

As Introduced

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H. B. No. 78

Representative Retherford

Cosponsors: Representatives Brenner, Bishoff, LaTourette, DeVitis, Leland, Perales, Craig, Rogers, Patterson, Rezabek, Koehler, Duffey, Ginter, Pelanda, Sheehy

A BILL

To amend sections 173.501, 173.521, 173.542, 1
1347.08, 2317.54, 4715.36, 5101.60, 5101.61, 2
5101.611, 5101.612, 5101.62, 5101.622, 5101.63, 3
5101.64, 5101.65, 5101.66, 5101.67, 5101.68, 4
5101.69, 5101.691, 5101.692, 5101.70, 5101.71, 5
5101.72, 5101.99, 5123.61, and 5126.31; to 6
amend, for the purpose of adopting new section 7
numbers as indicated in parentheses, sections 8
5101.61 (5101.63), 5101.611 (5101.64), 5101.612 9
(5101.631), 5101.62 (5101.65), 5101.622 10
(5101.652), 5101.63 (5101.651), 5101.64 11
(5101.66), 5101.65 (5101.68), 5101.66 12
(5101.681), 5101.67 (5101.682), 5101.68 13
(5101.69), 5101.69 (5101.70), 5101.691 14
(5101.701), 5101.692 (5101.702), 5101.70 15
(5101.71), 5101.71 (5101.61), and 5101.72 16
(5101.611); to enact new section 5101.62 and 17
sections 5101.632, 5101.73, 5101.74, and 18
5101.741; and to repeal section 5101.621 of the 19
Revised Code to revise the laws governing the 20
provision of adult protective services. 21

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 173.501, 173.521, 173.542, 22
1347.08, 2317.54, 4715.36, 5101.60, 5101.99, 5123.61, and 23
5126.31 be amended; sections 5101.61 (5101.63), 5101.611 24
(5101.64), 5101.612 (5101.631), 5101.62 (5101.65), 5101.622 25
(5101.652), 5101.63 (5101.651), 5101.64 (5101.66), 5101.65 26
(5101.68), 5101.66 (5101.681), 5101.67 (5101.682), 5101.68 27
(5101.69), 5101.69 (5101.70), 5101.691 (5101.701), 5101.692 28
(5101.702), 5101.70 (5101.71), 5101.71 (5101.61), and 5101.72 29
(5101.611) be amended for the purpose of adopting new section 30
numbers as indicated in parentheses; and new section 5101.62 and 31
sections 5101.632, 5101.73, 5101.74, and 5101.741 of the Revised 32
Code be enacted to read as follows: 33

Sec. 173.501. (A) As used in this section: 34

"Nursing facility" has the same meaning as in section 35
5165.01 of the Revised Code. 36

"PACE provider" has the same meaning as in the "Social 37
Security Act," section 1934(a)(3), 42 U.S.C. 1396u-4(a)(3). 38

(B) The department of aging shall establish a home first 39
component of the PACE program under which eligible individuals 40
may be enrolled in the PACE program in accordance with this 41
section. An individual is eligible for the PACE program's home 42
first component if both of the following apply: 43

(1) The individual has been determined to be eligible for 44
the PACE program. 45

(2) At least one of the following applies: 46

(a) The individual has been admitted to a nursing 47

facility. 48

(b) A physician has determined and documented in writing 49
that the individual has a medical condition that, unless the 50
individual is enrolled in home and community-based services such 51
as the PACE program, will require the individual to be admitted 52
to a nursing facility within thirty days of the physician's 53
determination. 54

(c) The individual has been hospitalized and a physician 55
has determined and documented in writing that, unless the 56
individual is enrolled in home and community-based services such 57
as the PACE program, the individual is to be transported 58
directly from the hospital to a nursing facility and admitted. 59

(d) Both of the following apply: 60

(i) The individual is the subject of a report made under 61
section ~~5101.61~~5101.63 of the Revised Code regarding abuse, 62
neglect, or exploitation or such a report referred to a county 63
department of job and family services under section 5126.31 of 64
the Revised Code or has made a request to a county department 65
for protective services as defined in section 5101.60 of the 66
Revised Code. 67

(ii) A county department of job and family services and an 68
area agency on aging have jointly documented in writing that, 69
unless the individual is enrolled in home and community-based 70
services such as the PACE program, the individual should be 71
admitted to a nursing facility. 72

(C) Each month, the department of aging shall identify 73
individuals who are eligible for the home first component of the 74
PACE program. When the department identifies such an individual, 75
the department shall notify the PACE provider serving the area 76

in which the individual resides. The PACE provider shall 77
determine whether the PACE program is appropriate for the 78
individual and whether the individual would rather participate 79
in the PACE program than continue or begin to reside in a 80
nursing facility. If the PACE provider determines that the PACE 81
program is appropriate for the individual and the individual 82
would rather participate in the PACE program than continue or 83
begin to reside in a nursing facility, the PACE provider shall 84
so notify the department of aging. On receipt of the notice from 85
the PACE provider, the department of aging shall approve the 86
individual's enrollment in the PACE program in accordance with 87
priorities established in rules adopted under section 173.50 of 88
the Revised Code. 89

Sec. 173.521. (A) Unless the medicaid-funded component of 90
the PASSPORT program is terminated pursuant to division (C) of 91
section 173.52 of the Revised Code, the department shall 92
establish a home first component of the PASSPORT program under 93
which eligible individuals may be enrolled in the medicaid- 94
funded component of the PASSPORT program in accordance with this 95
section. An individual is eligible for the PASSPORT program's 96
home first component if both of the following apply: 97

(1) The individual has been determined to be eligible for 98
the medicaid-funded component of the PASSPORT program. 99

(2) At least one of the following applies: 100

(a) The individual has been admitted to a nursing 101
facility. 102

(b) A physician has determined and documented in writing 103
that the individual has a medical condition that, unless the 104
individual is enrolled in home and community-based services such 105

as the PASSPORT program, will require the individual to be 106
admitted to a nursing facility within thirty days of the 107
physician's determination. 108

(c) The individual has been hospitalized and a physician 109
has determined and documented in writing that, unless the 110
individual is enrolled in home and community-based services such 111
as the PASSPORT program, the individual is to be transported 112
directly from the hospital to a nursing facility and admitted. 113

(d) Both of the following apply: 114

(i) The individual is the subject of a report made under 115
section ~~5101.61~~5101.63 of the Revised Code regarding abuse, 116
neglect, or exploitation or such a report referred to a county 117
department of job and family services under section 5126.31 of 118
the Revised Code or has made a request to a county department 119
for protective services as defined in section 5101.60 of the 120
Revised Code. 121

(ii) A county department of job and family services and an 122
area agency on aging have jointly documented in writing that, 123
unless the individual is enrolled in home and community-based 124
services such as the PASSPORT program, the individual should be 125
admitted to a nursing facility. 126

(B) Each month, each area agency on aging shall identify 127
individuals residing in the area that the agency serves who are 128
eligible for the home first component of the PASSPORT program. 129
When an area agency on aging identifies such an individual, the 130
agency shall notify the long-term care consultation program 131
administrator serving the area in which the individual resides. 132
The administrator shall determine whether the PASSPORT program 133
is appropriate for the individual and whether the individual 134

would rather participate in the PASSPORT program than continue 135
or begin to reside in a nursing facility. If the administrator 136
determines that the PASSPORT program is appropriate for the 137
individual and the individual would rather participate in the 138
PASSPORT program than continue or begin to reside in a nursing 139
facility, the administrator shall so notify the department of 140
aging. On receipt of the notice from the administrator, the 141
department shall approve the individual's enrollment in the 142
medicaid-funded component of the PASSPORT program regardless of 143
the unified waiting list established under section 173.55 of the 144
Revised Code, unless the enrollment would cause the component to 145
exceed any limit on the number of individuals who may be 146
enrolled in the component as set by the United States secretary 147
of health and human services in the PASSPORT waiver. 148

Sec. 173.542. (A) Unless the medicaid-funded component of 149
the assisted living program is terminated pursuant to division 150
(C) of section 173.54 of the Revised Code, the department of 151
aging shall establish a home first component of the assisted 152
living program under which eligible individuals may be enrolled 153
in the medicaid-funded component of the assisted living program 154
in accordance with this section. An individual is eligible for 155
the assisted living program's home first component if both of 156
the following apply: 157

(1) The individual has been determined to be eligible for 158
the medicaid-funded component of the assisted living program. 159

(2) At least one of the following applies: 160

(a) The individual has been admitted to a nursing 161
facility. 162

(b) A physician has determined and documented in writing 163

that the individual has a medical condition that, unless the 164
individual is enrolled in home and community-based services such 165
as the assisted living program, will require the individual to 166
be admitted to a nursing facility within thirty days of the 167
physician's determination. 168

(c) The individual has been hospitalized and a physician 169
has determined and documented in writing that, unless the 170
individual is enrolled in home and community-based services such 171
as the assisted living program, the individual is to be 172
transported directly from the hospital to a nursing facility and 173
admitted. 174

(d) Both of the following apply: 175

(i) The individual is the subject of a report made under 176
section ~~5101.61~~ 5101.63 of the Revised Code regarding abuse, 177
neglect, or exploitation or such a report referred to a county 178
department of job and family services under section 5126.31 of 179
the Revised Code or has made a request to a county department 180
for protective services as defined in section 5101.60 of the 181
Revised Code. 182

(ii) A county department of job and family services and an 183
area agency on aging have jointly documented in writing that, 184
unless the individual is enrolled in home and community-based 185
services such as the assisted living program, the individual 186
should be admitted to a nursing facility. 187

(B) Each month, each area agency on aging shall identify 188
individuals residing in the area that the area agency on aging 189
serves who are eligible for the home first component of the 190
assisted living program. When an area agency on aging identifies 191
such an individual and determines that there is a vacancy in a 192

residential care facility participating in the medicaid-funded 193
component of the assisted living program that is acceptable to 194
the individual, the agency shall notify the long-term care 195
consultation program administrator serving the area in which the 196
individual resides. The administrator shall determine whether 197
the assisted living program is appropriate for the individual 198
and whether the individual would rather participate in the 199
assisted living program than continue or begin to reside in a 200
nursing facility. If the administrator determines that the 201
assisted living program is appropriate for the individual and 202
the individual would rather participate in the assisted living 203
program than continue or begin to reside in a nursing facility, 204
the administrator shall so notify the department of aging. On 205
receipt of the notice from the administrator, the department 206
shall approve the individual's enrollment in the medicaid-funded 207
component of the assisted living program regardless of the 208
unified waiting list established under section 173.55 of the 209
Revised Code, unless the enrollment would cause the component to 210
exceed any limit on the number of individuals who may 211
participate in the component as set by the United States 212
secretary of health and human services in the assisted living 213
waiver. 214

