

Adult Protective Services: Laws and Regulations

APS Ohio Revised Codes and Ohio Administrative Codes

Ohio Revised Code

5101.60 Adult protective services definitions.

As used in sections 5101.60 to 5101.73 of the Revised Code:

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

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

(C) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

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

(E) "Caretaker" means the person assuming the primary responsibility for the care of an adult by any of the following means:

- (1) On a voluntary basis;
- (2) By contract;
- (3) Through receipt of payment for care;
- (4) As a result of a family relationship;
- (5) By order of a court of competent jurisdiction.

(F) "Community mental health agency" means any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in section 340.99 of the Revised Code.

(G) "Court" means the probate court in the county where an adult resides.

(H) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(I) "Emergency services" means protective services furnished to an adult in an emergency.

(J) "Exploitation" means the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:

- (1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;

(2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;

(3) By deception;

(4) By threat;

(5) By intimidation.

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

(L) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated.

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

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

(O) "Neglect" means any of the following:

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

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

(3) Abandonment.

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

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

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

(S) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

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

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

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

5101.61 Implementing adult protective services.

(A) The county departments of job and family services shall implement sections 5101.60 to 5101.71 of the Revised Code.

(B) The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code to carry out the purposes of sections 5101.60 to 5101.71 of the Revised Code. The rules adopted pursuant to this division may include a requirement that the county departments provide on forms prescribed by the rules a plan of proposed expenditures, and a report of actual expenditures, of funds necessary to implement sections 5101.60 to 5101.71 of the Revised Code and other requirements for intake procedures, investigations, case management, and the provision of protective services.

5101.611 Reimbursing costs of providing services.

The department of job and family services may reimburse county departments of job and family services for all or part of the costs they incur in implementing sections 5101.60 to 5101.73 of the Revised Code. The director of job and family services shall adopt internal management rules in accordance with section 111.15 of the Revised Code that provide for reimbursement of county departments of job and family services under this section.

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

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

(B) Require the county departments to collect and submit to the department, or ensure that a designated agency collects and submits to the department, data concerning the implementation of sections 5101.60 to 5101.73 of the Revised Code.

5101.62 Training program.

The department of job and family services shall do all of the following:

(A) Provide a program of ongoing, comprehensive, formal training on the implementation of sections 5101.60 to 5101.73 of the Revised Code and require all protective services caseworkers and their supervisors to undergo the training;

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

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

5101.621 Memorandum of understanding related to responsibilities in cases of adult abuse, neglect, and exploitation.

(A) Each county department of job and family services shall prepare a memorandum of understanding that is signed by all of the following:

(1) The director of the county department of job and family services;

(2) If the county department has entered into an interagency agreement with a local agency pursuant to section 5101.622 of the Revised Code, the director of the local agency;

(3) The county peace officer;

(4) All chief municipal peace officers within the county;

(5) Other law enforcement officers handling adult abuse, neglect, and exploitation cases in the county;

(6) The prosecuting attorney of the county;

(7) The coroner of the county.

(B) The memorandum of understanding shall set forth the procedures to be followed by the persons listed in division (A) of this section in the execution of their respective responsibilities related to cases of adult abuse, neglect, and exploitation. The memorandum of understanding shall establish all of the following:

(1) An interdisciplinary team to coordinate efforts related to the prevention, reporting, and treatment of abuse, neglect, and exploitation of adults;

(2) The roles and responsibilities for handling cases that have been referred by the county department to another agency pursuant to section 5101.611 of the Revised Code;

(3) The roles and responsibilities for filing criminal charges against persons alleged to have abused, neglected, or exploited adults.

Failure to follow the procedure set forth in the memorandum of understanding is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from a report of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of a report of abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.

(C) The memorandum of understanding may, in addition, be signed by any of the following persons who are also members of the interdisciplinary team described in division (B)(1) of this section:

(1) A representative of the area agency on aging, as defined in section 173.14 of the Revised Code;

(2) The regional long-term care ombudsman;

(3) A representative of the board of alcohol, drug addiction, and mental health services;

(4) A representative of the board of health of a city or general health district;

(5) A representative of the county board of developmental disabilities;

(6) A representative of a victim assistance program;

(7) A representative of a local housing authority;

(8) Any other person whose participation furthers the goals of the memorandum of understanding.

5101.63 Reporting abuse, neglect or exploitation of adult.

(A) As used in this section:

(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.

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

- (a) An attorney admitted to the practice of law in this state;
- (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;
- (c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;
- (d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;
- (e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;
- (f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;
- (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;
- (h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;
- (i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;
- (j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;
- (k) An employee of an outpatient health facility;
- (l) An employee of a hospital, as defined in section 3727.01 of the Revised Code;
- (m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code;
- (n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;
- (o) An employee of a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;
- (p) An employee of a health department 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;

- (q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code;
- (r) An agent of a county humane society organized under section 1717.05 of the Revised Code;
- (s) An individual who is a firefighter for a lawfully constituted fire department;
- (t) An individual who is an ambulance driver for an emergency medical service organization, as defined in section 4765.01 of the Revised Code;
- (u) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic, as those terms are defined in section 4765.01 of the Revised Code;
- (v) An official employed by a local building department to conduct inspections of houses and other residential buildings;
- (w) A peace officer;
- (x) A coroner;
- (y) A member of the clergy;
- (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;
- (aa) An individual licensed under Chapter 4735. of the Revised Code as a real estate broker or real estate salesperson;
- (bb) An individual appointed and commissioned under section 147.01 of the Revised Code as a notary public;
- (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;
- (dd) An investment adviser, as defined in section 1707.01 of the Revised Code;
- (ee) A financial planner accredited by a national accreditation agency;
- (ff) Any other individual who is a senior service provider.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause a report to be made of such belief to the county department of job and family services.

This division applies to a representative of the office of the state long-term care program only to the extent permitted by federal law.

(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 department. Written reports shall include:

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

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

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

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

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

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

(1) Discharge, demote, transfer, or prepare a negative work performance evaluation;

(2) Reduce benefits, pay, or work privileges;

(3) Take any other action detrimental to an employee or in any way retaliate against the employee.

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

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

5101.631 Uniform statewide automated adult protective services information system.

(A) The department of job and family services shall establish and maintain a uniform statewide automated adult protective services information system. The information system shall contain records regarding all of the following:

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

(2) Investigations conducted under section 5101.65 of the Revised Code;

(3) Protective services provided to adults pursuant to sections 5101.60 to 5101.73 of the Revised Code;

(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)(1) of this section and in rules adopted by the department pursuant to that division, no person shall knowingly do either of the following:

- (a) Access or use information contained in the information system;
- (b) Disclose information obtained from the information system.

