

As Introduced

**130th General Assembly
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H. B. No. 49

Representatives Dovilla, Retherford

**Cosponsors: Representatives Derickson, Thompson, Reece, Boyce,
Stebelton, Pillich, Anielski, Ashford, Sprague, Antonio**

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A B I L L

To amend sections 173.401, 173.501, 2317.54, 4715.36, 1
5101.60, 5101.61, 5101.611, 5101.62 to 5101.64, 2
5101.66 to 5101.71, 5101.72, 5101.99, 5111.894, 3
5123.61, and 5126.31; to amend, for the purpose of 4
adopting new section numbers as indicated in 5
parentheses, sections 5101.61 (5101.63), 5101.611 6
(5101.64), 5101.62 (5101.65), 5101.63 (5101.652), 7
5101.64 (5101.66), 5101.65 (5101.68), 5101.66 8
(5101.681), 5101.67 (5101.682), 5101.68 (5101.69), 9
5101.69 (5101.70), 5101.70 (5101.71), 5101.71 10
(5101.61), and 5101.72 (5101.611); and to enact 11
new sections 5101.62, 5101.67, and 5101.72 and 12
sections 5101.631, 5101.632, 5101.651, 5101.701, 13
5101.702, 5101.74, and 5101.741 of the Revised 14
Code to revise the laws governing the provision of 15
adult protective services. 16

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

Section 1. That sections 173.401, 173.501, 2317.54, 4715.36, 17
5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.64, 5101.66, 18
5101.67, 5101.68, 5101.69, 5101.70, 5101.71, 5101.72, 5101.99, 19

5111.894, 5123.61, and 5126.31 be amended; sections 5101.61 20
(5101.63), 5101.611 (5101.64), 5101.62 (5101.65), 5101.63 21
(5101.652), 5101.64 (5101.66), 5101.65 (5101.68), 5101.66 22
(5101.681), 5101.67 (5101.682), 5101.68 (5101.69), 5101.69 23
(5101.70), 5101.70 (5101.71), 5101.71 (5101.61), and 5101.72 24
(5101.611) be amended for the purpose of adopting new section 25
numbers as indicated in parentheses; and new sections 5101.62, 26
5101.67, and 5101.72 and sections 5101.631, 5101.632, 5101.651, 27
5101.701, 5101.702, 5101.74, and 5101.741 of the Revised Code be 28
enacted to read as follows: 29

Sec. 173.401. (A) As used in this section: 30

"Area agency on aging" has the same meaning as in section 31
173.14 of the Revised Code. 32

"Long-term care consultation program" means the program the 33
department of aging is required to develop under section 173.42 of 34
the Revised Code. 35

"Long-term care consultation program administrator" or 36
"administrator" means the department of aging or, if the 37
department contracts with an area agency on aging or other entity 38
to administer the long-term care consultation program for a 39
particular area, that agency or entity. 40

"Nursing facility" has the same meaning as in section 5111.20 41
of the Revised Code. 42

(B) Subject to division (C)(2) of section 173.40 of the 43
Revised Code, the department shall establish a home first 44
component of the PASSPORT program under which eligible individuals 45
may be enrolled in the medicaid-funded component of the PASSPORT 46
program in accordance with this section. An individual is eligible 47
for the PASSPORT program's home first component if both of the 48
following apply: 49

(1) The individual has been determined to be eligible for the medicaid-funded component of the PASSPORT program.	50 51
(2) At least one of the following applies:	52
(a) The individual has been admitted to a nursing facility.	53
(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.	54 55 56 57 58 59
(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual is to be transported directly from the hospital to a nursing facility and admitted.	60 61 62 63 64
(d) Both of the following apply:	65
(i) The individual is the subject of a report made under section 5101.61 <u>5101.63</u> of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.	66 67 68 69 70 71 72
(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be admitted to a nursing facility.	73 74 75 76 77
(C) Each month, each area agency on aging shall identify individuals residing in the area that the agency serves who are	78 79

eligible for the home first component of the PASSPORT program. 80
When an area agency on aging identifies such an individual, the 81
agency shall notify the long-term care consultation program 82
administrator serving the area in which the individual resides. 83
The administrator shall determine whether the PASSPORT program is 84
appropriate for the individual and whether the individual would 85
rather participate in the PASSPORT program than continue or begin 86
to reside in a nursing facility. If the administrator determines 87
that the PASSPORT program is appropriate for the individual and 88
the individual would rather participate in the PASSPORT program 89
than continue or begin to reside in a nursing facility, the 90
administrator shall so notify the department of aging. On receipt 91
of the notice from the administrator, the department shall approve 92
the individual's enrollment in the medicaid-funded component of 93
the PASSPORT program regardless of the unified waiting list 94
established under section 173.404 of the Revised Code, unless the 95
enrollment would cause the component to exceed any limit on the 96
number of individuals who may be enrolled in the component as set 97
by the United States secretary of health and human services in the 98
PASSPORT waiver. 99

Sec. 173.501. (A) As used in this section: 100

"Nursing facility" has the same meaning as in section 5111.20 101
of the Revised Code. 102

"PACE provider" has the same meaning as in 42 U.S.C. 103
1396u-4(a)(3). 104

(B) The department of aging shall establish a home first 105
component of the PACE program under which eligible individuals may 106
be enrolled in the PACE program in accordance with this section. 107
An individual is eligible for the PACE program's home first 108
component if both of the following apply: 109

(1) The individual has been determined to be eligible for the 110

PACE program.	111
(2) At least one of the following applies:	112
(a) The individual has been admitted to a nursing facility.	113
(b) A physician has determined and documented in writing that	114
the individual has a medical condition that, unless the individual	115
is enrolled in home and community-based services such as the PACE	116
program, will require the individual to be admitted to a nursing	117
facility within thirty days of the physician's determination.	118
(c) The individual has been hospitalized and a physician has	119
determined and documented in writing that, unless the individual	120
is enrolled in home and community-based services such as the PACE	121
program, the individual is to be transported directly from the	122
hospital to a nursing facility and admitted.	123
(d) Both of the following apply:	124
(i) The individual is the subject of a report made under	125
section 5101.61 <u>5101.63</u> of the Revised Code regarding abuse,	126
neglect, or exploitation or such a report referred to a county	127
department of job and family services under section 5126.31 of the	128
Revised Code or has made a request to a county department for	129
protective services as defined in section 5101.60 of the Revised	130
Code.	131
(ii) A county department of job and family services and an	132
area agency on aging have jointly documented in writing that,	133
unless the individual is enrolled in home and community-based	134
services such as the PACE program, the individual should be	135
admitted to a nursing facility.	136
(C) Each month, the department of aging shall identify	137
individuals who are eligible for the home first component of the	138
PACE program. When the department identifies such an individual,	139
the department shall notify the PACE provider serving the area in	140

which the individual resides. The PACE provider shall determine 141
whether the PACE program is appropriate for the individual and 142
whether the individual would rather participate in the PACE 143
program than continue or begin to reside in a nursing facility. If 144
the PACE provider determines that the PACE program is appropriate 145
for the individual and the individual would rather participate in 146
the PACE program than continue or begin to reside in a nursing 147
facility, the PACE provider shall so notify the department of 148
aging. On receipt of the notice from the PACE provider, the 149
department of aging shall approve the individual's enrollment in 150
the PACE program in accordance with priorities established in 151
rules adopted under section 173.50 of the Revised Code. 152

Sec. 2317.54. No hospital, home health agency, ambulatory 153
surgical facility, or provider of a hospice care program or 154
pediatric respite care program shall be held liable for a 155
physician's failure to obtain an informed consent from the 156
physician's patient prior to a surgical or medical procedure or 157
course of procedures, unless the physician is an employee of the 158
hospital, home health agency, ambulatory surgical facility, or 159
provider of a hospice care program or pediatric respite care 160
program. 161

Written consent to a surgical or medical procedure or course 162
of procedures shall, to the extent that it fulfills all the 163
requirements in divisions (A), (B), and (C) of this section, be 164
presumed to be valid and effective, in the absence of proof by a 165
preponderance of the evidence that the person who sought such 166
consent was not acting in good faith, or that the execution of the 167
consent was induced by fraudulent misrepresentation of material 168
facts, or that the person executing the consent was not able to 169
communicate effectively in spoken and written English or any other 170
language in which the consent is written. Except as herein 171
provided, no evidence shall be admissible to impeach, modify, or 172

limit the authorization for performance of the procedure or 173
procedures set forth in such written consent. 174

(A) The consent sets forth in general terms the nature and 175
purpose of the procedure or procedures, and what the procedures 176
are expected to accomplish, together with the reasonably known 177
risks, and, except in emergency situations, sets forth the names 178
of the physicians who shall perform the intended surgical 179
procedures. 180

(B) The person making the consent acknowledges that such 181
disclosure of information has been made and that all questions 182
asked about the procedure or procedures have been answered in a 183
satisfactory manner. 184

(C) The consent is signed by the patient for whom the 185
procedure is to be performed, or, if the patient for any reason 186
including, but not limited to, competence, minority, or the fact 187
that, at the latest time that the consent is needed, the patient 188
is under the influence of alcohol, hallucinogens, or drugs, lacks 189
legal capacity to consent, by a person who has legal authority to 190
consent on behalf of such patient in such circumstances, including 191
either of the following: 192

(1) The parent, whether the parent is an adult or a minor, of 193
the parent's minor child; 194

(2) An adult whom the parent of the minor child has given 195
written authorization to consent to a surgical or medical 196
procedure or course of procedures for the parent's minor child. 197

Any use of a consent form that fulfills the requirements 198
stated in divisions (A), (B), and (C) of this section has no 199
effect on the common law rights and liabilities, including the 200
right of a physician to obtain the oral or implied consent of a 201
patient to a medical procedure, that may exist as between 202
physicians and patients on July 28, 1975. 203