Sec. 1347.08. (A) Every state or local agency that 215
maintains a personal information system, upon the request and 216
the proper identification of any person who is the subject of 217
personal information in the system, shall: 218

(1) Inform the person of the existence of any personal 219
information in the system of which the person is the subject; 220

(2) Except as provided in divisions (C) and (E) (2) of this 221
section, permit the person, the person's legal guardian, or an 222

attorney who presents a signed written authorization made by the 223
person, to inspect all personal information in the system of 224
which the person is the subject; 225

(3) Inform the person about the types of uses made of the 226
personal information, including the identity of any users 227
usually granted access to the system. 228

(B) Any person who wishes to exercise a right provided by 229
this section may be accompanied by another individual of the 230
person's choice. 231

(C) (1) A state or local agency, upon request, shall 232
disclose medical, psychiatric, or psychological information to a 233
person who is the subject of the information or to the person's 234
legal guardian, unless a physician, psychiatrist, or 235
psychologist determines for the agency that the disclosure of 236
the information is likely to have an adverse effect on the 237
person, in which case the information shall be released to a 238
physician, psychiatrist, or psychologist who is designated by 239
the person or by the person's legal guardian. 240

(2) Upon the signed written request of either a licensed 241
attorney at law or a licensed physician designated by the 242
inmate, together with the signed written request of an inmate of 243
a correctional institution under the administration of the 244
department of rehabilitation and correction, the department 245
shall disclose medical information to the designated attorney or 246
physician as provided in division (C) of section 5120.21 of the 247
Revised Code. 248

(D) If an individual who is authorized to inspect personal 249
information that is maintained in a personal information system 250
requests the state or local agency that maintains the system to 251

provide a copy of any personal information that the individual 252
is authorized to inspect, the agency shall provide a copy of the 253
personal information to the individual. Each state and local 254
agency may establish reasonable fees for the service of copying, 255
upon request, personal information that is maintained by the 256
agency. 257

(E) (1) This section regulates access to personal 258
information that is maintained in a personal information system 259
by persons who are the subject of the information, but does not 260
limit the authority of any person, including a person who is the 261
subject of personal information maintained in a personal 262
information system, to inspect or have copied, pursuant to 263
section 149.43 of the Revised Code, a public record as defined 264
in that section. 265

(2) This section does not provide a person who is the 266
subject of personal information maintained in a personal 267
information system, the person's legal guardian, or an attorney 268
authorized by the person, with a right to inspect or have 269
copied, or require an agency that maintains a personal 270
information system to permit the inspection of or to copy, a 271
confidential law enforcement investigatory record or trial 272
preparation record, as defined in divisions (A) (2) and (4) of 273
section 149.43 of the Revised Code. 274

(F) This section does not apply to any of the following: 275

(1) The contents of an adoption file maintained by the 276
department of health under sections 3705.12 to 3705.124 of the 277
Revised Code; 278

(2) Information contained in the putative father registry 279
established by section 3107.062 of the Revised Code, regardless 280

of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	281 282 283 284
(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;	285 286 287
(4) Records specified in division (A) of section 3107.52 of the Revised Code;	288 289
(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;	290 291 292
(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;	293 294
(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;	295 296 297
(8) Records that identify an individual described in division (A)(1) of section 5165.88 of the Revised Code, or that would tend to identify such an individual;	298 299 300
(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;	301 302 303 304 305 306
(10) Information contained in a database established and maintained pursuant to section 5101.13 of the Revised Code;	307 308

(11) Information contained in a database established and 309
maintained pursuant to section ~~5101.612~~5101.631 of the Revised 310
Code. 311

Sec. 2317.54. No hospital, home health agency, ambulatory 312
surgical facility, or provider of a hospice care program or 313
pediatric respite care program shall be held liable for a 314
physician's failure to obtain an informed consent from the 315
physician's patient prior to a surgical or medical procedure or 316
course of procedures, unless the physician is an employee of the 317
hospital, home health agency, ambulatory surgical facility, or 318
provider of a hospice care program or pediatric respite care 319
program. 320

Written consent to a surgical or medical procedure or 321
course of procedures shall, to the extent that it fulfills all 322
the requirements in divisions (A), (B), and (C) of this section, 323
be presumed to be valid and effective, in the absence of proof 324
by a preponderance of the evidence that the person who sought 325
such consent was not acting in good faith, or that the execution 326
of the consent was induced by fraudulent misrepresentation of 327
material facts, or that the person executing the consent was not 328
able to communicate effectively in spoken and written English or 329
any other language in which the consent is written. Except as 330
herein provided, no evidence shall be admissible to impeach, 331
modify, or limit the authorization for performance of the 332
procedure or procedures set forth in such written consent. 333

(A) The consent sets forth in general terms the nature and 334
purpose of the procedure or procedures, and what the procedures 335
are expected to accomplish, together with the reasonably known 336
risks, and, except in emergency situations, sets forth the names 337
of the physicians who shall perform the intended surgical 338

procedures. 339

(B) The person making the consent acknowledges that such 340
disclosure of information has been made and that all questions 341
asked about the procedure or procedures have been answered in a 342
satisfactory manner. 343

(C) The consent is signed by the patient for whom the 344
procedure is to be performed, or, if the patient for any reason 345
including, but not limited to, competence, minority, or the fact 346
that, at the latest time that the consent is needed, the patient 347
is under the influence of alcohol, hallucinogens, or drugs, 348
lacks legal capacity to consent, by a person who has legal 349
authority to consent on behalf of such patient in such 350
circumstances, including either of the following: 351

(1) The parent, whether the parent is an adult or a minor, 352
of the parent's minor child; 353

(2) An adult whom the parent of the minor child has given 354
written authorization to consent to a surgical or medical 355
procedure or course of procedures for the parent's minor child. 356

Any use of a consent form that fulfills the requirements 357
stated in divisions (A), (B), and (C) of this section has no 358
effect on the common law rights and liabilities, including the 359
right of a physician to obtain the oral or implied consent of a 360
patient to a medical procedure, that may exist as between 361
physicians and patients on July 28, 1975. 362

As used in this section the term "hospital" has the same 363
meaning as in section 2305.113 of the Revised Code; "home health 364
agency" has the same meaning as in section ~~5101.61~~3701.881 of 365
the Revised Code; "ambulatory surgical facility" has the meaning 366
as in division (A) of section 3702.30 of the Revised Code; and 367

"hospice care program" and "pediatric respite care program" have 368
the same meanings as in section 3712.01 of the Revised Code. The 369
provisions of this division apply to hospitals, doctors of 370
medicine, doctors of osteopathic medicine, and doctors of 371
podiatric medicine. 372

Sec. 4715.36. As used in this section and sections 373
4715.361 to 4715.374 of the Revised Code: 374

(A) "Accredited dental hygiene school" means a dental 375
hygiene school accredited by the American dental association 376
commission on dental accreditation or a dental hygiene school 377
whose educational standards are recognized by the American 378
dental association commission on dental accreditation and 379
approved by the state dental board. 380

(B) "Authorizing dentist" means a dentist who authorizes a 381
dental hygienist to perform dental hygiene services under 382
section 4715.365 of the Revised Code. 383

(C) "Clinical evaluation" means a diagnosis and treatment 384
plan formulated for an individual patient by a dentist. 385

(D) "Dentist" means an individual licensed under this 386
chapter to practice dentistry. 387

(E) "Dental hygienist" means an individual licensed under 388
this chapter to practice as a dental hygienist. 389

(F) "Dental hygiene services" means the prophylactic, 390
preventive, and other procedures that dentists are authorized by 391
this chapter and rules of the state dental board to assign to 392
dental hygienists, except for procedures while a patient is 393
anesthetized, definitive root planing, definitive subgingival 394
curettage, the administration of local anesthesia, and the 395
procedures specified in rules adopted by the board as described 396

in division (C)(4) of section 4715.22 of the Revised Code.	397
(G) "Facility" means any of the following:	398
(1) A health care facility, as defined in section 4715.22 of the Revised Code;	399 400
(2) A state correctional institution, as defined in section 2967.01 of the Revised Code;	401 402
(3) A comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a child day-care center;	403 404 405 406
(4) A residential facility licensed under section 5123.19 of the Revised Code;	407 408
(5) A public school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	409 410 411 412
(6) A nonpublic school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	413 414 415 416
(7) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	417 418 419
(8) A shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code;	420 421
(9) A facility operated by the department of youth services under Chapter 5139. of the Revised Code;	422 423

(10) A foster home, as defined in section 5103.02 of the Revised Code;	424 425
(11) A nonprofit clinic, as defined in section 3715.87 of the Revised Code;	426 427
(12) The residence of one or more individuals receiving services provided by a home health agency, as defined in section 5101.61 <u>3701.881</u> of the Revised Code;	428 429 430
(13) A dispensary;	431
(14) A health care facility, such as a clinic or hospital, of the United States department of veterans affairs;	432 433
(15) The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, as defined in section 5166.01 of the Revised Code;	434 435 436
(16) A facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	437 438 439
(17) A women, infants, and children clinic;	440
(18) A mobile dental unit located at any location listed in divisions (G) (1) to (17) of this section;	441 442
(19) Any other location, as specified by the state dental board in rules adopted under section 4715.372 of the Revised Code, that is in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code and provides health care services to individuals who are medicaid recipients and to indigent and uninsured persons, as defined in section 2305.234 of the Revised Code.	443 444 445 446 447 448 449
Sec. 5101.60. As used in sections 5101.60 to 5101.71	450

5101.73 of the Revised Code: 451

(A) "Abandonment" means desertion of an adult by a 452
caretaker without having made provision for transfer of the 453
adult's care. 454

(B) "Abuse" means the infliction upon an adult by self or 455
others of injury, unreasonable confinement, intimidation, or 456
cruel punishment with resulting physical harm, pain, or mental 457
anguish. 458