5101.632 Access to educational materials.

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

5101.64 Referring cases of abuse.

(A) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.63 of the Revised Code or of an investigation conducted under section 5101.65 of the Revised Code is an individual with a developmental disability as defined in section 5126.01 of the Revised Code, the county department shall refer the case to the county board of developmental disabilities of that county for review pursuant to section 5126.31 of the Revised Code.

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

(B) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.63 of the Revised Code or of an investigation conducted under section 5101.65 of the Revised Code is a resident of a long-term care facility, as defined in section 173.14 of the Revised Code, the department shall refer the case to the office of the state long-term care ombudsman program for review pursuant to section 173.19 of the Revised Code.

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

(C) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.63 of the Revised Code or of an investigation conducted under section 5101.65 of the Revised Code is a resident of a nursing home, as defined in section 3721.01 of the Revised Code, and has allegedly been abused, neglected, or exploited by an employee of the nursing home, the department shall refer the case to the department of health for investigation pursuant to section 3721.031 of the Revised Code.

(D) If a county department of job and family services knows or has reasonable cause to believe that the subject of a report made under section 5101.63 of the Revised Code or of an investigation conducted under section 5101.65 of the Revised

Code is a child, as defined in section 5153.01 of the Revised Code, the department shall refer the case to the public children services agency of that county.

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

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

5101.65 Investigations.

The county department of job and family services or its designee shall be responsible for the investigation of all reports provided for in section 173.20 or 5101.63 and all cases referred to it under section 5126.31 of the Revised Code and for evaluating the need for and, to the extent of available funds, providing or arranging for the provision of protective services.

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

Investigation of the need for protective services shall include a face-to-face visit with the adult who is the subject of the report, preferably in the adult's residence, and consultation with the person who made the report, if feasible, and agencies or persons who have information about the adult's alleged abuse, neglect, or exploitation.

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

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

5101.651 Temporary restraining order.

If, during the course of an investigation conducted under section 5101.65 of the Revised Code, any person, including the adult who is the subject of the investigation, denies or obstructs access to the residence of the adult, the county department of job and family services may file a petition in court for a temporary restraining order to prevent the interference or obstruction. The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the adult is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. Such a finding is prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. After obtaining an order restraining the obstruction of or interference with the access of the protective services representative, the representative may be accompanied to the residence by a peace officer.

5101.652 Authority to contract with other entities to perform certain duties.

The county department of job and family services may enter into an agreement or contract with another person or government entity to perform the following duties:

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

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

(C) Petition the court pursuant to section 5101.68 or 5101.70 of the Revised Code for an order authorizing the provision of protective services.

5101.66 Request or consent to receiving protective services.

Any person who requests or consents to receive protective services shall receive such services only after an investigation and determination of a need for protective services. The investigation shall be performed in the same manner as the investigation of a report pursuant to section 5101.65 of the Revised Code. If the person withdraws consent, the protective services shall be terminated.

5101.68 Petitioning for court order to provide protective services.

If the county department of job and family services determines that an adult is in need of protective services and is an incapacitated person, the department may petition the court for an order authorizing the provision of protective services. If the adult is in need of protective services as a result of exploitation, the county prosecutor may file the petition. The petition shall state the specific facts alleging the abuse, neglect, or exploitation and shall include a proposed protective service plan. Any plan for protective services shall be specified in the petition.

5101.681 Notice of petition.

Notice of a petition for the provision of court-ordered protective services as provided for in section 5101.68 of the Revised Code shall be personally served upon the adult who is the subject of the petition at least five working days prior to the date set for the hearing as provided in section 5101.682 of the Revised Code. Notice shall be given either orally or in writing in language reasonably understandable to the adult. The notice shall include the names of all petitioners, the basis of the belief that protective services are needed, the rights of the adult in the court proceedings, and the consequences of a court order for protective services. The adult shall be informed of the right to counsel and the right to appointed counsel if the adult is indigent and if appointed counsel is requested. Written notice by certified mail shall also be given to the adult's guardian, legal counsel, caretaker, and spouse, if any, or if the adult has none of these, to the adult's adult children or next of kin, if any, or to any other person as the court may require. The adult who is the subject of the petition may not waive notice as provided in this section.

5101.682 Hearing.

(A) The court shall hold a hearing on the petition as provided in section 5101.68 of the Revised Code within fourteen days after its filing. The adult who is the subject of the petition shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The adult shall be represented by counsel unless the right to counsel is knowingly waived. If the adult is indigent, the court shall appoint counsel to represent the adult. If the court determines that the adult lacks the capacity to waive the right to counsel, the court shall appoint counsel to represent the adult's interests.

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

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

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

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

5101.69 Temporary restraining order to restrain person from interfering with provision of protective services.

(A) If an adult has consented to the provision of protective services but any other person refuses to allow such provision, the county department of job and family services or the county prosecutor may petition the court for a temporary restraining order to restrain the person from interfering with the provision of protective services for the adult.

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

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

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

5101.70 Emergency order.

(A) Upon petition by the county department of job and family services, the department's designee, or the county prosecutor, the court may issue an order authorizing the provision of protective services on an emergency basis to an adult. The petition for any emergency order shall include all of the following:

- (1) The name, age, and address of the adult in need of protective services;
- (2) The nature of the emergency;
- (3) The proposed protective services;
- (4) The petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the circumstances described in divisions (D)(1) to (3) of this section;
- (5) Facts showing the petitioner's attempts to obtain the adult's consent to the protective services.

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

- (1) Immediate and irreparable physical harm or immediate and irreparable financial harm to the adult or others will result from the twenty-four hour delay;
- (2) Reasonable attempts have been made to notify the adult, the adult's spouse, or, if the adult has none, the adult's adult children or next of kin, if any, and the adult's guardian, if any, if the guardian's whereabouts are known.

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

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

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

- (1) The adult is an incapacitated person;
- (2) An emergency exists;
- (3) No person authorized by law or court order to give consent for the adult is available or willing to consent to emergency services.

(E) In issuing an emergency order, the court shall adhere to the following limitations:

- (1) The court shall order only such protective services as are necessary and available locally to remove the conditions creating the emergency, and the court shall specifically designate those protective services the adult shall receive;
- (2) The court shall not order any change of residence under this section unless the court specifically finds that a change of residence is necessary;
- (3) The court may order emergency services only for fourteen days. The county department, the department's designee, or the county prosecutor may petition the court for a renewal of the order for a fourteen-day period upon a showing that continuation of the order is necessary to remove the emergency.
- (4) In its order the court shall authorize the director of the county department, the director's designee, or a representative of the department's designee to give consent for the person for the approved emergency services until the expiration of the order;
- (5) The court shall not order a person to a hospital or public hospital as defined in section 5122.01 of the Revised Code.

