

IC 12-10-3

Chapter 3. Adult Protective Services

IC 12-10-3-1

"Adult protective services unit"

Sec. 1. As used in this chapter, "adult protective services unit" refers to the entity with whom the division contracts to carry out the duties listed in section 8 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.2.

IC 12-10-3-2

"Endangered adult"

Sec. 2. (a) Except as provided in subsection (b), as used in this chapter, "endangered adult" means an individual who is:

- (1) at least eighteen (18) years of age;
- (2) incapable by reason of mental illness, intellectual disability, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and
- (3) harmed or threatened with harm as a result of:
 - (A) neglect;
 - (B) a battery offense included in IC 35-42-2; or
 - (C) exploitation of the individual's personal services or property.

(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, IC 35-42-2-1.3, and IC 35-46-1-13, "endangered adult" means an individual who is:

- (1) at least eighteen (18) years of age;
- (2) incapable by reason of mental illness, intellectual disability, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and
- (3) harmed or threatened with harm as a result of:
 - (A) neglect; or
 - (B) battery.

(c) An individual is not an endangered adult solely:

- (1) for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment; or
- (2) on the basis of being physically unable to provide self care when appropriate care is being provided.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.1; P.L.24-1997, SEC.21; P.L.281-2003, SEC.1; P.L.117-2015, SEC.17; P.L.65-2016, SEC.6.

IC 12-10-3-3

"Governmental entity"

Sec. 3. As used in this chapter, "governmental entity" means an office or a department that is under the direct supervision of a local elected official or a county office.

As added by P.L.2-1992, SEC.4. Amended by P.L.4-1993, SEC.36; P.L.5-1993, SEC.49.

IC 12-10-3-4

"Life threatening emergency"

Sec. 4. As used in this chapter, "life threatening emergency" means a situation in which:

- (1) a severe threat to the life or health of an endangered adult exists;
- (2) immediate care or treatment is required to alleviate that threat; and
- (3) the endangered adult is unable to provide or obtain the necessary care or treatment.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-5

"Protective services"

Sec. 5. As used in this chapter, "protective services" refers to available medical, psychiatric, residential, and social services that are necessary to protect the health or safety of an endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-6

"Reason to believe"

Sec. 6. For the purposes of this chapter, an individual has "reason to believe" that a particular adult is an endangered adult if the individual has been presented with evidence that, if presented to an individual of similar background and training, would cause the individual to believe that the adult is an endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-7

Contracting for services

Sec. 7. (a) The division shall provide coverage for the services required in each county under this chapter and may contract with:

- (1) a prosecuting attorney;
- (2) a prosecuting attorney to perform part of the services and a governmental entity qualified to perform the remainder of the services required; or
- (3) if a prosecuting attorney decides not to enter into a contract, a governmental entity qualified to provide the services required.

(b) The contracts entered into by the division under this section must specify that the notification provisions described in sections 21(4) and 28(b)(5) of this chapter must be followed.

(c) A prosecuting attorney who is contracted to provide services under this section may perform services under this chapter in accordance with subsection (d) and (e).

(d) Except as provided in subsection (e), a prosecuting attorney who has contracted to provide services under this section may provide services in another county if:

- (1) the prosecuting attorney of the other county has not entered into a contract with the division to provide services; or
- (2) the prosecuting attorney of the other county requests the prosecuting attorney to provide services.

(e) Services provided by a prosecuting attorney who is providing services in another county under this section may include the investigation of matters related to the abuse, neglect, or exploitation of an endangered adult. However, a prosecuting attorney who is providing services in another county under this section may not initiate any judicial proceeding (including seeking a temporary restraining order, an order for protection, or a similar order from a court) in the other county.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.1; P.L.21-1996, SEC.3; P.L.116-2007, SEC.1.

