The Supreme Court *of* Ohio

Adult Protective Services

TOOLKIT

for Judicial Use

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1. INTRODUCTION

As Ohio's elderly population continues to rise, the number of older adults at risk of abuse, neglect, and exploitation also is increasing. Physical and mental vulnerabilities may leave these individuals susceptible to abuse or neglect, including financial or mistreatment. Multiple state and local agencies are tasked with combatting and preventing elder abuse. The court can collaborate with community partners, such as adult protective services, law enforcement, and health care providers, to enhance outcomes for older adults.

This toolkit is designed to provide courts with practical resources and information for working with these cases.

2. ADULT PROTECTIVE SERVICES BENCH CARD

➲ This bench card outlines the judicial procedures and remedies available for adults who are in need of protective services.

FILINGS

1. SPF 23.0 Petition for Protective Services
2. SPF 23.1 Notice of Petition for Court Ordered Protective Services
3. SPF 23.2 Petition for Emergency Protective Services
4. SPF 23.3 Notice of Petition for Court Ordered Protective Services on an Emergency Basis
5. SPF 23.4 Petition for Temporary Restraining Order to Prevent Interference with Investigation of Reported Abuse of an Adult
6. SPF 23.6 Petition for Temporary Restraining Order to Prevent Interference with the Provision of Protective Services to an Adult
7. SPF 23.7 Notice of Hearing on Petition for Temporary Restraining Order to Prevent Interference With the Provision of Services

DEFINITIONS [R.C. 5101.60]

Adult – Person age 60 or older within this state handicapped by infirmities of aging or has physical or mental impairment that prevents person from providing for their own care or protection and who resides in an independent living arrangement, including residential facility licensed under R.C. 5119.22

Court – Probate court in county where adult resides

Emergency – Adult is living in conditions that present substantial risk of immediate and irreparable physical harm or death to self or another person

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

In need of protective services – 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

Abuse – Infliction upon adult by self or others of injury, unreasonable confinement, intimidating or cruel punishment with resulting physical harm, pain, or mental anguish

Neglect – Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness, failure of caretaker to provide such goods or services, or abandonment

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

- Without adult's consent or consent of the person authorized to give consent
- Beyond scope of express or implied consent of adult or person authorized to give consent
- By deception
- By threat
- By intimidation

2. ADULT PROTECTIVE SERVICES BENCH CARD - *cont.*

These provisions apply to involuntary protective service proceedings. For voluntary proceedings, refer to R.C. 5101.66.

TEMPORARY RESTRAINING ORDER
[R.C. 5101.651]; [R.C. 5101.69]

Investigation/Access to Residence [R.C. 5101.651]

- County Dept. of Job & Family Services (Co. DJFS) may petition the court for temporary restraining order to prevent interference or obstruction by any person, including the adult, who denies or obstructs access to residence of adult during course of investigation under R.C. 5101.65
  - **Temporary Restraining Order –** Court shall issue temporary restraining order if it finds reasonable cause to believe:
    - Adult is being or has been abused, neglected, or exploited, **AND**
    - Access to adult's residence has been denied or obstructed
    - Such finding is prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so notice is not required

Provision of Services [R.C. 5101.69]

- Co. DJFS may petition court for temporary restraining order to restrain any person from interfering with provision of protective services for the adult, when the adult has consented to the provision
  - **Petition –** Petition shall state specific facts sufficient to demonstrate need for protective services, the consent of adult, and refusal of some person to allow provision of services
  - **Notice –** Notice of petition shall be given to person alleged to be interfering
  - **Hearing –** Court shall hold hearing on petition within **14 days** after its filing
  - **Temporary Restraining Order –** Court shall issue temporary restraining order if it finds:
    - Protective services are necessary
    - Adult has consented to provision of services
    - The person who is subject of petition has prevented such provision

COURT ORDERED PROTECTIVE SERVICES
[R.C. 5101.68]; [R.C. 5101.681 - .682]

Petition [R.C. 5101.68]

- Co. DJFS may petition court for an order authorizing provision of protective services if it determines the adult is in need of protective services and is an incapacitated person (adult did not voluntarily accept services)

Notice of Petition [R.C. 5101.681]

- Notice to be personally served on adult at least 5 working days prior to hearing date
- Notice to adult shall be given orally or in writing
- Notice shall include all petitioners' names, basis of belief that protective services are needed, rights of adult in court proceedings, consequences of court order, adult's right to counsel, adult's right to appointed counsel if indigent and requests appointed counsel
- Written notice by certified mail shall be given to adult's guardian, legal counsel, caretaker, and spouse, if any, or, if none of these, to adult children or next of kin if any, or to any other person court may require
- Adult may not waive notice

Hearing & Order [R.C. 5101.682]

- **Hearing** held within **14 days** after filing of petition
- Rights of adult:
  - Be present at hearing
  - Present evidence
  - Examine and cross-examine witnesses
  - Be represented by counsel unless knowingly waived
  - Court appointed counsel if indigent
  - Court appointed counsel if court determines adult lacks capacity to waive right to counsel

Order

- Court shall issue order requiring provision of protective services **IF**:
  - Court finds by clear and convincing evidence that:
    - Adult has been abused, neglected, or exploited;
    - Is in need of protective services;
    - Is incapacitated; **AND**
    - No person authorized by law or court order is available to give consent.
    - If above findings are made, protective services are ordered to be provided only if services are available locally

Placement

- If placement is ordered, consideration shall be given to choice of residence of the adult
- May be in settings approved by the DJFS that meet minimum community standards for safety, security, and requirements of daily living
- Institutional placement shall not be ordered unless specific finding was entered in the record that no less restrictive alternative can be found to meet the adult's needs
- Cannot order commitment to a hospital or public hospital as defined in R.C. 5122.01
- Change of placement ordered only upon court's finding of compelling reasons to justify transfer
- Court shall notify adult of transfer at least 30 days prior, unless emergency exists
- Order provided for in this section shall remain in effect for no longer than 6 months
- If Co. DJFS determines continued need for services after review of adult's needs, it shall apply for renewal of order for additional periods of no longer than one year each
- Adult may petition for modification of order at any time

COURT ORDERED PROTECTIVE SERVICES – EMERGENCY BASIS [R.C. 5101.70]

Petition (Emergency Basis) [R.C. 5101.70]

- Filed by Co. DJFS or its designee and shall include:
  - Adult's name, age, address
  - Nature of emergency
  - Proposed protective services
  - Petitioner's reasonable belief and supportive facts that:
    - Adult is incapacitated
    - An emergency exists
    - No person is available or willing to consent for the adult
  - Facts showing attempts to obtain adult's consent

Notice of filing and petition contents

- To adult, shall include both:
  - Right to be present at hearing, present evidence, examine and cross-examine witnesses
  - Possible consequences of order

- To spouse, if any, or to adult child or next of kin, and guardian, if any, if whereabouts known
- Given 24 hours prior to hearing, unless waived by court if:
    - Immediate and irreparable physical or financial harm to adult or other will result from 24-hour delay; and
    - Reasonable attempts were made to notify adult, spouse, if any, adult children or next of kin, if any, and guardian, if any, if whereabouts are known
    - If 24-hour notice is waived, notice of this determination shall be given to persons receiving notice

Hearing

- Shall be held no sooner than 24 and no later than 72 hours after notice is given, unless court waived notice

Order (Emergency Basis)

- Court shall issue order if it finds by clear and convincing evidence that:
    - Adult is incapacitated;
    - Emergency exists; and
    - No person authorized by law or court order is available to consent.

Limitations to Order

- Specifically designate only necessary and locally available services to remove the emergency
- No change of residence unless finding necessary
- Services for **14 days**, unless Co. DJFS or its designee petitions court for renewal of 14-day order upon showing is necessary to remove emergency
- If services are necessary beyond emergency period, petition can be filed under R.C. 5101.68; Co. DJFS or its designee, after filing petition, permitted under R.C. 5101.70(F) to continue to provide services pending hearing by court
    - Authorize Co. DJFS director, designee, or rep. of designee to give consent for adult until order expires
    - Cannot order commitment to a hospital or public hospital, as defined in R.C. 5122.01

COURT ORDERED PROTECTIVE SERVICES – EX PARTE EMERGENCY BASIS [R.C. 5101.701]

Ex Parte Emergency Order [R.C. 5101.701]

- Court (judge or magistrate under direction of judge) may issue by **telephone** an ex parte emergency order if ALL of the following are applicable:
    - Co. DJFS/authorized employee of Co. DJFS/Co. DJFS designee/authorized employee of designee notifies court that they believe emergency order is needed as described herein;
    - Reasonable cause to be believe adult is incapacitated; and
    - Reasonable cause to believe there is substantial risk to adult of immediate and irreparable physical or financial harm, or death.
- Order shall be journalized
- Order effective for not longer than **24 hours** (except if day following day on which order is issued is not a working day, then order shall remain in effect until next working day)

- Not later than **24 hours** after order is issued, petition under R.C. 5101.70(A) shall be filed with court (unless day following day on which order was issued is not a working day, then petition shall be filed on next working day)
- Proceedings shall be conducted in accordance with R.C. 5101.70, except as provided in R.C. 5101.702

Hearing [R.C. 5101.702]

- Shall be held not later than **24 hours** after issuance of order to determine if there is probable cause for the order (except if day following day on which order is issued is not a working day, then order shall remain in effect until next working day)
- Court shall determine whether protective services are least restrictive alternative available
- Court may issue temporary orders, including, but not limited to, temporary protection orders, evaluations, and orders requiring a party to vacate adult's place of residence or legal settlement
    - Temporary order(s) are effective for 30 days
- Court may renew order for additional 30-day period
- Information in order may be entered into law-enforcement automated-data system
- Court may order emergency services
- Court may freeze financial assets of adult

PAYMENT OF SERVICES [R.C. 5101.71]

Payment of Services [R.C. 5101.71]

- Adult shall not be required to pay for court-ordered services unless court determines upon a showing by Co. DJFS that adult is financially able to pay and court orders the same

If adult is indigent, court shall appoint legal counsel whenever Co. DJFS has petitioned court to authorize provision of protective services.

3. APS ASSESSMENT FACTORS

➲ This assessment is used by county-level APS practitioners to determine an individual's risk of being abused, neglected, and/or exploited. It was developed by the Colorado Adult Protective Services Program and adapted to meet the needs of Ohio's program.

