

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 572

Representative Dovilla

Cosponsors: Representatives Derickson, Kozlowski, Grossman

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A B I L L

To amend sections 2317.54, 5101.60, 5101.61, 1
5101.611, 5101.62 to 5101.64, 5101.66 to 5101.71, 2
5101.72, 5101.99, 5123.61, and 5126.31; to amend, 3
for the purpose of adopting new section numbers as 4
indicated in parentheses, sections 5101.61 5
(5101.63), 5101.611 (5101.64), 5101.62 (5101.65), 6
5101.63 (5101.652), 5101.64 (5101.66), 5101.65 7
(5101.68), 5101.66 (5101.681), 5101.67 (5101.682), 8
5101.68 (5101.69), 5101.69 (5101.70), 5101.70 9
(5101.71), 5101.71 (5101.61), and 5101.72 10
(5101.611); and to enact new sections 5101.62, 11
5101.67, and 5101.72 and sections 5101.631, 12
5101.632, 5101.651, 5101.701, 5101.702, 5101.74, 13
and 5101.741 of the Revised Code to revise the 14
laws governing the provision of adult protective 15
services; and to amend the version of section 16
5123.61 of the Revised Code that is scheduled to 17
take effect on October 1, 2012, to continue 18
amendments made by this act to that section. 19

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

Section 1. That sections 2317.54, 5101.60, 5101.61, 5101.611, 20

5101.62, 5101.63, 5101.64, 5101.66, 5101.67, 5101.68, 5101.69, 21
5101.70, 5101.71, 5101.72, 5101.99, 5123.61, and 5126.31 be 22
amended; sections 5101.61 (5101.63), 5101.611 (5101.64), 5101.62 23
(5101.65), 5101.63 (5101.652), 5101.64 (5101.66), 5101.65 24
(5101.68), 5101.66 (5101.681), 5101.67 (5101.682), 5101.68 25
(5101.69), 5101.69 (5101.70), 5101.70 (5101.71), 5101.71 26
(5101.61), and 5101.72 (5101.611) be amended for the purpose of 27
adopting new section numbers as indicated in parentheses; and new 28
sections 5101.62, 5101.67, and 5101.72 and sections 5101.631, 29
5101.632, 5101.651, 5101.701, 5101.702, 5101.74, and 5101.741 of 30
the Revised Code be enacted to read as follows: 31

Sec. 2317.54. No hospital, home health agency, ambulatory 32
surgical facility, or provider of a hospice care program shall be 33
held liable for a physician's failure to obtain an informed 34
consent from the physician's patient prior to a surgical or 35
medical procedure or course of procedures, unless the physician is 36
an employee of the hospital, home health agency, ambulatory 37
surgical facility, or provider of a hospice care program. 38

Written consent to a surgical or medical procedure or course 39
of procedures shall, to the extent that it fulfills all the 40
requirements in divisions (A), (B), and (C) of this section, be 41
presumed to be valid and effective, in the absence of proof by a 42
preponderance of the evidence that the person who sought such 43
consent was not acting in good faith, or that the execution of the 44
consent was induced by fraudulent misrepresentation of material 45
facts, or that the person executing the consent was not able to 46
communicate effectively in spoken and written English or any other 47
language in which the consent is written. Except as herein 48
provided, no evidence shall be admissible to impeach, modify, or 49
limit the authorization for performance of the procedure or 50
procedures set forth in such written consent. 51

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

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

(C) The consent is signed by the patient for whom the procedure is to be performed, or, if the patient for any reason including, but not limited to, competence, infancy, or the fact that, at the latest time that the consent is needed, the patient is under the influence of alcohol, hallucinogens, or drugs, lacks legal capacity to consent, by a person who has legal authority to consent on behalf of such patient in such circumstances.

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

As used in this section the term "hospital" has the same meaning as in section 2305.113 of the Revised Code; "home health agency" has the same meaning as in section ~~5101.61~~ 3701.881 of the Revised Code; "ambulatory surgical facility" has the meaning as in division (A) of section 3702.30 of the Revised Code; and "hospice care program" has the same meaning as in section 3712.01 of the Revised Code. The provisions of this division apply to hospitals, doctors of medicine, doctors of osteopathic medicine, and doctors of podiatric medicine.

Sec. 5101.60. As used in sections 5101.60 to ~~5101.71~~ 5101.72 84
of the Revised Code: 85

(A) "Abandonment" means desertion of an adult by a caretaker 86
without having made provision for transfer of the adult's care. 87

(B) "Abuse" means the infliction upon an adult by self or 88
others of injury, unreasonable confinement, intimidation, or cruel 89
punishment with resulting physical harm, pain, or mental anguish. 90

~~(B)~~(C) "Adult" means any person sixty years of age or older 91
within this state who is handicapped by the infirmities of aging 92
or who has a physical or mental impairment which prevents the 93
person from providing for the person's own care or protection, and 94
who resides in an independent living arrangement. An "independent 95
living arrangement" ~~is a domicile of a person's own choosing,~~ 96
~~including, but not limited to, a private home, apartment, trailer,~~ 97
~~or rooming house. An "independent living arrangement" includes an~~ 98
~~adult care facility licensed pursuant to Chapter 5119. of the~~ 99
~~Revised Code, but does not include other institutions or~~ 100
~~facilities licensed by the state or facilities in which a person~~ 101
~~resides as a result of voluntary, civil, or criminal commitment.~~ 102

~~(C)~~(D) "Area agency on aging" means a public or private 103
nonprofit entity designated under section 173.011 of the Revised 104
Code to administer programs on behalf of the department of aging. 105

(E) "Caretaker" means the person assuming the primary 106
responsibility for the care of an adult ~~on~~ by any of the following 107
means: 108

(1) On a voluntary basis, ~~by~~ i 109

(2) By contract, ~~through~~ i 110

(3) Through receipt of payment for care, ~~as~~ i 111

(4) As a result of a family relationship, ~~or by~~ i 112

<u>(5) By order of a court of competent jurisdiction.</u>	113
(D) <u>(F) "Community mental health agency" means any agency,</u>	114
<u>program, or facility with which a board of alcohol, drug</u>	115
<u>addiction, and mental health services contracts to provide the</u>	116
<u>mental health services listed in section 340.09 of the Revised</u>	117
<u>Code.</u>	118
<u>(G) "Court" means the probate court in the county where an</u>	119
<u>adult resides.</u>	120
(E) <u>(H) "Emergency" means that the adult is living in</u>	121
<u>conditions which present a substantial risk of immediate and</u>	122
<u>irreparable physical harm or death to self or any other person.</u>	123
(F) <u>(I) "Emergency services" means protective services</u>	124
<u>furnished to an adult in an emergency.</u>	125
(G) <u>(J) "Exploitation" means the unlawful or improper act of a</u>	126
<u>caretaker person that has an ongoing relationship with an adult</u>	127
<u>using, in one or more transactions, an adult or an adult's</u>	128
<u>resources for monetary or personal benefit, profit, or gain.</u>	129
(H) <u>(K) "Financial harm" means impairing an adult's financial</u>	130
<u>assets by unlawfully obtaining or exerting control over the</u>	131
<u>adult's real or personal property in any of the following ways:</u>	132
<u>(1) Without the adult's consent or the person authorized to</u>	133
<u>give consent on the adult's behalf;</u>	134
<u>(2) Beyond the scope of the express or implied consent of the</u>	135
<u>adult or the person authorized to give consent on the adult's</u>	136
<u>behalf;</u>	137
<u>(3) By deception;</u>	138
<u>(4) By threat;</u>	139
<u>(5) By intimidation.</u>	140
<u>(L) "In need of protective services" means an adult known or</u>	141

suspected to be suffering from abuse, neglect, or exploitation to 142
an extent that either life is endangered or physical harm, mental 143
anguish, or mental illness results or is likely to result. 144

~~(I)~~(M) "Incapacitated person" means a person who is impaired 145
for any reason to the extent that the person lacks sufficient 146
understanding or capacity to make and carry out reasonable 147
decisions concerning the person's self or resources, with or 148
without the assistance of a caretaker. Refusal to consent to the 149
provision of services shall not be the sole determinative that the 150
person is incapacitated. ~~"Reasonable decisions" are decisions made~~ 151
~~in daily living which facilitate the provision of food, shelter,~~ 152
~~clothing, and health care necessary for life support.~~ 153

~~(J)~~(N) "Independent living arrangement" means a domicile of a 154
person's own choosing, including, but not limited to, a private 155
home, apartment, trailer, or rooming house. "Independent living 156
arrangement" includes an adult care facility licensed pursuant to 157
Chapter 5119. of the Revised Code, but does not include any other 158
institution or facility licensed by the state or a facility in 159
which a person resides as a result of voluntary, civil, or 160
criminal commitment. 161

(O) "Mental illness" means a substantial disorder of thought, 162
mood, perception, orientation, or memory that grossly impairs 163
judgment, behavior, capacity to recognize reality, or ability to 164
meet the ordinary demands of life. 165

~~(K)~~(P) "Neglect" means any of the failure following: 166

(1) Failure of an adult to provide for self the goods or 167
services necessary to avoid physical harm, mental anguish, or 168
mental illness ~~or the failure;~~ 169

(2) Failure of a caretaker to provide such goods or services; 170

(3) Abandonment. 171

~~(L)~~(O) "Ongoing relationship" has the meaning established 172
under division (B)(2) of section 5101.61 of the Revised Code. 173

(R) "Outpatient health facility" means a facility where 174
medical care and preventive, diagnostic, therapeutic, 175
rehabilitative, or palliative items or services are provided to 176
outpatients by or under the direction of a physician or dentist. 177

(S) "Peace officer" means a peace officer as defined in 178
section 2935.01 of the Revised Code. 179