As used in this section the term "hospital" has the same 204
meaning as in section 2305.113 of the Revised Code; "home health 205
agency" has the same meaning as in section ~~5101.61~~ 3701.881 of the 206
Revised Code; "ambulatory surgical facility" has the meaning as in 207
division (A) of section 3702.30 of the Revised Code; and "hospice 208
care program" and "pediatric respite care program" have the same 209
meanings as in section 3712.01 of the Revised Code. The provisions 210
of this division apply to hospitals, doctors of medicine, doctors 211
of osteopathic medicine, and doctors of podiatric medicine. 212

Sec. 4715.36. As used in this section and sections 4715.361 213
to 4715.374 of the Revised Code: 214

(A) "Accredited dental hygiene school" means a dental hygiene 215
school accredited by the American dental association commission on 216
dental accreditation or a dental hygiene school whose educational 217
standards are recognized by the American dental association 218
commission on dental accreditation and approved by the state 219
dental board. 220

(B) "Authorizing dentist" means a dentist who authorizes a 221
dental hygienist to perform dental hygiene services under section 222
4715.365 of the Revised Code. 223

(C) "Clinical evaluation" means a diagnosis and treatment 224
plan formulated for an individual patient by a dentist. 225

(D) "Dentist" means an individual licensed under this chapter 226
to practice dentistry. 227

(E) "Dental hygienist" means an individual licensed under 228
this chapter to practice as a dental hygienist. 229

(F) "Dental hygiene services" means the prophylactic, 230
preventive, and other procedures that dentists are authorized by 231
this chapter and rules of the state dental board to assign to 232
dental hygienists, except for procedures while a patient is 233

anesthetized, definitive root planing, definitive subgingival	234
curettage, the administration of local anesthesia, and the	235
procedures specified in rules adopted by the board as described in	236
division (C)(4) of section 4715.22 of the Revised Code.	237
(G) "Facility" means any of the following:	238
(1) A health care facility, as defined in section 4715.22 of	239
the Revised Code;	240
(2) A state correctional institution, as defined in section	241
2967.01 of the Revised Code;	242
(3) A comprehensive child development program that receives	243
funds distributed under the "Head Start Act," 95 Stat. 499 (1981),	244
42 U.S.C. 9831, as amended, and is licensed as a child day-care	245
center;	246
(4) A residential facility licensed under section 5123.19 of	247
the Revised Code;	248
(5) A public school, as defined in section 3701.93 of the	249
Revised Code, located in an area designated as a dental health	250
resource shortage area pursuant to section 3702.87 of the Revised	251
Code;	252
(6) A nonpublic school, as defined in section 3701.93 of the	253
Revised Code, located in an area designated as a dental health	254
resource shortage area pursuant to section 3702.87 of the Revised	255
Code;	256
(7) A federally qualified health center or federally	257
qualified health center look-alike, as defined in section 3701.047	258
of the Revised Code;	259
(8) A shelter for victims of domestic violence, as defined in	260
section 3113.33 of the Revised Code;	261
(9) A facility operated by the department of youth services	262
under Chapter 5139. of the Revised Code;	263

(10) A shelter for runaways, as defined in section 5119.64 of the Revised Code;	264 265
(11) A foster home, as defined in section 5103.02 of the Revised Code;	266 267
(12) A nonprofit clinic, as defined in section 3715.87 of the Revised Code;	268 269
(13) The residence of one or more individuals receiving services provided by a home health agency, as defined in section 5101.61 <u>3701.881</u> of the Revised Code;	270 271 272
(14) A dispensary;	273
(15) A health care facility, such as a clinic or hospital, of the United States department of veterans affairs;	274 275
(16) The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, as defined in section 5111.851 of the Revised Code;	276 277 278
(17) A facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	279 280 281
(18) A women, infants, and children clinic;	282
(19) A mobile dental unit located at any location listed in divisions (G)(1) to (18) of this section;	283 284
(20) Any other location, as specified by the state dental board in rules adopted under section 4715.372 of the Revised Code, that is in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code and provides health care services to individuals who are recipients of medical assistance under the medicaid program established pursuant to Chapter 5111. of the Revised Code and to indigent and uninsured persons, as defined in section 2305.234 of the Revised Code.	285 286 287 288 289 290 291 292

Sec. 5101.60. As used in sections 5101.60 to ~~5101.71~~ 5101.72 293
of the Revised Code: 294

(A) "Abandonment" means desertion of an adult by a caretaker 295
without having made provision for transfer of the adult's care. 296

(B) "Abuse" means the infliction upon an adult by self or 297
others of injury, unreasonable confinement, intimidation, or cruel 298
punishment with resulting physical harm, pain, or mental anguish. 299

~~(B)(C)~~ "Adult" means any person sixty years of age or older 300
within this state who is handicapped by the infirmities of aging 301
or who has a physical or mental impairment which prevents the 302
person from providing for the person's own care or protection, and 303
who resides in an independent living arrangement. An ~~"independent~~ 304
~~living arrangement" is a domicile of a person's own choosing,~~ 305
~~including, but not limited to, a private home, apartment, trailer,~~ 306
~~or rooming house. An "independent living arrangement" includes a~~ 307
~~residential facility licensed under section 5119.22 of the Revised~~ 308
~~Code that provides accommodations, supervision, and personal care~~ 309
~~services for three to sixteen unrelated adults, but does not~~ 310
~~include other institutions or facilities licensed by the state or~~ 311
~~facilities in which a person resides as a result of voluntary,~~ 312
~~civil, or criminal commitment.~~ 313

~~(C)(D)~~ "Area agency on aging" means a public or private 314
nonprofit entity designated under section 173.011 of the Revised 315
Code to administer programs on behalf of the department of aging. 316

(E) "Caretaker" means the person assuming the primary 317
responsibility for the care of an adult ~~on~~ by any of the following 318
means: 319

(1) On a voluntary basis, ~~by;~~ 320

(2) By contract, ~~through;~~ 321

(3) Through receipt of payment for care, ~~as;~~ 322

<u>(4) As a result of a family relationship, or by;</u>	323
<u>(5) By order of a court of competent jurisdiction.</u>	324
(D) <u>(F) "Community mental health agency" means any agency,</u>	325
<u>program, or facility with which a board of alcohol, drug</u>	326
<u>addiction, and mental health services contracts to provide the</u>	327
<u>mental health services listed in section 340.09 of the Revised</u>	328
<u>Code.</u>	329
<u>(G) "Court" means the probate court in the county where an</u>	330
<u>adult resides.</u>	331
(E) <u>(H) "Emergency" means that the adult is living in</u>	332
<u>conditions which present a substantial risk of immediate and</u>	333
<u>irreparable physical harm or death to self or any other person.</u>	334
(F) <u>(I) "Emergency services" means protective services</u>	335
<u>furnished to an adult in an emergency.</u>	336
(G) <u>(J) "Exploitation" means the unlawful or improper act of a</u>	337
<u>caretaker person that has an ongoing relationship with an adult</u>	338
<u>using, in one or more transactions, an adult or an adult's</u>	339
<u>resources for monetary or personal benefit, profit, or gain.</u>	340
(H) <u>(K) "Financial harm" means impairing an adult's financial</u>	341
<u>assets by unlawfully obtaining or exerting control over the</u>	342
<u>adult's real or personal property in any of the following ways:</u>	343
<u>(1) Without the adult's consent or the person authorized to</u>	344
<u>give consent on the adult's behalf;</u>	345
<u>(2) Beyond the scope of the express or implied consent of the</u>	346
<u>adult or the person authorized to give consent on the adult's</u>	347
<u>behalf;</u>	348
<u>(3) By deception;</u>	349
<u>(4) By threat;</u>	350
<u>(5) By intimidation.</u>	351

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

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

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

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

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

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

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

<u>(3) Abandonment.</u>	383
(I) (O) <u>"Ongoing relationship" has the meaning established</u>	384
<u>under division (B)(2) of section 5101.61 of the Revised Code.</u>	385
<u>(R) "Outpatient health facility" means a facility where</u>	386
<u>medical care and preventive, diagnostic, therapeutic,</u>	387
<u>rehabilitative, or palliative items or services are provided to</u>	388
<u>outpatients by or under the direction of a physician or dentist.</u>	389
<u>(S) "Peace officer" means a peace officer as defined in</u>	390
<u>section 2935.01 of the Revised Code.</u>	391
(M) (T) <u>"Physical harm" means bodily pain, injury, impairment,</u>	392
<u>or disease suffered by an adult.</u>	393
(N) (U) <u>"Protective services" means services provided by the</u>	394
<u>county department of job and family services or its designated</u>	395
<u>agency to an adult who has been determined by evaluation to</u>	396
<u>require such services for the prevention, correction, or</u>	397
<u>discontinuance of an act of as well as conditions resulting from</u>	398
<u>abuse, neglect, or exploitation. Protective services may include,</u>	399
<u>but are not limited to, case work services, medical care, mental</u>	400
<u>health services, legal services, fiscal management, home health</u>	401
<u>care, homemaker services, housing-related services, guardianship</u>	402
<u>services, and placement services as well as the provision of such</u>	403
<u>commodities as food, clothing, and shelter.</u>	404
(O) (V) <u>"Reasonable decisions" means decisions made in daily</u>	405
<u>living that facilitate the provision of food, shelter, clothing,</u>	406
<u>and health care necessary for life support.</u>	407
<u>(W) "Senior service provider" means a person who provides</u>	408
<u>care or specialized services to an adult, except that it does not</u>	409
<u>include the state long-term care ombudsperson or a regional</u>	410
<u>long-term care ombudsperson.</u>	411
<u>(X) "Working day" means Monday, Tuesday, Wednesday, Thursday,</u>	412

and Friday, except when such day is a holiday as defined in 413
section 1.14 of the Revised Code. 414