(F) If the county department or its designee determines that the adult continues to need protective services after the order provided for in division (D) of this section has expired, the county department, the department's designee, or the county prosecutor may petition the court for an order to continue protective services, pursuant to section 5101.68 of the Revised Code. After the filing of the petition, the county department or its designee may continue to provide protective services pending a hearing by the court.

5101.701 Ex parte emergency order authorizing provision of protective services.

(A) A court, through a probate judge or a magistrate under the direction of a probate judge, may issue by telephone an ex parte emergency order authorizing the provision of protective services, including the relief available under division (B) of section 5101.702 of the Revised Code, to an adult on an emergency basis if all of the following are the case:

- (1) The court receives notice from the county department of job and family services, an authorized employee of the county department, the department's designee, or an authorized employee of the department's designee, that the county department, designee, or employee believes an emergency order is needed as described in this section.
- (2) There is reasonable cause to believe that the adult is incapacitated.

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

(B)

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

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

(C)

(1) Except as provided in division (C)(2) of this section, not later than twenty-four hours after an order is issued under this section, a petition shall be filed with the court in accordance with division (A) of section 5101.70 of the Revised Code.

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

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

5101.702 Hearing.

(A) If an order is issued pursuant to section 5101.701 of the Revised Code, the court shall hold a hearing not later than twenty-four hours after the issuance to determine whether there is probable cause for the order, except that if the day following the day on which the order is issued is not a working day, the court shall hold the hearing on the next working day.

(B) At the hearing, the court:

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

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

(3) May order emergency services;

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

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

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

5101.71 Evaluating ability to pay for services.

(A) If it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of job and family services shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means, the department shall initiate procedures for reimbursement pursuant to rules adopted under section 5101.61 of the Revised Code. If the evaluation establishes that the adult does not have such financial means, the services shall be provided in accordance with the policies and procedures established by the department of job and family services for the provision of welfare assistance. An adult shall not be required to pay for

court-ordered protective services unless the court determines that the adult is financially able to pay and the court orders the adult to pay.

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

5101.73 Denial or obstruction of access to adult victim's residence.

If, during the course of an investigation by a local law enforcement agency of criminal exploitation, any person, including the adult who is the alleged victim, denies or obstructs access to the residence of the adult, the county prosecutor may file a petition in court for a temporary restraining order to prevent the interference or obstruction. The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the adult is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. Such a finding is prima facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. After obtaining an order restraining the obstruction or interference with the access of the local law enforcement agency representative, the representative may be accompanied to the residence by a peace officer.

Ohio Administrative Code

5101:2-20-01 Adult protective services definitions.

(A) This rule contains the definitions of terms used in Chapter 5101:2-20 of the Administrative Code.

(B) Definitions.

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

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

(3) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

(4) "Adult protective services" means an array of services provided to adults who are at risk of abuse, neglect or exploitation. Services include but are not limited to: intake/ referral, investigating reports of abuse, neglect, or exploitation, and protective services as defined in paragraph (B)(28) of this rule.

(5) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(6) "Caretaker" means a person assuming the primary responsibility for the care of an adult by any of the following means:

- (a) On a voluntary basis;
- (b) By contract;
- (c) Through receipt of payment for care;
- (d) As a result of a family relationship;
- (e) By the order of a court of competent jurisdiction.

(7) "Case management" means services performed or arranged by the county department of job and family services (CDJFS) or its designated agency to manage the life cycle of an adult protective services case.

(8) "Case record" means the permanent documentation of the assessment/ investigation and the provision of protective or social services to vulnerable adults maintained as hard copy files, electronic files, or as a combination of both.

(9) "Caseworker" as used in rule 5101:2-20-07 of the Administrative Code means a CDJFS or its designated agency's staff person who is responsible for the provision of adult protective services.

(10) "Community mental health agency" means any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in section 340.99 of the Revised Code.

(11) "Court" means the probate court in the county where an adult resides.

(12) "Designated agency" means an agency which is designated through a contract/ written agreement with the CDJFS to perform the department's duties of receiving and investigating reports of suspected abuse, neglect, or exploitation; evaluating the need for, and to the extent of available funds, providing or arranging for the provision of protective services.

(13) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(14) "Emergency services" means protective services furnished to an adult in an emergency.

(15) "Emotional abuse" means to threaten, humiliate, intimidate, or psychologically harm an adult. Also, the violation of an adult's right to make decisions and loss of privacy.

(16) "Exploitation" means the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:

(a) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf.

(b) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf.

(c) By deception.

(d) By threat.

(e) By intimidation.

A person is an individual who is known to the adult subject through a familial and/or social relationship.

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

(18) "Incapacitated person" means a person who is impaired for any reason to the extent that he lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated.

(19) "Independent living arrangement" means a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. "Independent living arrangement" includes 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, but does not include any other institution or facility licensed by the state or a facility in which a person resides as a result of voluntary, civil, or criminal commitment.

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

(21) "Neglect" means any of the following:

- (a) Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness;
 - (b) Failure of a caretaker to provide such goods or services;
 - (c) Abandonment.
- (22) "Nonvalidated report (unsubstantiated)" means no evidence to verify or substantiate the allegation of abuse/self-neglect/neglect/exploitation.
- (23) "Outpatient health facility" means a facility where medical care and preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services are provided to outpatients by or under the direction of a physician or dentist.
- (24) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.
- (25) "Physical abuse" means intentional use of physical force resulting in bodily injury, pain or impairment.
- (26) "Physical harm" means bodily pain, injury, impairment or disease suffered by an adult.
- (27) "Principals of the case" are the alleged adult victim or the adult subject of the report, the caretaker of the alleged adult victim or adult subject of the report and the alleged perpetrator.
- (28) "Protective services" means services provided by the CDJFS or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction or discontinuance of an act of, as well as, conditions resulting from abuse, neglect or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.
- (29) "Reasonable decisions" means decisions made in daily living that facilitate the provision of food, shelter, clothing, and health care necessary for life support.
- (30) "Referral" means a verbal or written statement received by the CDJFS from any person who has reason to believe that an adult has suffered or is suffering abuse, neglect or exploitation.
- (31) "Report" means a referral accepted to be investigated by the CDJFS as a result of a screening decision.
- (32) "Screening" means the process of receiving and recording information from any person to determine whether the information provided should be accepted as a report of adult abuse, neglect or exploitation or screened out.
- (33) "Senior service provider" means a person who provides care or specialized services to an adult, except that it does not include the state long-term care ombudsman or a regional long-term care ombudsman.
- (34) "Sexual abuse" means nonconsensual sexual contact of any kind with an adult regardless of age of the perpetrator.
- (35) "Supervisor" as used in rule 5101:2-20-07 of the Administrative Code means a person who is employed by the CDJFS or its designee to oversee, direct or manage one or more workers employed by the agency in an adult protective services capacity.