~~(B)-(C) "Adult" means any person sixty years of age or~~ 459
older within this state who is handicapped by the infirmities of 460
aging or who has a physical or mental impairment which prevents 461
the person from providing for the person's own care or 462
protection, and who resides in an independent living 463
arrangement. ~~An "independent living arrangement" is a domicile~~ 464
~~of a person's own choosing, including, but not limited to, a~~ 465
~~private home, apartment, trailer, or rooming house. An~~ 466
~~"independent living arrangement" includes a residential facility~~ 467
~~licensed under section 5119.34 of the Revised Code that provides~~ 468
~~accommodations, supervision, and personal care services for~~ 469
~~three to sixteen unrelated adults, but does not include other~~ 470
~~institutions or facilities licensed by the state or facilities~~ 471
~~in which a person resides as a result of voluntary, civil, or~~ 472
~~criminal commitment.~~ 473

~~(C)-(D) "Area agency on aging" means a public or private~~ 474
~~nonprofit entity designated under section 173.011 of the Revised~~ 475
~~Code to administer programs on behalf of the department of~~ 476
~~aging.~~ 477

(E) "Caretaker" means the person assuming the primary 478
responsibility for the care of an adult ~~on~~ by any of the 479

<u>following means:</u>	480
<u>(1) On a voluntary basis,</u> by ;	481
<u>(2) By contract,</u> through ;	482
<u>(3) Through receipt of payment for care,</u> as ;	483
<u>(4) As a result of a family relationship,</u> or by ;	484
<u>(5) By order of a court of competent jurisdiction.</u>	485
(D) <u>(F) "Community mental health agency" means any agency,</u>	486
<u>program, or facility with which a board of alcohol, drug</u>	487
<u>addiction, and mental health services contracts to provide the</u>	488
<u>mental health services listed in section 340.09 of the Revised</u>	489
<u>Code.</u>	490
<u>(G) "Court" means the probate court in the county where an</u>	491
<u>adult resides.</u>	492
(E) <u>(H) "Emergency" means that the adult is living in</u>	493
<u>conditions which present a substantial risk of immediate and</u>	494
<u>irreparable physical harm or death to self or any other person.</u>	495
(F) <u>(I) "Emergency services" means protective services</u>	496
<u>furnished to an adult in an emergency.</u>	497
(G) <u>(J) "Exploitation" means the unlawful or improper act</u>	498
<u>of a caretaker person using, in one or more transactions, an</u>	499
<u>adult or an adult's resources for monetary or personal benefit,</u>	500
<u>profit, or gain when the caretaker person obtained or exerted</u>	501
<u>control over the adult or the adult's resources in any of the</u>	502
<u>following ways:</u>	503
(1) Without the adult's consent or the consent of the	504
person authorized to give consent on the adult's behalf;	505
(2) Beyond the scope of the express or implied consent of	506

the adult or the person authorized to give consent on the 507
adult's behalf; 508

(3) By deception; 509

(4) By threat; 510

(5) By intimidation. 511

~~(H)~~(K) "In need of protective services" means an adult 512
known or suspected to be suffering from abuse, neglect, or 513
exploitation to an extent that either life is endangered or 514
physical harm, mental anguish, or mental illness results or is 515
likely to result. 516

~~(I)~~(L) "Incapacitated person" means a person who is 517
impaired for any reason to the extent that the person lacks 518
sufficient understanding or capacity to make and carry out 519
reasonable decisions concerning the person's self or resources, 520
with or without the assistance of a caretaker. Refusal to 521
consent to the provision of services shall not be the sole 522
determinative that the person is incapacitated. ~~"Reasonable~~ 523
~~decisions"~~ are decisions made in daily living which facilitate 524
~~the provision of food, shelter, clothing, and health care~~ 525
~~necessary for life support.~~ 526

~~(J)~~(M) "Independent living arrangement" means a domicile 527
of a person's own choosing, including, but not limited to, a 528
private home, apartment, trailer, or rooming house. "Independent 529
living arrangement" includes a residential facility licensed 530
under section 5119.22 of the Revised Code that provides 531
accommodations, supervision, and personal care services for 532
three to sixteen unrelated adults, but does not include any 533
other institution or facility licensed by the state or a 534
facility in which a person resides as a result of voluntary, 535

civil, or criminal commitment. 536

(N) "Mental illness" means a substantial disorder of 537
thought, mood, perception, orientation, or memory that grossly 538
impairs judgment, behavior, capacity to recognize reality, or 539
ability to meet the ordinary demands of life. 540

~~(K)~~(O) "Neglect" means any of the failure following: 541

(1) Failure of an adult to provide for self the goods or 542
services necessary to avoid physical harm, mental anguish, or 543
mental illness ~~or the failure~~; 544

(2) Failure of a caretaker to provide such goods or 545
services; 546

(3) Abandonment. 547

~~(L)~~(P) "Outpatient health facility" means a facility 548
where medical care and preventive, diagnostic, therapeutic, 549
rehabilitative, or palliative items or services are provided to 550
outpatients by or under the direction of a physician or dentist. 551

(Q) "Peace officer" means a peace officer as defined in 552
section 2935.01 of the Revised Code. 553

~~(M)~~(R) "Physical harm" means bodily pain, injury, 554
impairment, or disease suffered by an adult. 555

~~(N)~~(S) "Protective services" means services provided by 556
the county department of job and family services or its 557
designated agency to an adult who has been determined by 558
evaluation to require such services for the prevention, 559
correction, or discontinuance of an act of as well as conditions 560
resulting from abuse, neglect, or exploitation. Protective 561
services may include, but are not limited to, case work 562
services, medical care, mental health services, legal services, 563

fiscal management, home health care, homemaker services, 564
housing-related services, guardianship services, and placement 565
services as well as the provision of such commodities as food, 566
clothing, and shelter. 567

~~(O)~~(T) "Reasonable decisions" means decisions made in 568
daily living that facilitate the provision of food, shelter, 569
clothing, and health care necessary for life support. 570

(U) "Senior service provider" means a person who provides 571
care or specialized services to an adult, except that it does 572
not include the state long-term care ombudsman or a regional 573
long-term care ombudsman. 574

(V) "Working day" means Monday, Tuesday, Wednesday, 575
Thursday, and Friday, except when such day is a holiday as 576
defined in section 1.14 of the Revised Code. 577

~~**Sec. 5101.71 5101.61.** (A) The county departments of job 578
and family services shall implement sections 5101.60 to 5101.71 579
of the Revised Code. ~~The department of job and family services~~ 580
~~shall provide a program of ongoing, comprehensive, formal~~ 581
~~training regarding the implementation of sections 5101.60 to~~ 582
~~5101.71 of the Revised Code and require all adult protective~~ 583
~~services caseworkers and their supervisors to undergo the~~ 584
~~training. Training shall not be limited to the procedures for~~ 585
~~implementing section 5101.62 of the Revised Code. The department~~ 586
~~of job and family services shall adopt any rules it deems~~ 587
~~necessary regarding the training.~~ 588~~

(B) The director of job and family services may adopt 589
rules in accordance with section 111.15 of the Revised Code to 590
carry out the purposes of sections 5101.60 to 5101.71 of the 591
Revised Code. The rules adopted pursuant to this division may 592

include a requirement that the county departments provide on 593
forms prescribed by the rules a plan of proposed expenditures, 594
and a report of actual expenditures, of funds necessary to 595
implement sections 5101.60 to 5101.71 of the Revised Code and 596
other requirements for intake procedures, investigations, case 597
management, and the provision of protective services. 598

Sec. ~~5101.72~~ 5101.611. The department of job and family 599
services may reimburse county departments of job and family 600
services, local law enforcement agencies, and county prosecutors 601
for all or part of the costs they incur in implementing sections 602
5101.60 to ~~5101.71~~ 5101.73 of the Revised Code. The director of 603
job and family services shall adopt internal management rules in 604
accordance with section 111.15 of the Revised Code that provide 605
for reimbursement of county departments of job and family 606
services, local law enforcement agencies, and county prosecutors 607
under this section. 608

The director shall adopt internal management rules in 609
accordance with section 111.15 of the Revised Code that do both 610
of the following: 611

(A) Implement sections 5101.60 to 5101.71 of the Revised 612
Code; 613

(B) Require the county departments, local law enforcement 614
agencies, and county prosecutors to collect and submit to the 615
department, or ensure that a designated agency collects and 616
submits to the department, data concerning the implementation of 617
sections 5101.60 to ~~5101.71~~ 5101.73 of the Revised Code. 618

Sec. 5101.62. The department of job and family services 619
shall do all of the following: 620

(A) Provide a program of ongoing, comprehensive, formal 621

training on the implementation of sections 5101.60 to 5101.73 of 622
the Revised Code and require all protective services caseworkers 623
and their supervisors to undergo the training; 624

(B) Develop and make available educational materials for 625
individuals who are required under section 5101.63 of the 626
Revised Code to make reports of abuse, neglect, and 627
exploitation; 628

(C) Facilitate ongoing cooperation among state agencies on 629
issues pertaining to the abuse, neglect, or exploitation of 630
adults. 631

Sec. ~~5101.61~~ 5101.63. (A) ~~As used in this section:~~ 632

~~(1) "Senior service provider" means any person who~~ 633
~~provides care or services to a person who is an adult as defined~~ 634
~~in division (B) of section 5101.60 of the Revised Code.~~ 635

~~(2) "Ambulatory health facility" means a nonprofit, public~~ 636
~~or proprietary freestanding organization or a unit of such an~~ 637
~~agency or organization that:~~ 638

~~(a) Provides preventive, diagnostic, therapeutic,~~ 639
~~rehabilitative, or palliative items or services furnished to an~~ 640
~~outpatient or ambulatory patient, by or under the direction of a~~ 641
~~physician or dentist in a facility which is not a part of a~~ 642
~~hospital, but which is organized and operated to provide medical~~ 643
~~care to outpatients;~~ 644

~~(b) Has health and medical care policies which are~~ 645
~~developed with the advice of, and with the provision of review~~ 646
~~of such policies, an advisory committee of professional~~ 647
~~personnel, including one or more physicians, one or more~~ 648
~~dentists, if dental care is provided, and one or more registered~~ 649
~~nurses;~~ 650

~~(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;~~ 651
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~~(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;~~ 656
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~~(e) Maintains clinical records on all patients;~~ 662

~~(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;~~ 663
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~~(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;~~ 668
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~~(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;~~ 670
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~~(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of mental health and addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.~~ 672
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~~(3) "Community mental health facility" means a facility~~ 679