DLS/IADLS

FACTOR ADLs/IADLs	EXAMPLES OF RATING CRITERIA: Assess only the client's physical ability to complete the task (prompting is captured in the Cognition section). "No Impact" in the ADL/IADL section means the client is able to perform the task independently without an assistive device.	S	M	NI
Ambulation (ability to walk about freely)	MINOR - Has an unsteady gait or some difficulty walking (uses wall/furniture/cane occasionally for support, avoid stairs, etc.). SIGNIFICANT - Requires an assistive device to ambulate safely (cane, walker, wheelchair, etc.).			
Bathe, Shower, or Sponge Bathe	MINOR - Needs assistive device in bath/shower (grab bars, shower chair, etc.). SIGNIFICANT - Unable to independently complete bathing tasks (caretaker/family assistance to bathe/shower/sponge bathe, etc.).			
Eating and Drinking	MINOR - Occasionally has trouble getting food/drink to mouth or needs assistive device (self-stabilizing tableware, straw, etc.). SIGNIFICANT - Unable to eat/drink independently (requires caretaker/family assistance, IV nutrition, etc.).			
Grooming (hair, nails, hygiene)	MINOR - Occasionally has trouble grooming or needs assistive device (one-handed nail trimmer, long handled brush/comb, etc.). SIGNIFICANT - Unable to complete grooming (caretaker/family assistance, etc.).			
Toileting Self	MINOR - Occasionally has incontinence or needs adult diapers but can manage without assistance (adult diapers, bedside commode, etc.). SIGNIFICANT - Unable to toilet or use diapers independently (home health, family assistance, etc.).			
Transferring (chair to bed, bed to walker, etc.)	MINOR - Has some difficulty transferring (uses furniture, assistive device, or momentum to transfer, etc.). SIGNIFICANT - Unable to transfer without assistance (home health, family assistance, Hoyer lift, etc.).			
Communicating	MINOR - Uses assistive device to express need (communication board, tablet, interpreter, etc.). SIGNIFICANT - Gestures to signify yes/no (blinks, touches, etc.), needs trained communication assistant, or is unable to express needs in any way (coma, etc.).			
Physical Ability to Take/Use Medication	MINOR - Able to take/use meds w/ assistive technology (pre-loaded injectable, EZ open container, liquid vs. tablet, etc.). SIGNIFICANT - Unable to get med to mouth, apply cream, inject med, or otherwise take/use med (home health, family assistance, etc.).			
Housecleaning/ Laundry	MINOR - Able to complete basic housekeeping/laundry chores with assistive device (front load washer, extended duster, EZ grabber, etc.). SIGNIFICANT - Unable to independently complete housekeeping/laundry chores (home maker service, family assist, etc.).			
Dressing/Undressing Self	MINOR - Able to dress/undress with modified clothing (elastic waist bands, no buttons, slip on shoes, etc.). SIGNIFICANT - Unable to dress/undress (home health, family assistance, etc.).			
Preparing Meals	MINOR - Able to prepare meals with modified utensils/appliances (electric can opener, large/easy grip utensils, lightweight pots/pans, accessible sink, etc.). SIGNIFICANT - Unable to prepare meals (home maker services, home delivered meals, etc.).			
Shopping for Food/ Necessities	MINOR - Able to get to the store and complete shopping needs w/ assistance/assistive device (needs help reaching items, uses a grabber, etc.). SIGNIFICANT - Unable to complete shopping needs (home maker service, family assistance, grocery delivery, etc.).			
Using Available Transportation	MINOR - Limited ability to use own or public transportation (e.g., limited night vision, lack of accessible transportation options). SIGNIFICANT - Unable to use transportation (caretaker assistance to leave the home, etc.).			
Using the Phone	MINOR - Able to use phone with assistive modifications (large button phone, pre-programmed numbers, voice command, amplification, etc.). SIGNIFICANT - Unable to use the phone (caretaker assistance, etc.).			

S = SIGNIFICANT

M = MINOR

NI = NO IMPACT

3. APS ASSESSMENT FACTORS - *cont.*

Cognition

FACTOR: Cognition	EXAMPLES OF RATING CRITERIA: This section captures the client's cognitive ability to independently manage the various factors. "No Impact" in this area means there are no cognitive deficits and the client is able to complete the factor independently.	S	M	NI
Requires Prompting	MINOR - Client needs occasional reminders to remember to complete tasks (med minder, family support, etc.). SIGNIFICANT - Client needs consistent/multiple prompts to complete ADLs/IADLs or other tasks (home care, group/host home, assisted living, etc.).			
Communicating Ideas and Thoughts	MINOR - Client can communicate needs and simple ideas but has difficulty formulating complex thoughts/ideas (simplify language, etc.). SIGNIFICANT - Client is unable to communicate needs or formulate simple or complex thoughts/ideas (decision maker, etc.).			
Manages Medication Regimen	MINOR - Client needs daily reminder to take medications (med box, alarm, support from family, calendar, etc.). SIGNIFICANT - Client is unable to manage meds, even with reminders, resulting in under/overdose of medications (home health, caregiver, etc.).			
Managing Money	MINOR - Difficulty managing bills/resources or understanding her finances (auto-pay bills, develop budget, etc.). SIGNIFICANT - Unable to manage bills/resources or understand his finances, i.e., income source/amount, bills to pay (money manager, POA, etc.).			
Ability to Make Medical Decisions and Manage Health Care	MINOR - Needs some help to understand med procedures, insurance, med advice (caretaker, family assist, etc.). SIGNIFICANT - Unable to understand/make med decisions, recognize consequences, etc. (proxy decision maker, etc.).			
Planning and Sequencing	MINOR - Complete simple/routine multi-step tasks, e.g., a morning routine, but not complex tasks (prompts, reminder chart, etc.). SIGNIFICANT - Cannot complete multi-step tasks, e.g., plan/make a meal, react to emergency (caretaker, assisted living, etc.).			
Receiving and Evaluating Information	MINOR - Difficulty processing complex information but can understand w/assist (complete Medicaid app, assist with end-of-life plan, etc.). SIGNIFICANT - Cannot process information or take appropriate actions even w/ assistance (caretaker, guardianship, etc.)			
Recognizing Basic Needs	MINOR - Occasionally forgets a meal, bath, turn on heat, etc. (reminders, family support, part-time caretaker, etc.). SIGNIFICANT - Routinely forgets/ignores meals, hygiene, medical needs, dressing for weather, etc. (caretaker, assisted living, etc.).			
Awareness of Consequences of Actions/Choices	MINOR-Some trouble w/ action/choice impact, e.g., diabetes and poor diet, etc. (education, home maker, etc.). SIGNIFICANT - Cannot understand action/choice impact, e.g., gives away money vs. pay bills; drugs in home; eviction, etc. (decision-maker, SNF, etc.)			
Orientation to Time/ Place/Self	MINOR - Sometimes forgets details of events but knows who/where he/she is, etc. (simple reminders/prompts, etc.). SIGNIFICANT - Consistently confused about name/location/date impacting health/safety (caretaker, Assisted Living, SNF, etc.).			
Short- or Long-Term Memory Issues	MINOR - Some difficulty recognizing/contextualizing acquaintances/events, but can recall with minimal prompting (reminders, prompting, etc.). SIGNIFICANT - Forgets family/important events impacting health/safety (HCBS, SNF, guardianship, etc.).			

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Behavioral Concerns

FACTOR: Behavioral Concerns	EXAMPLES OF RATING CRITERIA: This section captures behavioral concerns that may be a result of other conditions the client has, e.g., dementia, brain injury, mental illness. "No impact" means the client does not have these behaviors or does not have any history of mental illness.	S	M	NI
Inappropriate or Unsafe Behaviors	MINOR - Behavior is occasionally inappropriate but does not pose a serious risk to safety (prompts, behavioral coaching, etc.). SIGNIFICANT - Behaviors put client/community at risk (caretaker assistance, supervision, guardianship, etc.).			
Violent/Aggressive Behaviors	MINOR - Verbal arguments/empty threats (behavior mod/therapy, mental health, etc.). SIGNIFICANT - Frequent physical/verbal altercations resulting in/likely to result in injury, eviction, arrest, etc. (behavior mod/therapy, intensive mental health, etc.).			
Wandering	MINOR - Occasionally becomes confused when going somewhere but eventually finds way (transportation, etc.). SIGNIFICANT - Wanders from home and gets lost (supervision, security measures, locked unit, etc.).			
Compulsive Behavior	MINOR - Some compulsive behaviors, but basic needs are still being met (behavior mod, etc.). SIGNIFICANT - Unable to manage compulsions, i.e., pica, compulsive gambling, obsessive hand washing creating open sores, etc. (mental health, caretaker, etc.).			
Delusions	MINOR - Delusions do not affect the client/community safety, i.e., believes the government has tapped phone (mental health services, etc.). SIGNIFICANT - Delusions disrupt basic needs and/or community (mental health case management, etc.).			
Hallucinations (auditory and visual)	MINOR - Hallucinations do not affect client/community safety (mental health services, etc.). SIGNIFICANT - Hallucinations cause client to make unsafe choices and/or put community at risk (mental health hold, supervision, caretaker assistance, etc.).			
Withdrawn/Loss of Interest/Decreased Social Interaction	MINOR - Decreased social interactions/interests (mental health evaluation, companion, etc.). SIGNIFICANT - Withdrawn from social interactions/interests (mental health intervention, companion volunteer, etc.).			
Major Mental Health Concerns, Including Depression, Anxiety, Fears	MINOR - Some symptoms of mental health issues that do not interfere with client's safety/health (depression meds, socialization, etc.). SIGNIFICANT - Symptoms are so severe the client cannot perform basic needs (intensive mental health intervention, etc.).			
Recent Loss (death, job, newly disabled, etc.)	MINOR - Loss is apparent but is not interfering with client's basic needs (family support, companion, etc.). SIGNIFICANT - Loss is causing client distress such that basic needs are not met (mental health intervention, grief counseling, etc.).			
Substance Use Problems	MINOR - Occasional misuse of alcohol or drugs, prescribed or illegal, but does not impair health/safety (education, etc.). SIGNIFICANT - Consistently misuses substances resulting in harm to self/others (substance abuse treatment, etc.).			
Suicidal Ideation	MINOR - Passive suicidal thoughts such as, "I don't want to be here anymore," but no intention of taking action (mental health, etc.). SIGNIFICANT - Active suicidal thoughts and plan/means to follow through (crisis intervention, mental health, etc.).			