(36) "Validated (substantiated)" means confirming evidence that substantiates or verifies the allegation of abuse/self-neglect/neglect/exploitation.

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

5101:2-20-02 Adult database for adult protective services (ODAPS).

(A) Pursuant to sections 5101.61 and 5101.62 of the Revised Code (ORC), each county department of job and family services (CDJFS), or its designated agency, shall collect and submit data to the Ohio department of job and family services (ODJFS) concerning the implementation of sections 5101.60 to 5101.73 of the Revised Code.

(B) The CDJFS, or its designated agency, shall record all case record information as required in rule 5101:2-20-04 of the Administrative Code in the Ohio database for adult protective services information system (ODAPS) maintained by ODJFS.

(C) Access to, and use of, data in ODAPS shall be limited to the extent necessary to carry out the adult protective services program.

(1) Access will be granted by ODJFS based on the request of the CDJFS or its designated agency.

(2) The CDJFS or its designated agency shall notify ODJFS of any and all personnel changes in relation to staff access needs for ODAPS.

(D) The CDJFS shall ensure that personnel having access to ODAPS (including those of its designated agency) shall be limited to personnel meeting all of the following requirements:

(1) Those persons who have been trained in the confidentiality requirements of ODAPS.

(2) Those persons who are informed of all penalties related to the misuse/abuse of ODAPS.

(3) Those persons who have been trained in security requirements and procedures.

(4) Those persons who have signed the JFS 07078 "Code of Responsibility" (rev. 7/2017).

(E) The data in ODAPS is confidential and dissemination of any adult protective services case information shall be pursuant to rule 5101:2-20-05 of the Administrative Code.

(F) The CDJFS, or its designated agency, shall monitor access to and use of ODAPS to prevent and identify unauthorized use.

(G) In addition to the criminal penalty provision listed in section 5101.99 of the Revised Code, the CDJFS, and its designated agency, shall have administrative penalties, up to and including dismissal from employment, for unauthorized access to or disclosure or use of data in ODAPS.

(H) Each CDJFS, or its designee, shall enter adult protective services data into ODAPS including, but not limited to all information listed in rule 5101:2-20-04 of the Administrative Code.

(I) The CDJFS, or its designee, shall enter and update information in ODAPS no later than three days after the occurrence of an event or as the information becomes available.

(J) The CDJFS, or its designee, shall enter applicable adult protective services information required in this rule and/or by federal or state statute, regulation, or rule directly into ODAPS.

5101:2-20-03 Adult protective services designated agency provisions.

(A) The county department of job and family services (CDJFS) may designate another agency to perform the following duties:

- (1) Receive and screen referrals, and investigate reports of abuse, neglect, or exploitation.
- (2) Evaluate the need for protective services.
- (3) To the extent of available funds, provide or arrange for the provision of protective services.

(B) The CDJFS shall specify the duties of the designated agency. The designated agency shall perform the duties mutually agreed upon and comply with rules 5101:2-20-04, 5101:2-20-05, 5101:2-20-11, 5101:2-20-12, 5101:2-20-13, 5101:2-20-14, 5101:2-20-16 and 5101:9-14-02 of the Administrative Code.

(C) The CDJFS shall enter into a contract or written agreement with the agency it selects to act as its designated agency.

(D) The CDJFS has the ultimate responsibility to insure that all reports assigned to a designated agency are investigated and managed in compliance with the law.

5101:2-20-04 Adult protective services case records.

(A) Pursuant to section 5101.66 of the Revised Code, each county department of job and family services (CDJFS) or its designated agency shall develop, maintain, and permanently keep a case record for each adult who is the subject of a referral of abuse, neglect, or exploitation. This case record shall document all activities performed by the CDJFS or its designated agency from the time of receipt of the referral of abuse, neglect, or exploitation until the closing of the case.

(B) The CDJFS or its designated agency shall record all case record information in the Ohio database for adult protective services information system (ODAPS) maintained by the Ohio department of job and family services (ODJFS). The information contained in ODAPS will constitute the actual, official, and permanent case record.

(C) The case record shall contain all information, pictures, documents and communications pertaining to the investigation of a report of abuse, neglect, or exploitation, and the provision of services to alleviate any indicated concerns.

(D) The case record shall contain case notes which document chronologically all activities performed during the investigation, assessment, case planning, and provision of services. The case notes shall include but are not limited to:

- (1) Phone calls.
- (2) Personal interviews.
- (3) Reason and date for adult protective service termination.
- (4) Dates(s) of receipt and preparation of documentation or communication as specified in paragraph (C) of this rule.

(E) Each case record prepared, maintained and permanently kept in accordance with paragraph (A) to (D) of this rule shall contain, but not be limited to, the following information, as applicable:

- (1) Information on each referral received by the CDJFS, or its designated agency, alleging abuse, neglect, or exploitation, including the screening decision pursuant to rule 5101:2-20-11 of the Administrative Code.
- (2) Information on each referral received by the CDJFS, or its designated agency, that is categorized and screened as an information and/or referral intake pursuant to rule 5101:2-20-11 of the Administrative Code.
- (3) Documentation that the CDJFS, or its designated agency, has attempted to locate the correct address of the principals of the report, and make required face-to-face contacts with the principals of the report as required in rule 5101:2-20-12 of the Administrative Code.
- (4) Justification for all extensions and waivers executed for failing to complete any information gathering activity as set forth in rule 5101:2-20-12 of the Administrative Code.
- (5) Documentation of the CDJFS's, or its designated agency's, request for assistance from law enforcement during the course of the investigation/assessment and the corresponding rationale for the request.
- (6) Copies of all assessments used in assessing/investigating abuse, neglect, and exploitation reports, or determining the need for continued services.
- (7) Case notes concerning the activities and statements of persons involved in the case, describing the activity or statements, naming the persons involved, and stating the dates of occurrence.
 - (a) Case notes shall be prepared at or near the time of the occurrence being recorded and shall be prepared by or under the supervision of the staff member with the most direct knowledge of the occurrence.
 - (b) Opinions of CDJFS staff, its designated agency staff, and others included in case notes or dictation shall be identified as such.
- (8) Documentation of verbal, written, or electronic referrals made by the CDJFS, or its designated agency, on behalf of the client and all principles being served by the CDJFS, or its designated agency, to community service providers, including other public agencies and private agencies.
- (9) Documentation of the decision to transfer the case, or make a referral regarding the case, to a CDJFS or its designated agency in another county.
 - (a) The case record shall include a narrative of the discussion held with the proposed receiving CDJFS, or its designated agency, and any decisions made during that discussion.
 - (b) If the proposed receiving CDJFS or its designated agency declines to accept the transfer of the case, the CDJFS responsible for the case, or its designee, shall make a referral to the proposed receiving CDJFS or its designated agency and document this in the case record before closing the case.
- (10) Documentation of the services provided directly by the CDJFS, or its designated agency staff, to the client and other principles, including the dates of service.
- (11) Reports from service providers, including but not limited to medical, educational, psychological, diagnostic, and treatment services.
- (12) Copies of written notification to the prosecuting attorney when a mandated referent/reporter fails to make a report of abuse, neglect, or exploitation.