~~which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.~~ 680
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~~(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.~~ 684
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~~(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:~~ 687
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~~(a) Is primarily engaged in providing home health services;~~ 689
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~~(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;~~ 691
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~~(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;~~ 698
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~~(d) Maintains comprehensive records on all patients;~~ 702

~~(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions~~ 703
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~~(A) (5) (a) to (d) of this section, and is certified under Title 709
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42- 710
U.S.C. 301, as amended. 711~~

~~(6) "Home health service" means the following items and 712
services, provided, except as provided in division (A) (6) (g) of 713
this section, on a visiting basis in a place of residence used 714
as the patient's home: 715~~

~~(a) Nursing care provided by or under the supervision of a 716
registered professional nurse; 717~~

~~(b) Physical, occupational, or speech therapy ordered by 718
the patient's attending physician; 719~~

~~(c) Medical social services performed by or under the 720
supervision of a qualified medical or psychiatric social worker 721
and under the direction of the patient's attending physician; 722~~

~~(d) Personal health care of the patient performed by aides 723
in accordance with the orders of a doctor of medicine or 724
osteopathy and under the supervision of a registered 725
professional nurse; 726~~

~~(e) Medical supplies and the use of medical appliances; 727~~

~~(f) Medical services of interns and residents in training 728
under an approved teaching program of a nonprofit hospital and 729
under the direction and supervision of the patient's attending 730
physician; 731~~

~~(g) Any of the foregoing items and services which: 732~~

~~(i) Are provided on an outpatient basis under arrangements 733
made by the home health agency at a hospital or skilled nursing 734
facility; 735~~

~~(ii) Involve the use of equipment of such a nature that
the items and services cannot readily be made available to the
patient in the patient's place of residence, or which are
furnished at the hospital or skilled nursing facility while the
patient is there to receive any item or service involving the
use of such equipment.~~

~~Any attorney, physician, osteopath, podiatrist,
chiropractor, dentist, psychologist, any employee of a hospital
as defined in section 3701.01 of the Revised Code, any nurse
licensed under Chapter 4723. of the Revised Code, any employee
of an ambulatory health facility, any employee of a home health
agency, any employee of a residential facility licensed under
section 5119.34 of the Revised Code that provides
accommodations, supervision, and personal care services for
three to sixteen unrelated adults, any employee of a nursing
home, residential care facility, or home for the aging, as
defined in section 3721.01 of the Revised Code, any senior
service provider, any peace officer, coroner, member of the
clergy, any employee of a community mental health facility, and
any person engaged in professional counseling, social work, or
marriage and family therapy (1) Any individual listed in
division (A) (2) of this section having reasonable cause to
believe that an adult is being abused, neglected, or exploited,
or is in a condition which is the result of abuse, neglect, or
exploitation shall immediately report such belief to the county
department of job and family services. This section does not
apply to employees of any hospital or public hospital as defined
in section 5122.01 of the Revised Code.~~

(2) All of the following are subject to division (A) (1) of
this section:

<u>(a) An attorney admitted to the practice of law in this state;</u>	766 767
<u>(b) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	768 769 770
<u>(c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;</u>	771 772
<u>(d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;</u>	773 774
<u>(e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;</u>	775 776
<u>(f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;</u>	777 778
<u>(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;</u>	779 780 781 782 783
<u>(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;</u>	784 785
<u>(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;</u>	786 787 788
<u>(j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;</u>	789 790
<u>(k) An employee of an outpatient health facility;</u>	791
<u>(l) An employee of a hospital, as defined in section</u>	792

<u>3727.01 of the Revised Code;</u>	793
<u>(m) An employee of a hospital or public hospital, as</u>	794
<u>defined in section 5122.01 of the Revised Code;</u>	795
<u>(n) An employee of a nursing home or residential care</u>	796
<u>facility, as defined in section 3721.01 of the Revised Code;</u>	797
<u>(o) An employee of a residential facility licensed under</u>	798
<u>section 5119.22 of the Revised Code that provides</u>	799
<u>accommodations, supervision, and personal care services for</u>	800
<u>three to sixteen unrelated adults;</u>	801
<u>(p) An employee of a health department operated by the</u>	802
<u>board of health of a city or general health district or the</u>	803
<u>authority having the duties of a board of health under section</u>	804
<u>3709.05 of the Revised Code;</u>	805
<u>(q) An employee of a community mental health agency, as</u>	806
<u>defined in section 5122.01 of the Revised Code;</u>	807
<u>(r) An agent of a county humane society organized under</u>	808
<u>section 1717.05 of the Revised Code;</u>	809
<u>(s) An individual who is a firefighter for a lawfully</u>	810
<u>constituted fire department;</u>	811
<u>(t) An individual who is an ambulance driver for an</u>	812
<u>emergency medical service organization, as defined in section</u>	813
<u>4765.01 of the Revised Code;</u>	814
<u>(u) A first responder, emergency medical technician-basic,</u>	815
<u>emergency medical technician-intermediate, or paramedic, as</u>	816
<u>those terms are defined in section 4765.01 of the Revised Code;</u>	817
<u>(v) An official employed by a local building department to</u>	818
<u>conduct inspections of houses and other residential buildings;</u>	819

<u>(w) A peace officer;</u>	820
<u>(x) A coroner;</u>	821
<u>(y) A member of the clergy;</u>	822
<u>(z) An individual who holds a certificate issued under Chapter 4701. of the Revised Code as a certified public accountant or is registered under that chapter as a public accountant;</u>	823 824 825 826
<u>(aa) An individual licensed under Chapter 4735. of the Revised Code as a real estate broker or real estate salesperson;</u>	827 828
<u>(bb) An individual appointed and commissioned under section 147.01 of the Revised Code as a notary public;</u>	829 830
<u>(cc) An employee of a bank, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States;</u>	831 832 833
<u>(dd) An investment adviser, as defined in section 1707.01 of the Revised Code;</u>	834 835
<u>(ee) A financial planner accredited by a national accreditation agency;</u>	836 837
<u>(ff) Any other individual who is a senior service provider.</u>	838 839
(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports <u>a report</u> to be made of such belief to the <u>county department of job and family services.</u>	840 841 842 843
(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the	844 845 846

department. Written reports shall include: 847

(1) The name, address, and approximate age of the adult 848
who is the subject of the report; 849

(2) The name and address of the individual responsible for 850
the adult's care, if any individual is, and if the individual is 851
known; 852

(3) The nature and extent of the alleged abuse, neglect, 853
or exploitation of the adult; 854

(4) The basis of the reporter's belief that the adult has 855
been abused, neglected, or exploited. 856

(D) Any person with reasonable cause to believe that an 857
adult is suffering abuse, neglect, or exploitation who makes a 858
report pursuant to this section or who testifies in any 859
administrative or judicial proceeding arising from such a 860
report, or any employee of the state or any of its subdivisions 861
who is discharging responsibilities under section ~~5101.62~~ 862
5101.65 of the Revised Code shall be immune from civil or 863
criminal liability on account of such investigation, report, or 864
testimony, except liability for perjury, unless the person has 865
acted in bad faith or with malicious purpose. 866

(E) No employer or any other person with the authority to 867
do so shall ~~discharge~~ do any of the following as a result of an 868
employee's having filed a report under this section: 869

(1) Discharge, demote, transfer, or prepare a negative 870
work performance evaluation, ~~or reduce~~; 871

(2) Reduce benefits, pay, or work privileges, ~~or take~~; 872

(3) Take any other action detrimental to an employee or in 873
any way retaliate against ~~an the employee as a result of the~~ 874

~~employee's having filed a report under this section.~~ 875

(F) The written or oral report provided for in this 876
section and the investigatory report provided for in section 877
~~5101.62-5101.65~~ of the Revised Code are confidential and are not 878
public records, as defined in section 149.43 of the Revised 879
Code. In accordance with rules adopted by the department of job 880
and family services, information contained in the report shall 881
upon request be made available to the adult who is the subject 882
of the report and to legal counsel for the adult. If it 883
determines that there is a risk of harm to a person who makes a 884
report under this section or to the adult who is the subject of 885
the report, the county department of job and family services may 886
redact the name and identifying information related to the 887
person who made the report. 888

(G) The county department of job and family services shall 889
be available to receive the written or oral report provided for 890
in this section twenty-four hours a day and seven days a week. 891

Sec. ~~5101.612~~ 5101.631. (A) The department of job and 892
family services shall establish and maintain a uniform statewide 893
automated adult protective services information system. The 894
information system shall contain records regarding all of the 895
following: 896

(1) All reports of abuse, neglect, or exploitation of 897
adults made to county departments of job and family services 898
under section ~~5101.61-5101.63~~ of the Revised Code; 899

(2) Investigations conducted under section ~~5101.62-5101.65~~ 900
of the Revised Code; 901

(3) Protective services provided to adults pursuant to 902
sections 5101.60 to ~~5101.71-5101.73~~ of the Revised Code; 903

(4) Any other information related to adults in need of protective services that state or federal law, regulation, or rule requires the department or a county department to maintain.

(B) The department shall plan implementation of the information system on a county-by-county basis. The department shall promptly notify all county departments of the initiation and completion of statewide implementation of the information system.

(C) (1) The department shall, upon request, release information in the information system to county departments conducting investigations pursuant to section 5101.65 of the Revised Code and to local law enforcement agencies conducting criminal investigations. The department may release information in the information system to law enforcement agencies through the Ohio law enforcement gateway established under section 109.57 of the Revised Code. Information contained in the information system may be accessed or used only in a manner, to the extent, and for the purposes authorized by this section and rules adopted by the department.