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3. APS ASSESSMENT FACTORS - *cont.*

Medical

FACTOR: Medical	EXAMPLES OF RATING CRITERIA: Acute and chronic medical illness, conditions, and deficits. "No Impact" means the client has no medical or assistive technology needs for the risk factor	S	M	NI
Chronic Medical Issues	MINOR - Mild chronic medical issue, e.g., arthritis, but client can meet basic needs (family support, medical exam, etc.). SIGNIFICANT - Severe chronic medical issues, e.g., kidney/heart disease, cancer (medical intervention, caretaker assistance, etc.).			
Attends All Medical Appointments	MINOR - Some missed medical appointments (transportation, doctor home visits, etc.). SIGNIFICANT - Consistently misses medical appointments/has not had needed medical care for years (new provider, transportation, urgent care, etc.).			
Dental Needs	MINOR - Mild pain that interferes with ability to eat certain foods (dental exam/treatment, etc.). SIGNIFICANT - Teeth/gums are neglected, decayed, loss of teeth (dental care/ intervention, dentures, etc.).			
Hearing	MINOR - Mild difficulty hearing (speak loudly, hearing aids, phone amplifier, etc.). SIGNIFICANT - Client has moderate to profound difficulty hearing (hearing aids, ASL, cochlear implant, etc.).			
Vision	MINOR - Some difficulty seeing (eye exam, glasses/bifocals, etc.). SIGNIFICANT - Moderate to complete vision loss or has a degenerative eye disease (medical intervention, assistive devices, caretaker assistance, etc.).			
Over/Under Weight	MINOR - Over/under weight, does not affect medical conditions/daily tasks (Ensure, dietician, exercise, etc.). SIGNIFICANT - Over/under weight exacerbates/causes medical condition or impairs daily tasks (med intervention, assistive device, caretaker, etc.).			

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Home/Residence

FACTOR: Home/ Residence	EXAMPLES OF RATING CRITERIA: This is the client's home or where the client lives regularly. It is not a temporary environment, such as a hospital. "No Impact" means the client's home is adequate and there are no safety or health concerns for that factor.	S	M	NI
Available Food, Properly Stored	MINOR - Limited food supply; some perishables outdated/moldy (food bank, home delivered meals, SNAP, etc.). SIGNIFICANT - No food in home or food so limited/spoiled that client could not meet minimal dietary needs (food bank, emergency food, SNAP, etc.).			
Structural Accessibility of Home/Residence	MINOR - Home needs minor modifications to meet client's needs (wheelchair ramp, grab bars, toilet seat riser, etc.). SIGNIFICANT - Home needs major renovation/modifications to meet client's needs (widen doorways, install chair lift, walk in shower, etc.).			
Adequate Living Space for Household Size	MINOR - Some overcrowding exists, i.e., there is not enough sleeping space/chairs (add chairs, bed, etc.). SIGNIFICANT - Overcrowding impairs/limits movement/rest/sleep/ hygiene to extent quality of life is impaired (new home, reduce household size, etc.).			
Structural Safety	MINOR - Living space may have minimal structural issues (repair roof leaks, storm damage, cracked sidewalk, etc.). SIGNIFICANT - Client is not safe to live in home in current condition (major professional repairs/demolition, etc.).			
Biological Hazards	MINOR - Client safe to live in home but needs some hazard mitigation (minor mold treatment, specialized cleaning services, etc.). SIGNIFICANT - Client is unsafe in residence until mitigation is completed (hazmat, carpets replaced, walls replaced, etc.).			
Infestation of Vermin	MINOR - Pests are occasionally seen in home but do not pose a health risk. (traps/bug spray, home cleaning, etc.). SIGNIFICANT - Infestation is severe and poses a health risk to client (professional extermination, replace furniture/flooring/walls, etc.).			
Dangerous Objects or Substances	MINOR - Home has minimal amounts of dangerous objects/substances (inappropriately stored chemicals/cleaners, broken glass, etc.). SIGNIFICANT - Home contains large amounts of dangerous objects/substances (poses serious threat to health/safety, etc.).			
Excessive Waste/ Trash	MINOR - Home has some overflowing trash/dirty dishes/clutter in living space (housekeeping, home maker services, etc.). SIGNIFICANT - Home has trash/waste impairing ability to fully utilize living space (deep cleaning, organization, trash removal, etc.).			
Hoarding	MINOR - Some clear pathways/areas in essential areas (mental health, specialized cleaning, etc.). SIGNIFICANT - Pathways/essential areas blocked causing problems in daily activities (mental health, specialized cleaning, code enforcement, etc.).			
Fire Hazards	MINOR - Some fire risks, i.e., cigarette burns in clothing, flammable items near stove, etc. (safety education, smoking modification, etc.). SIGNIFICANT - Previous fire or risk requires immediate intervention (supervision, disconnect stove, repairs, etc.).			
Appliances	MINOR - An appliance needs repair but there is alternate option to meet basic needs (stove top works but oven doesn't, etc.). SIGNIFICANT - Appliance necessary for basic needs is not functional/non-existent (working refrigerator, means to cook food, etc.).			
Plumbing	MINOR - Residence has some plumbing deficits but they are not causing major concern (snake the drains, basic plumbing repair, etc.). SIGNIFICANT - Residence has major plumbing deficits (extensive water damage, broken/burst pipes, no working toilet, etc.).			
Utilities	MINOR - Some utilities are not working but do not impact client safety (reconnect gas to hot H2O heater, pay phone bill, etc.). SIGNIFICANT - Utilities are disconnected due to non-payment or disrepair (repair heat source, pay utility bill, HEAP, etc.).			
Neighborhood Safety	MINOR - Rare/occasional criminal activity may occur in neighborhood but does not pose high risk. (New locks, security measures installed, etc.). SIGNIFICANT - Client's neighborhood is a known high-crime area and client safety at risk. (Relocation).			
Stable Housing	MINOR - Client does not have permanent housing or relocates/evicted frequently (financial manager, stable housing). SIGNIFICANT - Client is chronically homeless or is being evicted (alternative housing, emergency housing, permanent housing, etc.).			

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3. APS ASSESSMENT FACTORS - *cont.*

Financial Circumstances

FACTOR: Financial Circumstances	EXAMPLES OF RATING CRITERIA: This area captures information related to the client's financial situation, such as adequate income to meet basic needs and if income/assets are used to meet needs. "No Impact" means the client's financial situation doesn't pose any health/safety concerns.	S	M	NI
Ability to Access Funds and Financial Information	MINOR - Client cannot easily access income and/or financial information independently. (Access to debit card, change bank location, etc.). SIGNIFICANT - Client is unable to access income/financial information independently. (Financial manager, POA, etc.).			
Having Adequate Income	MINOR - Income is sufficient for basic needs but not for unexpected costs (family assistance, low income housing, SNAP, etc.). SIGNIFICANT - Client doesn't have sufficient funds to meet basic needs (low income housing, SNAP, HEAP, SSI, etc.).			
Adequate Health Care Coverage	MINOR - Client has medical insurance but is not comprehensive (QMB, Part D, etc.). SIGNIFICANT - No insurance/insufficient to cover essential medical needs (Medicaid, supplemental insurance, etc.).			
Unpaid Bills	MINOR - Client has occasionally paid bills late (set up auto-pay for bills, family assistance with bill paying, etc.). SIGNIFICANT - Client consistently has unpaid bills (rep payee, conservator, etc.).			
Change in Financial	MINOR - Some difficulty seeing (eye exam, glasses/bifocals, etc.). SIGNIFICANT - Moderate to complete vision loss or has a degenerative eye disease (medical intervention, assistive devices, caretaker assistance, etc.).			
Circumstances	MINOR - Client can no longer afford more than basic needs, i.e., cable, recreational activities, etc. (rent help, renegotiate bills, etc.). SIGNIFICANT - Change results in loss of benefits/ability to meet basic needs (Medicaid spend down, SNAP, HEAP, etc.).			
Uses Income/Assets to Meet Basic Needs	MINOR - Occasionally client cannot afford basic needs due to purchasing non-essential items. (Budgeting education, etc.). SIGNIFICANT - Client consistently does not meet basic needs due to buying non-essential items. (Money manager, conservator, etc.).			

S = SIGNIFICANT

M = MINOR

NI = NO IMPACT

Maltreatment

FACTOR: Maltreatment	EXAMPLES OF RATING CRITERIA: These risk factors specifically address client's safety as related to physical/sexual abuse, caretaker neglect, exploitation, and possible criminal activity. "No Impact" means the client has not experienced/is not experiencing the risk factor.	S	M	NI
Illegal or Unsafe Activity in the Home	MINOR - Some illegal/unsafe activity but not an imminent risk, i.e., misdemeanor crimes (safety plan, protection order, etc.). SIGNIFICANT - Illegal/unsafe activity impairs safety, i.e., physical fights, drug manufacturing, etc. (evict perps, etc.).			
Physical Pain or Injury	MINOR - Experienced pain as a result of abuse (caretaker retraining, new caretaker, etc.). SIGNIFICANT - Visible marks, injuries, sores, broken bones, etc. as a result of abuse (medical treatment, remove caretaker, protective order, etc.).			
Unreasonable Confinement or Restraint	MINOR - Unnecessarily confined to a recliner/bed/wheelchair most of the day (education, new caretaker, etc.). SIGNIFICANT - Locked in room, improper use of physical/chemical restraint not approved in care plan (new caretaker, medical care, etc.).			
Not Following Care Plan/Standards	MINOR - Care plan not followed but has not caused injury or increased medical concerns (education, reminders, etc.). SIGNIFICANT - Care plan not followed causing injury/pain or worsens medical/other conditions (med care, new caretaker, etc.).			
Harassment, Threats, Intimidation	MINOR - Avoids situations with a person due to fear of harassment/threat/intimidation (new caretaker, etc.). SIGNIFICANT - Acts as a result of threat/intimidation/harassment by another, e.g., must give money to avoid nursing facility (new caretaker, etc.).			
Sexual Acts, Innuendo, Pornography	MINOR - Perp makes sexual innuendos but has not yet inappropriately touched or performed sexual acts (new caretaker, police, etc.). SIGNIFICANT - Perp has performed or coerced client to perform sexual acts or watch pornography.			
Income/Assets Being Used by Other People	MINOR - Property, i.e., home/car, used by other person, i.e., living w/ client and not helping w/household costs. (Eviction, rental agreement, etc.). SIGNIFICANT - Money/ financial assets are used by other person. (Conservator, rep payee, etc.).			
Scams/Frauds/ Lotteries	MINOR - Client approached by and interested in lottery/scam but has not committed funds. (Education re: scams/frauds, etc.). SIGNIFICANT - Client participates/participated in lottery/scam. (Cancel credit cards, change phone #, financial mgr., etc.).			