~~(M)~~(T) "Physical harm" means bodily pain, injury, impairment, 180
or disease suffered by an adult. 181

~~(N)~~(U) "Protective services" means services provided by the 182
county department of job and family services or its designated 183
agency to an adult who has been determined by evaluation to 184
require such services for the prevention, correction, or 185
discontinuance of an act of as well as conditions resulting from 186
abuse, neglect, or exploitation. Protective services may include, 187
but are not limited to, case work services, medical care, mental 188
health services, legal services, fiscal management, home health 189
care, homemaker services, housing-related services, guardianship 190
services, and placement services as well as the provision of such 191
commodities as food, clothing, and shelter. 192

~~(O)~~(V) "Reasonable decisions" means decisions made in daily 193
living that facilitate the provision of food, shelter, clothing, 194
and health care necessary for life support. 195

(W) "Senior service provider" means a person who provides 196
care or specialized services to an adult, except that it does not 197
include the state long-term care ombudsperson or a regional 198
long-term care ombudsperson. 199

(X) "Working day" means Monday, Tuesday, Wednesday, Thursday, 200
and Friday, except when such day is a holiday as defined in 201
section 1.14 of the Revised Code. 202

Sec. ~~5101.71~~ 5101.61. (A) ~~The county departments~~ department 203
of job and family services shall implement sections 5101.60 to 204
~~5101.71~~ 5101.72 of the Revised Code. ~~The department of job and~~ 205
~~family services may provide a program of ongoing, comprehensive,~~ 206
~~formal training to county departments and other agencies~~ 207
~~authorized to implement sections 5101.60 to 5101.71 of the Revised~~ 208
~~Code. Training shall not be limited to the procedures for~~ 209
~~implementing section 5101.62 of the Revised Code.~~ 210

(B)(1) The director of job and family services may adopt 211
rules in accordance with section 111.15 of the Revised Code 212
governing ~~the county departments'~~ implementation of sections 213
5101.60 to ~~5101.71~~ 5101.72 of the Revised Code by the department 214
and the administration of those sections by county departments of 215
job and family services. The rules ~~adopted pursuant to this~~ 216
~~division~~ may include a requirement that the county departments 217
provide on forms prescribed by the rules a plan of proposed 218
expenditures, and a report of actual expenditures, of funds 219
necessary to ~~implement~~ administer sections 5101.60 to ~~5101.71~~ 220
5101.72 of the Revised Code. 221

(2) The director shall adopt rules in accordance with section 222
111.15 of the Revised Code that establish a definition of "ongoing 223
relationship." 224

Sec. ~~5101.72~~ 5101.611. (A) The department of job and family 225
services, ~~to the extent of available funds,~~ may reimburse county 226
departments of job and family services for all or part of the 227
costs they incur in ~~implementing~~ administering sections 5101.60 to 228
~~5101.71~~ 5101.72 of the Revised Code. The director of job and 229
family services shall adopt internal management rules in 230
accordance with section 111.15 of the Revised Code that provide 231
for reimbursement of the county departments of job and family 232
~~services under this section.~~ 233

The (B) In addition to any rules adopted under division (B) 234
of section 5101.61 of the Revised Code, the director shall adopt 235
internal management rules in accordance with section 111.15 of the 236
Revised Code that do both of the following: 237

(A)(1) Implement sections 5101.60 to ~~5101.71~~ 5101.72 of the 238
Revised Code; 239

(B)(2) Require the county departments to collect and submit 240
to the department, or ensure that a designated agency collects and 241
submits to the department, data concerning the ~~implementation~~ 242
administration of sections 5101.60 to ~~5101.71~~ 5101.72 of the 243
Revised Code. 244

Sec. 5101.62. In implementing sections 5101.60 to 5101.72 of 245
the Revised Code, the department of job and family services shall 246
do all of the following: 247

(A) Identify the core services for interventions that are to 248
be offered to adults in need of protective services; 249

(B) Maintain data by county on the implementation of sections 250
5101.60 to 5101.72 of the Revised Code; 251

(C) Provide a program of ongoing, comprehensive, formal 252
training on the implementation of sections 5101.60 to 5101.72 of 253
the Revised Code and require all protective services caseworkers 254
and their supervisors to undergo the training; 255

(D) Develop and make available educational materials for 256
individuals who are required under section 5101.63 of the Revised 257
Code to make reports of abuse, neglect, and exploitation; 258

(E) Facilitate ongoing cooperation among state agencies on 259
issues pertaining to the abuse, neglect, or exploitation of 260
adults; 261

(F) Develop a model memorandum of understanding for purposes 262
of section 5101.651 of the Revised Code. 263

Sec. 5101.61 <u>5101.63</u> . (A) As used in this section:	264
(1) "Senior service provider" means any person who provides	265
care or services to a person who is an adult as defined in	266
division (B) of section 5101.60 of the Revised Code.	267
(2) "Ambulatory health facility" means a nonprofit, public or	268
proprietary freestanding organization or a unit of such an agency	269
or organization that:	270
(a) Provides preventive, diagnostic, therapeutic,	271
rehabilitative, or palliative items or services furnished to an	272
outpatient or ambulatory patient, by or under the direction of a	273
physician or dentist in a facility which is not a part of a	274
hospital, but which is organized and operated to provide medical	275
care to outpatients;	276
(b) Has health and medical care policies which are developed	277
with the advice of, and with the provision of review of such	278
policies, an advisory committee of professional personnel,	279
including one or more physicians, one or more dentists, if dental	280
care is provided, and one or more registered nurses;	281
(c) Has a medical director, a dental director, if dental care	282
is provided, and a nursing director responsible for the execution	283
of such policies, and has physicians, dentists, nursing, and	284
ancillary staff appropriate to the scope of services provided;	285
(d) Requires that the health care and medical care of every	286
patient be under the supervision of a physician, provides for	287
medical care in a case of emergency, has in effect a written	288
agreement with one or more hospitals and other centers or clinics,	289
and has an established patient referral system to other resources,	290
and a utilization review plan and program;	291
(e) Maintains clinical records on all patients;	292
(f) Provides nursing services and other therapeutic services	293

~~in accordance with programs and policies, with such services 294
supervised by a registered professional nurse, and has a 295
registered professional nurse on duty at all times of clinical 296
operations; 297~~

~~(g) Provides approved methods and procedures for the 298
dispensing and administration of drugs and biologicals; 299~~

~~(h) Has established an accounting and record keeping system 300
to determine reasonable and allowable costs; 301~~

~~(i) "Ambulatory health facilities" also includes an 302
alcoholism treatment facility approved by the joint commission on 303
accreditation of healthcare organizations as an alcoholism 304
treatment facility or certified by the department of alcohol and 305
drug addiction services, and such facility shall comply with other 306
provisions of this division not inconsistent with such 307
accreditation or certification. 308~~

~~(3) "Community mental health facility" means a facility which 309
provides community mental health services and is included in the 310
comprehensive mental health plan for the alcohol, drug addiction, 311
and mental health service district in which it is located. 312~~

~~(4) "Community mental health service" means services, other 313
than inpatient services, provided by a community mental health 314
facility. 315~~

~~(5) "Home health agency" means an institution or a distinct 316
part of an institution operated in this state which: 317~~

~~(a) Is primarily engaged in providing home health services; 318~~

~~(b) Has home health policies which are established by a group 319
of professional personnel, including one or more duly licensed 320
doctors of medicine or osteopathy and one or more registered 321
professional nurses, to govern the home health services it 322
provides and which includes a requirement that every patient must 323~~

~~be under the care of a duly licensed doctor of medicine or
osteopathy;~~ 324
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~~(c) Is under the supervision of a duly licensed doctor of
medicine or doctor of osteopathy or a registered professional
nurse who is responsible for the execution of such home health
policies;~~ 326
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~~(d) Maintains comprehensive records on all patients;~~ 330

~~(e) Is operated by the state, a political subdivision, or an
agency of either, or is operated not for profit in this state and
is licensed or registered, if required, pursuant to law by the
appropriate department of the state, county, or municipality in
which it furnishes services; or is operated for profit in this
state, meets all the requirements specified in divisions (A)(5)(a)
to (d) of this section, and is certified under Title XVIII of the
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as
amended.~~ 331
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~~(6) "Home health service" means the following items and
services, provided, except as provided in division (A)(6)(g) of
this section, on a visiting basis in a place of residence used as
the patient's home:~~ 340
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~~(a) Nursing care provided by or under the supervision of a
registered professional nurse;~~ 344
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~~(b) Physical, occupational, or speech therapy ordered by the
patient's attending physician;~~ 346
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~~(c) Medical social services performed by or under the
supervision of a qualified medical or psychiatric social worker
and under the direction of the patient's attending physician;~~ 348
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~~(d) Personal health care of the patient performed by aides in
accordance with the orders of a doctor of medicine or osteopathy
and under the supervision of a registered professional nurse;~~ 351
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(e) Medical supplies and the use of medical appliances;	354
(f) Medical services of interns and residents in training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;	355 356 357 358
(g) Any of the foregoing items and services which:	359
(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;	360 361 362
(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.	363 364 365 366 367
Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 5119.70 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling	368 369 370 371 372 373 374 375 376 377 378
<u>(1) Any individual listed in division (A)(2) of this section</u> 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.	379 380 381 382 383
This section does not apply to employees of any hospital or public	384

hospital as defined in section 5122.01 of the Revised Code.	385
<u>(2) All of the following are subject to division (A)(1) of this section:</u>	386
<u>(a) An attorney admitted to the practice of law in this state;</u>	387
<u>(a) An attorney admitted to the practice of law in this state;</u>	388
<u>(a) An attorney admitted to the practice of law in this state;</u>	389
<u>(b) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	390
<u>(b) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	391
<u>(b) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	392
<u>(c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;</u>	393
<u>(c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;</u>	394
<u>(d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;</u>	395
<u>(d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;</u>	396
<u>(e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;</u>	397
<u>(e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;</u>	398
<u>(f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;</u>	399
<u>(f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;</u>	400
<u>(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;</u>	401
<u>(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;</u>	402
<u>(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;</u>	403
<u>(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;</u>	404
<u>(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;</u>	405
<u>(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;</u>	406
<u>(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;</u>	407
<u>(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;</u>	408
<u>(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;</u>	409
<u>(j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;</u>	410
<u>(j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;</u>	411
<u>(k) An employee of an outpatient health facility;</u>	412
<u>(l) An employee of a hospital, as defined in section 3727.01</u>	413