(2) Except as provided in division (C) ~~(3)~~ (1) of this section and in rules adopted by the department pursuant to that division:

~~(1) The information contained in or obtained from the information system is confidential and is not subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.~~

~~(2) No~~, no person shall knowingly do either of the following:

(a) Access or use information contained in the information

system; 933

(b) Disclose information obtained from the information 934
system. 935

~~(3) Information contained in the information system may be 936
accessed or used only in a manner, to the extent, and for the 937
purposes, authorized by rules adopted by the department. 938~~

Sec. 5101.632. Each entity that employs or is responsible 939
for licensing or regulating the individuals required under 940
section 5101.63 of the Revised Code to make reports of abuse, 941
neglect, or exploitation of adults shall ensure that the 942
individuals have access to the educational materials developed 943
under division (B) of section 5101.62 of the Revised Code. 944

~~Sec. 5101.611~~ 5101.64. (A) If a county department of job 945
and family services knows or has reasonable cause to believe 946
that the subject of a report made under section ~~5101.61~~ 5101.63 947
of the Revised Code or of an investigation conducted under 948
~~sections 5101.62 to 5101.64~~ section 5101.65 of the Revised Code 949
is an individual with a developmental disability as defined in 950
section 5126.01 of the Revised Code, the county department shall 951
refer the case to the county board of developmental disabilities 952
of that county for review pursuant to section 5126.31 of the 953
Revised Code. 954

If a county board of developmental disabilities refers a 955
case to the county department of job and family services in 956
accordance with section 5126.31, the county department of job 957
and family services shall proceed with the case in accordance 958
with sections 5101.60 to 5101.71 of the Revised Code. 959

(B) If a county department of job and family services 960
knows or has reasonable cause to believe that the subject of a 961

report made under section ~~5101.61~~ 5101.63 of the Revised Code or 962
of an investigation conducted under ~~sections 5101.62 to 5101.64~~ 963
section 5101.65 of the Revised Code is a resident of a long-term 964
care facility, as defined in section 173.14 of the Revised Code, 965
the department shall refer the case to the office of the state 966
long-term care ombudsman program for review pursuant to section 967
173.19 of the Revised Code. 968

If the state ombudsman or regional long-term care 969
ombudsman program refers a case to the county department of job 970
and family services in accordance with rules adopted pursuant to 971
section 173.20 of the Revised Code, the county department shall 972
proceed with the case in accordance with sections 5101.60 to 973
5101.71 of the Revised Code. 974

(C) If a county department of job and family services 975
knows or has reasonable cause to believe that the subject of a 976
report made under section ~~5101.61~~ 5101.63 of the Revised Code or 977
of an investigation conducted under ~~sections 5101.62 to 5101.64~~ 978
section 5101.65 of the Revised Code is a resident of a nursing 979
home, as defined in section 3721.01 of the Revised Code, and has 980
allegedly been abused, neglected, or exploited by an employee of 981
the nursing home, the department shall refer the case to the 982
department of health for investigation pursuant to section 983
3721.031 of the Revised Code. 984

(D) If a county department of job and family services 985
knows or has reasonable cause to believe that the subject of a 986
report made under section ~~5101.61~~ 5101.63 of the Revised Code or 987
of an investigation conducted under ~~sections 5101.62 to 5101.64~~ 988
section 5101.65 of the Revised Code is a child, as defined in 989
section 5153.01 of the Revised Code, the department shall refer 990
the case to the public children services agency of that county. 991

(E) If a county department of job and family services 992
knows or has reasonable cause to believe that the subject of a 993
report made under section 5101.63 of the Revised Code or of an 994
investigation conducted under section 5101.65 of the Revised 995
Code is being or has been criminally exploited, the department 996
shall notify a local law enforcement agency with jurisdiction 997
over the area where the subject resides. 998

(F) A referral by the county department of job and family 999
services of a case to another public regulatory agency or 1000
investigatory entity pursuant to this section shall be made in 1001
accordance with rules adopted by the department of job and 1002
family services. 1003

Sec. ~~5101.62~~ 5101.65. The county department of job and 1004
family services or its designee shall be responsible for the 1005
investigation of all reports provided for in section 173.20 or 1006
~~5101.61~~ 5101.63 and all cases referred to it under section 1007
5126.31 of the Revised Code and for evaluating the need for and, 1008
to the extent of available funds, providing or arranging for the 1009
provision of protective services. 1010

Investigation of the report provided for in section 1011
~~5101.61~~ 5101.63 or a case referred to the department under 1012
section 5126.31 of the Revised Code shall be initiated within 1013
twenty-four hours after the department receives the report or 1014
case if any emergency exists; otherwise investigation shall be 1015
initiated within three working days. 1016

Investigation of the need for protective services shall 1017
include a face-to-face visit with the adult who is the subject 1018
of the report, preferably in the adult's residence, and 1019
consultation with the person who made the report, if feasible, 1020
and agencies or persons who have information about the adult's 1021

alleged abuse, neglect, or exploitation. 1022

The department shall give written notice of the intent of 1023
the investigation and an explanation of the notice in language 1024
reasonably understandable to the adult who is the subject of the 1025
investigation, at the time of the initial interview with that 1026
person. 1027

Upon completion of the investigation, the department shall 1028
determine from its findings whether or not the adult who is the 1029
subject of the report is in need of protective services. No 1030
adult shall be determined to be abused, neglected, or in need of 1031
protective services for the sole reason that, in lieu of medical 1032
treatment, the adult relies on or is being furnished spiritual 1033
treatment through prayer alone in accordance with the tenets and 1034
practices of a church or religious denomination of which the 1035
adult is a member or adherent. The department shall write a 1036
report which confirms or denies the need for protective services 1037
and states why it reached this conclusion. 1038

Sec. ~~5101.63~~ 5101.651. If, during the course of an 1039
investigation conducted under section ~~5101.62~~ 5101.65 of the 1040
Revised Code, any person, including the adult who is the subject 1041
of the investigation, denies or obstructs access to the 1042
residence of the adult, the county department of job and family 1043
services may file a petition in court for a temporary 1044
restraining order to prevent the interference or obstruction. 1045
The court shall issue a temporary restraining order to prevent 1046
the interference or obstruction if it finds there is reasonable 1047
cause to believe that the adult is being or has been abused, 1048
neglected, or exploited and access to the person's residence has 1049
been denied or obstructed. Such a finding is prima-facie 1050
evidence that immediate and irreparable injury, loss, or damage 1051

will result, so that notice is not required. After obtaining an 1052
order restraining the obstruction of or interference with the 1053
access of the protective services representative, the 1054
representative may be accompanied to the residence by a peace 1055
officer. 1056

Sec. ~~5101.622~~ 5101.652. The county department of job and 1057
family services may enter into an agreement or contract with 1058
another person or government entity to perform the following 1059
duties: 1060

(A) In accordance with division (G) of section ~~5101.61~~ 1061
5101.63 of the Revised Code, receive reports made under that 1062
section; 1063

(B) Perform the county department's duties under section 1064
~~5101.62~~ 5101.65 of the Revised Code; 1065

(C) Petition the court pursuant to section ~~5101.65~~ 5101.68 1066
or ~~5101.69~~ 5101.70 of the Revised Code for an order authorizing 1067
the provision of protective services. 1068

Sec. ~~5101.64~~ 5101.66. Any person who requests or consents 1069
to receive protective services shall receive such services only 1070
after an investigation and determination of a need for 1071
protective services, ~~which~~. The investigation shall be 1072
performed in the same manner as the investigation of a report 1073
pursuant to ~~sections 5101.62 and 5101.63~~ section 5101.65 of the 1074
Revised Code. If the person withdraws consent, the protective 1075
services shall be terminated. 1076

Sec. ~~5101.65~~ 5101.68. If the county department of job and 1077
family services determines that an adult is in need of 1078
protective services and is an incapacitated person, the 1079
department may petition the court for an order authorizing the 1080

provision of protective services. If the adult is in need of 1081
protective services as a result of exploitation, the county 1082
prosecutor may file the petition. The petition shall state the 1083
specific facts alleging the abuse, neglect, or exploitation and 1084
shall include a proposed protective service plan. Any plan for 1085
protective services shall be specified in the petition. 1086

Sec. ~~5101.66~~ 5101.681. Notice of a petition for the 1087
provision of court-ordered protective services as provided for 1088
in section ~~5101.65~~ 5101.68 of the Revised Code shall be 1089
personally served upon the adult who is the subject of the 1090
petition at least five working days prior to the date set for 1091
the hearing as provided in section ~~5101.67~~ 5101.682 of the 1092
Revised Code. Notice shall be given either orally ~~and or~~ in 1093
writing in language reasonably understandable to the adult. The 1094
notice shall include the names of all petitioners, the basis of 1095
the belief that protective services are needed, the rights of 1096
the adult in the court proceedings, and the consequences of a 1097
court order for protective services. The adult shall be informed 1098
of ~~his~~ the right to counsel and ~~his~~ the right to appointed 1099
counsel if ~~he~~ the adult is indigent and if appointed counsel is 1100
requested. Written notice by certified mail shall also be given 1101
to the adult's guardian, legal counsel, caretaker, and spouse, 1102
if any, or if ~~he~~ the adult has none of these, to ~~his~~ the adult's 1103
adult children or next of kin, if any, or to any other person as 1104
the court may require. The adult who is the subject of the 1105
petition may not waive notice as provided in this section. 1106

Sec. ~~5101.67~~ 5101.682. (A) The court shall hold a hearing 1107
on the petition as provided in section ~~5101.65~~ 5101.68 of the 1108
Revised Code within fourteen days after its filing. The adult 1109
who is the subject of the petition shall have the right to be 1110
present at the hearing, present evidence, and examine and cross- 1111

examine witnesses. The adult shall be represented by counsel 1112
unless the right to counsel is knowingly waived. If the adult is 1113
indigent, the court shall appoint counsel to represent the 1114
adult. If the court determines that the adult lacks the capacity 1115
to waive the right to counsel, the court shall appoint counsel 1116
to represent the adult's interests. 1117

(B) If the court finds, on the basis of clear and 1118
convincing evidence, that the adult has been abused, neglected, 1119
or exploited, is in need of protective services, and is 1120
incapacitated, and no person authorized by law or by court order 1121
is available to give consent, it shall issue an order requiring 1122
the provision of protective services only if they are available 1123
locally. 1124

(C) If the court orders placement under this section it 1125
shall give consideration to the choice of residence of the 1126
adult. The court may order placement in settings which have been 1127
approved by the department of job and family services as meeting 1128
at least minimum community standards for safety, security, and 1129
the requirements of daily living. The court shall not order an 1130
institutional placement unless it has made a specific finding 1131
entered in the record that no less restrictive alternative can 1132
be found to meet the needs of the individual. No individual may 1133
be committed to a hospital or public hospital as defined in 1134
section 5122.01 of the Revised Code pursuant to this section. 1135

(D) The placement of an adult pursuant to court order as 1136
provided in this section shall not be changed unless the court 1137
authorized the transfer of placement after finding compelling 1138
reasons to justify the transfer. Unless the court finds that an 1139
emergency exists, the court shall notify the adult of a transfer 1140
at least thirty days prior to the actual transfer. 1141