S = SIGNIFICANT

M = MINOR

NI = NO IMPACT

3. APS ASSESSMENT FACTORS - *cont.*

Support Services

FACTOR: Support Services	EXAMPLES OF RATING CRITERIA: These risk factors specifically address client's safety as related to physical/sexual abuse, caretaker neglect, exploitation, and possible criminal activity. "No Impact" means the client has not experienced/is not experiencing the risk factor.	S	M	NI
Availability and Accessibility of Services	MINOR - Some services are available but the availability may be limited due to location or other contributing factor. SIGNIFICANT - Services are not available to the client due to income, location or other contributing factor.			
Availability and Accessibility of Transportation	MINOR - Has transportation but may be limited due to time constraints, maintenance or another factor. SIGNIFICANT - Has no transportation to utilize available resources. (Resources needed to reduce safety risk).			
Support Network (Family/Community)	MINOR - Avoids situations with family/community due to availability/accessibility or personal situation. This has minimal impact on client safety. SIGNIFICANT - No family/community support available/accessible. This has a significant impact on client safety.			

S = SIGNIFICANT

M = MINOR

NI = NO IMPACT

Caregiver/Perpetrator

FACTOR: Caregiver/ Perpetrator	EXAMPLES OF RATING CRITERIA: These risk factors specifically address client's safety as related to risk factors identified with the caretaker/perpetrator. "No Impact" means the caretaker/perpetrator's risk factors have no impact on client safety.	S	M	NI
Access to the Client	MINOR - Access to client on a limited basis when others are not present. SIGNIFICANT - Unrestricted access to client. Has 24-hour care responsibilities as client is dependent on caregiver/perpetrator for activities of daily living.			
Coping Skills to Life Crises	MINOR - Difficult, inappropriate or unrealistic adjustment to life crises, i.e., frustration, depression, fatigue or anger. Caregiver is socially isolated. SIGNIFICANT - Overreaction or inappropriate response to investigation. Alleged perpetrator (AP) is not family member of caregiver. Opportunistic behavior on part of AP.			
Physical Health of Caregiver/ Perpetrator	MINOR - Physical disability, episodic difficulties, poor health or poorly compensated or controlled chronic illness. SIGNIFICANT - Severe and functionally limiting physical disability. Chronic or uncontrolled disease. Recent deterioration of physical health.			
Mental Health of Caregiver/ Perpetrator	MINOR - Periodic mental/emotional difficulties. Poor reasoning abilities or unrealistic expectations of the client. SIGNIFICANT - Severe and functionally limiting mental disability. History of mental illness, unresponsive to the client's needs, unprepared for the caregiver role or threatening client with institutionalization.			
Caregiver or Perpetrator Victim Dynamics (related to risk)	MINOR - Client protects the AP by making excuses for the behavior. Client denies or minimizes the situation. SIGNIFICANT - Client has a need to protect the caregiver/ perpetrator. Client/perpetrator relationship allows the client to tolerate abuse, neglect or exploitation. Client does not have the cognitive skills necessary to identify or recognize the situation.			
Level of Cooperation with Investigative Process	MINOR – Reluctantly cooperate with the investigation or the cooperation is contingent on outside influence. SIGNIFICANT – Refuses to cooperate with investigation. Does not believe there is a problem that needs attention or does not respond to letters or requests for interviews.			
Financial Dependency on the Victim	MINOR - Provides care due to financial need, client is responsible for providing supplemental financial support or an indication of opportunistic behavior is recognized. SIGNIFICANT - Caregiver/perpetrator is financially dependent on client. History of opportunistic behavior or history of exploitative behavior.			
History of Substance Abuse	MINOR - Episodic history of substance abuse. SIGNIFICANT - History of chronic substance abuse.			

S = SIGNIFICANT

M = MINOR

NI = NO IMPACT

4. MANDATED REPORTERS

- Effective Sept. 29, 2018, Ohio Revised Code 5101.63 specifies that individuals within certain occupations be required or mandated to report suspected abuse, neglect or exploitation of vulnerable adults.

The term "adult" means any person 60 years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

Any individual employed within an occupation listed below is a mandated reporter under Ohio law.

REPORTER	
Attorney	Humane Society
Medicine and Surgery	Firefighter
Chiropractor	Ambulance Driver
Dentist	EMT/First Responder
RN/LPN	Building Department
Psychologist	Peace Officer
Social Work/Counseling	Coroner
Pharmacist	Clergy
Dialysis Technician	Real Estate Broker
Home Health Employee	CPA
Hospital (3701.01)	Notary Public
Hospital (5122.01)	Bank/S & L Employee
Nursing Home	Investment Advisor
Residential Facility	Financial Planner
Health Dept. Employee	Senior Service Provider
Mental Health Agency	Outpatient Health Employee

5. OHIO APS LAW: PROTECTIVE SERVICES ORDERS

➲ In many instances, APS must seek a court order granting it authority to intervene on behalf of an adult in need of protective care. This chart outlines the procedural requirements and burdens of proof that must be met in order for the court to grant a protective services order.

ORC INVOLUNTARY INTERVENTION	PROBATE FORM	REQUIRED STANDARD OF PROOF	DEMONSTRATE FACTS	PROCEDURES TO OBTAIN INTERVENTION
5101.63 or 5101.651 **Temporary Restraining Order.** Renumbered as § 5101.651 by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018. When anyone denies access to the adult's residence during the course of an investigation under R.C. 5101.62.	23.4 (1/1/2010)	Reasonable cause	• Caused to believe that an adult is being or has been abused, neglected or exploited. • Access to the adult has been denied or obstructed. • Unless the respondent is retrained APS is unable to perform its duty to complete the investigation by R.C. 5101.62.	• APS files a petition in court • Prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required • After obtaining the order, APS may have law enforcement accompany them to the adult's residence.
5101.65 or 5101.68 **Petitioning for court order to provide protective services.** Renumbered from § 5101.68 and amended by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018. See sample outline for APS staff to determine need for and type of order.	23.0 (1/1/2010)	Clear and convincing	• Caused to believe that an adult is being or has been abused, neglected or exploited. • List the proposed protective service plan with the least restrictive alternatives • Specific facts alleging the abuse that the adult is being or has been abused, neglected and/or exploited. • Adult is in need of protective services • Adult is incapacitated • There is no person authorized by law or court order to consent for needed services	• APS files a petition in court with a specified protective service plan. • The court can order the provision of protective services only if they are available locally • Ordered placement must consider the adult's choice • Meet the least restrictive standard; if an institutional setting, and represent the least restrictive alternative. • Any transfer requires court authorization. • Court orders remain in effect up to six months, continued orders require APS to apply for renewal for additional periods of up to one year each. • The adult can petition for modification of the order anytime.
5101.66 or 5101.681 **Notice of petition.** Renumbered as § 5101.681 by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018.	23.1 (1/1/2010)			• The adult is notified and others (adult's guardian, spouse, next of kin) about the petition and due process rights (e.g., right to be present at the hearing, to present evidence), at least five days before the hearing. • The adult shall be informed of his right to counsel and his right to appointed counsel if he is indigent and if appointed counsel is requested. • The adult who is the subject of the petition may waive notice as provided in this section.

5. OHIO APS LAW: PROTECTIVE SERVICES ORDERS - *cont.*

ORC INVOLUNTARY INTERVENTION	PROBATE FORM	REQUIRED STANDARD OF PROOF	DEMONSTRATE FACTS	PROCEDURES TO OBTAIN INTERVENTION
5101.67 or 5101.682 **Hearing.** Renumbered as § 5101.682 by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018.	N/A	Clear and convincing	• Adult has been abused, neglected or exploited • Needs protective services • Adult is incapacitated • No one legally available to give consent • Placement only if no less restrictive alternative services can be found • Cannot be committed to hospital as defined in 5122.01	The hearing occurs within 14 days of the petition's filling • Adult has the right to be present, present evidence, examine and cross-examine witnesses. • The adult is represented by counsel (including appointed counsel if the adult is indigent) unless knowingly waived. • Order may remain in effect no more than 6 months • May apply for a renewal of the order for no longer than one year each
5101.68 or 5101.69 **Temporary restraining order to restrain person from interfering with provision of protective services.** Renumbered as § 5101.69 by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018.	23.6 (1/1/2010)	Preponderance	• Petition shall state specific facts sufficient to demonstrate the need for protective services. • Adult has consented to services • Refusal by some other person who is interfering with the provision of these services.	• APS files a petition in court • Court holds a hearing within 14 days of the petition's filing • If granted, issues a temporary restraining order to restrain the person from interfering with the provision of services.
5101.68 or 5101.69 **Notice of Hearing on Petition for Temporary Restraining Order to Prevent Interference with the Provision of Services.**	23.7 1/1/2010			• Notice is understandable • Language is given the person alleged to interfering.

ORC INVOLUNTARY INTERVENTION	PROBATE FORM	REQUIRED STANDARD OF PROOF	DEMONSTRATE FACTS	PROCEDURES TO OBTAIN INTERVENTION
5101.69 or 5101.70 **Emergency order.** Renumbered as § 5101.70 by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018.	23.2 (1/1/2010)	Clear and convincing	• Supporting facts that an adult is being abused neglected and/or exploited. • Adult is in need of protective services • Adult is incapacitated • Nature of the emergency • The petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the circumstances described in divisions (D)(1) to (3) of this section • Facts showing the petitioner's attempts to obtain the adult's consent to the protective services.	• APS files a petition in court with a proposed protective service plan. • The court can order the provision of protective services only if they are available locally • Ordered placement must consider the adult's choice • Meet the least restrictive standard; if an institutional setting, and represent the least restrictive alternative. • In its order the court shall authorize the director of the county department, the director's designee, or a representative of the department's designee to give consent for the person for the approved emergency services until the expiration of the order. • 14 days order; can be renewed for an additional 14 days upon showing that continuation of the order is necessary to address the emergency.
Notice in pursuant to 5101.69	23.3 (1/1/2010)			• The adult is notified and others (adult's guardian, spouse, next of kin) about the petition and due process rights (e.g., right to be present at the hearing, to present evidence), at least five days before the hearing. • The hearing must occur within 24-72 hours of the petition's filling and the adult is represented by counsel (including appointed counsel if the adult is indigent) unless waived.