IC 12-10-3-8

Duties of adult protective services unit having reason to believe individual is endangered adult

Sec. 8. If the adult protective services unit has reason to believe that an individual is an endangered adult, the adult protective services unit shall do the following:

- (1) Investigate the complaint or cause the complaint to be investigated by a law enforcement or other agency and make a determination as to whether the individual reported is an endangered adult.
- (2) Upon a determination that an individual is an endangered adult under this chapter, do the following:
 - (A) Initiate procedures that the adult protective services unit determines are necessary, based on an evaluation of the needs of the endangered adult, to protect the endangered adult.
 - (B) Coordinate and cooperate with the division or other appropriate person to obtain protective services for the endangered adult, including the development of a plan in cooperation with the endangered adult, whereby the least restrictive protective services necessary to protect the endangered adult will be made available to the endangered adult.
 - (C) Monitor the protective services provided the endangered adult to determine the effectiveness of the services.
 - (D) Comply with the notification requirements described in sections 21(4) and 28(b)(5) of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.2.

IC 12-10-3-9

Duty to report endangered adult

Sec. 9. (a) An individual who believes or has reason to believe that another individual is an endangered adult shall make a report under this chapter.

(b) If an individual is required to make a report under this chapter in the individual's capacity as a member of the staff of a medical or other public or private institution, school, hospital, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, hospital, facility, or agency, or the individual's designated agent, who also becomes responsible to report or cause a report to be made.

(c) This section does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-10

Reports; communication; contents

Sec. 10. (a) Each endangered adult report made under this chapter shall be communicated immediately to at least one (1) of the following:

- (1) The adult protective services unit.
- (2) A law enforcement agency.
- (3) The division by telephone on the statewide toll free telephone number established under section 12 of this chapter.

(b) A law enforcement agency that receives an endangered adult report shall immediately communicate the report to the adult protective services unit and the unit shall notify the division of the report.

(c) Reports must include as much of the following information as is known:

- (1) The name, age, and address of the endangered adult.
- (2) The names and addresses of family members or other persons financially responsible for the endangered adult's care or other individuals who may be able to provide relevant information.
- (3) The apparent nature and extent of the alleged neglect, battery, or exploitation and the endangered adult's physical and mental condition.
- (4) The name, address, and telephone number of the reporter and the basis of the reporter's knowledge.
- (5) The name and address of the alleged offender.
- (6) Any other relevant information regarding the circumstances of the endangered adult.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.4.

IC 12-10-3-11

Immunity from civil and criminal liability; privileged information; whistleblower retaliation

Sec. 11. (a) A person, other than a person against whom a complaint concerning an endangered adult has been made, who in good faith:

- (1) makes or causes to be made a report required to be made under this chapter;
- (2) testifies or participates in any investigation or administrative or judicial proceeding on matters arising from the report;
- (3) makes or causes to be made photographs or x-rays of an endangered adult; or
- (4) discusses a report required to be made under this chapter with the division, the adult protective services unit, a law enforcement agency, or other appropriate agency;

is immune from both civil and criminal liability arising from those actions.

(b) An individual may not be excused from testifying before a court or grand jury concerning a report made under this chapter on the basis that the testimony is privileged information, unless the individual is an attorney, a physician, a clergyman, a husband, or a wife who is not required to testify under IC 34-46-3-1.

(c) An employer may not discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action to retaliate against an employee who in good faith files a report under this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.1-1998, SEC.102.

IC 12-10-3-12

Toll free report hotline; establishment of adult protective services standards of practice

Sec. 12. The division shall establish the following:

- (1) A statewide toll free telephone line continuously open to receive reports of suspected neglect, battery, or exploitation.
- (2) Standards of practice established with the concurrence of the prosecuting attorneys council of Indiana (IC 33-39-8-2) and governing the services provided by the adult protective services unit.

As added by P.L.2-1992, SEC.4. Amended by P.L.153-2011, SEC.8.

IC 12-10-3-13

Records; availability

Sec. 13. The division shall maintain the following:

- (1) Records on individuals that the division and adult protective services units have determined to be endangered adults and the protective services needed.
- (2) Records of agencies, persons, or institutions who are determined to have permitted neglect, battery, or exploitation of

endangered adults.

(3) Nonidentifying statistical records concerning unsubstantiated reports about endangered adults.

