

# AN ACT

To amend sections 2913.02, 2913.21, 2913.31, 2913.43, 2913.49, 5101.60, 5101.621, 5101.63, 5101.652, and 5101.74 and to enact sections 109.67 and 173.95 of the Revised Code to develop best practices and educational opportunities to combat elder fraud and exploitation, to modify the membership of the elder abuse commission, and to fine and require full restitution from offenders who are found guilty of certain fraud-related crimes against the elderly.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2913.02, 2913.21, 2913.31, 2913.43, 2913.49, 5101.60, 5101.621, 5101.63, 5101.652, and 5101.74 be amended and sections 109.67 and 173.95 of the Revised Code be enacted to read as follows:

Sec. 109.67. The attorney general shall distribute at least six public awareness publications each year that provide general information on elder fraud and financial exploitation of the elderly. The awareness publications must include information on all of the following:

(A) Warning signs that may signal that fraud or financial exploitation are occurring;

(B) Methods for reporting elder fraud or financial exploitation including a list of agencies that handle those reports;

(C) Services and resources that may be available to prevent or remedy elder fraud or financial exploitation.

Sec. 173.95. (A) The director of aging, the director of commerce, the director of job and family services, and the attorney general or the attorney general's designee, in consultation with county departments of job and family services, adult protective services agencies, the Ohio bankers league, the community bankers association of Ohio, the securities industry and financial markets association, and the Ohio credit union league, shall work together to do all of the following:

(1) Develop best practices and standards for preventing elder fraud and financial exploitation;

(2) Provide education on elder fraud and financial exploitation;

(3) Ensure that victims of elder fraud and exploitation have access to available services and resources.

(B) The director of aging, the director of commerce, and the director of job and family services shall create a report of the best practices and standards developed under division (A)(1) of this section and shall provide a copy of that report to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives not later than December 1, 2019.

Sec. 2913.02. (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(B)(1) Whoever violates this section is guilty of theft.

(2) Except as otherwise provided in this division or division (B)(3), (4), (5), (6), (7), (8), or (9) of this section, a violation of this section is petty theft, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars or more and is less than seven thousand five hundred dollars or if the property stolen is any of the property listed in section 2913.71 of the Revised Code, a violation of this section is theft, a felony of the fifth degree. If the value of the property or services stolen is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a violation of this section is grand theft, a felony of the fourth degree. If the value of the property or services stolen is one hundred fifty thousand dollars or more and is less than seven hundred fifty thousand dollars, a violation of this section is aggravated theft, a felony of the third degree. If the value of the property or services is seven hundred fifty thousand dollars or more and is less than one million five hundred thousand dollars, a violation of this section is aggravated theft, a felony of the second degree. If the value of the property or services stolen is one million five hundred thousand dollars or more, a violation of this section is aggravated theft of one million five hundred thousand dollars or more, a felony of the first degree.

(3) Except as otherwise provided in division (B)(4), (5), (6), (7), (8), or (9) of this section, if the victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, a violation of this section is theft from a person in a protected class, and division (B)(3) of this section applies. Except as otherwise provided in this division, theft from a person in a protected class is a felony of the fifth degree. If the value of the property or services stolen is one thousand dollars or more and is less than seven thousand five hundred dollars, theft from a person in a protected class is a felony of the fourth degree. If the value of the property or services stolen is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, theft from a person in a protected class is a felony of the third degree. If the value of the property or services stolen is thirty-seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, theft from a person in a protected class is a felony of the second degree. If the value of the property or services stolen is one hundred fifty thousand dollars or more, theft from a person in a protected class is a felony of the first degree. If the victim of the offense is an elderly person, in addition to any other penalty imposed for the offense, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (B)(3) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

(4) If the property stolen is a firearm or dangerous ordnance, a violation of this section is grand theft. Except as otherwise provided in this division, grand theft when the property stolen is a

firearm or dangerous ordnance is a felony of the third degree, and there is a presumption in favor of the court imposing a prison term for the offense. If the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer, grand theft when the property stolen is a firearm or dangerous ordnance is a felony of the first degree. The offender shall serve a prison term imposed for grand theft when the property stolen is a firearm or dangerous ordnance consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(5) If the property stolen is a motor vehicle, a violation of this section is grand theft of a motor vehicle, a felony of the fourth degree.