<u>of the Revised Code;</u>	414
<u>(m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code;</u>	415 416
<u>(n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;</u>	417 418
<u>(o) An employee of an adult care facility, as defined in section 5119.70 of the Revised Code;</u>	419 420
<u>(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;</u>	421 422 423 424
<u>(q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code;</u>	425 426
<u>(r) An agent of a county humane society organized under section 1717.05 of the Revised Code;</u>	427 428
<u>(s) An individual who is a firefighter for a lawfully constituted fire department;</u>	429 430
<u>(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>	431 432 433
<u>(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;</u>	434 435 436
<u>(v) An official employed by a local building department to conduct inspections of houses and other residential buildings;</u>	437 438
<u>(w) A peace officer;</u>	439
<u>(x) A coroner;</u>	440
<u>(y) A member of the clergy;</u>	441
<u>(z) An individual who holds a certificate issued under</u>	442

Chapter 4701. of the Revised Code as a certified public accountant 443
or is registered under that chapter as a public accountant; 444

(aa) An individual licensed under Chapter 4735. of the 445
Revised Code as a real estate broker or real estate salesperson; 446

(bb) An individual appointed and commissioned under section 447
147.01 of the Revised Code as a notary public; 448

(cc) An employee of a bank, savings bank, savings and loan 449
association, or credit union organized under the laws of this 450
state, another state, or the United States; 451

(dd) An investment advisor, as defined in section 1707.01 of 452
the Revised Code; 453

(ee) A financial planner accredited by a national 454
accreditation agency; 455

(ff) Any other individual who is a senior service provider. 456

(B) Any person having reasonable cause to believe that an 457
adult has suffered abuse, neglect, or exploitation may report, or 458
cause ~~reports~~ a report to be made of such belief to the county 459
department of job and family services. 460

(C)(1) The reports made under this section shall be made 461
orally or in writing ~~except that.~~ The county department of job and 462
family services shall transcribe an oral reports shall be followed 463
by report into a written report if a written. Each report is 464
~~requested by the department. Written reports shall include all of~~ 465
the following: 466

~~(1)~~(a) The name, address, and approximate age of the adult 467
who is the subject of the report; 468

~~(2)~~(b) The name and address of the individual responsible for 469
the adult's care, if any individual is, and if the individual is 470
known; 471

~~(3)~~(c) The nature and extent of the alleged abuse, neglect, 472

or exploitation of the adult; 473

~~(4)(d)~~ The basis of the reporter's belief that the adult has 474
been abused, neglected, or exploited. 475

(2) The county department of job and family services shall 476
transmit a copy of each report received under this section to the 477
registry established by the department of job and family services 478
under section 5101.631 of the Revised Code. 479

(D) Any person with reasonable cause to believe that an adult 480
is suffering abuse, neglect, or exploitation who makes a report 481
pursuant to this section or who testifies in any administrative or 482
judicial proceeding arising from such a report, or any employee of 483
the state or any of its subdivisions who is discharging 484
responsibilities under section ~~5101.62~~ 5101.65 of the Revised Code 485
shall be immune from civil or criminal liability on account of 486
such investigation, report, or testimony, except liability for 487
perjury, unless the person has acted in bad faith or with 488
malicious purpose. 489

(E) No employer or any other person with the authority to do 490
so shall ~~discharge~~ do any of the following as a result of an 491
employee's having filed a report under this section: 492

(1) Discharge, demote, transfer, or prepare a negative work 493
performance evaluation, or reduce; 494

(2) Reduce benefits, pay, or work privileges, or take; 495

(3) Take any other action detrimental to an the employee or 496
in any way retaliate against an the employee as a result of the 497
employee's having filed a report under this section. 498

(F) Neither the written or oral report provided for in this 499
section nor the investigatory report provided for in section 500
~~5101.62~~ 5101.65 of the Revised Code shall be considered a public 501
record as defined in section 149.43 of the Revised Code. 502

~~Information~~ On request, information contained in the report shall 503
~~upon request~~ be made available to the adult who is the subject of 504
the report, to agencies authorized by the county department of job 505
and family services to receive information contained in the 506
report, and to legal counsel for the adult. If it determines that 507
there is a risk of harm to a person who makes a report under this 508
section or to the adult who is the subject of the report, the 509
county department of job and family services may redact the name 510
and identifying information related to the person who made the 511
report. 512

Sec. 5101.631. (A) Not later than two years after the 513
effective date of this section, the department of job and family 514
services shall establish a registry to maintain reports of abuse, 515
neglect, or exploitation of adults, whether investigated or not, 516
made to county departments of job and family services under 517
section 5101.63 of the Revised Code. The department shall release 518
information in the registry to county departments of job and 519
family services in accordance with division (B) of section 5101.65 520
of the Revised Code and may release information in the registry to 521
law enforcement agencies through the Ohio law enforcement gateway 522
established under section 109.57 of the Revised Code. 523

(B) The department of job and family services shall develop a 524
plan to implement the registry. Not later than six months after 525
the effective date of this section, the department shall present 526
its plan to the elder abuse commission created under section 527
5101.74 of the Revised Code. The department shall provide an 528
opportunity for public comment on the plan. 529

Sec. 5101.632. Each entity that employs or is responsible for 530
licensing or regulating the individuals required under section 531
5101.63 of the Revised Code to make reports of abuse, neglect, or 532
exploitation of adults shall ensure that the individuals have 533

access to the educational materials developed under division (D) 534
of section 5101.62 of the Revised Code. 535

Sec. ~~5101.61~~ 5101.64. If a county department of job and 536
family services knows or has reasonable cause to believe that the 537
subject of a report made under section ~~5101.61~~ 5101.63 of the 538
Revised Code or of an investigation conducted under ~~sections~~ 539
~~5101.62 to 5101.64~~ section 5101.65 of the Revised Code or on the 540
initiative of the county department is mentally retarded or 541
developmentally disabled, as defined in section 5126.01 of the 542
Revised Code, the county department shall refer the case to the 543
county board of developmental disabilities of that county for 544
review pursuant to section 5126.31 of the Revised Code. 545

If a county board of developmental disabilities refers a case 546
to the county department of job and family services in accordance 547
with section 5126.31, the county department shall proceed with the 548
case in accordance with sections 5101.60 to ~~5101.71~~ 5101.72 of the 549
Revised Code. 550

Sec. ~~5101.62~~ 5101.65. The county department of job and family 551
services shall be responsible for the investigation of all reports 552
provided for in section ~~5101.61~~ 5101.63 and all cases referred to 553
it under section 5126.31 of the Revised Code and for evaluating 554
the need for and, to the extent of available ~~funds~~ services, 555
providing or arranging for the provision of protective services. 556
The department may designate another agency to perform the 557
department's duties under this section. 558

Investigation of the report provided for in section ~~5101.61~~ 559
5101.63 or a case referred to the department under section 5126.31 560
of the Revised Code shall be initiated within twenty-four hours 561
after the department receives the report or case if any emergency 562
exists; otherwise investigation shall be initiated within three 563

working days. 564

~~Investigation of~~ In investigating the need for protective 565
services, ~~the department~~ shall ~~include a face-to-face visit with~~ 566
do all of the following: 567

(A) Visit the adult who is the subject of the report, 568
preferably in the adult's residence, ~~and consultation;~~ 569

(B) Request from the registry established by the department 570
of job and family services under section 5101.631 of the Revised 571
Code any reports of prior abuse, neglect, or exploitation 572
concerning the adult; 573

(C) Consult with the person who made the report, if feasible, 574
and agencies or persons who have information about the adult's 575
alleged abuse, neglect, or exploitation. 576

The department shall give written notice of the intent of the 577
investigation and an explanation of the notice in language 578
reasonably understandable to the adult who is the subject of the 579
~~investigation~~ report, at the time of the initial interview with 580
that person. 581

Upon completion of the investigation, the department shall 582
determine from its findings whether or not the adult who is the 583
subject of the report is in need of protective services. No adult 584
shall be determined to be abused, neglected, or in need of 585
protective services for the sole reason that, in lieu of medical 586
treatment, the adult relies on or is being furnished spiritual 587
treatment through prayer alone in accordance with the tenets and 588
practices of a church or religious denomination of which the adult 589
is a member or adherent. The department shall write a report which 590
confirms or denies the need for protective services and states why 591
it reached this conclusion. 592

Sec. 5101.651. (A)(1) Each county department of job and 593

family services or its designated agency, in conjunction with the 594
area agency on aging that serves the region in which the county is 595
located, shall prepare a memorandum of understanding establishing 596
the guidelines to be employed in the investigation of a report of 597
adult abuse, neglect, or exploitation made pursuant to section 598
5101.63 of the Revised Code. The memorandum shall comply with the 599
requirements established by section 5101.65 of the Revised Code 600
for such investigations. The memorandum shall have as its primary 601
goal the utilization of a structured and systematic investigation 602
protocol regarding the reports. The memorandum may be based on the 603
model memorandum of understanding developed by the department of 604
job and family services under division (F) of section 5101.62 of 605
the Revised Code. 606

