

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 2116, 2097, 1690 & 2221

## 101ST GENERAL ASSEMBLY

4212S.07T

2022

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### AN ACT

To amend chapters 191 and 630, RSMo, by adding thereto three new sections relating to the visitation rights of patients.

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

Section A. Chapters 191 and 630, RSMo, are amended by adding thereto three new sections, to be known as sections 191.1400, 191.2290, and 630.202, to read as follows:

2 **191.1400. 1. This section shall be known and may be cited as the "No Patient**  
3 **Left Alone Act".**

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

5 **(1) "Compassionate care visitor", a patient's or resident's friend, family**  
6 **member, or other person requested by the patient or resident for the purpose of a**  
7 **compassionate care visit;**

8 **(2) "Compassionate care visit", a visit necessary to meet the physical or mental**  
9 **needs of the patient or resident, including, but not limited to:**

10 **(a) For end-of-life situations, including making decisions regarding end-of-life**  
11 **care during in-person contact or communication with the compassionate care visitor;**

12 **(b) For adjustment support or communication support, including, but not**  
**limited to, assistance with hearing and speaking;**

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.

13 (c) For emotional support;

14 (d) For physical support after eating or drinking issues, including weight loss or  
15 dehydration; or

16 (e) For social support;

17 (3) "Health care facility", a hospital, as defined in section 197.020, a long-term  
18 care facility licensed under chapter 198, or a hospice facility certified under chapter 197.

19 3. A health care facility shall allow a patient or resident, or his or her legal  
20 guardian, to permit at least two compassionate care visitors simultaneously to have in-  
21 person contact with the patient or resident during visiting hours. Compassionate care  
22 visitation hours shall be no less than six hours daily and shall include evenings,  
23 weekends, and holidays. Health care facilities shall be permitted to place additional  
24 restrictions on children under the age of fourteen who are compassionate care visitors.

25 4. Health care facilities shall have a visitation policy that allows, at a minimum:

26 (1) Twenty-four hour attendance by a compassionate care visitor when  
27 reasonably appropriate;

28 (2) A compassionate care visitor to leave and return within the hours of the  
29 visitation policy. A patient or resident may receive multiple compassionate care visitors  
30 during visitation hours, subject to the provisions of subsection 3 of this section; and

31 (3) Parents with custody or unsupervised visitation rights, legal guardians, and  
32 other persons standing in loco parentis to be physically present with a minor child while  
33 the child receives care in the facility.

34 5. This section shall not affect any obligation of a health care facility to:

35 (1) Provide patients or residents with effective communication supports or other  
36 reasonable accommodations in accordance with federal and state laws to assist in  
37 remote personal contact; and

38 (2) Comply with the provisions of the Americans with Disabilities Act of 1990, 42  
39 U.S.C. Section 12101 et seq.

40 6. A health care facility may limit:

41 (1) The number of visitors per patient or resident at one time based on the size of  
42 the building and physical space;

43 (2) Movement of visitors within the health care facility, including restricting  
44 access to operating rooms, isolation rooms or units, behavioral health units, or other  
45 commonly restricted areas; and

46 (3) Access of any person to a patient:

47 (a) At the request of the patient or resident, or the legal guardian of such;

48 (b) At the request of a law enforcement agency for a person in custody;

49 (c) Due to a court order;

50 (d) To prevent substantial disruption to the care of a patient or resident or the  
51 operation of the facility;

52 (e) During the administration of emergency care in critical situations;

53 (f) If the person has measurable signs and symptoms of a transmissible infection;  
54 except that, the health care facility shall allow access through telephone or other means  
55 of telecommunication that ensure the protection of the patient or resident;

56 (g) If the health care facility has reasonable cause to suspect the person of being  
57 a danger or otherwise contrary to the health or welfare of the patient or resident, other  
58 patients or residents, or facility staff; or

59 (h) If, in the clinical judgment of the patient's or resident's attending physician,  
60 the presence of visitors would be medically or therapeutically contraindicated to the  
61 health or life of the patient or resident, and the attending physician attests to such in the  
62 patient's or resident's chart.