The information maintained under this section shall be used solely for statistical purposes and must be available to law enforcement officials, state licensing agencies, and other officials and employees of municipal, county, and state government having a legitimate interest in the welfare of individuals who may be endangered adults or who have a legitimate interest in the operation of agencies or institutions providing care to individuals served under this chapter.
As added by P.L.2-1992, SEC.4.

IC 12-10-3-14

Referral of reports of endangerment

Sec. 14. The division shall refer reports of neglect, battery, or exploitation to appropriate adult protective services units.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-15

Confidentiality of reports; exceptions

Sec. 15. Reports made under this chapter and any other information obtained, reports written, or photographs taken concerning the reports are confidential and may be made available only to the individuals authorized in section 13 of this chapter as determined necessary by the division:

- (1) for purposes of providing or monitoring protective services under this chapter;
- (2) with the consent of all parties named in the report; or
- (3) upon the issuance of a court order releasing the information.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.3.

IC 12-10-3-16

Repealed

(As added by P.L.2-1992, SEC.4. Repealed by P.L.153-2011, SEC.20.)

IC 12-10-3-17

Response to report of endangered adult in licensed health facility

Sec. 17. If an adult protective services unit receives a report alleging that an individual who is a resident of a facility licensed under IC 16-28 is an endangered adult, the adult protective services unit shall immediately communicate the report to the state department of health under IC 16-28-4-1.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.77; P.L.281-2003, SEC.2.

IC 12-10-3-18

Timely referral to appropriate responder

Sec. 18. If it appears that the immediate health or safety of an endangered adult is in danger, the division or adult protective services unit shall immediately refer the matter to the appropriate law enforcement agency and shall assist the law enforcement agency as requested by that agency. In all other cases, referral to the appropriate adult protective services unit shall be made within five (5) working days after the receipt of a report.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-19

Court jurisdiction

Sec. 19. The circuit and superior courts with jurisdiction in the county in which the alleged endangered adult resides have original and concurrent jurisdiction over a matter filed under this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-20

Protective services consented to by endangered adult and interfered with by another; judicial intervention

Sec. 20. If an endangered adult gives consent to receive protective services arranged by the division or adult protective services unit and another person interferes with the delivery of the services, the division or adult protective services unit may, through the prosecuting attorney's office of the county in which the endangered adult resides, petition the circuit or superior court for an order to do the following:

- (1) Enjoin the interference with the delivery of the services.
- (2) Implement the delivery of services the endangered adult has consented to receive.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-21

Involuntary protective services; petition

Sec. 21. If an alleged endangered adult does not or is unable to consent to the receipt of protective services arranged by the division or the adult protective services unit or withdraws consent previously given, the adult protective services unit, either directly or through the prosecuting attorney's office in the county in which the endangered adult resides, may petition the court to require the alleged endangered adult to receive protective services. Any person upon consent of the adult protective services unit, may petition the court to require the alleged endangered adult to receive protective services. The petition must be under oath or affirmation and must include the following:

- (1) The name, age, and residence of the alleged endangered adult who is to receive protective services.
- (2) The nature of the problem or reason for the filing of the petition for protective order.

(3) The name and address of the petitioner and the name and address of the person or organization that may be required to complete the court ordered protective services. If the petitioner is an organization, the petition must contain information concerning the title and authority of the individual filing on behalf of that organization.

(4) Certification that:

(A) notice of the petition has been given to the alleged endangered adult, the alleged endangered adult's attorney, if any, or the alleged endangered adult's next of kin or guardian, if any; and

(B) section 21.5 of this chapter regarding notice to the alleged endangered adult's next of kin has been complied with.

If notice has not been given, a description of the attempts to give notice shall be given.

(5) The name and address of the individuals most closely related by blood or marriage to the alleged endangered adult, if known.

(6) A description of the proposed protective services to be provided.

(7) A statement that the adult protective services unit has been notified and consented to the petition if the petitioner is not the adult protective services unit.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.4; P.L.272-1999, SEC.28.