(2) If a county department of job and family services 607
designates another agency to perform any of the department's 608
duties in investigating reports of adult abuse, neglect, or 609
exploitation under section 5101.65 of the Revised Code, the 610
memorandum of understanding described in division (A)(1) of this 611
section shall include provisions that specify the duties of both 612
the department and the designated agency in investigating such 613
reports. 614

(B) The memorandum of understanding described in division 615
(A)(1) of this section shall be signed by all of the following: 616

(1) If there is only one probate judge serving the county, 617
the probate judge of the county or the judge's representative; 618

(2) If there is more than one probate judge serving the 619
county, the probate judge with administrative responsibility or 620
the judge's representative; 621

(3) The county sheriff; 622

(4) The chief municipal peace officer within the county; 623

(5) Other law enforcement officers handling adult abuse, 624

<u>neglect, or exploitation in the county;</u>	625
<u>(6) The county prosecuting attorney;</u>	626
<u>(7) The county coroner;</u>	627
<u>(8) The director of the county department of job and family services or a designee of the director who is directly responsible for protective services for adults;</u>	628 629 630
<u>(9) The regional long-term care ombudsperson designated for the area;</u>	631 632
<u>(10) A representative of the board of alcohol, drug addiction and mental health services that serves the county;</u>	633 634
<u>(11) Entities responsible for investigating substandard housing;</u>	635 636
<u>(12) A representative of the area agency on aging that serves the region in which the county is located;</u>	637 638
<u>(13) A representative of a victim witness program that serves the county;</u>	639 640
<u>(14) A representative of a metropolitan housing authority that serves the county;</u>	641 642
<u>(15) Any other person or entity whose participation furthers the goals of the memorandum of understanding.</u>	643 644
<u>(C) The memorandum of understanding described in division (A)(1) of this section shall include provisions establishing an elder abuse interdisciplinary team. The memorandum shall specify the membership of the team and establish guidelines to be used when coordinating investigations of reports of adult abuse, neglect, or exploitation. The memorandum shall describe the roles and responsibilities of team members, including team members' roles regarding the filing of criminal charges against persons alleged to have abused, neglected, or exploited adults and the provision of victim services to adults pursuant to Chapter 2930.</u>	645 646 647 648 649 650 651 652 653 654

of the Revised Code. 655

(D) A failure to follow the guidelines set forth in the 656
memorandum of understanding required by this section is not 657
grounds for, and shall not result in, the dismissal of any charge 658
or complaint arising from any report of abuse, neglect, or 659
exploitation or the suppression of any evidence obtained as a 660
result of a report of abuse, neglect, or exploitation and does not 661
give any rights or grounds for appeal or post-conviction relief to 662
any person. 663

Sec. ~~5101.63~~ 5101.652. If, during the course of an 664
investigation conducted under section ~~5101.62~~ 5101.65 of the 665
Revised Code, any person, including the adult who is the subject 666
of the investigation, denies or obstructs access to the residence 667
of the adult, the county department of job and family services may 668
file a petition in court for a temporary restraining order to 669
prevent the interference or obstruction. The court shall issue a 670
temporary restraining order to prevent the interference or 671
obstruction if it finds there is reasonable cause to believe that 672
the adult is being or has been abused, neglected, or exploited and 673
access to the person's residence has been denied or obstructed. 674
Such a finding is prima-facie evidence that immediate and 675
irreparable injury, loss, or damage will result, so that notice is 676
not required. After obtaining an order restraining the obstruction 677
of or interference with the access of the protective services 678
representative, the representative may be accompanied to the 679
residence by a peace officer. 680

Sec. ~~5101.64~~ 5101.66. Any person who requests or consents to 681
receive protective services shall receive such services only after 682
an investigation and determination of a need for protective 683
services, ~~which.~~ The investigation shall be performed in the same 684
manner as the investigation of a report pursuant to ~~sections~~ 685

~~5101.62 and 5101.63~~ section 5101.65 of the Revised Code. If the 686
person withdraws consent, the protective services shall be 687
terminated. 688

Sec. 5101.67. (A) A person alleged to have abused, neglected, 689
or exploited an adult may appeal the findings of an investigation 690
conducted under section 5101.65 of the Revised Code to the county 691
department of job and family services or its designated agency. 692

(B) The director of job and family services shall adopt rules 693
establishing procedures to be followed by each county department 694
of job and family services or its designated agency for hearing 695
and deciding appeals under this section. The rules shall be 696
adopted in accordance with section 111.15 of the Revised Code. 697

Sec. ~~5101.65~~ 5101.68. If the county department of job and 698
family services determines that an adult is in need of protective 699
services and is an incapacitated person, the department may 700
petition the court for an order authorizing the provision of 701
protective services. The petition shall state the specific facts 702
alleging the abuse, neglect, or exploitation and shall include a 703
proposed protective service plan. Any plan for protective services 704
shall be specified in the petition. 705

Sec. ~~5101.66~~ 5101.681. Notice of a petition for the provision 706
of court-ordered protective services as provided for in section 707
~~5101.65~~ 5101.68 of the Revised Code shall be personally served 708
upon the adult who is the subject of the petition at least five 709
working days prior to the date set for the hearing as provided in 710
section ~~5101.67~~ 5101.682 of the Revised Code. Notice shall be 711
given orally and in writing in language reasonably understandable 712
to the adult. The notice shall include the names of all 713
petitioners, the basis of the belief that protective services are 714
needed, the rights of the adult in the court proceedings, and the 715

consequences of a court order for protective services. The adult 716
shall be informed of ~~his~~ the right to counsel and ~~his~~ the right to 717
appointed counsel if ~~he~~ the adult is indigent and if appointed 718
counsel is requested. Written notice by certified mail shall also 719
be given to the adult's guardian, legal counsel, caretaker, and 720
spouse, if any, or if ~~he~~ the adult has none of these, to ~~his~~ the 721
adult's adult children or next of kin, if any, or to any other 722
person as the court may require. The adult who is the subject of 723
the petition may not waive notice as provided in this section. 724

725

Sec. ~~5101.67~~ 5101.682. (A) The court shall hold a hearing on 726
the petition as provided in section ~~5101.65~~ 5101.68 of the Revised 727
Code within fourteen days after its filing. The adult who is the 728
subject of the petition shall have the right to be present at the 729
hearing, present evidence, and examine and cross-examine 730
witnesses. The adult shall be represented by counsel unless the 731
right to counsel is knowingly waived. If the adult is indigent, 732
the court shall appoint counsel to represent the adult. If the 733
court determines that the adult lacks the capacity to waive the 734
right to counsel, the court shall appoint counsel to represent the 735
adult's interests. 736

(B) If the court finds, on the basis of clear and convincing 737
evidence, that the adult has been abused, neglected, or exploited, 738
is in need of protective services, and is incapacitated, and no 739
person authorized by law or by court order is available to give 740
consent, it shall issue an order requiring the provision of 741
protective services only if they are available locally. 742

(C) If the court orders placement under this section it shall 743
give consideration to the choice of residence of the adult. The 744
court may order placement in settings which have been approved by 745
the department of job and family services as meeting at least 746

minimum community standards for safety, security, and the 747
requirements of daily living. The court shall not order an 748
institutional placement unless it has made a specific finding 749
entered in the record that no less restrictive alternative can be 750
found to meet the needs of the individual. No individual may be 751
committed to a hospital or public hospital as defined in section 752
5122.01 of the Revised Code pursuant to this section. 753

(D) The placement of an adult pursuant to court order as 754
provided in this section shall not be changed unless the court 755
authorized the transfer of placement after finding compelling 756
reasons to justify the transfer. Unless the court finds that an 757
emergency exists, the court shall notify the adult of a transfer 758
at least thirty days prior to the actual transfer. 759

(E) A court order provided for in this section shall remain 760
in effect for no longer than six months. Thereafter, the county 761
department of job and family services shall review the adult's 762
need for continued services and, if the department determines that 763
there is a continued need, it shall apply for a renewal of the 764
order for additional periods of no longer than one year each. The 765
adult who is the subject of the court-ordered services may 766
petition for modification of the order at any time. 767

Sec. ~~5101.68~~ 5101.69. (A) If an adult has consented to the 768
provision of protective services but any other person refuses to 769
allow such provision, the county department of ~~human~~ job and 770
family services may petition the court for a temporary restraining 771
order to restrain the person from interfering with the provision 772
of protective services for the adult. 773

(B) The petition shall state specific facts sufficient to 774
demonstrate the need for protective services, the consent of the 775
adult, and the refusal of some other person to allow the provision 776
of these services. 777

(C) Notice of the petition shall be given in language 778
reasonably understandable to the person alleged to be interfering 779
with the provision of services; 780

(D) The court shall hold a hearing on the petition within 781
fourteen days after its filing. If the court finds that the 782
protective services are necessary, that the adult has consented to 783
the ~~provisions~~ provision of such services, and that the person who 784
is the subject of the petition has prevented such provision, the 785
court shall issue a temporary restraining order to restrain the 786
person from interfering with the provision of protective services 787
to the adult. 788

Sec. ~~5101.69~~ 5101.70. (A) Upon petition by the county 789
department of ~~human~~ job and family services, the court may issue 790
an order authorizing the provision of protective services on an 791
emergency basis to an adult. The petition for any emergency order 792
shall include all of the following: 793

(1) The name, age, and address of the adult in need of 794
protective services; 795

(2) The nature of the emergency; 796

(3) The proposed protective services; 797

(4) The petitioner's reasonable belief, together with facts 798
supportive thereof, as to the existence of the circumstances 799
described in divisions (D)(1) to (3) of this section; 800

