

209.120 Findings by court -- Limitations of court's power -- Termination of order.

- (1) Upon petition by the cabinet a court may issue an order authorizing the provision of emergency protective services to an adult after a hearing and upon a finding based on a preponderance of the evidence that:
 - (a) The adult is in a state of abuse, neglect, or exploitation and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;
 - (b) The adult is in need of protective services;
 - (c) The adult lacks the capacity to consent to such services; and
 - (d) No person authorized by law or court order to give consent for the adult is available to consent to protective services or such person refuses to give consent.
- (2) In issuing an emergency order the court shall adhere to the following limitations:
 - (a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.
 - (b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order.
 - (c) The issuance of an emergency order shall not deprive the adult of any rights except to the extent validly provided for in the order.
 - (d) To implement an order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the cabinet.
- (3) If the court finds, pursuant to a hearing, that the adult is in need of protective services, and should that adult have a guardian who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.
- (4) If the court finds that protective services are no longer needed by the adult, the court shall order the emergency protective services to terminate.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 370, sec. 4, effective July 15, 1998. -- Amended 1982 Ky. Acts ch. 141, sec. 67, effective July 1, 1982. -- Created 1980 Ky. Acts ch. 372, sec. 7, effective July 15, 1980.

Legislative Research Commission Note (11/9/93). Prior references to the "department" in this statute were changed to "cabinet" pursuant to 1982 Ky. Acts ch. 393, sec. 50(5), and KRS 7.136(2).