5. OHIO APS LAW: PROTECTIVE SERVICES ORDERS - *cont.*

ORC INVOLUNTARY INTERVENTION	PROBATE FORM	REQUIRED STANDARD OF PROOF	DEMONSTRATE FACTS	PROCEDURES TO OBTAIN INTERVENTION
5101.691 or 5101.701 **Ex parte emergency order authorizing provision of protective services.** Renumbered as § 5101.701 by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018.Court may issue by telephone an exparte emergency order	N/A	Reasonable cause	• Caused to believe that an adult is being or has been abused, neglected and/or exploited. • Adult is in need of protective services • There is no person authorized by law or court order to consent for needed services.	• 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 5101.692 of the Revised Code, to an adult on an emergency basis if all of the following are the case: • Court receives notice that APS believes an emergency order is needed • Adult is incapacitated • 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 • The judge or magistrate shall journalize any order issued under this section. • 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. • May order emergency services • May freeze the financial assets of the adult • Order is effective for thirty days. Renew the order for an additional 30-day period.
ORC INVOLUNTARY INTERVENTION	PROBATE FORM	REQUIRED STANDARD OF PROOF	DEMONSTRATE FACTS	PROCEDURES TO OBTAIN INTERVENTION

5101.73 **Effective 9/29/2018, denial or obstruction of access to adult victim's residence.** Added by 132nd General Assembly File No. TBD, HB 49, §130.31, eff. 9/29/2018.	Reasonable cause		• If, during the course of an investigation by a local law enforcement agency of criminal exploitation. • If access has been denied or obstructed to the residence of the adult, the county prosecutor may file a petition in court for a temporary restraining order to prevent the interference or obstruction.	• The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the adult is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. • Such a finding is prima facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. • After obtaining an order restraining the obstruction of or interference with the access of the local law enforcement agency representative, the representative may be accompanied to the residence by a peace officer.

6. GUIDELINES FOR SEEKING THE NECESSARY PROTECTIVE SERVICE ORDER

➲ In order for the court to grant a protective services order, the petition must demonstrate that the adult's impairment results in an inability to protect oneself. Below is a list of common APS definitions, as well as the specific findings that must be outlined in the petition for a protective service order.

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

Incapacitated 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 determination 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.

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.

Adult protective services means an array of services provided to adults who are at risk of abuse, neglect or exploitation. Services include but are not limited to: intake/referral, investigating reports of abuse, neglect, or exploitation, and protective services as defined below.

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

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

Protective Service Order Petition Shall Include:

- Degree of impairment resulting in the adult being unable to protect self
- Facts showing APS's attempts to obtain the adult or family 's consent
- Facts showing interventions offered and/or provided with least restrictive alternatives
- Lack of an appropriate decision maker
- Need for a protective service plan
- Stated protective service plan

7. ALTERNATIVES TO ADULT GUARDIANSHIP

➲ When circumstances warrant an individual impaired, there are least restrictive avenues available to the individual before seeking adult guardianship. Pursuant to Sup.R. 66 and R.C. 2111.02, a probate court must explore the least restrictive alternatives before appointing a guardian.

Power of Attorney

A properly executed power of attorney can be a less restrictive alternative to guardianship of the estate and person.[1] A Power of Attorney (POA) is generally defined as written authorization for an appointed person to act as an agent on behalf of another known as a principal. It can be used for financial or healthcare purposes. A POA can be executed by an elder authorizing an individual to make decisions on his/her behalf in the event he/she can no longer do so. An agent has a fiduciary duty to exercise the power of attorney in the best interest of the principal, although there are few safeguards against abuse or protections from misuse.

The statute governing powers of attorney is found in R.C. Chapter 1337. As related to the care of a person, there are two kinds of powers of attorney: health care and financial. There is a standard form for a power of attorney located in R.C. 1337.60, and the form includes a checklist of powers to be granted to the agent.

The authority granted in a power of attorney can be effective immediately (non-springing) or be made effective upon the principal's incapacity or some other triggering event (springing).[2] A power of attorney is presumed to be durable and continues to be effective upon the incapacity of the principal unless the document says otherwise.[3] A power of attorney can be filed with the county recorder, and any power of attorney regarding an interest in real property must be recorded.

A power of attorney may not always be an effective alternative to guardianship. R.C. 1337.14(A) states that a power of attorney for health care may be revoked at any time and in any manner. Institutions, such as banks, hospitals and nursing homes, may not honor a power of attorney because of concerns regarding revocation. Furthermore, institutions may not honor springing powers of attorney, as they may not be inclined to determine whether the events necessary to spring the power have been satisfied. Additionally, institutions may not honor any powers of attorney in high conflict situations.

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1 See R.C. 2111.02(C)(5) and R.C. 2111.02(C)(6).

2 R.C. 1337.29.

3 Per R.C. 1337.24.

In order to execute a valid power of attorney, the principal must appear to be of sound mind and not under or subject to duress, fraud, or undue influence at the time of execution.[4] If the power of attorney is durable, the authority given to the agent survives the later incapacity or incompetence of the principal. However, questions surrounding the principal's competency to execute the power of attorney will limit the use of the power of attorney as an alternative to guardianship.

Furthermore, guardianship is often sought when the agent named in a power of attorney is unable or unwilling to act in the principal's best interest.[5] Evidence of misconduct on the part of the agent is relevant to the probate court's decision to appoint a guardian even though a power of attorney has been executed.[6] In these cases, guardianship will often be pursued, and a probate court must consider the power of attorney as a less restrictive alternative to guardianship to ensure the alleged incompetent's best interest.[7] When the agent under a power of attorney has failed to utilize the power granted for the alleged incompetent's best interest, the instrument can be revoked by the probate court and the power can be held null and void.[8]

Additionally, court consideration for a person named as a guardian under a power of attorney remains subject to the suitability standards that all guardians must meet and considerations regarding the proposed ward's best interest. R.C. 2111.[9]

Trusts

A trust is another mechanism that may be used to avoid guardianship of the estate. Generally, a trust is a legal arrangement by which one person, the grantor, gives property to another, the trustee, to hold for the benefit of a beneficiary. With the exception of the special needs trust, the grantor/funder of the trust must have legal capacity to create a trust.[10]

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4 R.C. 1337.12.

5 See *In re Guaridanship of Thomas,* 148 Ohio App.3d 11, 771 N.E.2d 882 (Tenth Dist, Franklin County, 2002).

6 *Id.*

7 R.C. 2111.02.

8 See R.C. 2111.50 and R.C. 2101.24.

9 See *In re: Brenda Myers,* 85 N.E.3d 217, No. 2016 AP 050028 (Fifth Dist., Tuscarawas County, Feb. 9, 2017).

10 In the case of a special needs trust, the trust can be funded with an incompetent adult's funds with the approval of the probate court. R.C. 5163.21 and R.C. 5815. Trustees of court-created trusts are, generally, required to seek approval for expenditures and account to the probate court.

Elders can create a trust with a trustee of their choice. In contentious situations, a neutral third party, such as a bank or person who everyone agrees to can serve as trustee. Banks often require a minimum trust amount and this alternative is used less widely for that reason.

There are several different trusts that may constitute a less restrictive alternative to guardianship: inter vivos trusts; special needs trusts; and testamentary trusts that are created through the will of grantor for the benefit of an incompetent adult.[11, 12] Trusts can be revocable or irrevocable. A revocable trust is of limited use as an alternative for guardianship, as the trust's assets can be withdrawn. The terms of the trust must be written with specificity, as government benefits may be impacted by the beneficiary's access to trust funds.

A benefit of holding funds in trust is the flexibility for the use of funds. A grantor is able to list specific uses for trust property and to state their wishes with specificity.

The elder can create a trust with a neutral third party, such as a bank or person that everyone agrees to, to serve as trustee in contentious situations. A fiduciary relationship is created between the trustee and the beneficiary. However, trusts are not impervious to misappropriation by the trustee.[13] The probate court can require bond for trusts that are overseen by the court.[14] This alternative also avoids guardianship, and also requires follow up by the Eldercaring Coordinator or Adult Protective Services to insure that there is no abuse or exploitation.

Joint Ownership

Joint ownership, which allows a co-owner to manage money or property, may be used to avoid guardianship of the estate. If an elder has arranged for joint ownership of his or her property with another, that individual has the authority to make decisions regarding the use of the jointly owned property for the benefit of the proposed ward or the benefit of joint owner. An advantage of joint ownership is the retention of substantial rights for the alleged incompetent, as well as the reduction in annual accounting for a guardian of the estate.

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11 See R.C. 5163, R.C. 2111.02(A) and *In re Guaridanship of Thomas,* 148 Ohio App.3d 11, 771 N.E.2d 882 (Tenth Dist, Franklin County, 2002).

12 STABLE accounts also are a trust-like alternative to guardianship and are managed through the Ohio Secretary of State.

13 See *In re Guaridanship of Thomas,* 148 Ohio App.3d 11, 771 N.E.2d 882 (Tenth Dist, Franklin County, 2002).

14 R.C. Chapter 2109.

Joint ownership must be completed while the property owner is still competent, and joint ownership can extend to nearly all kinds of property. For example, R.C. 5302.20 provides for survivorship tenancy of real property; R.C. 2131.12 provides for joint ownership with right of survivorship of motor vehicle, watercraft, or outboard motor; and R.C. 1109.07 provides for deposits in the name of two or more persons; deposits payable on death.

R.C. 5302.20:
Survivorship Tenancy of Real Property

R.C. 2131.12:
Right of Survivorship of Motor Vehicle, Watercraft, or Outboard Motor

R.C. 1109.07:
Deposits in the Name of Two or More Persons; Deposits Payable on Death

Joint ownership gives rise to a rebuttable presumption of equal ownership.[15]

Joint ownership is useful in situations where the elder remains competent to review expenditures made from an account, but the elder is too physically impaired to go to the bank or spend money in the community. Joint ownership is also useful in situations where the elder's only asset is government benefits for which a payee is established, and no one has access to the elder's account because of the elder's incompetence or physical disability.

Typically, transfers of jointly owned property do not require the consent of all owners. The potential for abuse in joint ownership is very high, as there is no fiduciary duty imposed upon joint owners. There is little practical recourse for a joint owner's employment of undue influence or misuse of jointly held funds, even though a determination of incompetence effectively terminates a joint and survivorship account.[16]

In addition to the risk of abuse, adding a person's name to an account will be viewed by government entities as giving that person an ownership interest in the property. The addition of a joint owner may be seen as providing a prohibited gift and prevent the owner from obtaining certain government benefits.

Moreover, tax consequences should be considered prior to the joint titling of property. For example, a real property owner may have a tax exemption that will cease to apply if the property becomes jointly owned. Furthermore, the creditors of the joint owner may be able to attach to the jointly owned property, jointly owned accounts may become subject to the divorce of the joint owner[17], or the jointly owned assets could become a part of the joint owner's estate upon the death of the joint owner.

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15 See *In re Mayforth's Guardianship,* 1 Ohio Supp. 87 (1985) and *Abrams v. Nickel,* 50 Ohio App. 500, 198 N.E. 887 (1935).