(5) Facts showing the petitioner's attempts to obtain the 801
adult's consent to the protective services. 802

(B) Notice of the filing and contents of the petition 803
provided for in division (A) of this section, the rights of the 804
person in the hearing provided for in division (C) of this 805
section, and the possible consequences of a court order, shall be 806
given to the adult. Notice shall also be given to the spouse of 807

the adult or, if ~~he~~ the adult has none, to ~~his~~ the adult's adult 808
children or next of kin, and ~~his~~ the adult's guardian, if any, if 809
~~his~~ the guardian's whereabouts are known. The notice shall be 810
given in language reasonably understandable to its recipients at 811
least twenty-four hours prior to the hearing provided for in this 812
section. The court may waive the twenty-four hour notice 813
~~requirement~~ requirement upon a showing that both of the following 814
are the case: 815

(1) Immediate and irreparable physical harm or immediate and 816
irreparable financial harm to the adult or others will result from 817
the twenty-four hour delay; ~~and~~ 818

(2) Reasonable attempts have been made to notify the adult, 819
~~his~~ the adult's spouse, or, if ~~he~~ the adult has none, ~~his~~ the 820
adult's adult children or next of kin, if any, and ~~his~~ the adult's 821
guardian, if any, if ~~his~~ the guardian's whereabouts are known. 822

Notice of the court's determination shall be given to all 823
persons receiving notice of the filing of the petition provided 824
for in this division. 825

(C) Upon receipt of a petition for an order for emergency 826
services, the court shall hold a hearing no sooner than 827
twenty-four and no later than seventy-two hours after the notice 828
provided for in division (B) of this section has been given, 829
unless the court has waived the notice. The adult who is the 830
subject of the petition shall have the right to be present at the 831
hearing, present, evidence, and examine and cross-examine 832
witnesses. 833

(D) The court shall issue an order authorizing the provision 834
of protective services on an emergency basis if it finds, on the 835
basis of clear and convincing evidence, ~~that~~ all of the following: 836

(1) The adult is an incapacitated person; 837

(2) An emergency exists; 838

(3) No person authorized by law or court order to give 839
consent for the adult is available or willing to consent to 840
emergency services. 841

(E) In issuing an emergency order, the court shall adhere to 842
the following limitations: 843

(1) The court shall order only such protective services as 844
are necessary and available locally to remove the conditions 845
creating the emergency, and the court shall specifically designate 846
those protective services the adult shall receive; 847

(2) The court shall not order any change of residence under 848
this section unless the court specifically finds that a change of 849
residence is necessary; 850

(3) The court may order emergency ~~serieses~~ services only for 851
fourteen days. The department may petition the court for a renewal 852
of the order for a fourteen-day period upon a showing that 853
continuation of the order is necessary to remove the emergency. 854

(4) In its order the court shall authorize the director of 855
the county department or ~~his~~ the director's designee to give 856
consent for the person for the approved emergency services until 857
the expiration of the order; 858

(5) The court shall not order a person to a hospital or 859
public hospital as defined in section 5122.01 of the Revised Code. 860

(F) If the county department determines that the adult 861
continues to need protective services after the order provided for 862
in division (D) of this section has expired, the department may 863
petition the court for an order to continue protective services, 864
pursuant to section ~~5101.65~~ 5101.68 of the Revised Code. After the 865
filing of the petition, the department may continue to provide 866
protective services pending a hearing by the court. 867

Sec. 5101.701. (A) A court, through a probate judge or a 868

magistrate under the direction of a probate judge, may issue by 869
telephone an ex parte emergency order authorizing the provision of 870
protective services, including the relief available under division 871
(B) of section 5101.702 of the Revised Code, to an adult on an 872
emergency basis if all of the following are the case: 873

(1) The court receives notice from the county department of 874
job and family services, or an authorized employee of the 875
department, that the department or employee believes an emergency 876
order is needed as described in this section. 877

(2) There is reasonable cause to believe that the adult is 878
incapacitated. 879

(3) There is reasonable cause to believe that there is a 880
substantial risk to the adult of immediate and irreparable 881
physical harm, immediate and irreparable financial harm, or death. 882

(B) An order issued under this section shall be in effect for 883
not longer than twenty-four hours, except that if the day 884
following the day on which the order is issued is not a working 885
day, the order shall remain in effect until the next working day. 886

(C)(1) Except as provided in division (C)(2) of this section, 887
not later than twenty-four hours after an order is issued under 888
this section, a petition shall be filed with the court in 889
accordance with division (A) of section 5101.70 of the Revised 890
Code. 891

(2) If the day following the day on which the order was 892
issued is not a working day, the petition shall be filed with the 893
court on the next working day. 894

(3) Except as provided in section 5101.702 of the Revised 895
Code, proceedings on the petition shall be conducted in accordance 896
with section 5101.70 of the Revised Code. 897

Sec. 5101.702. (A) If an order is issued pursuant to section 898
5101.701 of the Revised Code, the court shall hold a hearing not 899
later than twenty-four hours after the issuance to determine 900
whether there is probable cause for the order, except that if the 901
day following the day on which the order is issued is not a 902
working day, the court shall hold the hearing on the next working 903
day. 904

(B) At the hearing, the court: 905

(1) Shall determine whether protective services are the least 906
restrictive alternative available for meeting the adult's needs; 907

(2) May issue temporary orders to protect the adult from 908
immediate and irreparable physical harm or immediate and 909
irreparable financial harm, including, but not limited to, 910
temporary protection orders, evaluations, and orders requiring a 911
party to vacate the adult's place of residence or legal 912
settlement; 913

(3) May order emergency services; 914

(4) May freeze the financial assets of the adult. 915

(C) A temporary order issued pursuant to division (B)(2) of 916
this section is effective for thirty days. The court may renew the 917
order for an additional thirty-day period. 918

Information contained in the order may be entered into the 919
law enforcement automated data system. 920

Sec. ~~5101.70~~ 5101.71. (A) If it appears that an adult in need 921
of protective services has the financial means sufficient to pay 922
for such services, the county department of job and family 923
services shall make an evaluation regarding such means. If the 924
evaluation establishes that the adult has such financial means, 925
the department shall initiate procedures for reimbursement 926

pursuant to rules ~~promulgated by the department~~ adopted under 927
section 5101.61 of the Revised Code. If the evaluation establishes 928
that the adult does not have such financial means, the services 929
shall be provided in accordance with the policies and procedures 930
established by the state department of job and family services for 931
the provision of welfare assistance. An adult shall not be 932
required to pay for court-ordered protective services unless the 933
court determines upon a showing by the county department of job 934
and family services that the adult is financially able to pay and 935
the court orders the adult to pay. 936

(B) Whenever the county department of job and family services 937
has petitioned the court to authorize the provision of protective 938
services and the adult who is the subject of the petition is 939
indigent, the court shall appoint legal counsel. 940

Sec. 5101.72. (A) An adult in need of protective services or 941
a representative of such an adult may file a complaint with the 942
county department of job and family services or its designated 943
agency alleging that protective services were not provided to the 944
adult or that the protective services were inadequate to address 945
the adult's needs. The department or agency shall investigate the 946
complaint and attempt to resolve it. 947

(B) The director of job and family services shall adopt rules 948
establishing procedures to be followed by a county department of 949
job and family services or its designated agency regarding the 950
investigation and resolution of complaints filed under this 951
section. The rules shall be adopted in accordance with section 952
111.15 of the Revised Code. 953

Sec. 5101.74. (A) There is hereby created the elder abuse 954
commission. The commission shall consist of the following members: 955

(1) The following members, appointed by the attorney general: 956

<u>(a) One representative of the AARP;</u>	957
<u>(b) One representative of the buckeye state sheriffs' association;</u>	958 959
<u>(c) One representative of the county commissioners' association of Ohio;</u>	960 961
<u>(d) One representative of the Ohio association of area agencies on aging;</u>	962 963
<u>(e) One representative of the board of nursing;</u>	964
<u>(f) One representative of the Ohio coalition for adult protective services;</u>	965 966
<u>(g) One person who represents the interests of elder abuse victims;</u>	967 968
<u>(h) One person who represents the interests of elderly persons;</u>	969 970
<u>(i) One representative of the Ohio domestic violence network;</u>	971
<u>(j) One representative of the Ohio prosecuting attorneys association;</u>	972 973
<u>(k) One representative of the Ohio victim witness association;</u>	974 975
<u>(l) One representative of the Ohio association of chiefs of police;</u>	976 977
<u>(m) One representative of the Ohio association of probate judges;</u>	978 979
<u>(n) Two representatives of national organizations that focus on elder abuse or sexual violence.</u>	980 981
<u>(2) The following ex officio members:</u>	982
<u>(a) The attorney general or the attorney general's designee;</u>	983
<u>(b) The chief justice of the supreme court of Ohio or the</u>	984

<u>chief justice's designee;</u>	985
<u>(c) The governor or the governor's designee;</u>	986
<u>(d) The director of aging or the director's designee;</u>	987
<u>(e) The director of job and family services or the director's designee;</u>	988 989
<u>(f) The director of health or the director's designee;</u>	990
<u>(g) The director of mental health or the director's designee;</u>	991
<u>(h) The director of alcohol and drug addiction services or the director's designee;</u>	992 993
<u>(i) The director of developmental disabilities or the director's designee;</u>	994 995
<u>(j) The superintendent of insurance or the superintendent's designee;</u>	996 997
<u>(k) The director of public safety or the director's designee;</u>	998
<u>(l) The state long-term care ombudsperson or the ombudsperson's designee;</u>	999 1000
<u>(m) One member of the house of representatives, appointed by the speaker of the house of representatives;</u>	1001 1002
<u>(n) One member of the senate, appointed by the president of the senate.</u>	1003 1004
<u>(C) Members who are appointed shall serve at the pleasure of the attorney general. Vacancies shall be filled in the same manner as original appointments.</u>	1005 1006 1007
<u>(D) All members of the commission shall serve as voting members. The attorney general shall select from among the appointed members a chairperson. The commission shall meet at the call of the chairperson, but not less than four times per year. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the attorney general.</u>	1008 1009 1010 1011 1012 1013