(E) A court order provided for in this section shall 1142
remain in effect for no longer than six months. Thereafter, the 1143
county department of job and family services shall review the 1144
adult's need for continued services and, if the department 1145
determines that there is a continued need, it shall apply for a 1146
renewal of the order for additional periods of no longer than 1147
one year each. The adult who is the subject of the court-ordered 1148
services may petition for modification of the order at any time. 1149

Sec. ~~5101.68~~ 5101.69. (A) If an adult has consented to the 1150
provision of protective services but any other person refuses to 1151
allow such provision, the county department of ~~human~~ job and 1152
family services or the county prosecutor may petition the court 1153
for a temporary restraining order to restrain the person from 1154
interfering with the provision of protective services for the 1155
adult. 1156

(B) The petition shall state specific facts sufficient to 1157
demonstrate the need for protective services, the consent of the 1158
adult, and the refusal of some other person to allow the 1159
provision of these services. 1160

(C) Notice of the petition shall be given in language 1161
reasonably understandable to the person alleged to be 1162
interfering with the provision of services; 1163

(D) The court shall hold a hearing on the petition within 1164
fourteen days after its filing. If the court finds that the 1165
protective services are necessary, that the adult has consented 1166
to the ~~provisions~~ provision of such services, and that the 1167
person who is the subject of the petition has prevented such 1168
provision, the court shall issue a temporary restraining order 1169
to restrain the person from interfering with the provision of 1170
protective services to the adult. 1171

Sec. ~~5101.69~~ 5101.70. (A) Upon petition by the county 1172
department of job and family services ~~or its~~, the department's 1173
designee, or the county prosecutor, the court may issue an order 1174
authorizing the provision of protective services on an emergency 1175
basis to an adult. The petition for any emergency order shall 1176
include all of the following: 1177

(1) The name, age, and address of the adult in need of 1178
protective services; 1179

(2) The nature of the emergency; 1180

(3) The proposed protective services; 1181

(4) The petitioner's reasonable belief, together with 1182
facts supportive thereof, as to the existence of the 1183
circumstances described in divisions (D) (1) to (3) of this 1184
section; 1185

(5) Facts showing the petitioner's attempts to obtain the 1186
adult's consent to the protective services. 1187

(B) Notice of the filing and contents of the petition 1188
provided for in division (A) of this section, the rights of the 1189
person in the hearing provided for in division (C) of this 1190
section, and the possible consequences of a court order, shall 1191
be given to the adult. Notice shall also be given to the spouse 1192
of the adult or, if the adult has none, to the adult's adult 1193
children or next of kin, and the adult's guardian, if any, if 1194
the guardian's whereabouts are known. The notice shall be given 1195
in language reasonably understandable to its recipients at least 1196
twenty-four hours prior to the hearing provided for in this 1197
section. The court may waive the twenty-four hours' notice 1198
requirement upon a showing that both of the following are the 1199
case: 1200

(1) Immediate and irreparable physical harm or immediate 1201
and irreparable financial harm to the adult or others will 1202
result from the twenty-four hour delay; 1203

(2) Reasonable attempts have been made to notify the 1204
adult, the adult's spouse, or, if the adult has none, the 1205
adult's adult children or next of kin, if any, and the adult's 1206
guardian, if any, if the guardian's whereabouts are known. 1207

Notice of the court's determination shall be given to all 1208
persons receiving notice of the filing of the petition provided 1209
for in this division. 1210

(C) Upon receipt of a petition for an order for emergency 1211
services, the court shall hold a hearing no sooner than twenty- 1212
four and no later than seventy-two hours after the notice 1213
provided for in division (B) of this section has been given, 1214
unless the court has waived the notice. The adult who is the 1215
subject of the petition shall have the right to be present at 1216
the hearing, present evidence, and examine and cross-examine 1217
witnesses. 1218

(D) The court shall issue an order authorizing the 1219
provision of protective services on an emergency basis if it 1220
finds, on the basis of clear and convincing evidence, all of the 1221
following: 1222

(1) The adult is an incapacitated person; 1223

(2) An emergency exists; 1224

(3) No person authorized by law or court order to give 1225
consent for the adult is available or willing to consent to 1226
emergency services. 1227

(E) In issuing an emergency order, the court shall adhere 1228

to the following limitations: 1229

(1) The court shall order only such protective services as 1230
are necessary and available locally to remove the conditions 1231
creating the emergency, and the court shall specifically 1232
designate those protective services the adult shall receive; 1233

(2) The court shall not order any change of residence 1234
under this section unless the court specifically finds that a 1235
change of residence is necessary; 1236

(3) The court may order emergency services only for 1237
fourteen days. The county department ~~or its~~, the department's 1238
designee, or the county prosecutor may petition the court for a 1239
renewal of the order for a fourteen-day period upon a showing 1240
that continuation of the order is necessary to remove the 1241
emergency. 1242

(4) In its order the court shall authorize the director of 1243
the county department, the director's designee, or a 1244
representative of the department's designee to give consent for 1245
the person for the approved emergency services until the 1246
expiration of the order; 1247

(5) The court shall not order a person to a hospital or 1248
public hospital as defined in section 5122.01 of the Revised 1249
Code. 1250

(F) If the county department or its designee determines 1251
that the adult continues to need protective services after the 1252
order provided for in division (D) of this section has expired, 1253
the county department ~~or its~~, the department's designee, or the 1254
county prosecutor may petition the court for an order to 1255
continue protective services, pursuant to section ~~5101.65~~ 1256
5101.68 of the Revised Code. After the filing of the petition, 1257

the county department or its designee may continue to provide 1258
protective services pending a hearing by the court. 1259

Sec. ~~5101.691~~ 5101.701. (A) A court, through a probate 1260
judge or a magistrate under the direction of a probate judge, 1261
may issue by telephone an ex parte emergency order authorizing 1262
the provision of protective services, including the relief 1263
available under division (B) of section ~~5101.692~~ 5101.702 of the 1264
Revised Code, to an adult on an emergency basis if all of the 1265
following are the case: 1266

(1) The court receives notice from the county department 1267
of job and family services, an authorized employee of the county 1268
department, the department's designee, or an authorized employee 1269
of the department's designee, that the county department, 1270
designee, or employee believes an emergency order is needed as 1271
described in this section. 1272

(2) There is reasonable cause to believe that the adult is 1273
incapacitated. 1274

(3) There is reasonable cause to believe that there is a 1275
substantial risk to the adult of immediate and irreparable 1276
physical harm, immediate and irreparable financial harm, or 1277
death. 1278

(B) (1) The judge or magistrate shall journalize any order 1279
issued under this section. 1280

(2) An order issued under this section shall be in effect 1281
for not longer than twenty-four hours, except that if the day 1282
following the day on which the order is issued is not a working 1283
day, the order shall remain in effect until the next working 1284
day. 1285

(C) (1) Except as provided in division (C) (2) of this 1286

section, not later than twenty-four hours after an order is 1287
issued under this section, a petition shall be filed with the 1288
court in accordance with division (A) of section ~~5101.69~~5101.70 1289
of the Revised Code. 1290

(2) If the day following the day on which the order was 1291
issued is not a working day, the petition shall be filed with 1292
the court on the next working day. 1293

(3) Except as provided in section ~~5101.692~~5101.702 of the 1294
Revised Code, proceedings on the petition shall be conducted in 1295
accordance with section ~~5101.69~~5101.70 of the Revised Code. 1296

Sec. ~~5101.692~~ 5101.702. (A) If an order is issued pursuant 1297
to section ~~5101.691~~5101.701 of the Revised Code, the court 1298
shall hold a hearing not later than twenty-four hours after the 1299
issuance to determine whether there is probable cause for the 1300
order, except that if the day following the day on which the 1301
order is issued is not a working day, the court shall hold the 1302
hearing on the next working day. 1303

(B) At the hearing, the court: 1304

(1) Shall determine whether protective services are the 1305
least restrictive alternative available for meeting the adult's 1306
needs; 1307

(2) May issue temporary orders to protect the adult from 1308
immediate and irreparable physical harm or immediate and 1309
irreparable financial harm, including, but not limited to, 1310
temporary protection orders, evaluations, and orders requiring a 1311
party to vacate the adult's place of residence or legal 1312
settlement; 1313

(3) May order emergency services; 1314

(4) May freeze the financial assets of the adult. 1315

(C) A temporary order issued pursuant to division (B) (2) 1316
of this section is effective for thirty days. The court may 1317
renew the order for an additional thirty-day period. 1318

Information contained in the order may be entered into the 1319
law enforcement automated data system. 1320

Sec. ~~5101.70~~ 5101.71. (A) If it appears that an adult in 1321
need of protective services has the financial means sufficient 1322
to pay for such services, the county department of job and 1323
family services shall make an evaluation regarding such means. 1324
If the evaluation establishes that the adult has such financial 1325
means, the department shall initiate procedures for 1326
reimbursement pursuant to rules ~~promulgated by the department~~ 1327
adopted under section 5101.61 of the Revised Code. If the 1328
evaluation establishes that the adult does not have such 1329
financial means, the services shall be provided in accordance 1330
with the policies and procedures established by the department 1331
of job and family services for the provision of welfare 1332
assistance. An adult shall not be required to pay for court- 1333
ordered protective services unless the court determines ~~upon a~~ 1334
~~showing by the department~~ that the adult is financially able to 1335
pay and the court orders the adult to pay. 1336

(B) Whenever the county department of job and family 1337
services or the county prosecutor has petitioned the court to 1338
authorize the provision of protective services and the adult who 1339
is the subject of the petition is indigent, the court shall 1340
appoint legal counsel. 1341

Sec. 5101.73. If, during the course of an investigation by 1342
a local law enforcement agency of criminal exploitation, any 1343

person, including the adult who is the alleged victim, denies or 1344
obstructs access to the residence of the adult, the county 1345
prosecutor may file a petition in court for a temporary 1346
restraining order to prevent the interference or obstruction. 1347
The court shall issue a temporary restraining order to prevent 1348
the interference or obstruction if it finds there is reasonable 1349
cause to believe that the adult is being or has been abused, 1350
neglected, or exploited and access to the person's residence has 1351
been denied or obstructed. Such a finding is prima facie 1352
evidence that immediate and irreparable injury, loss, or damage 1353
will result, so that notice is not required. After obtaining an 1354
order restraining the obstruction of or interference with the 1355
access of the local law enforcement agency representative, the 1356
representative may be accompanied to the residence by a peace 1357
officer. 1358