63 7. Nothing in this section shall limit a health care facility from limiting or  
64 redirecting visitors of a patient or resident in a shared room to ensure the health and  
65 safety of the patients or residents in the shared room. Nothing in this section shall be  
66 construed to prohibit health care facilities from adopting reasonable safety or security  
67 restrictions or other requirements for visitors.

68 8. Nothing in this section shall be construed to waive or change long-term care  
69 facility residents' rights under sections 198.088 and 198.090.

70 9. No later than January 1, 2023, the department of health and senior services  
71 shall develop informational materials for patients, residents, and their legal guardians,  
72 regarding the provisions of this section. A health care facility shall make these  
73 informational materials accessible upon admission or registration and on the primary  
74 website of the health care facility.

75 10. A compassionate care visitor of a patient or resident of a health care facility  
76 may report any violation of the provisions of this section by a health care facility to the  
77 department of health and senior services. The department shall begin investigating any  
78 such complaint filed under this subsection within thirty-six hours of receipt of the  
79 complaint. The purpose of such investigation shall be to ensure compliance with the  
80 provisions of this section and any such investigation shall otherwise comply with the  
81 complaint processes established by section 197.080 for a hospital, section 197.268 for a  
82 hospice facility, and section 198.532 for a long-term care facility.

83 11. No health care facility shall be held liable for damages in an action involving  
84 a liability claim against the facility arising from the compliance with the provisions of  
85 this section. The immunity described in this subsection shall not apply to any act or  
86 omission by a facility, its employees, or its contractors that constitutes recklessness or

87 willful misconduct and shall be provided in addition to, and shall in no way limit, any  
88 other immunity protections that may apply in state or federal law.

89 12. The provisions of this section shall not be terminated, suspended, or waived  
90 except by a declaration of emergency under chapter 44, during which time the  
91 provisions of sections 191.2290 and 630.202 shall apply.

191.2290. 1. The provisions of this section and section 630.202 shall be known  
2 and may be cited as the "Essential Caregiver Program Act".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of health and senior services;

5 (2) "Essential caregiver", a family member, friend, guardian, or other individual  
6 selected by a facility resident or patient who has not been adjudged incapacitated under  
7 chapter 475, or the guardian or legal representative of the resident or patient;

8 (3) "Facility", a hospital licensed under chapter 197 or a facility licensed under  
9 chapter 198.

10 3. During a state of emergency declared pursuant to chapter 44 relating to  
11 infectious, contagious, communicable, or dangerous diseases, a facility shall allow a  
12 resident or patient who has not been adjudged incapacitated under chapter 475, a  
13 resident's or patient's guardian, or a resident's or patient's legally authorized  
14 representative to designate an essential caregiver for in-person contact with the  
15 resident or patient in accordance with the standards and guidelines developed by the  
16 department under this section. Essential caregivers shall be considered as part of the  
17 resident's or patient's care team, along with the resident's or patient's health care  
18 providers and facility staff.

19 4. The facility shall inform, in writing, residents and patients who have not been  
20 adjudged incapacitated under chapter 475, or guardians or legal representatives of  
21 residents or patients, of the "Essential Caregiver Program" and the process for  
22 designating an essential caregiver.

23 5. The department shall develop standards and guidelines concerning the  
24 essential caregiver program, including, but not limited to, the following:

25 (1) The facility shall allow at least two individuals per resident or patient to be  
26 designated as essential caregivers, although the facility may limit the in-person contact  
27 to one caregiver at a time. The caregiver shall not be required to have previously served  
28 in a caregiver capacity prior to the declared state of emergency;

29 (2) The facility shall establish a reasonable in-person contact schedule to allow  
30 the essential caregiver to provide care to the resident or patient for at least four hours  
31 each day, including evenings, weekends, and holidays, but shall allow for twenty-four-  
32 hour in-person care as necessary and appropriate for the well-being of the resident or

33 patient. The essential caregiver shall be permitted to leave and return during the  
34 scheduled hours or be replaced by another essential caregiver;