The commission may establish its own quorum requirements and 1014
procedures regarding the conduct of meetings and other affairs. 1015

(E) Members shall serve without compensation, but may be 1016
reimbursed for mileage and other actual and necessary expenses 1017
incurred in the performance of their official duties. 1018

(F) Sections 101.82 to 101.87 of the Revised Code do not 1019
apply to the elder abuse commission. 1020

Sec. 5101.741. (A) The elder abuse commission shall formulate 1021
and recommend strategies on all of the following: 1022

(1) Increasing awareness of and improving education on elder 1023
abuse; 1024

(2) Increasing research on elder abuse; 1025

(3) Improving policy, funding, and programming related to 1026
elder abuse; 1027

(4) Improving the judicial response to elder abuse victims; 1028

(5) Identifying ways to coordinate statewide efforts to 1029
address elder abuse. 1030

(B) The commission shall prepare and issue a biennial report 1031
on a plan of action that may be used by local communities to aid 1032
in the development of efforts to combat elder abuse. 1033

(C) The attorney general may adopt rules as necessary for the 1034
commission to carry out its duties. The rules shall be adopted in 1035
accordance with section 111.15 of the Revised Code. 1036

Sec. 5101.99. (A) Whoever violates division (A) ~~or (B)~~ of 1037
section ~~5101.61~~ 5101.63 of the Revised Code shall be fined not 1038
more than five hundred dollars. 1039

(B) Whoever violates division (A) of section 5101.27 of the 1040
Revised Code is guilty of a misdemeanor of the first degree. 1041

(C) Whoever violates section 5101.133 of the Revised Code is 1042
guilty of a misdemeanor of the fourth degree. 1043

Sec. 5123.61. (A) As used in this section: 1044

(1) "Law enforcement agency" means the state highway patrol, 1045
the police department of a municipal corporation, or a county 1046
sheriff. 1047

(2) "Abuse" has the same meaning as in section 5123.50 of the 1048
Revised Code, except that it includes a misappropriation, as 1049
defined in that section. 1050

(3) "Neglect" has the same meaning as in section 5123.50 of 1051
the Revised Code. 1052

(B) The department of developmental disabilities shall 1053
establish a registry office for the purpose of maintaining reports 1054
of abuse, neglect, and other major unusual incidents made to the 1055
department under this section and reports received from county 1056
boards of developmental disabilities under section 5126.31 of the 1057
Revised Code. The department shall establish committees to review 1058
reports of abuse, neglect, and other major unusual incidents. 1059

(C)(1) Any person listed in division (C)(2) of this section, 1060
having reason to believe that a person with mental retardation or 1061
a developmental disability has suffered or faces a substantial 1062
risk of suffering any wound, injury, disability, or condition of 1063
such a nature as to reasonably indicate abuse or neglect of that 1064
person, shall immediately report or cause reports to be made of 1065
such information to the entity specified in this division. Except 1066
as provided in section 5120.173 of the Revised Code or as 1067
otherwise provided in this division, the person making the report 1068
shall make it to a law enforcement agency or to the county board 1069
of developmental disabilities. If the report concerns a resident 1070
of a facility operated by the department of developmental 1071

disabilities the report shall be made either to a law enforcement 1072
agency or to the department. If the report concerns any act or 1073
omission of an employee of a county board of developmental 1074
disabilities, the report immediately shall be made to the 1075
department and to the county board. 1076

(2) All of the following persons are required to make a 1077
report under division (C)(1) of this section: 1078

(a) Any physician, including a hospital intern or resident, 1079
any dentist, podiatrist, chiropractor, practitioner of a limited 1080
branch of medicine as specified in section 4731.15 of the Revised 1081
Code, hospital administrator or employee of a hospital, nurse 1082
licensed under Chapter 4723. of the Revised Code, employee of an 1083
~~ambulatory outpatient~~ health facility as defined in section 1084
~~5101.61~~ 5101.60 of the Revised Code, employee of a home health 1085
agency, employee of an adult care facility licensed under Chapter 1086
3722. of the Revised Code, or employee of a community mental 1087
health facility; 1088

(b) Any school teacher or school authority, social worker, 1089
psychologist, attorney, peace officer, coroner, or residents' 1090
rights advocate as defined in section 3721.10 of the Revised Code; 1091

(c) A superintendent, board member, or employee of a county 1092
board of developmental disabilities; an administrator, board 1093
member, or employee of a residential facility licensed under 1094
section 5123.19 of the Revised Code; an administrator, board 1095
member, or employee of any other public or private provider of 1096
services to a person with mental retardation or a developmental 1097
disability, or any MR/DD employee, as defined in section 5123.50 1098
of the Revised Code; 1099

(d) A member of a citizen's advisory council established at 1100
an institution or branch institution of the department of 1101
developmental disabilities under section 5123.092 of the Revised 1102

Code; 1103

(e) A clergyman who is employed in a position that includes 1104
providing specialized services to an individual with mental 1105
retardation or another developmental disability, while acting in 1106
an official or professional capacity in that position, or a person 1107
who is employed in a position that includes providing specialized 1108
services to an individual with mental retardation or another 1109
developmental disability and who, while acting in an official or 1110
professional capacity, renders spiritual treatment through prayer 1111
in accordance with the tenets of an organized religion. 1112

(3)(a) The reporting requirements of this division do not 1113
apply to members of the legal rights service commission or to 1114
employees of the legal rights service. 1115

(b) An attorney or physician is not required to make a report 1116
pursuant to division (C)(1) of this section concerning any 1117
communication the attorney or physician receives from a client or 1118
patient in an attorney-client or physician-patient relationship, 1119
if, in accordance with division (A) or (B) of section 2317.02 of 1120
the Revised Code, the attorney or physician could not testify with 1121
respect to that communication in a civil or criminal proceeding, 1122
except that the client or patient is deemed to have waived any 1123
testimonial privilege under division (A) or (B) of section 2317.02 1124
of the Revised Code with respect to that communication and the 1125
attorney or physician shall make a report pursuant to division 1126
(C)(1) of this section, if both of the following apply: 1127

(i) The client or patient, at the time of the communication, 1128
is a person with mental retardation or a developmental disability. 1129

(ii) The attorney or physician knows or suspects, as a result 1130
of the communication or any observations made during that 1131
communication, that the client or patient has suffered or faces a 1132
substantial risk of suffering any wound, injury, disability, or 1133

condition of a nature that reasonably indicates abuse or neglect 1134
of the client or patient. 1135

(4) Any person who fails to make a report required under 1136
division (C) of this section and who is an MR/DD employee, as 1137
defined in section 5123.50 of the Revised Code, shall be eligible 1138
to be included in the registry regarding misappropriation, abuse, 1139
neglect, or other specified misconduct by MR/DD employees 1140
established under section 5123.52 of the Revised Code. 1141

(D) The reports required under division (C) of this section 1142
shall be made forthwith by telephone or in person and shall be 1143
followed by a written report. The reports shall contain the 1144
following: 1145

(1) The names and addresses of the person with mental 1146
retardation or a developmental disability and the person's 1147
custodian, if known; 1148

(2) The age of the person with mental retardation or a 1149
developmental disability; 1150

(3) Any other information that would assist in the 1151
investigation of the report. 1152

(E) When a physician performing services as a member of the 1153
staff of a hospital or similar institution has reason to believe 1154
that a person with mental retardation or a developmental 1155
disability has suffered injury, abuse, or physical neglect, the 1156
physician shall notify the person in charge of the institution or 1157
that person's designated delegate, who shall make the necessary 1158
reports. 1159

(F) Any person having reasonable cause to believe that a 1160
person with mental retardation or a developmental disability has 1161
suffered or faces a substantial risk of suffering abuse or neglect 1162
may report or cause a report to be made of that belief to the 1163
entity specified in this division. Except as provided in section 1164

5120.173 of the Revised Code or as otherwise provided in this 1165
division, the person making the report shall make it to a law 1166
enforcement agency or the county board of developmental 1167
disabilities. If the person is a resident of a facility operated 1168
by the department of developmental disabilities, the report shall 1169
be made to a law enforcement agency or to the department. If the 1170
report concerns any act or omission of an employee of a county 1171
board of developmental disabilities, the report immediately shall 1172
be made to the department and to the county board. 1173

(G)(1) Upon the receipt of a report concerning the possible 1174
abuse or neglect of a person with mental retardation or a 1175
developmental disability, the law enforcement agency shall inform 1176
the county board of developmental disabilities or, if the person 1177
is a resident of a facility operated by the department of 1178
developmental disabilities, the director of the department or the 1179
director's designee. 1180

(2) On receipt of a report under this section that includes 1181
an allegation of action or inaction that may constitute a crime 1182
under federal law or the law of this state, the department of 1183
developmental disabilities shall notify the law enforcement 1184
agency. 1185

(3) When a county board of developmental disabilities 1186
receives a report under this section that includes an allegation 1187
of action or inaction that may constitute a crime under federal 1188
law or the law of this state, the superintendent of the board or 1189
an individual the superintendent designates under division (H) of 1190
this section shall notify the law enforcement agency. The 1191
superintendent or individual shall notify the department of 1192
developmental disabilities when it receives any report under this 1193
section. 1194

