



Ohio Revised Code Section 5101.70 Emergency order.

Effective: September 29, 2018

Legislation: House Bill 49 - 132nd General Assembly

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

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

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

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



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

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

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

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

(1) The adult is an incapacitated person;

(2) An emergency exists;

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

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

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

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

(3) The court may order emergency services only for fourteen days. The county department, the



department's designee, or the county prosecutor may petition the court for a renewal of the order for a fourteen-day period upon a showing that continuation of the order is necessary to remove the emergency.

(4) In its order the court shall authorize the director of the county department, the director's designee, or a representative of the department's designee to give consent for the person for the approved emergency services until the expiration of the order;

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

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