35 (3) The facility shall establish procedures to enable physical contact between the  
36 resident or patient and the essential caregiver. The facility may not require the essential  
37 caregiver to undergo more stringent screening, testing, hygiene, personal protective  
38 equipment, and other infection control and prevention protocols than required of  
39 facility employees;

40 (4) The facility shall specify in its protocols the criteria that the facility will use if  
41 it determines that in-person contact by a particular essential caregiver is inconsistent  
42 with the resident's or patient's therapeutic care and treatment or is a safety risk to other  
43 residents, patients, or staff at the facility. Any limitations placed upon a particular  
44 essential caregiver shall be reviewed and documented every seven days to determine if  
45 the limitations remain appropriate; and

46 (5) The facility may restrict or revoke in-person contact by an essential caregiver  
47 who fails to follow required protocols and procedures established under this subsection.

48 6. (1) A facility may request from the department a suspension of in-person  
49 contact by essential caregivers for a period not to exceed seven days. The department  
50 may deny the facility's request to suspend in-person contact with essential caregivers if  
51 the department determines that such in-person contact does not pose a serious  
52 community health risk. A facility may request from the department an extension of a  
53 suspension for more than seven days; provided, that the department shall not approve  
54 an extension period for longer than seven days at a time. A facility shall not suspend in-  
55 person caregiver contact for more than fourteen consecutive days in a twelve-month  
56 period or for more than forty-five total days in a twelve-month period.

57 (2) The department shall suspend in-person contact by essential caregivers  
58 under this section if it determines that doing so is required under federal law, including  
59 a determination that federal law requires a suspension of in-person contact by members  
60 of the resident's or patient's care team.

61 (3) The attorney general shall institute all suits necessary on behalf of the state to  
62 defend the right of the state to implement the provisions of this section to ensure access  
63 by residents and patients to essential caregivers as part of their care team.

64 7. The provisions of this section shall not be construed to require an essential  
65 caregiver to provide necessary care to a resident or patient and a facility shall not  
66 require an essential caregiver to provide necessary care.

67 8. The provisions of this section shall not apply to those residents or patients  
68 whose particular plan of therapeutic care and treatment necessitates restricted or

69 otherwise limited visitation for reasons unrelated to the stated reasons for the declared  
70 state emergency.

71 9. A facility, its employees, and its contractors shall be immune from civil  
72 liability for an injury or harm caused by or resulting from:

73 (1) Exposure to a contagious disease or other harmful agent that is specified  
74 during the state of emergency declared pursuant to chapter 44; or

75 (2) Acts or omissions by essential caregivers who are present in the facility;

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77 as a result of the implementation of the essential caregiver program under this section.

78 The immunity described in this subsection shall not apply to any act or omission by a  
79 facility, its employees, or its contractors that constitutes recklessness or willful  
80 misconduct.

630.202. 1. As used in this section, the following terms mean:

2 (1) "Department", the department of mental health;

3 (2) "Essential caregiver", a family member, friend, guardian, or other individual  
4 selected by a facility resident or client who has not been adjudged incapacitated under  
5 chapter 475, or the guardian or legal representative of the resident or client;

6 (3) "Facility", a facility operated, licensed, or certified by the department.

7 2. During a state of emergency declared pursuant to chapter 44 relating to  
8 infectious, contagious, communicable, or dangerous diseases, a facility shall allow a  
9 resident or client who has not been adjudged incapacitated under chapter 475, a  
10 resident's or client's guardian, or a resident's or client's legally authorized  
11 representative to designate an essential caregiver for in-person contact with the  
12 resident or client in accordance with the standards and guidelines developed by the  
13 department under this section. Essential caregivers shall be considered a part of the  
14 resident's or client's care team, along with the resident's or client's health care providers  
15 and facility staff.

16 3. The facility shall inform, in writing, residents and clients who have not been  
17 adjudged incapacitated under chapter 475, or guardians or legal representatives of  
18 residents or clients, of the "Essential Caregiver Program" and the process for  
19 designating an essential caregiver.