Sec. ~~5101.71~~ 5101.61. (A) The ~~county departments~~ department 415
of job and family services shall implement sections 5101.60 to 416
~~5101.71~~ 5101.72 of the Revised Code. ~~The department of job and~~ 417
~~family services may provide a program of ongoing, comprehensive,~~ 418
~~formal training to county departments and other agencies~~ 419
~~authorized to implement sections 5101.60 to 5101.71 of the Revised~~ 420
~~Code. Training shall not be limited to the procedures for~~ 421
~~implementing section 5101.62 of the Revised Code.~~ 422

(B)(1) The director of job and family services may adopt 423
rules in accordance with section 111.15 of the Revised Code 424
governing the ~~county departments'~~ implementation of sections 425
5101.60 to ~~5101.71~~ 5101.72 of the Revised Code by the department 426
and the administration of those sections by county departments of 427
job and family services. The rules ~~adopted pursuant to this~~ 428
~~division~~ may include a requirement that the county departments 429
provide on forms prescribed by the rules a plan of proposed 430
expenditures, and a report of actual expenditures, of funds 431
necessary to ~~implement~~ administer sections 5101.60 to ~~5101.71~~ 432
5101.72 of the Revised Code. 433

(2) The director shall adopt rules in accordance with section 434
111.15 of the Revised Code that establish a definition of "ongoing 435
relationship." 436

Sec. ~~5101.72~~ 5101.611. (A) The department of job and family 437
services, ~~to the extent of available funds,~~ may reimburse county 438
departments of job and family services for all or part of the 439
costs they incur in ~~implementing~~ administering sections 5101.60 to 440
~~5101.71~~ 5101.72 of the Revised Code. The director of job and 441
family services shall adopt internal management rules in 442

accordance with section 111.15 of the Revised Code that provide 443
for reimbursement of the county departments ~~of job and family~~ 444
~~services under this section.~~ 445

The (B) In addition to any rules adopted under division (B) 446
of section 5101.61 of the Revised Code, the director shall adopt 447
internal management rules in accordance with section 111.15 of the 448
Revised Code that do both of the following: 449

~~(A)(1)~~ Implement sections 5101.60 to ~~5101.71~~ 5101.72 of the 450
Revised Code; 451

~~(B)(2)~~ Require the county departments to collect and submit 452
to the department, or ensure that a designated agency collects and 453
submits to the department, data concerning the ~~implementation~~ 454
administration of sections 5101.60 to ~~5101.71~~ 5101.72 of the 455
Revised Code. 456

Sec. 5101.62. In implementing sections 5101.60 to 5101.72 of 457
the Revised Code, the department of job and family services shall 458
do all of the following: 459

(A) Identify the core services for interventions that are to 460
be offered to adults in need of protective services; 461

(B) Maintain data by county on the implementation of sections 462
5101.60 to 5101.72 of the Revised Code; 463

(C) Provide a program of ongoing, comprehensive, formal 464
training on the implementation of sections 5101.60 to 5101.72 of 465
the Revised Code and require all protective services caseworkers 466
and their supervisors to undergo the training; 467

(D) Develop and make available educational materials for 468
individuals who are required under section 5101.63 of the Revised 469
Code to make reports of abuse, neglect, and exploitation; 470

(E) Facilitate ongoing cooperation among state agencies on 471
issues pertaining to the abuse, neglect, or exploitation of 472

<u>adults;</u>	473
<u>(F) Develop a model memorandum of understanding for purposes</u>	474
<u>of section 5101.651 of the Revised Code.</u>	475
Sec. 5101.61 5101.63. (A) As used in this section:	476
(1) "Senior service provider" means any person who provides	477
care or services to a person who is an adult as defined in	478
division (B) of section 5101.60 of the Revised Code.	479
(2) "Ambulatory health facility" means a nonprofit, public or	480
proprietary freestanding organization or a unit of such an agency	481
or organization that:	482
(a) Provides preventive, diagnostic, therapeutic,	483
rehabilitative, or palliative items or services furnished to an	484
outpatient or ambulatory patient, by or under the direction of a	485
physician or dentist in a facility which is not a part of a	486
hospital, but which is organized and operated to provide medical	487
care to outpatients;	488
(b) Has health and medical care policies which are developed	489
with the advice of, and with the provision of review of such	490
policies, an advisory committee of professional personnel,	491
including one or more physicians, one or more dentists, if dental	492
care is provided, and one or more registered nurses;	493
(c) Has a medical director, a dental director, if dental care	494
is provided, and a nursing director responsible for the execution	495
of such policies, and has physicians, dentists, nursing, and	496
ancillary staff appropriate to the scope of services provided;	497
(d) Requires that the health care and medical care of every	498
patient be under the supervision of a physician, provides for	499
medical care in a case of emergency, has in effect a written	500
agreement with one or more hospitals and other centers or clinics,	501
and has an established patient referral system to other resources,	502

~~and a utilization review plan and program;~~ 503

~~(e) Maintains clinical records on all patients;~~ 504

~~(f) Provides nursing services and other therapeutic services~~ 505
~~in accordance with programs and policies, with such services~~ 506
~~supervised by a registered professional nurse, and has a~~ 507
~~registered professional nurse on duty at all times of clinical~~ 508
~~operations;~~ 509

~~(g) Provides approved methods and procedures for the~~ 510
~~dispensing and administration of drugs and biologicals;~~ 511

~~(h) Has established an accounting and record keeping system~~ 512
~~to determine reasonable and allowable costs;~~ 513

~~(i) "Ambulatory health facilities" also includes an~~ 514
~~alcoholism treatment facility approved by the joint commission on~~ 515
~~accreditation of healthcare organizations as an alcoholism~~ 516
~~treatment facility or certified by the department of alcohol and~~ 517
~~drug addiction services, and such facility shall comply with other~~ 518
~~provisions of this division not inconsistent with such~~ 519
~~accreditation or certification.~~ 520

~~(3) "Community mental health facility" means a facility which~~ 521
~~provides community mental health services and is included in the~~ 522
~~comprehensive mental health plan for the alcohol, drug addiction,~~ 523
~~and mental health service district in which it is located.~~ 524

~~(4) "Community mental health service" means services, other~~ 525
~~than inpatient services, provided by a community mental health~~ 526
~~facility.~~ 527

~~(5) "Home health agency" means an institution or a distinct~~ 528
~~part of an institution operated in this state which:~~ 529

~~(a) Is primarily engaged in providing home health services;~~ 530

~~(b) Has home health policies which are established by a group~~ 531
~~of professional personnel, including one or more duly licensed~~ 532

~~doctors of medicine or osteopathy and one or more registered
professional nurses, to govern the home health services it
provides and which includes a requirement that every patient must
be under the care of a duly licensed doctor of medicine or
osteopathy;~~

~~(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;~~

~~(d) Maintains comprehensive records on all patients;~~

~~(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.~~

~~(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:~~

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

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

~~(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;~~

(d) Personal health care of the patient performed by aides in	563
accordance with the orders of a doctor of medicine or osteopathy	564
and under the supervision of a registered professional nurse;	565
(e) Medical supplies and the use of medical appliances;	566
(f) Medical services of interns and residents in training	567
under an approved teaching program of a nonprofit hospital and	568
under the direction and supervision of the patient's attending	569
physician;	570
(g) Any of the foregoing items and services which:	571
(i) Are provided on an outpatient basis under arrangements	572
made by the home health agency at a hospital or skilled nursing	573
facility;	574
(ii) Involve the use of equipment of such a nature that the	575
items and services cannot readily be made available to the patient	576
in the patient's place of residence, or which are furnished at the	577
hospital or skilled nursing facility while the patient is there to	578
receive any item or service involving the use of such equipment.	579
Any attorney, physician, osteopath, podiatrist, chiropractor,	580
dentist, psychologist, any employee of a hospital as defined in	581
section 3701.01 of the Revised Code, any nurse licensed under	582
Chapter 4723. of the Revised Code, any employee of an ambulatory	583
health facility, any employee of a home health agency, any	584
employee of a residential facility licensed under section 5119.22	585
of the Revised Code that provides accommodations, supervision, and	586
personal care services for three to sixteen unrelated adults, any	587
employee of a nursing home, residential care facility, or home for	588
the aging, as defined in section 3721.01 of the Revised Code, any	589
senior service provider, any peace officer, coroner, member of the	590
clergy, any employee of a community mental health facility, and	591
any person engaged in social work or counseling(1) Any individual	592
listed in division (A)(2) of this section having reasonable cause	593

to believe that an adult is being abused, neglected, or exploited, 594
or is in a condition which is the result of abuse, neglect, or 595
exploitation shall immediately report such belief to the county 596
department of job and family services. ~~This section does not apply~~ 597
~~to employees of any hospital or public hospital as defined in~~ 598
~~section 5122.01 of the Revised Code.~~ 599

(2) All of the following are subject to division (A)(1) of 600
this section: 601

(a) An attorney admitted to the practice of law in this 602
state; 603

(b) An individual authorized under Chapter 4731. of the 604
Revised Code to practice medicine and surgery, osteopathic 605
medicine and surgery, or podiatric medicine and surgery; 606

(c) An individual licensed under Chapter 4734. of the Revised 607
Code as a chiropractor; 608

(d) An individual licensed under Chapter 4715. of the Revised 609
Code as a dentist; 610

(e) An individual licensed under Chapter 4723. of the Revised 611
Code as a registered nurse or licensed practical nurse; 612

(f) An individual licensed under Chapter 4732. of the Revised 613
Code as a psychologist; 614

(g) An individual licensed under Chapter 4757. of the Revised 615
Code as a social worker, independent social worker, professional 616
counselor, professional clinical counselor, marriage and family 617
therapist, or independent marriage and family therapist; 618

(h) An individual licensed under Chapter 4729. of the Revised 619
Code as a pharmacist; 620

(i) An individual holding a certificate to practice as a 621
dialysis technician issued under Chapter 4723. of the Revised 622
Code; 623