IC 12-10-3-21.5

Notice of petition

Sec. 21.5. Before a petition for:

(1) a protective order under section 21 of this chapter; or

(2) an emergency protective order under section 28 of this chapter;

of this chapter is filed, the petitioner must attempt to give actual notice of the petition to the alleged endangered adult's next of kin, if any. However, if the alleged endangered adult's next of kin cannot be located, notice to the last known address of the next of kin must be sent by certified mail on the same date that the petition is filed.

As added by P.L.110-1996, SEC.5.

IC 12-10-3-22

Hearing; counsel

Sec. 22. At a hearing at which a court determines whether an endangered adult should be required to receive protective services, the endangered adult is entitled to the following:

(1) To be represented by counsel.

(2) To have the court appoint counsel for the endangered adult if the court determines the endangered adult is indigent.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-23

Mandatory protective services; grounds

Sec. 23. The court may require an individual to receive protective services only if the court finds, after a hearing, that the individual:

- (1) is an endangered adult;
- (2) is in need of protective services; and
- (3) lacks the ability to make an informed decision concerning the endangered adult's need for protective services.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-24

Protective services order; stipulations

Sec. 24. If, after a hearing, the court determines that an endangered adult should be required to receive protective services, the court shall issue a protective services order. The order must stipulate the following:

- (1) The objectives of the protective services order.
- (2) The least restrictive protective services necessary to attain the objectives of the protective services order that the endangered adult must receive.
- (3) The duration during which the endangered adult must receive the protective services.
- (4) That the adult protective services unit or other person designated by the court shall do the following:
 - (A) Provide or arrange for the provision of the protective services ordered by the court.
 - (B) Petition the court to modify or terminate the protective services order if:
 - (i) the protective services ordered by the court have not been effective in attaining the objectives of the protective services order;
 - (ii) the physical or mental health of the endangered adult is no longer in danger and the termination of the protective services order will not be likely to place the endangered adult's physical or mental health in danger; or
 - (iii) the endangered adult has consented to receive the protective services ordered by the court.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-25

Modification or termination of protective services order; motion

Sec. 25. The court may modify or terminate a protective services order upon its own motion or upon the motion of any of the following:

- (1) The endangered adult.
- (2) The endangered adult's guardian, custodian, or guardian ad

litem.

(3) The adult protective services unit.

(4) Any person providing services to the endangered adult under the protective services order.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-26

Continuing jurisdiction hearing; necessary findings

Sec. 26. Every six (6) months after the date of the original protective services order or more often if ordered by the court, the adult protective services unit shall petition the court to hold a hearing on the question of continuing jurisdiction. For jurisdiction to continue, the court must find one (1) of the following:

(1) That the objectives of the order have not been attained, but that there is a reasonable probability that the objectives will be attained if the order is continued with or without modifications.

(2) That the objectives of the order have been attained, but that termination of the order will likely place the endangered adult's physical or mental health in danger.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-27

Orders protecting or implementing delivery of protective services

Sec. 27. The court may issue an order to:

(1) enjoin a person from interference with the delivery of a protective service ordered under section 24 of this chapter; or

(2) direct a person to take actions to implement the delivery of the protective services ordered under section 24 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.2.

IC 12-10-3-28

Emergency protective orders; petition; hearing; stipulations; interference injunction; duration

Sec. 28. (a) If:

(1) an alleged endangered adult does not or is unable to consent to the receipt of protective services arranged by the division or the adult protective services unit or withdraws consent previously given; and

(2) the endangered adult is involved in a life threatening emergency;

the adult protective services unit, either directly or through the prosecuting attorney's office of the county in which the alleged endangered adult resides, may petition the superior or circuit court in the county where the alleged endangered adult resides for an emergency protective order.

(b) A petition for an emergency protective order must be under oath or affirmation and must include the following:

(1) The name, age, and residence of the endangered adult who

is to receive emergency protective services.

(2) The nature of the problem and an allegation that a life threatening emergency exists.

(3) Evidence that immediate and irreparable injury will result if there is a delay in the provision of services.

