation regarding such acts in self-defense or**
12 **defense of others.**

13 **4. The provisions of this section shall apply only in the case of employees who are**
14 **employed at facilities designated as maximum or medium security facilities by the**
15 **department of mental health.**

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