<u>(j) An employee of a home health agency, as defined in</u>	624
<u>section 3701.881 of the Revised Code;</u>	625
<u>(k) An employee of an outpatient health facility;</u>	626
<u>(l) An employee of a hospital, as defined in section 3727.01</u>	627
<u>of the Revised Code;</u>	628
<u>(m) An employee of a hospital or public hospital, as defined</u>	629
<u>in section 5122.01 of the Revised Code;</u>	630
<u>(n) An employee of a nursing home or residential care</u>	631
<u>facility, as defined in section 3721.01 of the Revised Code;</u>	632
<u>(o) An employee of a residential facility licensed under</u>	633
<u>section 5119.22 of the Revised Code that provides accomodations,</u>	634
<u>supervision, and personal care services for three to sixteen</u>	635
<u>unrelated adults;</u>	636
<u>(p) An employee of a health department operated by the board</u>	637
<u>of health of a city or general health district or the authority</u>	638
<u>having the duties of a board of health under section 3709.05 of</u>	639
<u>the Revised Code;</u>	640
<u>(q) An employee of a community mental health agency, as</u>	641
<u>defined in section 5122.01 of the Revised Code;</u>	642
<u>(r) An agent of a county humane society organized under</u>	643
<u>section 1717.05 of the Revised Code;</u>	644
<u>(s) An individual who is a firefighter for a lawfully</u>	645
<u>constituted fire department;</u>	646
<u>(t) An individual who is an ambulance driver for an emergency</u>	647
<u>medical service organization, as defined in section 4765.01 of the</u>	648
<u>Revised Code;</u>	649
<u>(u) A first responder, emergency medical technician-basic,</u>	650
<u>emergency medical technician-intermediate, or paramedic, as those</u>	651
<u>terms are defined in section 4765.01 of the Revised Code;</u>	652

<u>(v) An official employed by a local building department to</u>	653
<u>conduct inspections of houses and other residential buildings;</u>	654
<u>(w) A peace officer;</u>	655
<u>(x) A coroner;</u>	656
<u>(y) A member of the clergy;</u>	657
<u>(z) An individual who holds a certificate issued under</u>	658
<u>Chapter 4701. of the Revised Code as a certified public accountant</u>	659
<u>or is registered under that chapter as a public accountant;</u>	660
<u>(aa) An individual licensed under Chapter 4735. of the</u>	661
<u>Revised Code as a real estate broker or real estate salesperson;</u>	662
<u>(bb) An individual appointed and commissioned under section</u>	663
<u>147.01 of the Revised Code as a notary public;</u>	664
<u>(cc) An employee of a bank, savings bank, savings and loan</u>	665
<u>association, or credit union organized under the laws of this</u>	666
<u>state, another state, or the United States;</u>	667
<u>(dd) An investment advisor, as defined in section 1707.01 of</u>	668
<u>the Revised Code;</u>	669
<u>(ee) A financial planner accredited by a national</u>	670
<u>accreditation agency;</u>	671
<u>(ff) Any other individual who is a senior service provider.</u>	672
(B) Any person having reasonable cause to believe that an	673
adult has suffered abuse, neglect, or exploitation may report, or	674
cause reports <u>a report</u> to be made of such belief to the <u>county</u>	675
department <u>of job and family services.</u>	676
(C)(1) The reports made under this section shall be made	677
orally or in writing except that. <u>The county department of job and</u>	678
<u>family services shall transcribe an oral reports shall be followed</u>	679
<u>by report into a written report if a written. Each report is</u>	680
<u>requested by the department. Written reports shall include all of</u>	681

the following: 682

~~(1)~~(a) The name, address, and approximate age of the adult 683
who is the subject of the report; 684

~~(2)~~(b) The name and address of the individual responsible for 685
the adult's care, if any individual is, and if the individual is 686
known; 687

~~(3)~~(c) The nature and extent of the alleged abuse, neglect, 688
or exploitation of the adult; 689

~~(4)~~(d) The basis of the reporter's belief that the adult has 690
been abused, neglected, or exploited. 691

(2) The county department of job and family services shall 692
transmit a copy of each report received under this section to the 693
registry established by the department of job and family services 694
under section 5101.631 of the Revised Code. 695

(D) Any person with reasonable cause to believe that an adult 696
is suffering abuse, neglect, or exploitation who makes a report 697
pursuant to this section or who testifies in any administrative or 698
judicial proceeding arising from such a report, or any employee of 699
the state or any of its subdivisions who is discharging 700
responsibilities under section 5101.62 of the Revised Code shall 701
be immune from civil or criminal liability on account of such 702
investigation, report, or testimony, except liability for perjury, 703
unless the person has acted in bad faith or with malicious 704
purpose. 705

(E) No employer or any other person with the authority to do 706
so shall ~~discharge~~ do any of the following as a result of an 707
employee's having filed a report under this section: 708

(1) Discharge, demote, transfer, or prepare a negative work 709
performance evaluation,~~or reduce;~~ 710

(2) Reduce benefits, pay, or work privileges,~~or take;~~ 711

(3) Take any other action detrimental to an the employee or 712
in any way retaliate against an the employee as a result of the 713
employee's having filed a report under this section. 714

(F) Neither the written or oral report provided for in this 715
section nor the investigatory report provided for in section 716
~~5101.62~~ 5101.65 of the Revised Code shall be considered a public 717
record as defined in section 149.43 of the Revised Code. 718
~~Information~~ On request, information contained in the report shall 719
~~upon request~~ be made available to the adult who is the subject of 720
the report, to agencies authorized by the county department of job 721
and family services to receive information contained in the 722
report, and to legal counsel for the adult. If it determines that 723
there is a risk of harm to a person who makes a report under this 724
section or to the adult who is the subject of the report, the 725
county department of job and family services may redact the name 726
and identifying information related to the person who made the 727
report. 728

Sec. 5101.631. (A) Not later than two years after the 729
effective date of this section, the department of job and family 730
services shall establish a registry to maintain reports of abuse, 731
neglect, or exploitation of adults, whether investigated or not, 732
made to county departments of job and family services under 733
section 5101.63 of the Revised Code. The department shall release 734
information in the registry to county departments of job and 735
family services in accordance with division (B) of section 5101.65 736
of the Revised Code and may release information in the registry to 737
law enforcement agencies through the Ohio law enforcement gateway 738
established under section 109.57 of the Revised Code. 739

(B) The department of job and family services shall develop a 740
plan to implement the registry. Not later than six months after 741
the effective date of this section, the department shall present 742

its plan to the elder abuse commission created under section 743
5101.74 of the Revised Code. The department shall provide an 744
opportunity for public comment on the plan. 745

Sec. 5101.632. Each entity that employs or is responsible for 746
licensing or regulating the individuals required under section 747
5101.63 of the Revised Code to make reports of abuse, neglect, or 748
exploitation of adults shall ensure that the individuals have 749
access to the educational materials developed under division (D) 750
of section 5101.62 of the Revised Code. 751

Sec. ~~5101.611~~ 5101.64. If a county department of job and 752
family services knows or has reasonable cause to believe that the 753
subject of a report made under section ~~5101.61~~ 5101.63 of the 754
Revised Code or of an investigation conducted under ~~sections~~ 755
~~5101.62 to 5101.64~~ section 5101.65 of the Revised Code or on the 756
initiative of the county department is mentally retarded or 757
developmentally disabled, as defined in section 5126.01 of the 758
Revised Code, the county department shall refer the case to the 759
county board of developmental disabilities of that county for 760
review pursuant to section 5126.31 of the Revised Code. 761

If a county board of developmental disabilities refers a case 762
to the county department of job and family services in accordance 763
with section 5126.31, the county department shall proceed with the 764
case in accordance with sections 5101.60 to ~~5101.71~~ 5101.72 of the 765
Revised Code. 766

Sec. ~~5101.62~~ 5101.65. The county department of job and family 767
services shall be responsible for the investigation of all reports 768
provided for in section ~~5101.61~~ 5101.63 and all cases referred to 769
it under section 5126.31 of the Revised Code and for evaluating 770
the need for and, to the extent of available ~~funds~~ services, 771
providing or arranging for the provision of protective services. 772

The department may designate another agency to perform the 773
department's duties under this section. 774

Investigation of the report provided for in section ~~5101.61~~ 775
5101.63 or a case referred to the department under section 5126.31 776
of the Revised Code shall be initiated within twenty-four hours 777
after the department receives the report or case if any emergency 778
exists; otherwise investigation shall be initiated within three 779
working days. 780

~~Investigation of~~ In investigating the need for protective 781
services, the department shall ~~include a face-to-face visit with~~ 782
do all of the following: 783

(A) Visit the adult who is the subject of the report, 784
preferably in the adult's residence, ~~and consultation;~~ 785

(B) Request from the registry established by the department 786
of job and family services under section 5101.631 of the Revised 787
Code any reports of prior abuse, neglect, or exploitation 788
concerning the adult; 789

(C) Consult with the person who made the report, if feasible, 790
and agencies or persons who have information about the adult's 791
alleged abuse, neglect, or exploitation. 792

The department shall give written notice of the intent of the 793
investigation and an explanation of the notice in language 794
reasonably understandable to the adult who is the subject of the 795
~~investigation~~ report, at the time of the initial interview with 796
that person. 797

Upon completion of the investigation, the department shall 798
determine from its findings whether or not the adult who is the 799
subject of the report is in need of protective services. No adult 800
shall be determined to be abused, neglected, or in need of 801
protective services for the sole reason that, in lieu of medical 802
treatment, the adult relies on or is being furnished spiritual 803

treatment through prayer alone in accordance with the tenets and 804
practices of a church or religious denomination of which the adult 805
is a member or adherent. The department shall write a report which 806
confirms or denies the need for protective services and states why 807
it reached this conclusion. 808

Sec. 5101.651. (A)(1) Each county department of job and 809
family services or its designated agency, in conjunction with the 810
area agency on aging that serves the region in which the county is 811
located, shall prepare a memorandum of understanding establishing 812
the guidelines to be employed in the investigation of a report of 813
adult abuse, neglect, or exploitation made pursuant to section 814
5101.63 of the Revised Code. The memorandum shall comply with the 815
requirements established by section 5101.65 of the Revised Code 816
for such investigations. The memorandum shall have as its primary 817
goal the utilization of a structured and systematic investigation 818
protocol regarding the reports. The memorandum may be based on the 819
model memorandum of understanding developed by the department of 820
job and family services under division (F) of section 5101.62 of 821
the Revised Code. 822