16 See *Abrams v. Nickel,* 50 Ohio App. 500, 198 N.E. 887 (1935) and *Webb v. Webb,* 18 Oho App.3d 287, 249 N.E.2d 83 (Eighth Dist., Cuyahoga County, 1969).

17 R.C. 5815.34 states that the divorce of a party will impact joint ownership and financial institutions are not liable for damages in distribution in accordance with jointly held accounts.

While this alternative avoids guardianship of the estate, routine follow up by the Eldercaring Coordinator or APS should be conducted to ensure that there is no abuse or exploitation.

A less risky alternative to joint ownership is additional signatory for an account. A signatory has no ownership interest in the funds of an account, but the signatory is able to sign for withdrawals.

Conservatorship

Conservatorship is another device that may be used to avoid guardianship of the person and estate. Conservatorship is defined in R.C. 2111.01 and is governed by Sup.R. 50 through 82 and R.C. 2111.021. Under R.C. 2111.151, liability for a conservator is the same as the liability for a guardian. Standard probate forms for conservatorship can be found in Forms 20.0, 20.1, 20.2 and 20.5.

Conservatorship is a voluntary trust relationship using guardianship laws and procedures as the basis for one party, called the conservator, to act with Court supervision for a competent but physically infirm adult, called the conservatee.[18] In order to establish and maintain the conservatorship, the adult must remain competent and continue to consent.[19]

A conservatorship is based upon the consent of the conservatee, as the conservatee decides who will serve as conservator, what property and powers of the conservatee will be included in the conservatorship and the term of the conservatorship.[20] The powers granted to the conservatee can include powers that are akin to guardian of the person and/or guardian of the estate. In addition, the conservatee decides which of the statutory guardianship duties and procedures the conservator must follow.[21] Unless specifically excluded, all rules and authority granted through guardianship also apply to conservatorships, including the accounting requirement.[22] As a result, conservatorship can be as costly as guardianship.

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18 R.C. 2111.021.

19 See *In re Guardianship of Miller*, 187 Ohio App.3d 445, No. 8-09-20 (Third Dist. Logan Co., May 17, 2010).

20 If a probate court is named as the conservator, the conservatee may not limit the powers granted to the court or the probate court's order regarding bond. R.C. 2111.021.

21 *Id.*

22 R.C. 2111.021.

In order to establish a conservatorship, the probate court must conduct a hearing with findings that the petition was voluntarily filed and that the proposed conservator is suitable.[23] Modifications to the conservatorship may be made by motion to the probate court.[24]

Conservatorship is terminated by judicial determination of incompetence, death of the conservatee, an order of the Probate Court, or the execution of a written termination notice by the conservatee. Termination of a conservatorship is immediately effective upon execution.[25] However, a termination for conservator of the estate is void if not filed within 14 days of execution.[26] Failure to date the termination and failure to file the termination with the probate court will void the termination.[27]

Conservatorship cannot be used as evidence of impairment. *Id.* Documents in the conservatorship can be made confidential. *Id.*

Conservatorship is not a viable alternative to guardianship after the incompetence of the conservatee, as the conservatee cannot be mentally incompetent. When an application for conservatorship and guardianship are filed concurrently, the determination regarding competence is the key factor.

This alternative also avoids guardianship, and also requires follow up by the Eldercaring Coordinator or APS to insure that there is no abuse or exploitation.

Representative-Custodial Payee

A Representative-Custodial Payee is yet another method for avoiding guardianship of the estate. A Representative-Custodial Payee is an individual authorized to receive and expend Veteran's benefits, Social Security, Supplemental Security Income, or other government benefits. A Representative-Custodial payee is put in place by a government agency, and the decision to appoint a payee is based upon a court

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23 *Id.*

24 *Id.*

25 *Id.*

26 *Id.*

27 See *In re Conservatorship of Ahmed*, Nos. 01-BA-13, 01-BA-48, 2003 WL 21442314 (Seventh Dist., Belmont County, June 16, 2003) not accepted for review by the Supreme Court of Ohio in *In re Conservatorship of Ahmed,* 100 Ohio St.3d 1433 (2003) or for reconsideration by the Supreme Court of Ohio in *In re Conservatorship of Ahmed,* 100 Ohio St.3d 1433, 2003-Ohio-5396, 797 N.E.2d 512 (2003).

finding of mental incompetence or on sufficient evidence which demonstrates that the recipient's physical or mental incapacity would impair fund management.

R.C. 2111.05 and Sup.R. 66.08(I), state that a guardian of the estate is unnecessary when the proposed ward's assets consist entirely of government benefits for which a representative-custodial payee exists. Representative-Custodial payees already provide an accounting to the respective government agency for expenditures. Additionally, the respective government agencies determine whether applicants are suitable payees and are able to address malfeasance committed by payees.[28]

Protective Services and Protective Orders

Protective services can be an effective alternative for guardianship for short-term problems. R.C. 5101.60 *et seq* provides for adult protective services. As an alternative to emergency guardianship, protective services ordered under R.C. 5101.69 works well. This is not a long-term solution to an elder's persistent state of incompetence.

For situations in which the adult is otherwise competent to handle his/her own affairs, a protection order provides another short-term alternative to guardianship.

28 See *In re Martin*, No. 09 MA 117, 2010 WL 2676486 (Seventh Dist., Mahoning County, June 29, 2010).

8. PROTECTIVE SERVICES SERIES FORMS

➲ Below is a list of standard probate court forms that are promulgated through the Rules of Superintendence for the Courts of Ohio that commonly are used in adult-protective-services cases, as well as a description of how they typically are used.

Standard Probate Forms 23.0 - 23.4 & 23.6 - 23.7 and How to Use Them

Forms pertaining to the implementation of Ohio Revised Code Chapter 5101 – Adult Protective Services can be found through the following link:

http://www.sc.ohio.gov/LegalResources/Rules/superintendence/probateforms/#protective

The Standard Probate Forms available are:

- 23.0 Petition for Protective Services [R.C. 5101.65]
- 23.1 Notice of Petition for Court Ordered Protective Services [R.C. 5101.66]
- 23.2 Petition for Emergency Protective Services [R.C. 5101.69]
- 23.3 Notice of Petition for Court Ordered Protective Services on an Emergency Basis [R.C. 5101.69]
- 23.4 Petition for Temporary Restraining Order to Prevent Interference with Investigation of Reported Abuse of an Adult [R.C. 5101.63]
- 23.6 Petition for Temporary Restraining Order to Prevent Interference with the Provision of Protective Services to an Adult [R.C. 5101.68]
- 23.7 Notice of Hearing on Petition for Temporary Restraining Order to Prevent Interference with the Provision of Services [R.C. 5101.68]

Obstruction of an Investigation of Allegation of Abuse, Neglect or Exploitation – Use of Form 23.4

Upon the receipt of a report of alleged abuse, neglect or exploitation (R.C. 5101.61(B)), the County Department of Job & Family Services (CDJFS) or its designee, investigates (R.C. 5101.62) and determines whether or not the adult who is the subject of the report is in need of protective services. If during the course of the investigation, any person, including the adult who is the subject of the investigation, denies or obstructs access to the residence of the adult; CDJFS may file a petition in court for a temporary restraining order to prevent the interference or obstruction. (R.C. 5101.63)

8. PROTECTIVE SERVICES SERIES FORMS - *cont.*

Emergency Court-Ordered Protective Services & Notice – Use of Forms 23.2 & 23.3

If an emergency exists, the CDJFS determines that an adult is in need of protective services and is an incapacitated person; CDJFS may petition the court for an order authorizing the provision of emergency protective services on an emergency basis to the adult. (R.C. 5101.69) – *Form 23.2*

Notice of the filing of the emergency petition shall be given to the adult and to the adult's spouse, and if none, to the adult's adult children or next of kin and to the adult's guardian. The court shall hold a hearing on the emergency petition, no sooner than 24 hours and no later than 72 hours after the notice has been served. The 24 hour notice requirement may be waived upon a showing of requirements in the statute. (R.C. 5101.69) – *Form 23.3*

Non-Emergency Court-Ordered Protective Services & Notice – Use of Forms 23.0 & 12.1

If the CDJFS determines that an adult is in need of protective services and is an incapacitated person, CDJFS may petition the court for an order authorizing the provision of protective services. (R.C. 5101.65) – *Form 23.0*

Notice of a petition for court-ordered protective services shall be personally served upon the adult who is the subject of the petition at least five working days prior to the date set for hearing. The adult who is the subject of the petition may not waive notice. (R.C. 5101.66) – *Form 23.1*

Voluntary Protective Services – Use of Forms 23.6 & 23.7

If an adult has consented to the provision of protective services but any other person refuses to allow such provision, the CDJFS may petition the court for a temporary restraining order to restrain the person from interfering with the provision of protective services for the adult. (R.C. 5101.68) – *Form 23.6*

Notice of the petition for a temporary restraining order shall be given to the person alleged to be interfering with the provision of services. (R.C. 5010.68) The court shall hold a hearing on the petition within fourteen days of its filing. The statute is silent on the necessary interval between notice and the hearing so the civil rules apply. – *Form 23.7*

Instances Where Standard Probate Forms are Not Available

- **Petition for Modification of a Court Order for Protective Services**

  The adult who is the subject of the court-ordered services may petition for modification of the order at any time. (R.C. 5101.67(E)). There is no standard probate form for this petition.

- **Petition for an Ex Parte Emergency Order Issued by Telephone**

  The CDJFS may petition the court for an ex parte order emergency order issued by telephone. The order only remains in effect for 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. (R.C. 5101.691(A)(2)). There is no standard probate form for this petition.

- **ALL Court Orders**

  - **Temporary Restraining Order – Obstruction/Interference with Access of Protective Services Representative OR Interference with Provision of Protective Services**

    See R.C. 5101.63 or R.C. 5101.68 – Issued after hearing on a Petition for a Temporary Restraining Order (Form 23.4 or 23.6)

  - **Order Authorizing or Modifying Provision of Protective Services**

    See R.C. 5101.65 or R.C. 5101.67 – Issued after hearing on Petition for Protective Services (Form 23.0) or Petition for Modification of a Court Order for Protective Services (no standard probate form)

  - **Order OR Ex Parte Order Authorizing Provision of Emergency Protective Services**

    See R.C. 5101.69 or R.C. 5101.691 – Issued after hearing on Petition for Emergency Protective Services (Form 23.2) OR Telephone request for ex parte order.

  - **Temporary Orders**

    See R.C. 5101.692 – Issued after hearing on ex parte order issued by telephone.