- (13) Documentation and/or copies of all required assessment/investigation notifications and referrals.
- (14) Documentation of any assessment/investigation information provided to a county interdisciplinary team (I-Team), or evaluation team, for case review.
- (15) Required notations and copies of any forms for any release of information including written permission from the director or his designee, when information is released as set forth in rule 5101:2-20-05 of the Administrative Code.
- (16) A copy of all complaints, motions, petitions, pleadings, and other documents submitted to the court by the CDJFS, its designated agency, or any other party.
- (17) A copy of all court orders, findings, written determinations and journalized entries from the court.
- (18) Copies of applications for financial or social service support programs.
- (19) Documentation that the CDJFS, or its designated agency, has verified the citizenship or immigration status of the client, as applicable.
- (20) Documentation of all visits and communications with the principles of the case as required in rule 5101:2-20-16 of the Administrative Code.
- (21) Documentation of case plan development, review, necessary amendments, and signatures as required by rule 5101:2-20-16 of the Administrative Code.

(F) Any case information or documentation that cannot be directly entered into ODAPS shall be uploaded into the system and maintained as part of the electronic case record.

(G) The case record shall be considered confidential and not public record. Information contained in the case record shall, upon request, be made available by the CDJFS or its designated agency to the adult who is the subject of the report, and legal counsel for the adult as required in rule 5101:2-20-05 of the Administrative Code.

5101:2-20-05 Confidentiality and dissemination of adult protective services information.

(A) Each referral, assessment/investigation and record of provision of services related to reports of adult abuse, neglect or exploitation is confidential as defined in section 149.43 of the Revised Code. Information in the statewide adult protective services information system is confidential and is not subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code. Information may be shared only when dissemination is authorized by this rule.

(B) If any person commits, causes, permits or encourages unauthorized dissemination of information, the county department of job and family services (CDJFS) or its designee shall give written notification of such unauthorized dissemination to the county prosecutor or city director of law and the Ohio department of job and family services (ODJFS). A copy of the written notification shall be maintained in the case record.

(C) The CDJFS or its designee shall not release the identity of the referent/reporter, or any person providing information during the course of an assessment/investigation. The identities of these individuals shall not be released or affirmed by the CDJFS or its designee to any party without the written consent of the individual(s) involved, except to those individuals outlined in paragraph (D) of this rule.

(D) The CDJFS or its designee may release the identity of the referent/reporter or any person providing information during the course of an assessment investigation to the following entities:

- (1) ODJFS staff with supervisory responsibility in the administration of Ohio's adult protective services program.

- (2) Law enforcement when investigating a criminal case.
- (3) The county prosecutor when information is needed for criminal proceedings.
- (4) Another CDJFS or its designee assessing/investigating an adult abuse, neglect or exploitation report involving a principal of the case.

(E) The CDJFS or its designee shall release case information contained in the adult protective services report, excluding the identity of the referent/reporter or any person providing information during the course of an assessment/investigation, to the following persons or entities:

- (1) Upon request, the information shall be released to:
 - (a) The adult who is the subject of the report.
 - (b) Legal counsel for the adult.
- (2) The court, for the purpose of issuing any of the following:
 - (a) An ex parte order.
 - (b) A restraining order due to the obstruction of an investigation.
 - (c) A protective services order or emergency protective services order.
 - (d) A guardianship order.
- (3) Law enforcement when investigating a criminal case.
- (4) The coroner, to assist in the evaluation of an adult's death due to alleged abuse and/or neglect.
- (5) To agencies authorized by the CDJFS or its designee for the purpose of assessing/investigating an adult abuse, neglect and/or exploitation report.

(F) No person shall knowingly do either of the following:

- (1) Access or use information contained in the adult protective services information system or case record for any purposes except as authorized by this rule.
- (2) Disclose information obtained from the adult protective services case record to any entity not authorized by paragraph (D) or (E) of this rule.

(G) Information within the adult protective services referral, report or information system shall not be used for the following purposes:

- (1) Screening for employment.
- (2) Screening for volunteerism.
- (3) Screening for the purpose of any other background search, that would limit an individual opportunities that would otherwise be afforded to them without this information.

5101:2-20-06 The county adult protective services memorandum of understanding.

(A) The county adult protective services memorandum of understanding, hereinafter referred to as the memorandum, is a document that sets forth the normal operating procedures to be employed by all concerned officials in the execution of their respective responsibilities pursuant to section 5101.621 of the Revised Code when conducting elder abuse, neglect or exploitation assessments or investigations. The purpose of the memorandum is to delineate clearly the role and responsibilities of each official or agency in assessing or investigating elder abuse, neglect or exploitation in the county. The respective duties and requirements of all involved shall be addressed in the memorandum.

(B) Each county department of job and family services (CDJFS) shall prepare a memorandum described in paragraph (A) of this rule to be signed by all of the following:

- (1) The director of the CDJFS.
- (2) The director of the designated agency if the county department has entered into an interagency agreement with another entity pursuant to section 5101.652 of the Revised Code.
- (3) The county peace officer.
- (4) All chief municipal peace officers within the county.
- (5) Other law enforcement officers handling adult abuse, neglect, and exploitation cases in the county.
- (6) The prosecuting attorney of the county.
- (7) The coroner of the county.

(C) The memorandum shall set forth the procedures to be followed by the persons listed in paragraph (B) of this rule in the execution of their respective responsibilities related to cases of adult abuse, neglect, and exploitation. The memorandum shall establish all of the following:

- (1) An interdisciplinary team to coordinate efforts related to the prevention, reporting, and treatment of abuse, neglect, and exploitation of adults.
- (2) The roles and responsibilities for handling cases that have been referred by the CDJFS or designated agency to another agency pursuant to section 5101.64 of the Revised Code.
- (3) The roles and responsibilities for filing criminal charges against persons alleged to have abused, neglected, or exploited adults.