(2) If a county department of job and family services 823
designates another agency to perform any of the department's 824
duties in investigating reports of adult abuse, neglect, or 825
exploitation under section 5101.65 of the Revised Code, the 826
memorandum of understanding described in division (A)(1) of this 827
section shall include provisions that specify the duties of both 828
the department and the designated agency in investigating such 829
reports. 830

(B) The memorandum of understanding described in division 831
(A)(1) of this section shall be signed by all of the following: 832

(1) If there is only one probate judge serving the county, 833
the probate judge of the county or the judge's representative; 834

<u>(2) If there is more than one probate judge serving the county, the probate judge with administrative responsibility or the judge's representative;</u>	835
	836
	837
<u>(3) The county sheriff;</u>	838
<u>(4) The chief municipal peace officer within the county;</u>	839
<u>(5) Other law enforcement officers handling adult abuse, neglect, or exploitation in the county;</u>	840
	841
<u>(6) The county prosecuting attorney;</u>	842
<u>(7) The county coroner;</u>	843
<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>	844
	845
	846
<u>(9) The regional long-term care ombudsperson designated for the area;</u>	847
	848
<u>(10) A representative of the board of alcohol, drug addiction and mental health services that serves the county;</u>	849
	850
<u>(11) Entities responsible for investigating substandard housing;</u>	851
	852
<u>(12) A representative of the area agency on aging that serves the region in which the county is located;</u>	853
	854
<u>(13) A representative of a victim witness program that serves the county;</u>	855
	856
<u>(14) A representative of a metropolitan housing authority that serves the county;</u>	857
	858
<u>(15) Any other person or entity whose participation furthers the goals of the memorandum of understanding.</u>	859
	860
<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</u>	861
	862
	863

the membership of the team and establish guidelines to be used 864
when coordinating investigations of reports of adult abuse, 865
neglect, or exploitation. The memorandum shall describe the roles 866
and responsibilities of team members, including team members' 867
roles regarding the filing of criminal charges against persons 868
alleged to have abused, neglected, or exploited adults and the 869
provision of victim services to adults pursuant to Chapter 2930. 870
of the Revised Code. 871

(D) A failure to follow the guidelines set forth in the 872
memorandum of understanding required by this section is not 873
grounds for, and shall not result in, the dismissal of any charge 874
or complaint arising from any report of abuse, neglect, or 875
exploitation or the suppression of any evidence obtained as a 876
result of a report of abuse, neglect, or exploitation and does not 877
give any rights or grounds for appeal or post-conviction relief to 878
any person. 879

Sec. ~~5101.63~~ 5101.652. If, during the course of an 880
investigation conducted under section ~~5101.62~~ 5101.65 of the 881
Revised Code, any person, including the adult who is the subject 882
of the investigation, denies or obstructs access to the residence 883
of the adult, the county department of job and family services may 884
file a petition in court for a temporary restraining order to 885
prevent the interference or obstruction. The court shall issue a 886
temporary restraining order to prevent the interference or 887
obstruction if it finds there is reasonable cause to believe that 888
the adult is being or has been abused, neglected, or exploited and 889
access to the person's residence has been denied or obstructed. 890
Such a finding is prima-facie evidence that immediate and 891
irreparable injury, loss, or damage will result, so that notice is 892
not required. After obtaining an order restraining the obstruction 893
of or interference with the access of the protective services 894
representative, the representative may be accompanied to the 895

residence by a peace officer. 896

Sec. ~~5101.64~~ 5101.66. Any person who requests or consents to 897
receive protective services shall receive such services only after 898
an investigation and determination of a need for protective 899
services, ~~which.~~ The investigation shall be performed in the same 900
manner as the investigation of a report pursuant to ~~sections~~ 901
~~5101.62 and 5101.63~~ section 5101.65 of the Revised Code. If the 902
person withdraws consent, the protective services shall be 903
terminated. 904

Sec. 5101.67. (A) A person alleged to have abused, neglected, 905
or exploited an adult may appeal the findings of an investigation 906
conducted under section 5101.65 of the Revised Code to the county 907
department of job and family services or its designated agency. 908

(B) The director of job and family services shall adopt rules 909
establishing procedures to be followed by each county department 910
of job and family services or its designated agency for hearing 911
and deciding appeals under this section. The rules shall be 912
adopted in accordance with section 111.15 of the Revised Code. 913

Sec. ~~5101.65~~ 5101.68. If the county department of job and 914
family services determines that an adult is in need of protective 915
services and is an incapacitated person, the department may 916
petition the court for an order authorizing the provision of 917
protective services. The petition shall state the specific facts 918
alleging the abuse, neglect, or exploitation and shall include a 919
proposed protective service plan. Any plan for protective services 920
shall be specified in the petition. 921

Sec. ~~5101.66~~ 5101.681. Notice of a petition for the provision 922
of court-ordered protective services as provided for in section 923
~~5101.65~~ 5101.68 of the Revised Code shall be personally served 924

upon the adult who is the subject of the petition at least five 925
working days prior to the date set for the hearing as provided in 926
section ~~5101.67~~ 5101.682 of the Revised Code. Notice shall be 927
given orally and in writing in language reasonably understandable 928
to the adult. The notice shall include the names of all 929
petitioners, the basis of the belief that protective services are 930
needed, the rights of the adult in the court proceedings, and the 931
consequences of a court order for protective services. The adult 932
shall be informed of ~~his~~ the right to counsel and ~~his~~ the right to 933
appointed counsel if ~~he~~ the adult is indigent and if appointed 934
counsel is requested. Written notice by certified mail shall also 935
be given to the adult's guardian, legal counsel, caretaker, and 936
spouse, if any, or if ~~he~~ the adult has none of these, to ~~his~~ the 937
adult's adult children or next of kin, if any, or to any other 938
person as the court may require. The adult who is the subject of 939
the petition may not waive notice as provided in this section. 940

941

Sec. ~~5101.67~~ 5101.682. (A) The court shall hold a hearing on 942
the petition as provided in section ~~5101.65~~ 5101.68 of the Revised 943
Code within fourteen days after its filing. The adult who is the 944
subject of the petition shall have the right to be present at the 945
hearing, present evidence, and examine and cross-examine 946
witnesses. The adult shall be represented by counsel unless the 947
right to counsel is knowingly waived. If the adult is indigent, 948
the court shall appoint counsel to represent the adult. If the 949
court determines that the adult lacks the capacity to waive the 950
right to counsel, the court shall appoint counsel to represent the 951
adult's interests. 952

(B) If the court finds, on the basis of clear and convincing 953
evidence, that the adult has been abused, neglected, or exploited, 954
is in need of protective services, and is incapacitated, and no 955
person authorized by law or by court order is available to give 956

consent, it shall issue an order requiring the provision of 957
protective services only if they are available locally. 958

(C) If the court orders placement under this section it shall 959
give consideration to the choice of residence of the adult. The 960
court may order placement in settings which have been approved by 961
the department of job and family services as meeting at least 962
minimum community standards for safety, security, and the 963
requirements of daily living. The court shall not order an 964
institutional placement unless it has made a specific finding 965
entered in the record that no less restrictive alternative can be 966
found to meet the needs of the individual. No individual may be 967
committed to a hospital or public hospital as defined in section 968
5122.01 of the Revised Code pursuant to this section. 969

(D) The placement of an adult pursuant to court order as 970
provided in this section shall not be changed unless the court 971
authorized the transfer of placement after finding compelling 972
reasons to justify the transfer. Unless the court finds that an 973
emergency exists, the court shall notify the adult of a transfer 974
at least thirty days prior to the actual transfer. 975

(E) A court order provided for in this section shall remain 976
in effect for no longer than six months. Thereafter, the county 977
department of job and family services shall review the adult's 978
need for continued services and, if the department determines that 979
there is a continued need, it shall apply for a renewal of the 980
order for additional periods of no longer than one year each. The 981
adult who is the subject of the court-ordered services may 982
petition for modification of the order at any time. 983

Sec. ~~5101.68~~ 5101.69. (A) If an adult has consented to the 984
provision of protective services but any other person refuses to 985
allow such provision, the county department of ~~human~~ job and 986
family services may petition the court for a temporary restraining 987

order to restrain the person from interfering with the provision 988
of protective services for the adult. 989

(B) The petition shall state specific facts sufficient to 990
demonstrate the need for protective services, the consent of the 991
adult, and the refusal of some other person to allow the provision 992
of these services. 993

(C) Notice of the petition shall be given in language 994
reasonably understandable to the person alleged to be interfering 995
with the provision of services+. 996

(D) The court shall hold a hearing on the petition within 997
fourteen days after its filing. If the court finds that the 998
protective services are necessary, that the adult has consented to 999
the ~~provisions~~ provision of such services, and that the person who 1000
is the subject of the petition has prevented such provision, the 1001
court shall issue a temporary restraining order to restrain the 1002
person from interfering with the provision of protective services 1003
to the adult. 1004

Sec. ~~5101.69~~ 5101.70. (A) Upon petition by the county 1005
department of ~~human~~ job and family services, the court may issue 1006
an order authorizing the provision of protective services on an 1007
emergency basis to an adult. The petition for any emergency order 1008
shall include all of the following: 1009

(1) The name, age, and address of the adult in need of 1010
protective services; 1011

(2) The nature of the emergency; 1012

(3) The proposed protective services; 1013

(4) The petitioner's reasonable belief, together with facts 1014
supportive thereof, as to the existence of the circumstances 1015
described in divisions (D)(1) to (3) of this section; 1016