(4) The name and address of the petitioner who is filing the petition and the name and address of the person or organization that may be required to complete the court ordered emergency protective services.

(5) Certification that:

(A) notice has been given to the alleged endangered adult, the alleged endangered adult's attorney, if any, or the alleged endangered adult's next of kin, if any; and

(B) section 21.5 of this chapter regarding notice to the alleged endangered adult's next of kin has been complied with.

If notice has not been given, a description of the attempts to give notice shall be given.

(6) A description of the emergency protective services to be provided.

(c) If, after the hearing of the petition, the court determines that the endangered adult should be required to receive emergency protective services, the court shall issue an emergency protective order if the court finds the following:

(1) The individual is an endangered adult.

(2) A life threatening emergency exists.

(3) The endangered adult is in need of the proposed emergency protective services.

The court may issue the order ex parte.

(d) An emergency protective order must stipulate the following:

(1) The objectives of the emergency protective order.

(2) The least restrictive emergency protective services necessary to attain the objectives of the emergency protective order that the endangered adult must receive.

(3) The duration during which the endangered adult must receive the emergency protective services.

(4) That the emergency protective services unit or other person designated by the court shall do the following:

(A) Provide or arrange for the provision of the emergency protective services ordered by the court.

(B) Petition the court to modify or terminate the emergency protective order if:

(i) the emergency protective services ordered by the court have not been effective in attaining the objectives of the emergency protective order;

(ii) the physical or mental health of the endangered adult is no longer in danger and the termination of the emergency protective order will not be likely to place the

endangered adult's physical or mental health in danger; or
(iii) the endangered adult has consented to receive the emergency protective services ordered by the court.

(e) The court may issue an order to:

(1) enjoin a person from interfering with the delivery of services ordered by an emergency protective order issued under this section; or

(2) direct a person to take actions to implement the delivery of services ordered by an emergency protective order issued under this section.

(f) An emergency protective order issued under this section may not remain in effect for longer than:

(1) ten (10) days; or

(2) thirty (30) days if the adult protective services unit shows the court that an extraordinary need exists that requires the order to remain in effect for not more than thirty (30) days.

(g) If at the expiration of an order the adult protective services unit determines that the endangered adult is in need of further protective services and that the endangered adult does not consent to the receipt of the services, a petition may be filed under section 21 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.3; P.L.110-1996, SEC.6; P.L.272-1999, SEC.29.

IC 12-10-3-29

Immunity of division or unit personnel from civil or criminal liability

Sec. 29. An officer, agency, or employee of the division or adult protective services unit who performs duties in good faith under this chapter in rendering care to an endangered adult is immune from both civil and criminal liability arising from acts or omissions in rendering the service or care to the endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-29.5

Appointment as representative of endangered adult

Sec. 29.5. (a) Except as provided in subsection (b), an adult protective services unit or a staff member of the adult protective services unit may not be designated as:

(1) a personal representative;

(2) a health care representative;

(3) a guardian;

(4) a guardian ad litem; or

(5) any other type of representative;

for an endangered adult.

(b) The:

(1) county prosecutor in the county in which the adult protective services unit is located; or

(2) head of the governmental entity if the adult protective services unit is operated by a governmental entity;
may give written permission for an adult protective services unit or a staff member of the adult protective services unit to be designated as a representative described in subsection (a)(1) through (a)(5).
As added by P.L.141-2006, SEC.40. Amended by P.L.109-2015, SEC.31.

IC 12-10-3-30

Annual report

Sec. 30. The division shall report to the general assembly before February 2 of each year concerning the division's activities under this chapter during the preceding calendar year. The report must include the recommendations of the division relating to the need for continuing care of endangered adults under this chapter and must be in an electronic format under IC 5-14-6.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.5; P.L.28-2004, SEC.89.

IC 12-10-3-31

Persons not needing protective services

Sec. 31. An individual is not in need of protective services under this chapter:

- (1) solely for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment; and
- (2) if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment.

As added by P.L.77-1992, SEC.4.