(D) The memorandum may, in addition, be signed by any of the following persons who are also members of the interdisciplinary team described in paragraph (C)(1) of this rule:

- (1) A representative of the area agency on aging, as defined in section 173.14 of the Revised Code.
- (2) The regional long-term care ombudsman.
- (3) A representative of the board of alcohol, drug addiction, and mental health services.
- (4) A representative of the board of health of a city or general health district.

- (5) A representative of the county board of developmental disabilities.
- (6) A representative of a victim assistance program.
- (7) A representative of a local housing authority.
- (8) Any other person whose participation furthers the goals of the memorandum.

(E) The memorandum shall include all of the following:

- (1) Signatures from participating agencies which must include, at a minimum, the individuals listed in paragraph (B) of this rule.
- (2) A confidentiality statement to address how information is to be shared while protecting the privacy of the client and his/her family. The confidentiality statement shall also clearly identify the individual to be notified in the event of a breach or suspected breach of confidentiality and a provision that the terms of confidentiality remain after the termination or expiration of the agreement.
- (3) A terms and conditions section that identifies the time period of the agreement and how to address modifications to the agreement.

(F) The memorandum may, in addition, include the screening procedure to be followed, in accordance with paragraph (B) of rule 5101:2-20-11 of the Administrative Code, when a written and/or oral referral is received on a day that is not a working day and after business hours on working days.

(G) Each CDJFS shall complete the memorandum no later than July 1, 2016.

(H) If an amendment to an existing memorandum is necessary for any reason, the CDJFS shall complete the amendment within ninety days of the identified need and do both of the following:

- (1) Have the amendment signed by all parties affected by the amendment.
- (2) Provide a written copy of the signed amendment to all signors of the memorandum.

(I) Failure to follow the guidelines set forth in the memorandum required by this rule is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from any report of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of a report of abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.

5101:2-20-07 Education and in-service training requirements for APS caseworkers and supervisors.

(A) Adult protective services (APS) caseworkers hired on or after September 29, 2015 shall complete APS core training:

- (1) At a minimum, the following APS core training courses shall be completed within the first year of continuous employment:
 - (a) APS laws and regulations.
 - (b) Dynamics of elder abuse.
 - (c) The aging process.

(2) The following APS core training courses shall be completed at any time during the first two years of continuous employment:

- (a) APS risk assessment.
- (b) APS values and ethics.
- (c) Case planning.
- (d) Collaboration in APS.
- (e) Initial investigation.
- (f) Professional communication.

(B) A minimum of eighteen hours of the training required in paragraph (A) of this rule shall be completed through instructor led courses. The remaining core requirements shall be completed through either instructor led or online courses.

(C) Caseworkers considered backup or on-call APS caseworkers may attend core training at the discretion of their supervisor.

(D) The training requirements identified in this rule shall be met by participating in the Ohio human services training system's (OHSTS) adult protective caseworker core training program.

(E) The county department of job and family services (CDJFS) director or his or her designee may waive certain training course requirements if within the last two years the APS caseworker was previously employed by another agency or the same CDJFS, and completed one or more of the OHSTS adult protective services caseworker core training courses. However, any core courses not completed by the caseworker during the previous two years cannot be waived.

(F) APS caseworkers shall complete eighteen hours of ongoing training annually in areas relevant to the caseworker's assigned APS duties, after the first two years of continuous employment with the agency as a caseworker.

(1) For caseworkers subject to the provisions of rule 5101:2-33-55 of the Administrative Code, at least six hours of the required thirty-six hours of ongoing training must be courses related to APS.

(2) Training courses shall be selected to address the caseworker's training needs as determined by the caseworker and supervisor. Training needs shall be determined based upon all of the following:

- (a) Prior background and experience of the caseworker.
- (b) Job duties and responsibilities of the caseworker.
- (c) Competencies the caseworker and supervisor identify as needs.

(G) A caseworker's ongoing training requirements may be fulfilled by participating in instructor led or online training activities, including but not limited to training offered through:

- (1) OHSTS.
- (2) The Ohio child welfare training program (OCWTP).

(3) Accredited colleges or universities if the course work is relevant to the caseworker's assigned duties. If calculating training hours through completion of courses offered by colleges or universities, the agency shall use the number of semester/quarter hours awarded by the college or university.

(4) Seminars, conferences, and workshops relevant to the caseworker's assigned duties.

(H) The CDJFS or its designee shall be responsible for all of the following:

(1) Notifying its designated regional training center of new caseworkers hired by the agency in order for the regional training center to create an account for the employee in the learning management system (LMS).

(2) Maintaining employees' education and training records, including documentation of compliance with all provisions of this rule.

(I) APS supervisors hired on or after September 29, 2015 shall complete the APS core courses as outlined in paragraphs (A) to (C) of this rule, within the first two years of continuous employment.

(J) The CDJFS director or his or her designee may waive completion of one or more training requirements if within the last two years the APS supervisor was previously employed by another agency or the same CDJFS and completed one or more of the OHSTS APS caseworker core courses. However, any core courses not completed by the supervisor during the previous two years cannot be waived.

(K) APS supervisors shall complete fifteen hours of ongoing training annually in areas relevant to the supervisor's assigned APS duties after the first two years of continuous employment with the agency as a supervisor.

(1) For supervisors subject to rule 5101:2-33-56 of the Administrative Code, at least six hours of the required thirty hours of ongoing training must be courses related to APS.

(2) Training courses shall be selected to address the supervisor's training needs as determined by the supervisor and director. Training needs shall be determined based upon all of the following:

(a) Prior background and experience of the supervisor.

(b) Relevant assigned job duties and responsibilities of the supervisor.

(c) Competencies the supervisor and director identify as needs.

(L) The supervisor's ongoing training requirements may be fulfilled by participating in instructor led or online training activities. These training activities may include trainings offered by any of the following:

(1) OHSTS.

(2) OCWTP.

(3) Accredited colleges or universities if the course work is relevant to the supervisor's assigned APS duties. If calculating training hours through completion of courses offered by colleges or universities, the agency shall use the number of semester/quarter hours awarded by the college or university.

(4) Seminars, conferences, and workshops relevant to the supervisor's assigned APS duties.

(M) The CDJFS or its designee shall be responsible for all of the following:

(1) Notifying its designated regional training center of new supervisors hired by the agency in order for the regional training center to create an account for the employee in the LMS.

(2) Maintaining employees' education and training records, including documentation of compliance with all provisions of this rule.

(N) The CDJFS or its designee may elect to offer initial orientation training about the agency and the community to newly hired caseworkers or supervisors. Initial orientation training does not count toward fulfilling the mandatory training requirements outlined in this rule.

5101:2-20-11 Adult protective services screening.