(5) Facts showing the petitioner's attempts to obtain the 1017

adult's consent to the protective services. 1018

(B) Notice of the filing and contents of the petition 1019
provided for in division (A) of this section, the rights of the 1020
person in the hearing provided for in division (C) of this 1021
section, and the possible consequences of a court order, shall be 1022
given to the adult. Notice shall also be given to the spouse of 1023
the adult or, if ~~he~~ the adult has none, to ~~his~~ the adult's adult 1024
children or next of kin, and ~~his~~ the adult's guardian, if any, if 1025
~~his~~ the guardian's whereabouts are known. The notice shall be 1026
given in language reasonably understandable to its recipients at 1027
least twenty-four hours prior to the hearing provided for in this 1028
section. The court may waive the twenty-four hour notice 1029
~~requiement~~ requirement upon a showing that both of the following 1030
are the case: 1031

(1) Immediate and irreparable physical harm or immediate and 1032
irreparable financial harm to the adult or others will result from 1033
the twenty-four hour delay; ~~and~~ 1034

(2) Reasonable attempts have been made to notify the adult, 1035
~~his~~ the adult's spouse, or, if ~~he~~ the adult has none, ~~his~~ the 1036
adult's adult children or next of kin, if any, and ~~his~~ the adult's 1037
guardian, if any, if ~~his~~ the guardian's whereabouts are known. 1038

Notice of the court's determination shall be given to all 1039
persons receiving notice of the filing of the petition provided 1040
for in this division. 1041

(C) Upon receipt of a petition for an order for emergency 1042
services, the court shall hold a hearing no sooner than 1043
twenty-four and no later than seventy-two hours after the notice 1044
provided for in division (B) of this section has been given, 1045
unless the court has waived the notice. The adult who is the 1046
subject of the petition shall have the right to be present at the 1047
hearing, present, evidence, and examine and cross-examine 1048

witnesses. 1049

(D) The court shall issue an order authorizing the provision 1050
of protective services on an emergency basis if it finds, on the 1051
basis of clear and convincing evidence, ~~that~~ all of the following: 1052

(1) The adult is an incapacitated person; 1053

(2) An emergency exists; 1054

(3) No person authorized by law or court order to give 1055
consent for the adult is available or willing to consent to 1056
emergency services. 1057

(E) In issuing an emergency order, the court shall adhere to 1058
the following limitations: 1059

(1) The court shall order only such protective services as 1060
are necessary and available locally to remove the conditions 1061
creating the emergency, and the court shall specifically designate 1062
those protective services the adult shall receive; 1063

(2) The court shall not order any change of residence under 1064
this section unless the court specifically finds that a change of 1065
residence is necessary; 1066

(3) The court may order emergency ~~services~~ services only for 1067
fourteen days. The department may petition the court for a renewal 1068
of the order for a fourteen-day period upon a showing that 1069
continuation of the order is necessary to remove the emergency. 1070

(4) In its order the court shall authorize the director of 1071
the county department or ~~his~~ the director's designee to give 1072
consent for the person for the approved emergency services until 1073
the expiration of the order; 1074

(5) The court shall not order a person to a hospital or 1075
public hospital as defined in section 5122.01 of the Revised Code. 1076

(F) If the county department determines that the adult 1077
continues to need protective services after the order provided for 1078

in division (D) of this section has expired, the department may
petition the court for an order to continue protective services,
pursuant to section ~~5101.65~~ 5101.68 of the Revised Code. After the
filing of the petition, the department may continue to provide
protective services pending a hearing by the court.

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

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

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

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

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

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

(2) If the day following the day on which the order was

issued is not a working day, the petition shall be filed with the 1109
court on the next working day. 1110

(3) Except as provided in section 5101.702 of the Revised 1111
Code, proceedings on the petition shall be conducted in accordance 1112
with section 5101.70 of the Revised Code. 1113

Sec. 5101.702. (A) If an order is issued pursuant to section 1114
5101.701 of the Revised Code, the court shall hold a hearing not 1115
later than twenty-four hours after the issuance to determine 1116
whether there is probable cause for the order, except that if the 1117
day following the day on which the order is issued is not a 1118
working day, the court shall hold the hearing on the next working 1119
day. 1120

(B) At the hearing, the court: 1121

(1) Shall determine whether protective services are the least 1122
restrictive alternative available for meeting the adult's needs; 1123

(2) May issue temporary orders to protect the adult from 1124
immediate and irreparable physical harm or immediate and 1125
irreparable financial harm, including, but not limited to, 1126
temporary protection orders, evaluations, and orders requiring a 1127
party to vacate the adult's place of residence or legal 1128
settlement; 1129

(3) May order emergency services; 1130

(4) May freeze the financial assets of the adult. 1131

(C) A temporary order issued pursuant to division (B)(2) of 1132
this section is effective for thirty days. The court may renew the 1133
order for an additional thirty-day period. 1134

Information contained in the order may be entered into the 1135
law enforcement automated data system. 1136

Sec. ~~5101.70~~ 5101.71. (A) If it appears that an adult in need 1137

of protective services has the financial means sufficient to pay 1138
for such services, the county department of job and family 1139
services shall make an evaluation regarding such means. If the 1140
evaluation establishes that the adult has such financial means, 1141
the department shall initiate procedures for reimbursement 1142
pursuant to rules ~~promulgated by the department~~ adopted under 1143
section 5101.61 of the Revised Code. If the evaluation establishes 1144
that the adult does not have such financial means, the services 1145
shall be provided in accordance with the policies and procedures 1146
established by the state department of job and family services for 1147
the provision of welfare assistance. An adult shall not be 1148
required to pay for court-ordered protective services unless the 1149
court determines upon a showing by the county department of job 1150
and family services that the adult is financially able to pay and 1151
the court orders the adult to pay. 1152

(B) Whenever the county department of job and family services 1153
has petitioned the court to authorize the provision of protective 1154
services and the adult who is the subject of the petition is 1155
indigent, the court shall appoint legal counsel. 1156

Sec. 5101.72. (A) An adult in need of protective services or 1157
a representative of such an adult may file a complaint with the 1158
county department of job and family services or its designated 1159
agency alleging that protective services were not provided to the 1160
adult or that the protective services were inadequate to address 1161
the adult's needs. The department or agency shall investigate the 1162
complaint and attempt to resolve it. 1163

(B) The director of job and family services shall adopt rules 1164
establishing procedures to be followed by a county department of 1165
job and family services or its designated agency regarding the 1166
investigation and resolution of complaints filed under this 1167
section. The rules shall be adopted in accordance with section 1168

<u>111.15 of the Revised Code.</u>	1169
<u>Sec. 5101.74. (A) There is hereby created the elder abuse</u>	1170
<u>commission. The commission shall consist of the following members:</u>	1171
<u>(1) The following members, appointed by the attorney general:</u>	1172
<u>(a) One representative of the AARP;</u>	1173
<u>(b) One representative of the buckeye state sheriffs'</u>	1174
<u>association;</u>	1175
<u>(c) One representative of the county commissioners'</u>	1176
<u>association of Ohio;</u>	1177
<u>(d) One representative of the Ohio association of area</u>	1178
<u>agencies on aging;</u>	1179
<u>(e) One representative of the board of nursing;</u>	1180
<u>(f) One representative of the Ohio coalition for adult</u>	1181
<u>protective services;</u>	1182
<u>(g) One person who represents the interests of elder abuse</u>	1183
<u>victims;</u>	1184
<u>(h) One person who represents the interests of elderly</u>	1185
<u>persons;</u>	1186
<u>(i) One representative of the Ohio domestic violence network;</u>	1187
<u>(j) One representative of the Ohio prosecuting attorneys</u>	1188
<u>association;</u>	1189
<u>(k) One representative of the Ohio victim witness</u>	1190
<u>association;</u>	1191
<u>(l) One representative of the Ohio association of chiefs of</u>	1192
<u>police;</u>	1193
<u>(m) One representative of the Ohio association of probate</u>	1194
<u>judges;</u>	1195

<u>(n) Two representatives of national organizations that focus on elder abuse or sexual violence.</u>	1196 1197
<u>(2) The following ex officio members:</u>	1198
<u>(a) The attorney general or the attorney general's designee;</u>	1199
<u>(b) The chief justice of the supreme court of Ohio or the chief justice's designee;</u>	1200 1201
<u>(c) The governor or the governor's designee;</u>	1202
<u>(d) The director of aging or the director's designee;</u>	1203
<u>(e) The director of job and family services or the director's designee;</u>	1204 1205
<u>(f) The director of health or the director's designee;</u>	1206
<u>(g) The director of mental health or the director's designee;</u>	1207
<u>(h) The director of alcohol and drug addiction services or the director's designee;</u>	1208 1209
<u>(i) The director of developmental disabilities or the director's designee;</u>	1210 1211
<u>(j) The superintendent of insurance or the superintendent's designee;</u>	1212 1213
<u>(k) The director of public safety or the director's designee;</u>	1214
<u>(l) The state long-term care ombudsperson or the ombudsperson's designee;</u>	1215 1216
<u>(m) One member of the house of representatives, appointed by the speaker of the house of representatives;</u>	1217 1218
<u>(n) One member of the senate, appointed by the president of the senate.</u>	1219 1220
<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>	1221 1222 1223

(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. The commission may establish its own quorum requirements and procedures regarding the conduct of meetings and other affairs. 1224
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(E) Members shall serve without compensation, but may be reimbursed for mileage and other actual and necessary expenses incurred in the performance of their official duties. 1232
1233
1234

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the elder abuse commission. 1235
1236

Sec. 5101.741. (A) The elder abuse commission shall formulate and recommend strategies on all of the following: 1237
1238

(1) Increasing awareness of and improving education on elder abuse; 1239
1240

(2) Increasing research on elder abuse; 1241

(3) Improving policy, funding, and programming related to elder abuse; 1242
1243

(4) Improving the judicial response to elder abuse victims; 1244

(5) Identifying ways to coordinate statewide efforts to address elder abuse. 1245
1246

(B) The commission shall prepare and issue a biennial report on a plan of action that may be used by local communities to aid in the development of efforts to combat elder abuse. 1247
1248
1249