(6) If the property stolen is any dangerous drug, a violation of this section is theft of drugs, a felony of the fourth degree, or, if the offender previously has been convicted of a felony drug abuse offense, a felony of the third degree.

(7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, a violation of this section is theft of a police dog or horse or an assistance dog, a felony of the third degree.

(8) If the property stolen is anhydrous ammonia, a violation of this section is theft of anhydrous ammonia, a felony of the third degree.

(9) Except as provided in division (B)(2) of this section with respect to property with a value of seven thousand five hundred dollars or more and division (B)(3) of this section with respect to property with a value of one thousand dollars or more, if the property stolen is a special purpose article as defined in section 4737.04 of the Revised Code or is a bulk merchandise container as defined in section 4737.012 of the Revised Code, a violation of this section is theft of a special purpose article or articles or theft of a bulk merchandise container or containers, a felony of the fifth degree.

(10) In addition to the penalties described in division (B)(2) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

(a) Unless division (B)(10)(b) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;

(b) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (B)(10)(a) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code, provided that the suspension shall be for at least six months.

(c) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to division (B)(10)(a) or (b) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(11) In addition to the penalties described in division (B)(2) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the

offender make restitution pursuant to section 2929.18 or 2929.28 of the Revised Code. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of section 2913.72 of the Revised Code.

(C) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (B)(10) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Chapter 4510. of the Revised Code.

Sec. 2913.21. (A) No person shall do any of the following:

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(B) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.

(D)(1) Whoever violates this section is guilty of misuse of credit cards.

(2) Except as otherwise provided in division (D)(4) of this section, a violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in this division or division (D)(4) of this section, a violation of division (B)(2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars or more and is less than seven thousand five hundred dollars, misuse of credit cards in violation of any of those divisions is a felony of the fifth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fourth degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one hundred fifty thousand dollars or more,

misuse of credit cards in violation of any of those divisions is a felony of the third degree.

(4) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (B)(1) or (2) of this section, division (D)(4) of this section applies. Except as otherwise provided in division (D)(4) of this section, a violation of division (B)(1) or (2) of this section is a felony of the fifth degree. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is one thousand dollars or more and is less than seven thousand five hundred dollars, a violation of either of those divisions is a felony of the fourth degree. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a violation of either of those divisions is a felony of the third degree. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is thirty-seven thousand five hundred dollars or more, a violation of either of those divisions is a felony of the second degree. In addition to any other penalty imposed under division (D)(4) of this section, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (D)(4) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

Sec. 2913.31. (A) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Forge any writing of another without the other person's authority;
  - (2) Forge any writing so that it purports to be genuine when it actually is spurious, or to be the act of another who did not authorize that act, or to have been executed at a time or place or with terms different from what in fact was the case, or to be a copy of an original when no such original existed;
  - (3) Utter, or possess with purpose to utter, any writing that the person knows to have been forged.
- (B) No person shall knowingly do either of the following:
- (1) Forge an identification card;
  - (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.

As used in this division, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card," or other similar words appear on the card.

(C)(1)(a) Whoever violates division (A) of this section is guilty of forgery.

(b) Except as otherwise provided in this division or division (C)(1)(c) of this section and subject to division (C)(1)(d) of this section, forgery is a felony of the fifth degree. If property or services are involved in the offense or the victim suffers a loss, forgery is one of the following:

- (i) If the value of the property or services or the loss to the victim is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a felony of the fourth

degree;

(ii) If the value of the property or services or the loss to the victim is one hundred fifty thousand dollars or more, a felony of the third degree.