(A) The county department of job and family services (CDJFS) or its designee shall have the ability to receive and screen the written and oral referrals of adult abuse, neglect or exploitation twenty-four hours a day seven days a week.

(B) The screening decision protocol for referrals received on a day that is not a working day as defined in section 5101.60 of the Revised Code and after business hours on working days may be outlined within the county's memorandum of understanding established pursuant to rule 5101:2-20-06 of the Administrative Code.

(C) The CDJFS or its designee shall attempt to obtain, at a minimum, the following information from a referent making a referral regarding alleged adult abuse, neglect or exploitation and arrive at a screening decision. Receipt of all of the following information is not required in order to screen in a report:

- (1) The name(s) and address(es) of the adult and the adult's caregiver or guardian and all household members.
- (2) The adult's age.
- (3) The adult's race and ethnicity.
- (4) Circumstances regarding the abuse, neglect, and exploitation.
- (5) Alleged perpetrator's access to the adult, if applicable.
- (6) The adult's current condition.
- (7) The adult's current location.
- (8) Information regarding any evidence of previous abuse, neglect or exploitation.
- (9) Any other information that might be helpful in establishing the cause of the known or suspected abuse, neglect or exploitation.

(D) The report shall be deemed an emergency if an adult is reported to be living in a condition which presents substantial risk of immediate physical harm or death. The risk can be the result of the adult's own action or inflicted on the adult by another person.

- (1) Emergency reports shall be initiated within twenty-four hours from receipt of the report.
- (2) Non-emergency reports shall be initiated within three working days from the receipt of the report.

(E) The CDJFS or its designee may upon request of the referent, inform the referent of the screening decision. The CDJFS or its designee shall not share any additional case information with the referent.

5101:2-20-12 Adult protective services assessment and investigation.

(A) The county department of job and family services (CDJFS) or its designee shall be responsible for conducting an assessment/investigation on all reports of abuse, neglect, or exploitation for adults age sixty and older, and shall evaluate the need for adult protective services.

(B) The CDJFS or its designee shall do all of the following:

(1) Attempt a face-to-face visit with the alleged older adult, preferably in the alleged older adult's own home without the interference of others. If face-to-face contact is not possible, the reason(s) must be documented in the case record.

(2) At the time of the initial interview, give written notice of the intent to investigate and explain the notice in language reasonably understandable to the adult who is the subject of the investigation. The CDJFS or its designee shall arrange for translator/interpreter services when needed.

(3) Assess the risk to the adult who is subject of a report, by considering the following factual information:

(a) The specific danger (abuse, neglect or exploitation) and the degree of danger (physical or sexual harm, mental anguish or mental illness) in the adult's living conditions.

(b) The personal vulnerability of the adult which may include one or more of the following conditions:

(i) Handicap due to infirmities of aging.

(ii) Physical or mental impairments preventing the adult from providing for his or her own care without the assistance of a caretaker.

(iii) The adult's understanding of his or her current situation.

(iv) The adult's feelings about his or her current living situation.

(c) The social vulnerability of the adult, which may include one or more of the following conditions:

(i) The absence of a guardian, caretaker, spouse, adult children, next of kin or friends.

(ii) The unlawful or improper act of a caretaker using an adult or his or her resources for monetary or personal benefit, profit or gain.

(iii) The failure or inability of a caretaker or the adult to provide goods or services necessary to avoid physical harm, mental anguish or mental illness.

(4) Interview other known persons or agencies who may have knowledge of the abuse, neglect or exploitation.

(5) Investigate additional concerns regarding the older adult that are discovered during the initial investigation of suspected abuse, neglect or exploitation while the CDJFS or its designee is actively involved with the adult.

(C) The CDJFS or its designee may request an ex parte emergency protective services order under the following circumstances:

(1) An emergency exists.

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

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

(D) The CDJFS or its designee may request an emergency protective services order under the following circumstances:

(1) The adult is an incapacitated person.

(2) An emergency exists.

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

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

(E) The CDJFS or its designee may request a temporary protective services order at the ex parte order hearing or the emergency protective services order hearing.

(F) The CDJFS or its designee may request the following services through a court order for adult protective services:

(1) Evaluations.

(2) Emergency services order.

(3) The freezing of the adult's financial assets.

(4) Orders requiring a party to vacate the adult's place of residence or legal settlement.

(5) Restraining orders. If a restraining order is issued due to the obstruction of or interference with the investigation by any person, including the resident, the CDJFS or its designee may request accompaniment to the residence by a peace officer.

(G) The investigation shall be completed no later than thirty calendar days from the receipt of the report or no later than forty-five days when additional information is needed to determine a case disposition and the information could not be obtained within the thirty day time frame.

(H) The CDJFS or its designee shall request an extension of the time frame for completing the case disposition if the CDJFS or its designee is unable to complete specific assessment/investigative activities within thirty calendar days. The justification for the extension shall:

(1) Contain written justification for not meeting the established time frame.

(2) Contain supervisory approval of the written justification prior to the expiration of the established time frame.

(3) Be maintained in the case record.

(I) The investigation shall not be considered complete until all additional concerns that contribute to the risk of the adult are investigated and found to be validated or nonvalidated.

(J) An investigative report containing the following information shall be placed in the case record in accordance with the time frames outlined in paragraph (G) of this rule. The report shall include:

- (1) A summary of the investigation/assessment activities, dispositions and case opening disposition as specified in paragraphs (B) to (F) of this rule.
- (2) A determination as to whether the report of abuse, neglect and exploitation is validated or nonvalidated and the reason for this conclusion.
- (3) Documentation of the service needs that were identified and the referrals made to other social service agencies, if applicable.
- (4) Case opening decision.
- (5) Court filings if required to complete investigation.

5101:2-20-13 Adult protective services third party investigation.

(A) The county department of job and family services (CDJFS) or its designee shall adhere to this rule for reports of adult abuse, neglect or exploitation where there is a potential conflict of interest because one or more of the following parties is a principal of the report:

- (1) Any employee, or agent of ODJFS, the CDJFS or its designee.
- (2) Any authorized person representing ODJFS, the CDJFS or its designee who provides services for payment or as a volunteer.
- (3) Any time a CDJFS or its designee determines that a conflict of interest exists. The CDJFS or its designee shall document in the case record if a conflict of interest is identified.

(B) The involvement of a third party does not relieve the lead CDJFS or its designee of its responsibility to ensure assessment/investigation activities are completed.

(C) A law enforcement agency or another CDJFS may serve as the third party to an assessment/investigation of adult abuse, neglect or exploitation.

