



Ohio Revised Code

Section 5123.601 Access to information by staff and attorneys.

Effective: October 1, 2012

Legislation: House Bill 153 - 129th General Assembly

(A) The Ohio protection and advocacy system staff, and attorneys designated by the system to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to all of the following:

(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the Ohio protection and advocacy system, including those who may be represented pursuant to division (D) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing services to persons who may be represented by the Ohio protection and advocacy system pursuant to division (D) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the Ohio protection and advocacy system pursuant to division (D) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the Ohio protection and advocacy system pursuant to division (D) of this section.



(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the Ohio protection and advocacy system;

(ii) The Ohio protection and advocacy system has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

(B) All records received or maintained by the Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the Ohio protection and advocacy system or, subject to any privilege, a guardian of the person or parent of the minor. Relationships between personnel and the agents of the Ohio protection and advocacy system and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

(C) The Ohio protection and advocacy system may compel by subpoena the appearance and sworn testimony of any person the Ohio protection and advocacy system reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the Ohio protection and advocacy system may apply to the Franklin county



court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(D) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted by the Ohio protection and advocacy system, the Ohio protection and advocacy system may provide advocacy to those other individuals and exercise any other authority granted by this section on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the Ohio protection and advocacy system.