(c) If the victim of the offense is an elderly person or disabled adult, division (C)(1)(c) of this section applies to the forgery. Except as otherwise provided in division (C)(1)(c) of this section, forgery is a felony of the fifth degree. If property or services are involved in the offense or if the victim suffers a loss, forgery is one of the following:

(i) If the value of the property or services or the loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fourth degree;

(ii) If the value of the property or services or the loss to the victim is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a felony of the third degree;

(iii) If the value of the property or services or the loss to the victim is thirty-seven thousand five hundred dollars or more, a felony of the second degree.

(d) If the victim of the offense is an elderly person, division (C)(1)(d) of this section applies to the forgery. In addition to any other penalty imposed for the offense under division (C)(1)(c) of this section, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (C)(1)(d) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

(2)(a) Whoever violates division (B) of this section is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this division, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (B) of this section, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars.

(b) If the victim of a violation of division (B) of this section is an elderly person, division (C)(2)(b) of this section applies to the offense. In addition to any other penalty imposed for the offense under division (C)(2)(a) of this section, whoever violates division (B) of this section shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (C)(2)(b) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

Sec. 2913.43. (A) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(B)(1) Whoever violates this section is guilty of securing writings by deception.

(2) Except as otherwise provided in this division or division (B)(3) of this section, securing writings by deception is a misdemeanor of the first degree. If the value of the property or the obligation involved is one thousand dollars or more and less than seven thousand five hundred

dollars, securing writings by deception is a felony of the fifth degree. If the value of the property or the obligation involved is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, securing writings by deception is a felony of the fourth degree. If the value of the property or the obligation involved is one hundred fifty thousand dollars or more, securing writings by deception is a felony of the third degree.

(3) If the victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, division (B)(3) of this section applies. Except as otherwise provided in division (B)(3) of this section, securing writings by deception is a felony of the fifth degree. If the value of the property or obligation involved is one thousand dollars or more and is less than seven thousand five hundred dollars, securing writings by deception is a felony of the fourth degree. If the value of the property or obligation involved is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, securing writings by deception is a felony of the third degree. If the value of the property or obligation involved is thirty-seven thousand five hundred dollars or more, securing writings by deception is a felony of the second degree. If the victim of the offense is an elderly person, in addition to any other penalty imposed for the offense, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (B)(3) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

Sec. 2913.49. (A) As used in this section, "personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual.

(B) No person, without the express or implied consent of the other person, shall use, obtain, or possess any personal identifying information of another person with intent to do either of the following:

(1) Hold the person out to be the other person;

(2) Represent the other person's personal identifying information as the person's own personal identifying information.

(C) No person shall create, obtain, possess, or use the personal identifying information of any person with the intent to aid or abet another person in violating division (B) of this section.

(D) No person, with intent to defraud, shall permit another person to use the person's own personal identifying information.

(E) No person who is permitted to use another person's personal identifying information as described in division (D) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person by doing any act identified in division (B) (1) or (2) of this section.

(F)(1) It is an affirmative defense to a charge under division (B) of this section that the person using the personal identifying information is acting in accordance with a legally recognized guardianship or conservatorship or as a trustee or fiduciary.

(2) It is an affirmative defense to a charge under division (B), (C), (D), or (E) of this section that either of the following applies:

(a) The person or entity using, obtaining, possessing, or creating the personal identifying information or permitting it to be used is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel and is using, obtaining, possessing, or creating the personal identifying information or permitting it to be used, with prior consent given as specified in this division, in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter. The prior consent required under this division shall be given by the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used or, if the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used is deceased, by that deceased person's executor, or a member of that deceased person's family, or that deceased person's attorney. The prior consent required under this division may be given orally or in writing by the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used or that person's executor, or family member, or attorney.