(C) The attorney general may adopt rules as necessary for the commission to carry out its duties. The rules shall be adopted in accordance with section 111.15 of the Revised Code. 1250
1251
1252

Sec. 5101.99. (A) Whoever violates division (A) ~~or (B)~~ of 1253
section ~~5101.61~~ 5101.63 of the Revised Code shall be fined not 1254
more than five hundred dollars. 1255

(B) Whoever violates division (A) of section 5101.27 of the 1256
Revised Code is guilty of a misdemeanor of the first degree. 1257

(C) Whoever violates section 5101.133 of the Revised Code is 1258
guilty of a misdemeanor of the fourth degree. 1259

Sec. 5111.894. (A) Subject to division (C)(2) of section 1260
5111.89 of the Revised Code, the department of aging shall 1261
establish a home first component of the assisted living program 1262
under which eligible individuals may be enrolled in the 1263
medicaid-funded component of the assisted living program in 1264
accordance with this section. An individual is eligible for the 1265
assisted living program's home first component if both of the 1266
following apply: 1267

(1) The individual has been determined to be eligible for the 1268
medicaid-funded component of the assisted living program. 1269

(2) At least one of the following applies: 1270

(a) The individual has been admitted to a nursing facility. 1271

(b) A physician has determined and documented in writing that 1272
the individual has a medical condition that, unless the individual 1273
is enrolled in home and community-based services such as the 1274
assisted living program, will require the individual to be 1275
admitted to a nursing facility within thirty days of the 1276
physician's determination. 1277

(c) The individual has been hospitalized and a physician has 1278
determined and documented in writing that, unless the individual 1279
is enrolled in home and community-based services such as the 1280
assisted living program, the individual is to be transported 1281

directly from the hospital to a nursing facility and admitted. 1282

(d) Both of the following apply: 1283

(i) The individual is the subject of a report made under 1284
section ~~5101.61~~ 5101.63 of the Revised Code regarding abuse, 1285
neglect, or exploitation or such a report referred to a county 1286
department of job and family services under section 5126.31 of the 1287
Revised Code or has made a request to a county department for 1288
protective services as defined in section 5101.60 of the Revised 1289
Code. 1290

(ii) A county department of job and family services and an 1291
area agency on aging have jointly documented in writing that, 1292
unless the individual is enrolled in home and community-based 1293
services such as the assisted living program, the individual 1294
should be admitted to a nursing facility. 1295

(B) Each month, each area agency on aging shall identify 1296
individuals residing in the area that the area agency on aging 1297
serves who are eligible for the home first component of the 1298
assisted living program. When an area agency on aging identifies 1299
such an individual and determines that there is a vacancy in a 1300
residential care facility participating in the medicaid-funded 1301
component of the assisted living program that is acceptable to the 1302
individual, the agency shall notify the long-term care 1303
consultation program administrator serving the area in which the 1304
individual resides. The administrator shall determine whether the 1305
assisted living program is appropriate for the individual and 1306
whether the individual would rather participate in the assisted 1307
living program than continue or begin to reside in a nursing 1308
facility. If the administrator determines that the assisted living 1309
program is appropriate for the individual and the individual would 1310
rather participate in the assisted living program than continue or 1311
begin to reside in a nursing facility, the administrator shall so 1312
notify the department of aging. On receipt of the notice from the 1313

administrator, the department shall approve the individual's 1314
enrollment in the medicaid-funded component of the assisted living 1315
program regardless of the unified waiting list established under 1316
section 173.404 of the Revised Code, unless the enrollment would 1317
cause the component to exceed any limit on the number of 1318
individuals who may participate in the component as set by the 1319
United States secretary of health and human services in the 1320
assisted living waiver. 1321

Sec. 5123.61. (A) As used in this section: 1322

(1) "Law enforcement agency" means the state highway patrol, 1323
the police department of a municipal corporation, or a county 1324
sheriff. 1325

(2) "Abuse" has the same meaning as in section 5123.50 of the 1326
Revised Code, except that it includes a misappropriation, as 1327
defined in that section. 1328

(3) "Neglect" has the same meaning as in section 5123.50 of 1329
the Revised Code. 1330

(B) The department of developmental disabilities shall 1331
establish a registry office for the purpose of maintaining reports 1332
of abuse, neglect, and other major unusual incidents made to the 1333
department under this section and reports received from county 1334
boards of developmental disabilities under section 5126.31 of the 1335
Revised Code. The department shall establish committees to review 1336
reports of abuse, neglect, and other major unusual incidents. 1337

(C)(1) Any person listed in division (C)(2) of this section, 1338
having reason to believe that a person with mental retardation or 1339
a developmental disability has suffered or faces a substantial 1340
risk of suffering any wound, injury, disability, or condition of 1341
such a nature as to reasonably indicate abuse or neglect of that 1342
person, shall immediately report or cause reports to be made of 1343

such information to the entity specified in this division. Except 1344
as provided in section 5120.173 of the Revised Code or as 1345
otherwise provided in this division, the person making the report 1346
shall make it to a law enforcement agency or to the county board 1347
of developmental disabilities. If the report concerns a resident 1348
of a facility operated by the department of developmental 1349
disabilities the report shall be made either to a law enforcement 1350
agency or to the department. If the report concerns any act or 1351
omission of an employee of a county board of developmental 1352
disabilities, the report immediately shall be made to the 1353
department and to the county board. 1354

(2) All of the following persons are required to make a 1355
report under division (C)(1) of this section: 1356

(a) Any physician, including a hospital intern or resident, 1357
any dentist, podiatrist, chiropractor, practitioner of a limited 1358
branch of medicine as specified in section 4731.15 of the Revised 1359
Code, hospital administrator or employee of a hospital, nurse 1360
licensed under Chapter 4723. of the Revised Code, employee of an 1361
~~ambulatory~~ outpatient health facility as defined in section 1362
~~5101.61~~ 5101.60 of the Revised Code, employee of a home health 1363
agency, employee of a residential facility licensed under section 1364
5119.22 of the Revised Code that provides accommodations, 1365
supervision, and person care services for three to sixteen 1366
unrelated adults, or employee of a community mental health 1367
facility; 1368

(b) Any school teacher or school authority, social worker, 1369
psychologist, attorney, peace officer, coroner, or residents' 1370
rights advocate as defined in section 3721.10 of the Revised Code; 1371

(c) A superintendent, board member, or employee of a county 1372
board of developmental disabilities; an administrator, board 1373
member, or employee of a residential facility licensed under 1374
section 5123.19 of the Revised Code; an administrator, board 1375

member, or employee of any other public or private provider of 1376
services to a person with mental retardation or a developmental 1377
disability, or any MR/DD employee, as defined in section 5123.50 1378
of the Revised Code; 1379

(d) A member of a citizen's advisory council established at 1380
an institution or branch institution of the department of 1381
developmental disabilities under section 5123.092 of the Revised 1382
Code; 1383

(e) A member of the clergy who is employed in a position that 1384
includes providing specialized services to an individual with 1385
mental retardation or another developmental disability, while 1386
acting in an official or professional capacity in that position, 1387
or a person who is employed in a position that includes providing 1388
specialized services to an individual with mental retardation or 1389
another developmental disability and who, while acting in an 1390
official or professional capacity, renders spiritual treatment 1391
through prayer in accordance with the tenets of an organized 1392
religion. 1393

(3)(a) The reporting requirements of this division do not 1394
apply to employees of the Ohio protection and advocacy system. 1395

(b) An attorney or physician is not required to make a report 1396
pursuant to division (C)(1) of this section concerning any 1397
communication the attorney or physician receives from a client or 1398
patient in an attorney-client or physician-patient relationship, 1399
if, in accordance with division (A) or (B) of section 2317.02 of 1400
the Revised Code, the attorney or physician could not testify with 1401
respect to that communication in a civil or criminal proceeding, 1402
except that the client or patient is deemed to have waived any 1403
testimonial privilege under division (A) or (B) of section 2317.02 1404
of the Revised Code with respect to that communication and the 1405
attorney or physician shall make a report pursuant to division 1406
(C)(1) of this section, if both of the following apply: 1407

(i) The client or patient, at the time of the communication, 1408
is a person with mental retardation or a developmental disability. 1409

(ii) The attorney or physician knows or suspects, as a result 1410
of the communication or any observations made during that 1411
communication, that the client or patient has suffered or faces a 1412
substantial risk of suffering any wound, injury, disability, or 1413
condition of a nature that reasonably indicates abuse or neglect 1414
of the client or patient. 1415

(4) Any person who fails to make a report required under 1416
division (C) of this section and who is an MR/DD employee, as 1417
defined in section 5123.50 of the Revised Code, shall be eligible 1418
to be included in the registry regarding misappropriation, abuse, 1419
neglect, or other specified misconduct by MR/DD employees 1420
established under section 5123.52 of the Revised Code. 1421

(D) The reports required under division (C) of this section 1422
shall be made forthwith by telephone or in person and shall be 1423
followed by a written report. The reports shall contain the 1424
following: 1425

(1) The names and addresses of the person with mental 1426
retardation or a developmental disability and the person's 1427
custodian, if known; 1428

(2) The age of the person with mental retardation or a 1429
developmental disability; 1430

(3) Any other information that would assist in the 1431
investigation of the report. 1432

(E) When a physician performing services as a member of the 1433
staff of a hospital or similar institution has reason to believe 1434
that a person with mental retardation or a developmental 1435
disability has suffered injury, abuse, or physical neglect, the 1436
physician shall notify the person in charge of the institution or 1437
that person's designated delegate, who shall make the necessary 1438

reports. 1439

(F) Any person having reasonable cause to believe that a 1440
person with mental retardation or a developmental disability has 1441
suffered or faces a substantial risk of suffering abuse or neglect 1442
may report or cause a report to be made of that belief to the 1443
entity specified in this division. Except as provided in section 1444
5120.173 of the Revised Code or as otherwise provided in this 1445
division, the person making the report shall make it to a law 1446
enforcement agency or the county board of developmental 1447
disabilities. If the person is a resident of a facility operated 1448
by the department of developmental disabilities, the report shall 1449
be made to a law enforcement agency or to the department. If the 1450
report concerns any act or omission of an employee of a county 1451
board of developmental disabilities, the report immediately shall 1452
be made to the department and to the county board. 1453