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.

10. SAMPLE INFORMATION GATHERING OUTLINE FOR PROTECTIVE SERVICES COURT ORDER

Information Gathering Outline for Protective Services Court Order

Date:

Petitioning the court (Check one)		
[ ]	R.C. 5101.68 - Petitioning for a Court Order	
[ ]	5101.70 - Emergency Order	
[ ]	5101.701 - Ex-Parte Emergency Order	
APS Worker:	Telephone:	Email:
APS Supervisor:	Telephone:	Email:
Consult Date:		

ADULT DEMOGRAPHICS:

Adult Name:							
Gender:	[ ]	M	[ ]	F	Date of Birth:	Age:	
Address:						Apt #:	
City:					State:	Zip Code:	
Telephone:							

1. Briefly summarize in your own words what is the immediate risk of serious harm to the adult.
   Level of Risk (Check one):

[ ]	Moderate	[ ]	Imminent	[ ]	24-hour delay will result in harm
Describe:					

2. Is adult currently in a nursing home, hospital or hospice care setting?	[ ]	Yes	[ ]	No	[ ]	N/A
Name and address of facility:						
Facility Contact and Phone Number:						
a. Is this hospitalization the result of a civil commit?	[ ]	Yes	[ ]	No		
b. Is client threatening to leave the facility?	[ ]	Yes	[ ]	No		
c. Is a family member or caregiver threatening to remove the client AMA?	[ ]	Yes	[ ]	No		
d. Will the nursing facility keep adult pending a guardianship determination?						
[ ]	Yes	[ ]	No	[ ]	N/A	Comments:

3. What is the nature of the most recent current APS case, including any additional reposts, if applicable?							
[ ]	Abuse	[ ]	Neglect	[ ]	Exploitation	[ ]	Self-Neglect
Describe:							

10. SAMPLE INFORMATION GATHERING OUTLINE FOR PROTECTIVE SERVICES COURT ORDER - *cont.*

Information Gathering Outline for Protective Services Court Order

4. Have less restrictive measures (either with APS and/or Community Agency) been attempted?	[ ]	Yes	[ ]	No
Describe:				
5. Have you tried to obtain the consent from the adult and/or adult's family or caregivers for the provision of services?	[ ]	Yes	[ ]	No
Describe:				
6. What is the plan of care if the protective services order is granted?				
Name and the nursing home, hospital or hospice facility:				
a. If adult has a primary care physician, have we included the physician in the care plan?	[ ]	Yes	[ ]	No
Describe:				
b. Do we need to request a level of care assessment?	[ ]	Yes	[ ]	No
c. Is the client in the community?	[ ]	Yes	[ ]	No
d. How will client be transported to hospital or nursing facility?				
[ ] Private car	[ ] Wheelchair van	[ ] EMS Ambulance	[ ] Other (List):	
e. Have prior arrangements been made with local EMS or a private ambulance company?				
[ ] Yes	[ ] No	Describe:		
f. Does the APS worker anticipate police involvement?				
[ ] Yes	[ ] No	Describe:		
7. How are the services going to be paid for?				
[ ] Medicaid	[ ] Medicare	[ ] Private Insurance	[ ] Private Pay	[ ] Unknown
Describe:				

Information Gathering Outline for Protective Services Court Order

HISTORY OF THE CASE

Include number of visits made to the adult and result of the visits, observations, and/or any interference with the investigation by client or others.

Describe:

8. List all other APS Social Workers who have been assigned to this case. [ ] N/A

List:

9. ADULT'S HOME:

a. Does adult reside alone?	[ ]	Yes	[ ]	No
b. If adult lives with others, list names and relationships of household members to client:				

i.) Name of family member or caregiver:								
Relationship to the adult:	[ ]	Spouse	[ ]	Sibling	[ ]	Child	[ ]	Other (List):
Street Address:								Apt #:
City:				State:				Zip Code:
Telephone Number:								

ii.) Name of family member or caregiver:								
Relationship to the adult:	[ ]	Spouse	[ ]	Sibling	[ ]	Child	[ ]	Other (List):
Street Address:								Apt #:
City:				State:				Zip Code:
Telephone Number:								
c. Are any of these household members suspected of neglecting, abusing or exploiting the client?								
[ ]	Yes	[ ]	No	If yes, describe:				
d. If known, describe the adult's living conditions:								

Information Gathering Outline for Protective Services Court Order

10. ADULT'S FAMILY AND/OR CAREGIVERS:

a. Does the adult have family members or caregivers other than immediate household members listed previously? If yes, list below.

i.) Name of family member or caregiver:								
Relationship to the adult:	[ ]	Spouse	[ ]	Sibling	[ ]	Child	[ ]	Other (List):
Street Address:								Apt #:
City:				State:				Zip Code:
Telephone Number:								

ii.) Name of family member or caregiver:								
Relationship to the adult:	[ ]	Spouse	[ ]	Sibling	[ ]	Child	[ ]	Other (List):
Street Address:								Apt #:
City:				State:				Zip Code:
Telephone Number:								

b. Are any of these persons suspected of abusing neglecting or exploiting the adult?	[ ]	Yes	[ ]	No
If yes, describe:				

11. Is adult representative by an attorney?	[ ]	Yes	[ ]	No
Name and telephone number of attorney, if known:				

12. Does the adult have a power-of-attorney (POA) for finances and/or health care?	[ ]	Yes	[ ]	No
a. Name of POA:				
b. Is the POA suspected of exploiting adult financially?	[ ]	Yes	[ ]	No

MEDICAL EVIDENCE

a. Please provide a Statement of Expert Evaluation if available.	[ ]	Yes	[ ]	No
b. Name and telephone of doctor completing Evaluation:				
Name:	Telephone Number:			
c. List adult's medical and psychiatric conditions and physical limitations:				
d. If no Statement of Expert Evaluation is available, explain:				
e. Is there other medical evidence to demonstrate client may lack of capacity, including social worker's own observations? If yes, describe:				
f. List evidence and source of information:				

Information Gathering Outline for Protective Services Court Order

13. Other agencies involved with the adult such as hospice or PASSPORT?	[ ]	Yes	[ ]	No
List:				
a. Does the adult have a diagnosis of a serious chronic or terminal illness that may require an assessment for hospice and/or Palliative Care Assessment? [ ] Yes [ ] No				

14. Has there been any history of police involvement? ***(If yes, attach copies of the police reports if available.)***					[ ]	Yes	[ ]	No
15. Does the adult need a guardian?	[ ]	Yes	[ ]	No	[ ]	Unable to determine at this time		
16. If yes, has a guardianship hearing been set?					[ ]	Yes	[ ]	No
If yes, who is the applicant?								
17. List potential witnesses besides yourself who may be helpful in proving the case:								
Name:								
Agency:				Position:				
Street Address:						Apt #:		
City:		State:				Zip Code:		
Telephone Number:								
Name:								
Agency:				Position:				
Street Address:						Apt #:		
City:		State:				Zip Code:		
Telephone Number:								
18. Other pertinent information (List):								

11. SAMPLE COURT-ORDERED EMERGENCY PROTECTIVE SERVICE ORDER

IN THE COURT OF COMMON PLEAS
BLANK COUNTY, OHIO
PROBATE DIVISION

BLANK COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES ADULT PROTECTIVE SERVICES	)	CASE NO.
vs.	)	
_____	)	PETITION OF_____ COUNTY FOR COURT ORDERED EMERGENCY PROTECTIVE SERVICE ORDER
_____	)	
_____	)	

_____ County Department of Job and Family Services, Adult Protective Services (_____ County DJFS, APS), moves this honorable court for an order authorizing the provision of Protective Services pursuant to R.C. Section 5101.69, for the reasons set forth below:

1. The petitioner has received a referral concerning _____, and has investigated the facts and circumstances set forth in the affidavit of Social Worker, _____. Petitioner submits that _____ is in need of Adult Protective Services, specifically medical and nursing services in order to maintain his/her physical health, as set forth in the affidavit of Social Worker, _____, which is attached hereto and expressly incorporated herein by reference;

2. Petitioner states that the Adult is suffering from abuse/neglect/exploitation and in need of protective services as defined in R.C. 5101.60 (I) and (K) and that an emergency exists as defined by 5101.60 (E);

3. Petitioner proposes the following Protective Service Plan to alleviate the condition affecting _____.

A. Adult to remain at _____ located at _____, _____, Ohio for care and treatment as prescribed by his/her attending physician and for placement.

B. An order allowing the Administrator of _____ County DJFS, APS or her designee to consent to medical treatment, hospital and/or nursing home admission until such time as a guardian can be appointed for _____.

C. All persons be restrained from removing _____ from _____ or other medically prescribed placement and/or interfering with other provision of protective service to the Adult.

WHEREFORE, Petitioner respectfully requests that a hearing be set and that the petition of _____ County DJFS be granted.

Respectfully submitted,

Prosecuting Attorney,

_____ County, Ohio

BY: _____

Atty _____
Assistant Prosecuting Attorney
Address
City, Ohio Zip Code
Phone
ATTORNEY FOR PETITIONER