(b) The personal identifying information was obtained, possessed, used, created, or permitted to be used for a lawful purpose, provided that division (F)(2)(b) of this section does not apply if the person or entity using, obtaining, possessing, or creating the personal identifying information or permitting it to be used is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel that is using, obtaining, possessing, or creating the personal identifying information or permitting it to be used in an investigation, an information security evaluation, a pretext calling evaluation, or similar matter.

(G) It is not a defense to a charge under this section that the person whose personal identifying information was obtained, possessed, used, created, or permitted to be used was deceased at the time of the offense.

(H)(1) If an offender commits a violation of division (B), (D), or (E) of this section and the violation occurs as part of a course of conduct involving other violations of division (B), (D), or (E) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in determining the degree of the offense pursuant to division (I) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the offender and all debts or other legal obligations avoided or sought to be avoided by the offender in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(2) If an offender commits a violation of division (C) of this section and the violation occurs as part of a course of conduct involving other violations of division (C) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (B), (D), or (E) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13

of the Revised Code, the court, in determining the degree of the offense pursuant to division (I) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the person aided or abetted and all debts or other legal obligations avoided or sought to be avoided by the person aided or abetted in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(I)(1) Whoever violates this section is guilty of identity fraud.

(2) Except as otherwise provided in this division or division (I)(3) of this section, identity fraud is a felony of the fifth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one thousand dollars or more and is less than seven thousand five hundred dollars, except as otherwise provided in division (I)(3) of this section, identity fraud is a felony of the fourth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, except as otherwise provided in division (I)(3) of this section, identity fraud is a felony of the third degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one hundred fifty thousand dollars or more, except as otherwise provided in division (I)(3) of this section, identity fraud is a felony of the second degree.

(3) If the victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, a violation of this section is identity fraud against a person in a protected class. Except as otherwise provided in this division, identity fraud against a person in a protected class is a felony of the fourth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one thousand dollars or more and is less than seven thousand five hundred dollars, identity fraud against a person in a protected class is a felony of the third degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, identity fraud against a person in a protected class is a felony of the second degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one hundred fifty thousand dollars or more, identity fraud against a person in a protected class is a felony of the first degree. If the victim of the offense is an elderly person, in addition to any other penalty imposed for the offense, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (I)(3) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

(J) In addition to the penalties described in division (I) of this section, anyone injured in person or property by a violation of division (B), (D), or (E) of this section who is the owner of the identifying information involved in that violation has a civil action against the offender pursuant to section 2307.60 of the Revised Code. That person may also bring a civil action to enjoin or restrain future acts that would constitute a violation of division (B), (D), or (E) of this section.

Sec. 5101.60. As used in sections 5101.60 to 5101.73 of the Revised Code:

(A) "Abandonment" means desertion of an adult by a caretaker without having made

provision for transfer of the adult's care.

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

(C) "Adult" means any person sixty 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.

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

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

- (1) On a voluntary basis;
- (2) By contract;
- (3) Through receipt of payment for care;
- (4) As a result of a family relationship;
- (5) By order of a court of competent jurisdiction.

(F) "Community mental health agency" means any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in section 340.99 of the Revised Code.

(G) "Court" means the probate court in the county where an adult resides.

(H) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(I) "Emergency services" means protective services furnished to an adult in an emergency.

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

(1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;

(2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;

- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(K) "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.

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

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

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

(O) "Neglect" means any of the following:

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

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

(3) Abandonment.

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

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

(R) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(S) "Protective services" means services provided by the county department of job and family services 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.

(T) "Reasonable decisions" means decisions made in daily living that facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(U) "Senior service provider" means a person who provides care or specialized services to an adult, ~~except that it does not include the state long-term care ombudsman or a regional long-term care ombudsman.~~

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

Sec. 5101.621. (A) Each county department of job and family services shall prepare a memorandum of understanding that is signed by all of the following:

(1) The director of the county department of job and family services;

(2) If the county department has entered into an ~~interagency agreement or contract~~ with a ~~local agency private or government entity~~ pursuant to section ~~5101.622-5101.652~~ of the Revised Code, the director of the ~~local agency entity~~;

(3) The county peace officer;

(4) ~~All The chief municipal peace officers~~ officer of the largest municipality within the county;

(5) Other law enforcement officers handling adult abuse, neglect, and exploitation cases in the county;

(6) The prosecuting attorney of the county;

(7) The coroner of the county.