(4) When a county board of developmental disabilities 1195
receives a report under this section and believes that the degree 1196

of risk to the person is such that the report is an emergency, the 1197
superintendent of the board or an employee of the board the 1198
superintendent designates shall attempt a face-to-face contact 1199
with the person with mental retardation or a developmental 1200
disability who allegedly is the victim within one hour of the 1201
board's receipt of the report. 1202

(H) The superintendent of the board may designate an 1203
individual to be responsible for notifying the law enforcement 1204
agency and the department when the county board receives a report 1205
under this section. 1206

(I) An adult with mental retardation or a developmental 1207
disability about whom a report is made may be removed from the 1208
adult's place of residence only by law enforcement officers who 1209
consider that the adult's immediate removal is essential to 1210
protect the adult from further injury or abuse or in accordance 1211
with the order of a court made pursuant to section 5126.33 of the 1212
Revised Code. 1213

(J) A law enforcement agency shall investigate each report of 1214
abuse or neglect it receives under this section. In addition, the 1215
department, in cooperation with law enforcement officials, shall 1216
investigate each report regarding a resident of a facility 1217
operated by the department to determine the circumstances 1218
surrounding the injury, the cause of the injury, and the person 1219
responsible. The investigation shall be in accordance with the 1220
memorandum of understanding prepared under section 5126.058 of the 1221
Revised Code. The department shall determine, with the registry 1222
office which shall be maintained by the department, whether prior 1223
reports have been made concerning an adult with mental retardation 1224
or a developmental disability or other principals in the case. If 1225
the department finds that the report involves action or inaction 1226
that may constitute a crime under federal law or the law of this 1227
state, it shall submit a report of its investigation, in writing, 1228

to the law enforcement agency. If the person with mental 1229
retardation or a developmental disability is an adult, with the 1230
consent of the adult, the department shall provide such protective 1231
services as are necessary to protect the adult. The law 1232
enforcement agency shall make a written report of its findings to 1233
the department. 1234

If the person is an adult and is not a resident of a facility 1235
operated by the department, the county board of developmental 1236
disabilities shall review the report of abuse or neglect in 1237
accordance with sections 5126.30 to 5126.33 of the Revised Code 1238
and the law enforcement agency shall make the written report of 1239
its findings to the county board. 1240

(K) Any person or any hospital, institution, school, health 1241
department, or agency participating in the making of reports 1242
pursuant to this section, any person participating as a witness in 1243
an administrative or judicial proceeding resulting from the 1244
reports, or any person or governmental entity that discharges 1245
responsibilities under sections 5126.31 to 5126.33 of the Revised 1246
Code shall be immune from any civil or criminal liability that 1247
might otherwise be incurred or imposed as a result of such actions 1248
except liability for perjury, unless the person or governmental 1249
entity has acted in bad faith or with malicious purpose. 1250

(L) No employer or any person with the authority to do so 1251
shall discharge, demote, transfer, prepare a negative work 1252
performance evaluation, reduce pay or benefits, terminate work 1253
privileges, or take any other action detrimental to an employee or 1254
retaliate against an employee as a result of the employee's having 1255
made a report under this section. This division does not preclude 1256
an employer or person with authority from taking action with 1257
regard to an employee who has made a report under this section if 1258
there is another reasonable basis for the action. 1259

(M) Reports made under this section are not public records as 1260

defined in section 149.43 of the Revised Code. Information 1261
contained in the reports on request shall be made available to the 1262
person who is the subject of the report, to the person's legal 1263
counsel, and to agencies authorized to receive information in the 1264
report by the department or by a county board of developmental 1265
disabilities. 1266

(N) Notwithstanding section 4731.22 of the Revised Code, the 1267
physician-patient privilege shall not be a ground for excluding 1268
evidence regarding the injuries or physical neglect of a person 1269
with mental retardation or a developmental disability or the cause 1270
thereof in any judicial proceeding resulting from a report 1271
submitted pursuant to this section. 1272

Sec. 5126.31. (A) A county board of developmental 1273
disabilities shall review reports of abuse and neglect made under 1274
section 5123.61 of the Revised Code and reports referred to it 1275
under section ~~5101.61~~ 5101.64 of the Revised Code to determine 1276
whether the person who is the subject of the report is an adult 1277
with mental retardation or a developmental disability in need of 1278
services to deal with the abuse or neglect. The board shall give 1279
notice of each report to the registry office of the department of 1280
developmental disabilities established pursuant to section 5123.61 1281
of the Revised Code on the first working day after receipt of the 1282
report. If the report alleges that there is a substantial risk to 1283
the adult of immediate physical harm or death, the board shall 1284
initiate review within twenty-four hours of its receipt of the 1285
report. If the board determines that the person is sixty years of 1286
age or older but does not have mental retardation or a 1287
developmental disability, it shall refer the case to the county 1288
department of job and family services. If the board determines 1289
that the person is an adult with mental retardation or a 1290
developmental disability, it shall continue its review of the 1291
case. 1292

(B) For each review over which the board retains 1293
responsibility under division (A) of this section, it shall do all 1294
of the following: 1295

(1) Give both written and oral notice of the purpose of the 1296
review to the adult and, if any, to the adult's legal counsel or 1297
caretaker, in simple and clear language; 1298

(2) Visit the adult, in the adult's residence if possible, 1299
and explain the notice given under division (B)(1) of this 1300
section; 1301

(3) Request from the registry office any prior reports 1302
concerning the adult or other principals in the case; 1303

(4) Consult, if feasible, with the person who made the report 1304
under section ~~5101.61~~ 5101.63 or 5123.61 of the Revised Code and 1305
with any agencies or persons who have information about the 1306
alleged abuse or neglect; 1307

(5) Cooperate fully with the law enforcement agency 1308
responsible for investigating the report and for filing any 1309
resulting criminal charges and, on request, turn over evidence to 1310
the agency; 1311

(6) Determine whether the adult needs services, and prepare a 1312
written report stating reasons for the determination. No adult 1313
shall be determined to be abused, neglected, or in need of 1314
services for the sole reason that, in lieu of medical treatment, 1315
the adult relies on or is being furnished spiritual treatment 1316
through prayer alone in accordance with the tenets and practices 1317
of a church or religious denomination of which the adult is a 1318
member or adherent. 1319

(C) The board shall arrange for the provision of services for 1320
the prevention, correction or discontinuance of abuse or neglect 1321
or of a condition resulting from abuse or neglect for any adult 1322
who has been determined to need the services and consents to 1323

receive them. These services may include, but are not limited to, 1324
service and support administration, fiscal management, medical, 1325
mental health, home health care, homemaker, legal, and residential 1326
services and the provision of temporary accommodations and 1327
necessities such as food and clothing. The services do not include 1328
acting as a guardian, trustee, or protector as defined in section 1329
5123.55 of the Revised Code. If the provision of residential 1330
services would require expenditures by the department of 1331
developmental disabilities, the board shall obtain the approval of 1332
the department prior to arranging the residential services. 1333

To arrange services, the board shall: 1334

(1) Develop an individualized service plan identifying the 1335
types of services required for the adult, the goals for the 1336
services, and the persons or agencies that will provide them; 1337

(2) In accordance with rules established by the director of 1338
developmental disabilities, obtain the consent of the adult or the 1339
adult's guardian to the provision of any of these services and 1340
obtain the signature of the adult or guardian on the individual 1341
service plan. An adult who has been found incompetent under 1342
Chapter 2111. of the Revised Code may consent to services. If the 1343
board is unable to obtain consent, it may seek, if the adult is 1344
incapacitated, a court order pursuant to section 5126.33 of the 1345
Revised Code authorizing the board to arrange these services. 1346

(D) The board shall ensure that the adult receives the 1347
services arranged by the board from the provider and shall have 1348
the services terminated if the adult withdraws consent. 1349

(E) On completion of a review, the board shall submit a 1350
written report to the registry office established under section 1351
5123.61 of the Revised Code. If the report includes a finding that 1352
a person with mental retardation or a developmental disability is 1353
a victim of action or inaction that may constitute a crime under 1354

federal law or the law of this state, the board shall submit the report to the law enforcement agency responsible for investigating the report. Reports prepared under this section are not public records as defined in section 149.43 of the Revised Code.

Section 2. That existing sections 2317.54, 5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.64, 5101.66, 5101.67, 5101.68, 5101.69, 5101.70, 5101.71, 5101.72, 5101.99, 5123.61, and 5126.31 of the Revised Code are hereby repealed.