- (1) The CDJFS or its designee shall request the assistance of law enforcement as the third party if the adult abuse, neglect or exploitation report alleges a criminal offense.
- (2) The CDJFS or its designee may request the assistance of another CDJFS or its designee as the third party if the adult abuse, neglect and exploitation report does not allege a criminal offense and both agencies agree to participate in the assessment/investigation including the delegation of investigatory responsibilities.

(D) In lieu of law enforcement or another CDJFS, the CDJFS or its designee may operate an in-house unit to assess/investigate reports of adult abuse, neglect and exploitation requiring a third party if all of the following apply:

- (1) An agency employee is not named as a principal in the report.
- (2) The report does not allege a criminal offense.
- (3) The CDJFS or its designee maintains written internal policies and procedures for the review and approval of assessments/investigations conducted by the in-house unit.

(4) The in-house unit works independently of all other units within the CDJFS.

(E) Within twenty-four hours of the identification of a conflict of interest, the CDJFS or its designee shall request and document the assistance of a third party.

(F) Upon acceptance of the request from the lead CDJFS or its designee, the non-lead CDJFS or its designee shall complete the assessment/investigation within the time frames established pursuant to rule 5101:2-20-12 of the Administrative Code.

(G) In instances where law enforcement, another CDJFS or its designee declines to assist the CDJFS or its designee, the CDJFS or its designee is responsible for conducting the assessment/investigation. The CDJFS or its designee is responsible for having procedures in place to address the conflict of interest and ensure the completion of the assessment/investigation.

(H) The CDJFS or its designee shall comply with all procedures pursuant to rule

(I) The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation including the third-party assessment/investigation report from law enforcement or the non-lead CDJFS or its designee shall be maintained in the case record.

5101:2-20-14 Requirement for cross-referring reports of elder abuse, neglect, or exploitation.

(A) The provisions of rule 5101:2-20-05 of the Administrative Code regarding confidentiality apply to all cross-referrals of elder abuse, neglect, or exploitation required by this rule.

(B) The county department of job and family services (CDJFS) or its designated agency shall make a referral to the following agencies, as necessary, upon review of a report made under section 5101.63 of the Revised Code or an investigation conducted under section 5101.65 of the Revised Code:

(1) The local county board of developmental disabilities if the CDJFS or its designated agency knows or has reasonable cause to believe that the subject is an individual with a developmental disability as defined in section 5126.01 of the Revised Code. The CDJFS or its designated agency shall proceed with a case in accordance with sections 5101.60 to 5101.71 of the Revised Code when a referral is received from the local county board of developmental disabilities in accordance with section 5126.31 of the Revised Code.

(2) The office of the state long-term care ombudsman program if the subject is a resident of a long-term care facility, as defined in section 173.14 of the Revised Code. The CDJFS or its designated agency shall proceed with a case in accordance with sections 5101.60 to 5101.71 of the Revised Code when a referral is received from a state or regional long-term care ombudsman program in accordance with section 173.20 of the Revised Code.

(3) The department of health if the subject is a resident of a nursing home, as defined in section 3721.01 of the Revised Code, and has allegedly been abused, neglected, or exploited by an employee of the nursing home.

(4) The public children services agency of that county if the subject is a child, as defined in section 5153.01 of the Revised Code.

(5) The local law enforcement agency with jurisdiction over the area where the subject resides if the subject is being or has been criminally exploited.

5101:2-20-16 Case planning and case review for adult protective services.

(A) The county department of job and family services (CDJFS) or its designated agency shall develop a case plan for each adult who receives protective services. The case plan shall be part of the case record.

(1) A case plan shall be developed by the CDJFS or its designated agency no later than thirty calendar days after whichever of the following occurs first:

(a) The case decision indicates the need for services and the adult agrees to the provision of protective services.

(b) The adult requests services and the CDJFS or its designated agency determines that the requested services are needed and can be provided.

(2) Each case plan shall include, but is not limited to, the following:

(a) The identified concerns.

(b) The protective services objectives.

(c) The services that will be provided and the service provider(s).

(d) Effective dates of the protective services case plan.

(e) Signature of the adult. If the adult refuses to sign the plan, the worker shall document the reason in the case record and petition the court pursuant to paragraph (H)(1) of this rule.

(3) In the development of the case plan, the CDJFS or its designated agency must involve the adult and significant other(s) which may include relatives, friends, caregivers and neighbors to the extent possible.

(4) The case plan shall be based upon the least restrictive services available to meet the needs of the adult.

(5) The CDJFS or its designated agency shall be responsible for the delivery of services or may arrange service delivery through the use of referrals, contracts or written agreements.

(B) The case plan shall be effective once the adult signs the case plan indicating their agreement to participate in services, or when the court orders the provision of protective services if the adult is incapacitated or incompetent.

(C) The CDJFS or its designated agency shall make face-to-face contact with the adult at a minimum of one time per calendar month in order to monitor progress on the case plan objectives. The caseworker shall document the following information in the case record after each contact:

(1) Date caseworker met with the adult.

(2) Status of services currently in place, indicating whether the services are addressing the concern.

(3) Any new services that are needed due to the adult's current level of risk.

(D) If the initial attempt to complete a face-to-face contact is unsuccessful, the CDJFS or its designated agency shall make a minimum of two additional attempts to complete the face-to-face contact within the calendar month. These attempts shall be documented in the case record.

(E) No later than ninety days after services have been put in place, the CDJFS or its designated agency shall reassess the need to continue providing protective services. The caseworker shall determine if services should be maintained, amended or terminated.

(F) If the adult continues to be in need of protective services, the CDJFS or its designated agency shall continue the case plan for the next ninety days and every ninety days thereafter until the case can be closed. The case plan shall follow the requirements outlined in paragraphs (A)(1) and (A)(2) of this rule.

(G) The CDJFS or its designated agency shall amend the case plan within five working days if there is a change in any of the following:

(1) The concerns warranting the need for protective services.

(2) Principals of the case.

(3) Services being provided.

(H) The CDJFS or its designated agency shall terminate adult protective services in the following circumstances:

(1) If requested by the adult who is the recipient of the protective services. However, if the CDJFS or its designated agency determines that an adult is in need of protective services and the adult is incapacitated or incompetent, the CDJFS or its designated agency shall petition the court for an order authorizing the provision of protective services.

(2) If the adult is no longer in need of protective services based on the reassessment of risk.

(3) If the adult leaves the CDJFS area of jurisdiction. In such an instance, the CDJFS shall make a referral to the new county or state of residence, if known, and upon request of the authorized receiving agency, provide appropriate information to facilitate determination of need for adult protective services in the new county or state of residence.

(4) If the adult has been placed in an institution, unless the institutionalization is court ordered.

(5) If the adult dies.

(I) The decision to close the case and terminate protective services shall be approved by the supervisor and documented in the case record.