Sec. 5101.74. (A) There is hereby created the elder abuse 1359
commission. The commission shall consist of the following 1360
members: 1361

(1) The following members, appointed by the attorney 1362
general: 1363

(a) One representative of the AARP; 1364

(b) One representative of the buckeye state sheriffs' 1365
association; 1366

(c) One representative of the county commissioners' 1367
association of Ohio; 1368

(d) One representative of the Ohio association of area 1369
agencies on aging; 1370

(e) One representative of the board of nursing; 1371

<u>(f) One representative of the Ohio coalition for adult protective services;</u>	1372
	1373
<u>(g) One person who represents the interests of elder abuse victims;</u>	1374
	1375
<u>(h) One person who represents the interests of elderly persons;</u>	1376
	1377
<u>(i) One representative of the Ohio domestic violence network;</u>	1378
	1379
<u>(j) One representative of the Ohio prosecuting attorneys association;</u>	1380
	1381
<u>(k) One representative of the Ohio victim witness association;</u>	1382
	1383
<u>(l) One representative of the Ohio association of chiefs of police;</u>	1384
	1385
<u>(m) One representative of the Ohio association of probate judges;</u>	1386
	1387
<u>(n) One representative of the Ohio job and family services directors' association;</u>	1388
	1389
<u>(o) One representative of the Ohio bankers league;</u>	1390
<u>(p) One representative of the Ohio credit union league;</u>	1391
<u>(q) Two representatives of national organizations that focus on elder abuse or sexual violence.</u>	1392
	1393
<u>(2) The following ex officio members:</u>	1394
<u>(a) The attorney general or the attorney general's designee;</u>	1395
	1396
<u>(b) The chief justice of the supreme court of Ohio or the</u>	1397

<u>chief justice's designee;</u>	1398
<u>(c) The governor or the governor's designee;</u>	1399
<u>(d) The director of aging or the director's designee;</u>	1400
<u>(e) The director of job and family services or the</u> <u>director's designee;</u>	1401 1402
<u>(f) The director of health or the director's designee;</u>	1403
<u>(g) The director of mental health and addiction services</u> <u>or the director's designee;</u>	1404 1405
<u>(h) The director of developmental disabilities or the</u> <u>director's designee;</u>	1406 1407
<u>(i) The superintendent of insurance or the</u> <u>superintendent's designee;</u>	1408 1409
<u>(j) The director of public safety or the director's</u> <u>designee;</u>	1410 1411
<u>(k) The state long-term care ombudsman or the ombudsman's</u> <u>designee;</u>	1412 1413
<u>(l) One member of the house of representatives, appointed</u> <u>by the speaker of the house of representatives;</u>	1414 1415
<u>(m) One member of the senate, appointed by the president</u> <u>of the senate.</u>	1416 1417
<u>(B) Members who are appointed shall serve at the pleasure</u> <u>of the appointing authority. Vacancies shall be filled in the</u> <u>same manner as original appointments.</u>	1418 1419 1420
<u>(C) All members of the commission shall serve as voting</u> <u>members. The attorney general shall select from among the</u> <u>appointed members a chairperson. The commission shall meet at</u>	1421 1422 1423

the call of the chairperson, but not less than four times per 1424
year. Special meetings may be called by the chairperson and 1425
shall be called by the chairperson at the request of the 1426
attorney general. The commission may establish its own quorum 1427
requirements and procedures regarding the conduct of meetings 1428
and other affairs. 1429

(D) Members shall serve without compensation, but may be 1430
reimbursed for mileage and other actual and necessary expenses 1431
incurred in the performance of their official duties. 1432

(E) Sections 101.82 to 101.87 of the Revised Code do not 1433
apply to the elder abuse commission. 1434

Sec. 5101.741. (A) The elder abuse commission shall 1435
formulate and recommend strategies on all of the following: 1436

(1) Increasing awareness of and improving education on 1437
elder abuse; 1438

(2) Increasing research on elder abuse; 1439

(3) Improving policy, funding, and programming related to 1440
elder abuse; 1441

(4) Improving the judicial response to elder abuse 1442
victims; 1443

(5) Identifying ways to coordinate statewide efforts to 1444
address elder abuse. 1445

(B) The commission shall review current funding of adult 1446
protective services and shall report on the cost to the state 1447
and county departments of job and family services of 1448
implementing its recommendations. 1449

(C) The commission shall prepare and issue a biennial 1450

report on a plan of action that may be used by local communities 1451
to aid in the development of efforts to combat elder abuse. The 1452
report shall include the commission's findings and 1453
recommendations made under divisions (A) and (B) of this 1454
section. 1455

(D) The attorney general may adopt rules as necessary for 1456
the commission to carry out its duties. The rules shall be 1457
adopted in accordance with section 111.15 of the Revised Code. 1458

Sec. 5101.99. (A) Whoever violates division (A) ~~or (B)~~ of 1459
section ~~5101.61-5101.63~~ of the Revised Code shall be fined not 1460
more than five hundred dollars. 1461

(B) Whoever violates division (A) of section 5101.27 of 1462
the Revised Code is guilty of a misdemeanor of the first degree. 1463

(C) Whoever violates section 5101.133 or division (C) (2) 1464
of section ~~5101.612-5101.631~~ of the Revised Code is guilty of a 1465
misdemeanor of the fourth degree. 1466

Sec. 5123.61. (A) As used in this section: 1467

(1) "Law enforcement agency" means the state highway 1468
patrol, the police department of a municipal corporation, or a 1469
county sheriff. 1470

(2) "Abuse" has the same meaning as in section 5123.50 of 1471
the Revised Code, except that it includes a misappropriation, as 1472
defined in that section. 1473

(3) "Neglect" has the same meaning as in section 5123.50 1474
of the Revised Code. 1475

(B) The department of developmental disabilities shall 1476
establish a registry office for the purpose of maintaining 1477
reports of abuse, neglect, and other major unusual incidents 1478

made to the department under this section and reports received 1479
from county boards of developmental disabilities under section 1480
5126.31 of the Revised Code. The department shall establish 1481
committees to review reports of abuse, neglect, and other major 1482
unusual incidents. 1483

(C) (1) Any person listed in division (C) (2) of this 1484
section, having reason to believe that an individual with a 1485
developmental disability has suffered or faces a substantial 1486
risk of suffering any wound, injury, disability, or condition of 1487
such a nature as to reasonably indicate abuse or neglect of that 1488
individual, shall immediately report or cause reports to be made 1489
of such information to the entity specified in this division. 1490
Except as provided in section 5120.173 of the Revised Code or as 1491
otherwise provided in this division, the person making the 1492
report shall make it to a law enforcement agency or to the 1493
county board of developmental disabilities. If the report 1494
concerns a resident of a facility operated by the department of 1495
developmental disabilities the report shall be made either to a 1496
law enforcement agency or to the department. If the report 1497
concerns any act or omission of an employee of a county board of 1498
developmental disabilities, the report immediately shall be made 1499
to the department and to the county board. 1500

(2) All of the following persons are required to make a 1501
report under division (C) (1) of this section: 1502

(a) Any physician, including a hospital intern or 1503
resident, any dentist, podiatrist, chiropractor, practitioner of 1504
a limited branch of medicine as specified in section 4731.15 of 1505
the Revised Code, hospital administrator or employee of a 1506
hospital, nurse licensed under Chapter 4723. of the Revised 1507
Code, employee of an ~~ambulatory~~ outpatient health facility as 1508

defined in section ~~5101.61~~5101.60 of the Revised Code, employee 1509
of a home health agency, employee of a residential facility 1510
licensed under section 5119.34 of the Revised Code that provides 1511
accommodations, supervision, and personal care services for 1512
three to sixteen unrelated adults, or employee of a community 1513
mental health facility; 1514

(b) Any school teacher or school authority, licensed 1515
professional clinical counselor, licensed professional 1516
counselor, independent social worker, social worker, independent 1517
marriage and family therapist, marriage and family therapist, 1518
psychologist, attorney, peace officer, coroner, or residents' 1519
rights advocate as defined in section 3721.10 of the Revised 1520
Code; 1521

(c) A superintendent, board member, or employee of a 1522
county board of developmental disabilities; an administrator, 1523
board member, or employee of a residential facility licensed 1524
under section 5123.19 of the Revised Code; an administrator, 1525
board member, or employee of any other public or private 1526
provider of services to an individual with a developmental 1527
disability, or any developmental disabilities employee, as 1528
defined in section 5123.50 of the Revised Code; 1529

(d) A member of a citizen's advisory council established 1530
at an institution or branch institution of the department of 1531
developmental disabilities under section 5123.092 of the Revised 1532
Code; 1533

(e) A member of the clergy who is employed in a position 1534
that includes providing specialized services to an individual 1535
with a developmental disability, while acting in an official or 1536
professional capacity in that position, or a person who is 1537
employed in a position that includes providing specialized 1538

services to an individual with a developmental disability and 1539
who, while acting in an official or professional capacity, 1540
renders spiritual treatment through prayer in accordance with 1541
the tenets of an organized religion. 1542

(3) (a) The reporting requirements of this division do not 1543
apply to employees of the Ohio protection and advocacy system. 1544

(b) An attorney or physician is not required to make a 1545
report pursuant to division (C) (1) of this section concerning 1546
any communication the attorney or physician receives from a 1547
client or patient in an attorney-client or physician-patient 1548
relationship, if, in accordance with division (A) or (B) of 1549
section 2317.02 of the Revised Code, the attorney or physician 1550
could not testify with respect to that communication in a civil 1551
or criminal proceeding, except that the client or patient is 1552
deemed to have waived any testimonial privilege under division 1553
(A) or (B) of section 2317.02 of the Revised Code with respect 1554
to that communication and the attorney or physician shall make a 1555
report pursuant to division (C) (1) of this section, if both of 1556
the following apply: 1557

(i) The client or patient, at the time of the 1558
communication, is an individual with a developmental disability. 1559

(ii) The attorney or physician knows or suspects, as a 1560
result of the communication or any observations made during that 1561
communication, that the client or patient has suffered or faces 1562
a substantial risk of suffering any wound, injury, disability, 1563
or condition of a nature that reasonably indicates abuse or 1564
neglect of the client or patient. 1565