12. AGING NETWORK CONTACTS

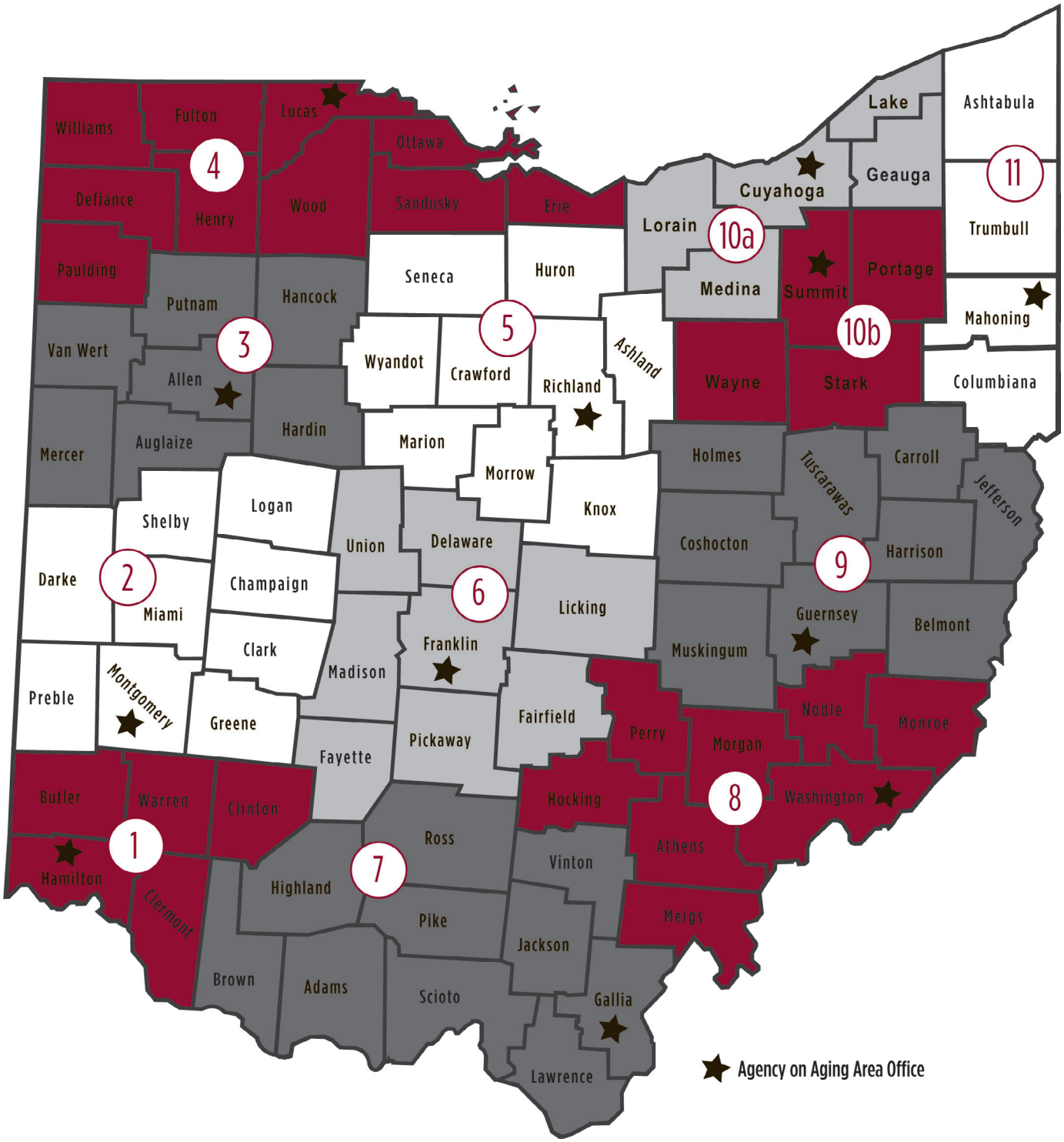
➲ The Ohio Department of Aging works to provide services for older Ohioans. Through the Office of the State Long-Term Care Ombudsman and the Area Agencies on Aging, they coordinate local support and services for those in need.

	OHIO DEPARTMENT OF AGING 246 N. High St., First Floor, Columbus, OH 43215-2406 614-466-5500; (Monday through Friday, 8 A.M. to 5 P.M) http://aging.ohio.gov/	**OHIO OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN** 246 N. High St., First Floor, Columbus, OH 43215-2406 1-800-282-1206 http://aging.ohio.gov/Ombudsman
	AREA AGENCY ON AGING/PASSPORT ADMINISTRATIVE AGENCY	**REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM**
REGION 1 **BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COUNTIES**	Council on Aging of Southwestern Ohio 175 Tri County Pkwy., Cincinnati, OH 45246 1-800-252-0155 www.help4seniors.org	Bob Vines, Managing Ombudsman, Pro-Seniors LTCOP 7162 Reading Road, Suite 1150, Cincinnati, OH 45237 1-800-488-6070 www.proseniors.org
REGION 2 **CHAMPAIGN, CLARK, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE & SHELBY COUNTIES**	Area Agency on Aging, PSA 2 40 W. Second St., Suite 400, Dayton, OH 45402 1-800-258-7277 www.info4seniors.org For PASSPORT in Champaign, Darke, Logan, Miami, Preble & Shelby counties: Catholic Social Services of the Miami Valley 1201 Fairington Drive, Sidney, OH 45365-2810 1-800-521-6419 www.cssmv-sidney.org	Lawrence Wilkins 11 W. Monument, Suite 606, Dayton, OH 45402 1-800-395-8267 www.dayton-ombudsman.org
REGION 3 **ALLEN, AUGLAIZE, HANCOCK, HARDIN, MERCER, PUTNAM & VAN WERT COUNTIES**	Area Agency on Aging 3 2423 Allentown Road, Lima, OH 45805 1-800-653-7723 www.aaa3.org	Marianne Bradshaw 616 S. Collett St., Suite 203, Lima, OH 45805 1-800-421-7277 Ext. 3500
REGION 4 **DEFIANCE, ERIE, FULTON, HENRY, LUCAS, OTTAWA, PAULDING, SANDUSKY, WILLIAMS & WOOD COUNTIES**	Area Office on Aging of Northwestern Ohio, Inc. 2155 Arlington Ave., Toledo, OH 43609-0624 1-800-472-7277 www.areaofficeonaging.com	Chris Stieben, Advocates for Basic Legal Equality 525 Jefferson Ave., Suite 300, Toledo, OH 43604 1-800-542-1874
REGION 5 **ASHLAND, CRAWFORD, HURON, KNOX, MARION, MORROW, RICHLAND, SENECA & WYANDOT COUNTIES**	Ohio District 5 Area Agency on Aging, Inc. 2131 Park Ave. W., Suite 100, Mansfield, OH 44906 1-800-860-5799 www.aaa5ohio.org	Bev Tatro 2131 Park Ave. W., Suite 100, Mansfield, OH 44906 1-800-860-5799 www.aaa5ohio.org/services
REGION 6 **DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, LICKING, MADISON, PICKAWAY & UNION COUNTIES**	Central Ohio Area Agency on Aging 3776 S. High St., Columbus, OH 43207 1-800-589-7277 www.coaaa.org	

12. AGING NETWORK CONTACTS - *cont.*

	AREA AGENCY ON AGING/PASSPORT ADMINISTRATIVE AGENCY	REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM
REGION 7 **ADAMS, BROWN, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, ROSS, SCIOTO & VINTON COUNTIES**	Area Agency on Aging District 7, Inc. University of Rio Grande/F32 160 Dorsey Drive, P.O. Box 500, Rio Grande, OH 45674-0500 1-800-582-7277 www.aaa7.org	Kaye Mason-Inoshita 8058 Ohio River Road, Wheelersburg, OH 45694 1-800-582-7277 www.aaa7.org
REGION 8 **ATHENS, HOCKING, MEIGS, MONROE, MORGAN, NOBLE, PERRY & WASHINGTON COUNTIES**	Buckeye Hills Regional Council Aging & Disability 1400 Pike St., Marietta, OH 45750 1-800-331-2644 www.buckeyehills.org/aging	Kimberly Flanigan P.O. Box 370, Reno, OH 45773 1-800-331-2644
REGION 9 **BELMONT, CARROLL, COSHOCTON, GUERNSEY, HARRISON, HOLMES, JEFFERSON, MUSKINGUM & TUSCARAWAS COUNTIES**	Area Agency on Aging Region 9, Inc. 1730 Southgate Pkwy., Cambridge, OH 43725 1-800-945-4250 www.aaa9.org	Sam McCoy 821 Anola Ave., Suite D, Dover, OH 44622 1-800-967-0615
REGION 10A **CUYAHOGA, GEAUGA, LAKE, LORAIN & MEDINA COUNTIES**	Western Reserve Area Agency on Aging 925 Euclid Ave., #600, Cleveland, OH 44115 1-800-626-7277 www.psa10a.org	Jennifer Coyne, Program Director 2800 Euclid Ave., Suite 200, Cleveland, OH 44115 1-800-365-3112 www.ltco.org
REGION 10B **PORTAGE, STARK, SUMMIT & WAYNE COUNTIES**	Direction Home Akron Canton Area Agency on Aging and Disabilities 1550 Corporate Woods Pkwy., Suite 100, Uniontown, OH 44685 1-800-421-7277 www.dhad.org	
REGION 11 **ASHTABULA, COLUMBIANA, MAHONING & TRUMBULL COUNTIES**	Area Agency on Aging 11, Inc. 5555 Youngstown-Warren Road, Suite 2685, Second Floor Niles, Ohio 44446 1-800-686-7367 www.aaa11.org	John Saulitis 5555 Youngstown-Warren Road, Suite 2685, Second Floor, Niles, OH 44446 1-800-589-5826 www.aaa11.org/HomeTopNav/Ombudsman.aspx

13. AGING NETWORK REGIONS MAP



14. ADVISORY COMMITTEE ON CHILDREN AND FAMILIES

History and Background

The Supreme Court Advisory Committee on Children and Families was originally created by Chief Justice Thomas J. Moyer in 2002, with the purpose of providing ongoing advice to the chief justice and the justices and staff of the Supreme Court. The Advisory Committee's duties include the promotion of statewide rules and uniform standards concerning the establishment and operation of programs for children and families in Ohio courts, the development and delivery of services to Ohio courts on matters involving children and families (including education programs for judges and court personnel), and the consideration of any other issues necessary to assist the Court and its staff regarding children and families in Ohio courts.

The advisory committee consists of no more than 24 members who are appointed by the chief justice. Membership is broad-based and multi-disciplinary so as to represent a cross section of interests related to the issues of children and families in the courts, and represent the gender, racial, ethnic, political, and geographic diversity of Ohio. While the advisory committee itself is limited in size, over one-hundred professionals participate on the advisory committee and its subcommittees and workgroups.

The advisory committee has issued reports on Family Law Reform, Guardian ad litem Standards, and Responding to Child Abuse, Neglect, and Dependency. As a result of these reports the Supreme Court adopted Rule of Superintendence 48 on Guardian ad litem Standards, collaborated on the establishment of Ohio's Alternative Response, and adopted changes to Rule of Superintendence 44 on Court Records, to clarify which Domestic Relations and Juvenile court records are considered confidential.

Current work by the advisory committee has focused on adult guardianship standards in probate court, the need for quality parent representation in child welfare cases, youth and caregiver engagement in court proceedings, and juvenile justice recommendations.

Additional information on the advisory committee, including its current member roster and reports, is on the Supreme Court's website.

Charge of the Advisory Committee on Children and Families

As issued by the Chief Justice of the Supreme Court of Ohio, the advisory committee shall provide ongoing advice to the Court and its staff regarding all of the following:

1) The promotion of statewide rules and uniform standards concerning the establishment and operations of programs for children and families in Ohio courts;

2) The development and delivery of services to Ohio courts on matters involving children and families, including education programs for judges and court personnel;

3) The consideration of any other issues the advisory committee deems necessary to assist the Court and its staff regarding children and families in Ohio courts.

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