(B) The memorandum of understanding shall set forth the procedures to be followed by the persons listed in division (A) of this section in the execution of their respective responsibilities related to cases of adult abuse, neglect, and exploitation. The memorandum of understanding shall establish all of the following:

(1) An interdisciplinary team to coordinate efforts related to the prevention, reporting, and treatment of abuse, neglect, and exploitation of adults;

(2) The roles and responsibilities for handling cases that have been referred by the county department to another agency pursuant to section ~~5101.61~~ 5101.64 of the Revised Code;

(3) The roles and responsibilities for filing criminal charges against persons alleged to have abused, neglected, or exploited adults.

Failure to follow the procedure set forth in the memorandum of understanding is not grounds for, and shall not result in, the dismissal of any charge or complaint arising from a report of abuse, neglect, or exploitation or the suppression of any evidence obtained as a result of a report of abuse, neglect, or exploitation and does not give any rights or grounds for appeal or post-conviction relief to any person.

(C) The memorandum of understanding may, in addition, be signed by any of the following persons who are also members of the interdisciplinary team described in division (B)(1) of this section:

(1) A representative of the area agency on aging, as defined in section 173.14 of the Revised Code;

(2) ~~The~~ A representative of the regional long-term care ombudsman program;

(3) A representative of the board of alcohol, drug addiction, and mental health services;

(4) A representative of the board of health of a city or general health district;

(5) A representative of the county board of developmental disabilities;

(6) A representative of a victim assistance program;

(7) A representative of a local housing authority;

(8) Any other person whose participation furthers the goals of the memorandum of understanding.

Sec. 5101.63. (A)(1) Any individual listed in division (A)(2) of this section having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services.

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

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

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

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

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

- (e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;
- (f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;
- (g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;
- (h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;
- (i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;
- (j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;
- (k) An employee of an outpatient health facility;
- (l) An employee of a hospital, as defined in section 3727.01 of the Revised Code;
- (m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code;
- (n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;
- (o) An employee of a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;
- (p) An employee of a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;
- (q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code;
- (r) An agent of a county humane society organized under section 1717.05 of the Revised Code;
- (s) An individual who is a firefighter for a lawfully constituted fire department;
- (t) An individual who is an ambulance driver for an emergency medical service organization, as defined in section 4765.01 of the Revised Code;
- (u) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic, as those terms are defined in section 4765.01 of the Revised Code;
- (v) An official employed by a local building department to conduct inspections of houses and other residential buildings;
- (w) A peace officer;
- (x) A coroner;
- (y) A member of the clergy;
- (z) An individual who holds a certificate issued under Chapter 4701. of the Revised Code as a certified public accountant or is registered under that chapter as a public accountant;
- (aa) An individual licensed under Chapter 4735. of the Revised Code as a real estate broker or real estate salesperson;
- (bb) An individual appointed and commissioned under section 147.01 of the Revised Code as

a notary public;

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

(dd) ~~An A dealer, investment adviser, as defined in section 1707.01~~ sales person, or investment advisor representative licensed under Chapter 1707. of the Revised Code;

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

(ff) Any other individual who is a senior service provider, other than a representative of the office of the state long-term care ombudsman program as defined in section 173.14 of the Revised Code.

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

This division applies to a representative of the office of the state long-term care ombudsman program only to the extent permitted by federal law.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

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

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

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

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

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

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

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

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

(3) Take any other action detrimental to an employee or in any way retaliate against the employee.