(4) Any person who fails to make a report required under 1566
division (C) of this section and who is a developmental 1567

disabilities employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by developmental disabilities employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the individual with a developmental disability and the individual's custodian, if known;

(2) The age of the individual with a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that an individual with a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that an individual with a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement

agency or the county board of developmental disabilities. If the 1597
individual is a resident of a facility operated by the 1598
department of developmental disabilities, the report shall be 1599
made to a law enforcement agency or to the department. If the 1600
report concerns any act or omission of an employee of a county 1601
board of developmental disabilities, the report immediately 1602
shall be made to the department and to the county board. 1603

(G) (1) Upon the receipt of a report concerning the 1604
possible abuse or neglect of an individual with a developmental 1605
disability, the law enforcement agency shall inform the county 1606
board of developmental disabilities or, if the individual is a 1607
resident of a facility operated by the department of 1608
developmental disabilities, the department. 1609

(2) On receipt of a report under this section that 1610
includes an allegation of action or inaction that may constitute 1611
a crime under federal law or the law of this state, the 1612
department of developmental disabilities shall notify the law 1613
enforcement agency. 1614

(3) When a county board of developmental disabilities 1615
receives a report under this section that includes an allegation 1616
of action or inaction that may constitute a crime under federal 1617
law or the law of this state, the superintendent of the board or 1618
an individual the superintendent designates under division (H) 1619
of this section shall notify the law enforcement agency. The 1620
superintendent or individual shall notify the department of 1621
developmental disabilities when it receives any report under 1622
this section. 1623

(4) When a county board of developmental disabilities 1624
receives a report under this section and believes that the 1625
degree of risk to the person is such that the report is an 1626

emergency, the superintendent of the board or an employee of the 1627
board the superintendent designates shall attempt a face-to-face 1628
contact with the individual with a developmental disability who 1629
allegedly is the victim within one hour of the board's receipt 1630
of the report. 1631

(H) The superintendent of the board may designate an 1632
individual to be responsible for notifying the law enforcement 1633
agency and the department when the county board receives a 1634
report under this section. 1635

(I) An adult with a developmental disability about whom a 1636
report is made may be removed from the adult's place of 1637
residence only by law enforcement officers who consider that the 1638
adult's immediate removal is essential to protect the adult from 1639
further injury or abuse or in accordance with the order of a 1640
court made pursuant to section 5126.33 of the Revised Code. 1641

(J) A law enforcement agency shall investigate each report 1642
of abuse or neglect it receives under this section. In addition, 1643
the department, in cooperation with law enforcement officials, 1644
shall investigate each report regarding a resident of a facility 1645
operated by the department to determine the circumstances 1646
surrounding the injury, the cause of the injury, and the person 1647
responsible. The investigation shall be in accordance with the 1648
memorandum of understanding prepared under section 5126.058 of 1649
the Revised Code. The department shall determine, with the 1650
registry office which shall be maintained by the department, 1651
whether prior reports have been made concerning an adult with a 1652
developmental disability or other principals in the case. If the 1653
department finds that the report involves action or inaction 1654
that may constitute a crime under federal law or the law of this 1655
state, it shall submit a report of its investigation, in 1656

writing, to the law enforcement agency. If the individual with a 1657
developmental disability is an adult, with the consent of the 1658
adult, the department shall provide such protective services as 1659
are necessary to protect the adult. The law enforcement agency 1660
shall make a written report of its findings to the department. 1661

If the individual with a developmental disability is an 1662
adult and is not a resident of a facility operated by the 1663
department, the county board of developmental disabilities shall 1664
review the report of abuse or neglect in accordance with 1665
sections 5126.30 to 5126.33 of the Revised Code and the law 1666
enforcement agency shall make the written report of its findings 1667
to the county board. 1668

(K) Any person or any hospital, institution, school, 1669
health department, or agency participating in the making of 1670
reports pursuant to this section, any person participating as a 1671
witness in an administrative or judicial proceeding resulting 1672
from the reports, or any person or governmental entity that 1673
discharges responsibilities under sections 5126.31 to 5126.33 of 1674
the Revised Code shall be immune from any civil or criminal 1675
liability that might otherwise be incurred or imposed as a 1676
result of such actions except liability for perjury, unless the 1677
person or governmental entity has acted in bad faith or with 1678
malicious purpose. 1679

(L) No employer or any person with the authority to do so 1680
shall discharge, demote, transfer, prepare a negative work 1681
performance evaluation, reduce pay or benefits, terminate work 1682
privileges, or take any other action detrimental to an employee 1683
or retaliate against an employee as a result of the employee's 1684
having made a report under this section. This division does not 1685
preclude an employer or person with authority from taking action 1686

with regard to an employee who has made a report under this 1687
section if there is another reasonable basis for the action. 1688

(M) Reports made under this section are not public records 1689
as defined in section 149.43 of the Revised Code. Information 1690
contained in the reports on request shall be made available to 1691
the individual who is the subject of the report, to the 1692
individual's legal counsel, and to agencies authorized to 1693
receive information in the report by the department or by a 1694
county board of developmental disabilities. 1695

(N) Notwithstanding section 4731.22 of the Revised Code, 1696
the physician-patient privilege shall not be a ground for 1697
excluding evidence regarding the injuries or physical neglect of 1698
an individual with a developmental disability or the cause 1699
thereof in any judicial proceeding resulting from a report 1700
submitted pursuant to this section. 1701

Sec. 5126.31. (A) A county board of developmental 1702
disabilities shall review reports of abuse and neglect made 1703
under section 5123.61 of the Revised Code and reports referred 1704
to it under section ~~5101.611~~ 5101.64 of the Revised Code to 1705
determine whether the individual who is the subject of the 1706
report is an adult with a developmental disability in need of 1707
services to deal with the abuse or neglect. The county board 1708
shall give notice of each report to the registry office of the 1709
department of developmental disabilities established pursuant to 1710
section 5123.61 of the Revised Code on the first working day 1711
after receipt of the report. If the report alleges that there is 1712
a substantial risk to the adult of immediate physical harm or 1713
death, the county board shall initiate review within twenty-four 1714
hours of its receipt of the report. If the county board 1715
determines that the individual is sixty years of age or older 1716

but does not have a developmental disability, it shall refer the 1717
case to the county department of job and family services. If the 1718
county board determines that the individual is an adult with a 1719
developmental disability, it shall continue its review of the 1720
case. 1721

(B) For each review over which the county board retains 1722
responsibility under division (A) of this section, it shall do 1723
all of the following: 1724

(1) Give both written and oral notice of the purpose of 1725
the review to the adult and, if any, to the adult's legal 1726
counsel or caretaker, in simple and clear language; 1727

(2) Visit the adult, in the adult's residence if possible, 1728
and explain the notice given under division (B)(1) of this 1729
section; 1730

(3) Request from the registry office any prior reports 1731
concerning the adult or other principals in the case; 1732

(4) Consult, if feasible, with the person who made the 1733
report under section ~~5101.61~~ 5101.63 or 5123.61 of the Revised 1734
Code and with any agencies or persons who have information about 1735
the alleged abuse or neglect; 1736

(5) Cooperate fully with the law enforcement agency 1737
responsible for investigating the report and for filing any 1738
resulting criminal charges and, on request, turn over evidence 1739
to the agency; 1740

(6) Determine whether the adult needs services, and 1741
prepare a written report stating reasons for the determination. 1742
No adult shall be determined to be abused, neglected, or in need 1743
of services for the sole reason that, in lieu of medical 1744
treatment, the adult relies on or is being furnished spiritual 1745

treatment through prayer alone in accordance with the tenets and 1746
practices of a church or religious denomination of which the 1747
adult is a member or adherent. 1748

(C) The county board shall arrange for the provision of 1749
services for the prevention, correction or discontinuance of 1750
abuse or neglect or of a condition resulting from abuse or 1751
neglect for any adult who has been determined to need the 1752
services and consents to receive them. These services may 1753
include, but are not limited to, service and support 1754
administration, fiscal management, medical, mental health, home 1755
health care, homemaker, legal, and residential services and the 1756
provision of temporary accommodations and necessities such as 1757
food and clothing. The services do not include acting as a 1758
guardian, trustee, or protector as defined in section 5123.55 of 1759
the Revised Code. If the provision of residential services would 1760
require expenditures by the department of developmental 1761
disabilities, the county board shall obtain the approval of the 1762
department prior to arranging the residential services. 1763

To arrange services, the county board shall: 1764

(1) Develop an individualized service plan identifying the 1765
types of services required for the adult, the goals for the 1766
services, and the persons or agencies that will provide them; 1767

(2) In accordance with rules established by the director 1768
of developmental disabilities, obtain the consent of the adult 1769
or the adult's guardian to the provision of any of these 1770
services and obtain the signature of the adult or guardian on 1771
the individualized service plan. An adult who has been found 1772
incompetent under Chapter 2111. of the Revised Code may consent 1773
to services. If the county board is unable to obtain consent, it 1774
may seek, if the adult is incapacitated, a court order pursuant 1775

to section 5126.33 of the Revised Code authorizing the board to 1776
arrange these services. 1777

(D) The county board shall ensure that the adult receives 1778
the services arranged by the board from the provider and shall 1779
have the services terminated if the adult withdraws consent. 1780

(E) On completion of a review, the county board shall 1781
submit a written report to the registry office established under 1782
section 5123.61 of the Revised Code. If the report includes a 1783
finding that an individual with a developmental disability is a 1784
victim of action or inaction that may constitute a crime under 1785
federal law or the law of this state, the board shall submit the 1786
report to the law enforcement agency responsible for 1787
investigating the report. Reports prepared under this section 1788
are not public records as defined in section 149.43 of the 1789
Revised Code. 1790

Section 2. That existing sections 173.501, 173.521, 1791
173.542, 1347.08, 2317.54, 4715.36, 5101.60, 5101.61, 5101.611, 1792
5101.612, 5101.62, 5101.622, 5101.63, 5101.64, 5101.65, 5101.66, 1793
5101.67, 5101.68, 5101.69, 5101.691, 5101.692, 5101.70, 5101.71, 1794
5101.72, 5101.99, 5123.61, and 5126.31 and section 5101.621 of 1795
the Revised Code are hereby repealed. 1796

Section 3. Sections 1 and 2 of this act shall take effect 1797
one year after the effective date of this act. 1798