20 4. The department shall develop standards and guidelines concerning the  
21 essential caregiver program, including, but not limited to, the following:

22 (1) The facility shall allow at least two individuals per resident or client to be  
23 designated as essential caregivers, although the facility may limit the in-person contact  
24 to one caregiver at a time. The caregiver shall not be required to have previously served  
25 in a caregiver capacity prior to the declared state of emergency;

26           **(2) The facility shall establish a reasonable in-person contact schedule to allow**  
27 **the essential caregiver to provide care to the resident or client for at least four hours**  
28 **each day, including evenings, weekends, and holidays, but shall allow for twenty-four-**  
29 **hour in-person care as necessary and appropriate for the well-being of the resident or**  
30 **client and consistent with the safety and security of the facility's staff and other**  
31 **residents or clients. The essential caregiver shall be permitted to leave and return**  
32 **during the scheduled hours or be replaced by another essential caregiver;**

33           **(3) The facility shall establish procedures to enable physical contact between the**  
34 **resident or client and the essential caregiver. The facility may not require the essential**  
35 **caregiver to undergo more stringent screening, testing, hygiene, personal protective**  
36 **equipment, and other infection control and prevention protocols than required of**  
37 **facility employees;**

38           **(4) The facility shall specify in its protocols the criteria that the facility will use if**  
39 **it determines that in-person contact by a particular essential caregiver is inconsistent**  
40 **with the resident's or client's therapeutic care and treatment or is a safety risk to other**  
41 **residents, clients, or staff at the facility. Any limitations placed upon a particular**  
42 **essential caregiver shall be reviewed and documented every seven days to determine if**  
43 **the limitations remain appropriate; and**

44           **(5) The facility may restrict or revoke in-person contact by an essential caregiver**  
45 **who fails to follow required protocols and procedures established under this subsection.**

46           **5. (1) A facility may request from the department a suspension of in-person**  
47 **contact by essential caregivers for a period not to exceed seven days. The department**  
48 **may deny the facility's request to suspend in-person contact with essential caregivers if**  
49 **the department determines that such in-person contact does not pose a serious**  
50 **community health risk. A facility may request from the department an extension of a**  
51 **suspension for more than seven days; provided, that the department shall not approve**  
52 **an extension period for longer than seven days at a time. A facility shall not suspend in-**  
53 **person caregiver visitation for more than fourteen consecutive days in a twelve-month**  
54 **period or for more than forty-five total days in a twelve-month period.**

55           **(2) The department shall suspend in-person contact by essential caregivers**  
56 **under this section if it determines that doing so is required under federal law, including**  
57 **a determination that federal law requires a suspension of in-person contact by members**  
58 **of the resident's or client's care team.**

59           **(3) The attorney general shall institute all suits necessary on behalf of the state to**  
60 **defend the right of the state to implement the provisions of this section to ensure access**  
61 **by residents and clients to essential caregivers as part of their care team.**

62           **6. The provisions of this section shall not be construed to require an essential**  
63 **caregiver to provide necessary care to a resident or client and a facility shall not require**  
64 **an essential caregiver to provide necessary care.**

65           **7. The provisions of this section shall not apply to those residents or clients**  
66 **whose particular plan of therapeutic care and treatment necessitates restricted or**  
67 **otherwise limited visitation for reasons unrelated to the stated reason for the declared**  
68 **state of emergency.**

69           **8. A facility, its employees, and its contractors shall be immune from civil**  
70 **liability for an injury or harm caused by or resulting from:**

71           **(1) Exposure to a contagious disease or other harmful agent that is specified**  
72 **during the state of emergency declared pursuant to chapter 44; or**

73           **(2) Acts or omissions by essential caregivers who are present in the facility;**

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75 **as a result of the implementation of the essential caregiver program under this section.**

76 **The immunity described in this subsection shall not apply to any act or omission by a**

77 **facility, its employees, or its contractors that constitutes recklessness or willful**

78 **misconduct.**

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