(F) The written or oral report provided for in this section and the investigatory report provided for in section 5101.65 of the Revised Code are confidential and are not public records, as defined in section 149.43 of the Revised Code. In accordance with rules adopted by the department of job and family services, information contained in the report shall upon request be made available to the adult who is the subject of the report and to legal counsel for the adult. If it determines that there is a risk of harm to a person who makes a report under this section or to the adult who is the subject of the report, the county department of job and family services may redact the name and identifying information related to the person who made the report.

(G) The county department of job and family services shall be available to receive the written or oral report provided for in this section twenty-four hours a day and seven days a week.

Sec. 5101.652. The county department of job and family services may enter into an agreement or contract with ~~another person~~ any private or government entity to perform the following duties:

(A) In accordance with division (G) of section 5101.63 of the Revised Code, receive reports made under that section;

(B) Perform the county department's duties under section 5101.65 of the Revised Code;

(C) Petition the court pursuant to section 5101.68 or 5101.70 of the Revised Code for an order authorizing the provision of protective services.

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

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

(a) One representative of the AARP;

(b) One representative of the buckeye state sheriffs' association;

(c) One representative of the county commissioners' association of Ohio;

(d) One representative of the Ohio association of area agencies on aging;

(e) One representative of the board of nursing;

(f) One representative of the Ohio coalition for adult protective services;

(g) One person who represents the interests of elder abuse victims;

(h) One person who represents the interests of elderly persons;

(i) One representative of the Ohio domestic violence network;

(j) One representative of the Ohio prosecuting attorneys association;

(k) One representative of the Ohio victim witness association;

(l) One representative of the Ohio association of chiefs of police;

(m) One representative of the Ohio association of probate judges;

(n) One representative of the Ohio job and family services directors' association;

(o) One representative of the Ohio bankers league;

(p) One representative of the Ohio credit union league;

(q) Two representatives of national organizations that focus on elder abuse or sexual violence;

(r) One representative of the state medical board;

(s) One representative of the community bankers association of Ohio;

(t) One representative of an organization representing the interests of senior centers;

(u) One representative of an organization representing the policy interests of seniors;

(v) One representative of a research-based academia representing elder abuse research.

(2) The following ex officio members:

(a) The attorney general or the attorney general's designee;

(b) The chief justice of the supreme court of Ohio or the chief justice's designee;

(c) The governor or the governor's designee;

(d) The director of aging or the director's designee;

(e) The director of job and family services or the director's designee;

(f) The director of health or the director's designee;

- (g) The director of mental health and addiction services or the director's designee;
- (h) The director of developmental disabilities or the director's designee;
- (i) The superintendent of insurance or the superintendent's designee;
- (j) The director of public safety or the director's designee;
- (k) The state long-term care ombudsman or the ombudsman's designee;
- (l) One member of the house of representatives, appointed by the speaker of the house of representatives;
- (m) One member of the senate, appointed by the president of the senate;
- (n) One member of the house of representatives, appointed by the minority leader of the house of representatives;
- (o) One member of the senate, appointed by the minority leader of the senate;
- (p) The director of commerce, or the director's designee.
- (B) Members who are appointed shall serve at the pleasure of the appointing authority. Vacancies shall be filled in the same manner as original appointments.
- (C) All members of the commission shall serve as voting members. The attorney general shall select from among the appointed members a chairperson. The commission shall meet at the call of the chairperson, but not less than four times per year. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the attorney general. The commission may establish its own quorum requirements and procedures regarding the conduct of meetings and other affairs.
- (D) Members shall serve without compensation, but may be reimbursed for mileage and other actual and necessary expenses incurred in the performance of their official duties.
- (E) Sections 101.82 to 101.87 of the Revised Code do not apply to the elder abuse commission.

SECTION 2. That existing sections 2913.02, 2913.21, 2913.31, 2913.43, 2913.49, 5101.60, 5101.621, 5101.63, 5101.652, and 5101.74 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_