(G)(1) Upon the receipt of a report concerning the possible 1454
abuse or neglect of a person with mental retardation or a 1455
developmental disability, the law enforcement agency shall inform 1456
the county board of developmental disabilities or, if the person 1457
is a resident of a facility operated by the department of 1458
developmental disabilities, the director of the department or the 1459
director's designee. 1460

(2) On receipt of a report under this section that includes 1461
an allegation of action or inaction that may constitute a crime 1462
under federal law or the law of this state, the department of 1463
developmental disabilities shall notify the law enforcement 1464
agency. 1465

(3) When a county board of developmental disabilities 1466
receives a report under this section that includes an allegation 1467
of action or inaction that may constitute a crime under federal 1468
law or the law of this state, the superintendent of the board or 1469
an individual the superintendent designates under division (H) of 1470

this section shall notify the law enforcement agency. The 1471
superintendent or individual shall notify the department of 1472
developmental disabilities when it receives any report under this 1473
section. 1474

(4) When a county board of developmental disabilities 1475
receives a report under this section and believes that the degree 1476
of risk to the person is such that the report is an emergency, the 1477
superintendent of the board or an employee of the board the 1478
superintendent designates shall attempt a face-to-face contact 1479
with the person with mental retardation or a developmental 1480
disability who allegedly is the victim within one hour of the 1481
board's receipt of the report. 1482

(H) The superintendent of the board may designate an 1483
individual to be responsible for notifying the law enforcement 1484
agency and the department when the county board receives a report 1485
under this section. 1486

(I) An adult with mental retardation or a developmental 1487
disability about whom a report is made may be removed from the 1488
adult's place of residence only by law enforcement officers who 1489
consider that the adult's immediate removal is essential to 1490
protect the adult from further injury or abuse or in accordance 1491
with the order of a court made pursuant to section 5126.33 of the 1492
Revised Code. 1493

(J) A law enforcement agency shall investigate each report of 1494
abuse or neglect it receives under this section. In addition, the 1495
department, in cooperation with law enforcement officials, shall 1496
investigate each report regarding a resident of a facility 1497
operated by the department to determine the circumstances 1498
surrounding the injury, the cause of the injury, and the person 1499
responsible. The investigation shall be in accordance with the 1500
memorandum of understanding prepared under section 5126.058 of the 1501
Revised Code. The department shall determine, with the registry 1502

office which shall be maintained by the department, whether prior 1503
reports have been made concerning an adult with mental retardation 1504
or a developmental disability or other principals in the case. If 1505
the department finds that the report involves action or inaction 1506
that may constitute a crime under federal law or the law of this 1507
state, it shall submit a report of its investigation, in writing, 1508
to the law enforcement agency. If the person with mental 1509
retardation or a developmental disability is an adult, with the 1510
consent of the adult, the department shall provide such protective 1511
services as are necessary to protect the adult. The law 1512
enforcement agency shall make a written report of its findings to 1513
the department. 1514

If the person is an adult and is not a resident of a facility 1515
operated by the department, the county board of developmental 1516
disabilities shall review the report of abuse or neglect in 1517
accordance with sections 5126.30 to 5126.33 of the Revised Code 1518
and the law enforcement agency shall make the written report of 1519
its findings to the county board. 1520

(K) Any person or any hospital, institution, school, health 1521
department, or agency participating in the making of reports 1522
pursuant to this section, any person participating as a witness in 1523
an administrative or judicial proceeding resulting from the 1524
reports, or any person or governmental entity that discharges 1525
responsibilities under sections 5126.31 to 5126.33 of the Revised 1526
Code shall be immune from any civil or criminal liability that 1527
might otherwise be incurred or imposed as a result of such actions 1528
except liability for perjury, unless the person or governmental 1529
entity has acted in bad faith or with malicious purpose. 1530

(L) No employer or any person with the authority to do so 1531
shall discharge, demote, transfer, prepare a negative work 1532
performance evaluation, reduce pay or benefits, terminate work 1533
privileges, or take any other action detrimental to an employee or 1534

retaliate against an employee as a result of the employee's having 1535
made a report under this section. This division does not preclude 1536
an employer or person with authority from taking action with 1537
regard to an employee who has made a report under this section if 1538
there is another reasonable basis for the action. 1539

(M) Reports made under this section are not public records as 1540
defined in section 149.43 of the Revised Code. Information 1541
contained in the reports on request shall be made available to the 1542
person who is the subject of the report, to the person's legal 1543
counsel, and to agencies authorized to receive information in the 1544
report by the department or by a county board of developmental 1545
disabilities. 1546

(N) Notwithstanding section 4731.22 of the Revised Code, the 1547
physician-patient privilege shall not be a ground for excluding 1548
evidence regarding the injuries or physical neglect of a person 1549
with mental retardation or a developmental disability or the cause 1550
thereof in any judicial proceeding resulting from a report 1551
submitted pursuant to this section. 1552

Sec. 5126.31. (A) A county board of developmental 1553
disabilities shall review reports of abuse and neglect made under 1554
section 5123.61 of the Revised Code and reports referred to it 1555
under section ~~5101.611~~ 5101.64 of the Revised Code to determine 1556
whether the person who is the subject of the report is an adult 1557
with mental retardation or a developmental disability in need of 1558
services to deal with the abuse or neglect. The board shall give 1559
notice of each report to the registry office of the department of 1560
developmental disabilities established pursuant to section 5123.61 1561
of the Revised Code on the first working day after receipt of the 1562
report. If the report alleges that there is a substantial risk to 1563
the adult of immediate physical harm or death, the board shall 1564
initiate review within twenty-four hours of its receipt of the 1565

report. If the board determines that the person is sixty years of 1566
age or older but does not have mental retardation or a 1567
developmental disability, it shall refer the case to the county 1568
department of job and family services. If the board determines 1569
that the person is an adult with mental retardation or a 1570
developmental disability, it shall continue its review of the 1571
case. 1572

(B) For each review over which the board retains 1573
responsibility under division (A) of this section, it shall do all 1574
of the following: 1575

(1) Give both written and oral notice of the purpose of the 1576
review to the adult and, if any, to the adult's legal counsel or 1577
caretaker, in simple and clear language; 1578

(2) Visit the adult, in the adult's residence if possible, 1579
and explain the notice given under division (B)(1) of this 1580
section; 1581

(3) Request from the registry office any prior reports 1582
concerning the adult or other principals in the case; 1583

(4) Consult, if feasible, with the person who made the report 1584
under section ~~5101.61~~ 5101.63 or 5123.61 of the Revised Code and 1585
with any agencies or persons who have information about the 1586
alleged abuse or neglect; 1587

(5) Cooperate fully with the law enforcement agency 1588
responsible for investigating the report and for filing any 1589
resulting criminal charges and, on request, turn over evidence to 1590
the agency; 1591

(6) Determine whether the adult needs services, and prepare a 1592
written report stating reasons for the determination. No adult 1593
shall be determined to be abused, neglected, or in need of 1594
services for the sole reason that, in lieu of medical treatment, 1595
the adult relies on or is being furnished spiritual treatment 1596

through prayer alone in accordance with the tenets and practices 1597
of a church or religious denomination of which the adult is a 1598
member or adherent. 1599

(C) The board shall arrange for the provision of services for 1600
the prevention, correction or discontinuance of abuse or neglect 1601
or of a condition resulting from abuse or neglect for any adult 1602
who has been determined to need the services and consents to 1603
receive them. These services may include, but are not limited to, 1604
service and support administration, fiscal management, medical, 1605
mental health, home health care, homemaker, legal, and residential 1606
services and the provision of temporary accommodations and 1607
necessities such as food and clothing. The services do not include 1608
acting as a guardian, trustee, or protector as defined in section 1609
5123.55 of the Revised Code. If the provision of residential 1610
services would require expenditures by the department of 1611
developmental disabilities, the board shall obtain the approval of 1612
the department prior to arranging the residential services. 1613

To arrange services, the board shall: 1614

(1) Develop an individualized service plan identifying the 1615
types of services required for the adult, the goals for the 1616
services, and the persons or agencies that will provide them; 1617

(2) In accordance with rules established by the director of 1618
developmental disabilities, obtain the consent of the adult or the 1619
adult's guardian to the provision of any of these services and 1620
obtain the signature of the adult or guardian on the individual 1621
service plan. An adult who has been found incompetent under 1622
Chapter 2111. of the Revised Code may consent to services. If the 1623
board is unable to obtain consent, it may seek, if the adult is 1624
incapacitated, a court order pursuant to section 5126.33 of the 1625
Revised Code authorizing the board to arrange these services. 1626

(D) The board shall ensure that the adult receives the 1627

services arranged by the board from the provider and shall have 1628
the services terminated if the adult withdraws consent. 1629

(E) On completion of a review, the board shall submit a 1630
written report to the registry office established under section 1631
5123.61 of the Revised Code. If the report includes a finding that 1632
a person with mental retardation or a developmental disability is 1633
a victim of action or inaction that may constitute a crime under 1634
federal law or the law of this state, the board shall submit the 1635
report to the law enforcement agency responsible for investigating 1636
the report. Reports prepared under this section are not public 1637
records as defined in section 149.43 of the Revised Code. 1638

Section 2. That existing sections 173.401, 173.501, 2317.54, 1639
4715.36, 5101.60, 5101.61, 5101.611, 5101.62, 5101.63, 5101.64, 1640
5101.66, 5101.67, 5101.68, 5101.69, 5101.70, 5101.71, 5101.72, 1641
5101.99, 5111.894, 5123.61, and 5126.31 of the Revised Code are 1642
hereby repealed. 1643