Section 3. That the version of section 5123.61 of the Revised Code that is scheduled to take effect on October 1, 2012, be amended to read as follows:

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

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

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

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

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or

a developmental disability has suffered or faces a substantial 1384
risk of suffering any wound, injury, disability, or condition of 1385
such a nature as to reasonably indicate abuse or neglect of that 1386
person, shall immediately report or cause reports to be made of 1387
such information to the entity specified in this division. Except 1388
as provided in section 5120.173 of the Revised Code or as 1389
otherwise provided in this division, the person making the report 1390
shall make it to a law enforcement agency or to the county board 1391
of developmental disabilities. If the report concerns a resident 1392
of a facility operated by the department of developmental 1393
disabilities the report shall be made either to a law enforcement 1394
agency or to the department. If the report concerns any act or 1395
omission of an employee of a county board of developmental 1396
disabilities, the report immediately shall be made to the 1397
department and to the county board. 1398

(2) All of the following persons are required to make a 1399
report under division (C)(1) of this section: 1400

(a) Any physician, including a hospital intern or resident, 1401
any dentist, podiatrist, chiropractor, practitioner of a limited 1402
branch of medicine as specified in section 4731.15 of the Revised 1403
Code, hospital administrator or employee of a hospital, nurse 1404
licensed under Chapter 4723. of the Revised Code, employee of an 1405
~~ambulatory outpatient~~ health facility as defined in section 1406
~~5101.61~~ 5101.60 of the Revised Code, employee of a home health 1407
agency, employee of an adult care facility licensed under Chapter 1408
3722. of the Revised Code, or employee of a community mental 1409
health facility; 1410

(b) Any school teacher or school authority, social worker, 1411
psychologist, attorney, peace officer, coroner, or residents' 1412
rights advocate as defined in section 3721.10 of the Revised Code; 1413

(c) A superintendent, board member, or employee of a county 1414
board of developmental disabilities; an administrator, board 1415

member, or employee of a residential facility licensed under 1416
section 5123.19 of the Revised Code; an administrator, board 1417
member, or employee of any other public or private provider of 1418
services to a person with mental retardation or a developmental 1419
disability, or any MR/DD employee, as defined in section 5123.50 1420
of the Revised Code; 1421

(d) A member of a citizen's advisory council established at 1422
an institution or branch institution of the department of 1423
developmental disabilities under section 5123.092 of the Revised 1424
Code; 1425

(e) A ~~clergyman~~ member of the clergy who is employed in a 1426
position that includes providing specialized services to an 1427
individual with mental retardation or another developmental 1428
disability, while acting in an official or professional capacity 1429
in that position, or a person who is employed in a position that 1430
includes providing specialized services to an individual with 1431
mental retardation or another developmental disability and who, 1432
while acting in an official or professional capacity, renders 1433
spiritual treatment through prayer in accordance with the tenets 1434
of an organized religion. 1435

(3)(a) The reporting requirements of this division do not 1436
apply to employees of the Ohio protection and advocacy system. 1437

(b) An attorney or physician is not required to make a report 1438
pursuant to division (C)(1) of this section concerning any 1439
communication the attorney or physician receives from a client or 1440
patient in an attorney-client or physician-patient relationship, 1441
if, in accordance with division (A) or (B) of section 2317.02 of 1442
the Revised Code, the attorney or physician could not testify with 1443
respect to that communication in a civil or criminal proceeding, 1444
except that the client or patient is deemed to have waived any 1445
testimonial privilege under division (A) or (B) of section 2317.02 1446
of the Revised Code with respect to that communication and the 1447

attorney or physician shall make a report pursuant to division 1448
(C)(1) of this section, if both of the following apply: 1449

(i) The client or patient, at the time of the communication, 1450
is a person with mental retardation or a developmental disability. 1451

(ii) The attorney or physician knows or suspects, as a result 1452
of the communication or any observations made during that 1453
communication, that the client or patient has suffered or faces a 1454
substantial risk of suffering any wound, injury, disability, or 1455
condition of a nature that reasonably indicates abuse or neglect 1456
of the client or patient. 1457

(4) Any person who fails to make a report required under 1458
division (C) of this section and who is an MR/DD employee, as 1459
defined in section 5123.50 of the Revised Code, shall be eligible 1460
to be included in the registry regarding misappropriation, abuse, 1461
neglect, or other specified misconduct by MR/DD employees 1462
established under section 5123.52 of the Revised Code. 1463

(D) The reports required under division (C) of this section 1464
shall be made forthwith by telephone or in person and shall be 1465
followed by a written report. The reports shall contain the 1466
following: 1467

(1) The names and addresses of the person with mental 1468
retardation or a developmental disability and the person's 1469
custodian, if known; 1470

(2) The age of the person with mental retardation or a 1471
developmental disability; 1472

(3) Any other information that would assist in the 1473
investigation of the report. 1474

(E) When a physician performing services as a member of the 1475
staff of a hospital or similar institution has reason to believe 1476
that a person with mental retardation or a developmental 1477

disability has suffered injury, abuse, or physical neglect, the 1478
physician shall notify the person in charge of the institution or 1479
that person's designated delegate, who shall make the necessary 1480
reports. 1481

(F) Any person having reasonable cause to believe that a 1482
person with mental retardation or a developmental disability has 1483
suffered or faces a substantial risk of suffering abuse or neglect 1484
may report or cause a report to be made of that belief to the 1485
entity specified in this division. Except as provided in section 1486
5120.173 of the Revised Code or as otherwise provided in this 1487
division, the person making the report shall make it to a law 1488
enforcement agency or the county board of developmental 1489
disabilities. If the person is a resident of a facility operated 1490
by the department of developmental disabilities, the report shall 1491
be made to a law enforcement agency or to the department. If the 1492
report concerns any act or omission of an employee of a county 1493
board of developmental disabilities, the report immediately shall 1494
be made to the department and to the county board. 1495

(G)(1) Upon the receipt of a report concerning the possible 1496
abuse or neglect of a person with mental retardation or a 1497
developmental disability, the law enforcement agency shall inform 1498
the county board of developmental disabilities or, if the person 1499
is a resident of a facility operated by the department of 1500
developmental disabilities, the director of the department or the 1501
director's designee. 1502

(2) On receipt of a report under this section that includes 1503
an allegation of action or inaction that may constitute a crime 1504
under federal law or the law of this state, the department of 1505
developmental disabilities shall notify the law enforcement 1506
agency. 1507

(3) When a county board of developmental disabilities 1508
receives a report under this section that includes an allegation 1509

of action or inaction that may constitute a crime under federal 1510
law or the law of this state, the superintendent of the board or 1511
an individual the superintendent designates under division (H) of 1512
this section shall notify the law enforcement agency. The 1513
superintendent or individual shall notify the department of 1514
developmental disabilities when it receives any report under this 1515
section. 1516

(4) When a county board of developmental disabilities 1517
receives a report under this section and believes that the degree 1518
of risk to the person is such that the report is an emergency, the 1519
superintendent of the board or an employee of the board the 1520
superintendent designates shall attempt a face-to-face contact 1521
with the person with mental retardation or a developmental 1522
disability who allegedly is the victim within one hour of the 1523
board's receipt of the report. 1524

(H) The superintendent of the board may designate an 1525
individual to be responsible for notifying the law enforcement 1526
agency and the department when the county board receives a report 1527
under this section. 1528

(I) An adult with mental retardation or a developmental 1529
disability about whom a report is made may be removed from the 1530
adult's place of residence only by law enforcement officers who 1531
consider that the adult's immediate removal is essential to 1532
protect the adult from further injury or abuse or in accordance 1533
with the order of a court made pursuant to section 5126.33 of the 1534
Revised Code. 1535

(J) A law enforcement agency shall investigate each report of 1536
abuse or neglect it receives under this section. In addition, the 1537
department, in cooperation with law enforcement officials, shall 1538
investigate each report regarding a resident of a facility 1539
operated by the department to determine the circumstances 1540
surrounding the injury, the cause of the injury, and the person 1541

responsible. The investigation shall be in accordance with the 1542
memorandum of understanding prepared under section 5126.058 of the 1543
Revised Code. The department shall determine, with the registry 1544
office which shall be maintained by the department, whether prior 1545
reports have been made concerning an adult with mental retardation 1546
or a developmental disability or other principals in the case. If 1547
the department finds that the report involves action or inaction 1548
that may constitute a crime under federal law or the law of this 1549
state, it shall submit a report of its investigation, in writing, 1550
to the law enforcement agency. If the person with mental 1551
retardation or a developmental disability is an adult, with the 1552
consent of the adult, the department shall provide such protective 1553
services as are necessary to protect the adult. The law 1554
enforcement agency shall make a written report of its findings to 1555
the department. 1556

If the person is an adult and is not a resident of a facility 1557
operated by the department, the county board of developmental 1558
disabilities shall review the report of abuse or neglect in 1559
accordance with sections 5126.30 to 5126.33 of the Revised Code 1560
and the law enforcement agency shall make the written report of 1561
its findings to the county board. 1562

(K) Any person or any hospital, institution, school, health 1563
department, or agency participating in the making of reports 1564
pursuant to this section, any person participating as a witness in 1565
an administrative or judicial proceeding resulting from the 1566
reports, or any person or governmental entity that discharges 1567
responsibilities under sections 5126.31 to 5126.33 of the Revised 1568
Code shall be immune from any civil or criminal liability that 1569
might otherwise be incurred or imposed as a result of such actions 1570
except liability for perjury, unless the person or governmental 1571
entity has acted in bad faith or with malicious purpose. 1572

(L) No employer or any person with the authority to do so 1573

shall discharge, demote, transfer, prepare a negative work 1574
performance evaluation, reduce pay or benefits, terminate work 1575
privileges, or take any other action detrimental to an employee or 1576
retaliate against an employee as a result of the employee's having 1577
made a report under this section. This division does not preclude 1578
an employer or person with authority from taking action with 1579
regard to an employee who has made a report under this section if 1580
there is another reasonable basis for the action. 1581

(M) Reports made under this section are not public records as 1582
defined in section 149.43 of the Revised Code. Information 1583
contained in the reports on request shall be made available to the 1584
person who is the subject of the report, to the person's legal 1585
counsel, and to agencies authorized to receive information in the 1586
report by the department or by a county board of developmental 1587
disabilities. 1588

(N) Notwithstanding section 4731.22 of the Revised Code, the 1589
physician-patient privilege shall not be a ground for excluding 1590
evidence regarding the injuries or physical neglect of a person 1591
with mental retardation or a developmental disability or the cause 1592
thereof in any judicial proceeding resulting from a report 1593
submitted pursuant to this section. 1594

Section 4. That the version of section 5123.61 of the Revised 1595
Code that is scheduled to take effect on October 1, 2012, is 1596
hereby repealed. 1597

Section 5. Sections 3 and 4 of this act take effect October 1598
1, 2012. 1599