
9. SAMPLE PROTECTIVE SERVICES ORDERS POLICY

- Ohio statutes provide County Department of Job and Family Services (CDJFS) the ability to petition for a court order to provide protective services. It is recommended that each agency have a written policy to ensure cases are handled uniformly. Below are a sample policy and forms for local agencies to consider.

Ohio statutes provide County Department of Job and Family Services (CDJFS) the ability to petition for a court order to provide protective services.

- R.C. 5101.68 outlines that petitioning for a Court Order to Provide Protective Services (commonly referred as a general or routine order) may take place when an adult is in need of protective services and is an incapacitated person.
 - R.C. 5101.70 defines the Emergency Order; the court may issue an order authorizing the provision of protective services, on an emergency basis, for a period of the 14 days, plus one renewal of 14 days.
 - R.C. 5101.701 defines an Ex Parte Emergency Order that may be issued by telephone to an adult on an emergency basis when the court determines that an adult is in immediate and irreparable risk of physical harm.
 - When the Adult Protective Services (APS) worker determines that protective services are necessary for an adult who is at imminent risk of serious physical/financial harm and there is no one who can or can consent to the provision of protective service, the CDJFS, through the prosecuting attorney or designee, will consider petitioning the court for a protective services order (PSO).
1. The APS worker will discuss the case with their immediate supervisor and/or designee to ensure that least restrictive alternatives have been exhausted.
Discussion should include:
 - A. The protective plan was presented to the client in a manner that is clear and understandable in order to gain client's consent.
 - B. Presenting the protective plan to family member(s) who is able to consent to services.
 2. Upon review of a case and interventions, the APS worker will complete the Protective Service Summary Outline and forward the outline via email to their immediate supervisor and/or designee for approval.
 3. The prosecuting attorney or designee is made available to provide legal consultation as needed via phone, email and/or in person.

9. **SAMPLE PROTECTIVE SERVICES ORDERS POLICY - *cont.***

4. The supervisor will forward the approved PSO outline to the assigned prosecuting attorney or designee (or legal consult). If available, copies the Statement of Expert Evaluation and/or additional supporting documentation also is forwarded to the prosecutor's office.
5. If a guardianship for the adult is being considered in addition to the petition, the APS worker will make an immediate referral to either the guardianship services provider or probate court, whichever is appropriate. A court summary is to be provided.
6. The assigned prosecuting attorney or designee will review the outline and prepare the affidavit for the APS worker's signature. The worker signing the affidavit must have personal knowledge of the facts contained in the affidavit.
7. The prosecuting attorney or designee prepares the petition and other legal documents, including *Notice of Hearing and Affidavit of Service*. The prosecuting attorney or designee ensures that guardianship referral is promptly sent to the probate court.
8. The prosecuting attorney or designee contacts the APS worker to advise him/her that the documents are ready for signature and filing with the court.
9. The APS worker visits the Office of the Prosecuting Attorney to execute the affidavit. The prosecuting attorney or designee files with the court and a hearing date is scheduled. The prosecuting attorney of designee finalizes the Notice of Hearing.
10. The APS worker takes copies of the petition and Notice of Hearing for personal service to the adult, family members and/or caretaker. The APS worker retains the Affidavit of Service for signature to provide at the hearing. The Attorney will notarize. If testimony of witnesses or collateral contacts; such as PASSPORT, Hospice, or other professionals are necessary; the APS caseworker must make the prosecuting attorney or designee aware so the subpoenas may be served upon witnesses or other notice provided.
11. For emergency orders, the hearing is set between 24 hours and 72 hours of serving the petition. For general or routine orders the hearing is set between 5 days to 14 days of serving the petition.
12. The APS worker must attend the court hearing. The worker will testify under oath to the facts and circumstances set forth in the affidavit, which was filed with the petition. The court will also hear opposing testimony where the adult or other persons have the right to disagree with the APS care plan. The executed affidavit of service becomes a part of the court file.

-
13. Where the court is satisfied, by clear and convincing evidence that the proposed protective service plan is in the adult's best interest, the court will issue an order for the plan. The Emergency Order is valid for 14 days and renewable for an additional 14. The renewal must be applied for prior to the expiration of the first 14 days. The general or routine order is valid no longer than 6 months. The prosecuting attorney or designee will handle and contact the APS worker for additional information if needed, such as new placement.
 14. After the hearing, the APS worker accompanies the prosecuting attorney or designee to the office of the clerk of courts. The attorney requests two (or more if needed) certified copies of the judge's order. One certified copy is given by the APS worker to the facility admitting the adult.
 15. As a department best practice, the APS worker will be present if the adult is in the community when the Protective Service Order is served to assist in necessitating the provision of the court ordered protective plan.
 16. For hospital or nursing home admission, a copy of the judge's order is delivered to the APS supervisor or designees, who will sign all necessary documents (e.g. consent to treat, admission's paperwork).
 17. Prior to the expiration of the emergency order, one of the following must occur:
 - A. Possible need of a Guardianship hearing for the appointment of a guardian for client;
 - B. Petition for (general or routine) protective service (R.C. 5101.65) is filed with the court; or
 - C. Other protective service plan is implemented to restore safety to the client.

