

BOBBY JINDAL
Governor



JUNE S. WILLIAMS
Chairman

State Of Louisiana
Executive Board on Aging

MINUTES OF THE LA EXECUTIVE BOARD ON AGING (LEBA) MEETING
GOVERNOR'S OFFICE OF ELDERLY AFFAIRS
525 Florida, 4th Floor, Room 427, 10:03 AM Baton Rouge LA
May 8, 2012

CALL TO ORDER

The regularly scheduled Quarterly Meeting of the Louisiana Executive Board on Aging (LEBA) was called to order at 10:03 AM by June Williams, LEBA Chairman, with Carol Frain serving as Secretary, at the Governor's Office of Elderly Affairs, 525 Florida 4th Floor Room 427 Baton Rouge LA 70801. Invocation: Vanue LaCour, Jr. Pledge of Allegiance: Willie Lewis

ROLL CALL

MEMBERS PRESENT

Willie Lewis
Noah Aguillard
Huey Beverly
Vanue LaCour
June Williams
Myrtle Winbush

MEMBERS ABSENT

Lee Perry Roy
Raymond Franklin
Annette Kelly
Donald Mallet
Rose Sibley
Jo Ann Walker
Pat Regan

GOEA STAFF: Karen Ryder, GOEA Deputy Assistant Director; Paul Colomb, GOEA Legal Counsel; and Carol Frain, GOEA Administrative Assistant. **Guests:** **HANDOUT 1 (1 Page)**

JUNE WILLIAMS, LEBA CHAIRMAN

LEBA Chairman June Williams declared a quorum was present with (6) members in attendance. **Motion:** Huey Beverly – To approve the February 14, 2012 minutes as written. Vanue LaCour 2nd. Motion carried.

Chairman Williams asked for each attendee to introduce themselves. Chairman Williams asked LEBA member Willie Lewis to read to attendees a thank you card written by Martha Manuel. The card was passed around for everyone to read. The audience was thanked for their dedication and hard work for the elderly population to diligently prevent a takeover of GOEA by the Department of Health and Hospitals, Aging & Adult Services Office.

An open discussion was held regarding Martha Manuel's appointment process and dismissal as Executive Director of the Governor's Office of Elderly Affairs; Chairman June Williams and the LEBA Board's functions; the recent developments at the 2012 Legislative Session; and finally DHH's attempt in SB 762 to takeover the EPS unit of GOEA. SB 690 was introduced by Senator Buffington to takeover the GOEA by DHH (Substitute Adopted on Senate Floor) which became SB 762. All federal and state dollars in the GOEA FY13 budget have been returned to GOEA. **HANDOUTS 2 & 3 (SB 690; SB 762)**

Huey Beverly **Motion:** To send a letter to the Attorney General's office asking for an opinion of LA R.S. 46:936. 2nd Vanue LaCour. Chairman Williams called for a vote from LEBA members. All members were unanimously in favor of this motion. Mr. Paul Colomb, GOEA General Counsel, was selected to draft and send this letter to the AG's Office by the LEBA Board. It was noted that the federal government can only contract with the State Unit on Aging and the Governor's Office of Elderly Affairs. **HANDOUTS NO. 4 & 5 (LA RS 46:936; Merging of APS and EPS)**

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NEXT MEETING

LEBA's third meeting for 2012 is scheduled for Tuesday, August 14, at the Governor's Office of Elderly Affairs, 10:00 AM, 525 Florida, 4th Floor, Room 427, Baton Rouge, LA 70801.

ADJOURN

Huey Beverly: Motion: To Adjourn, 2nd Van LaCour, Jr.
Meeting Adjourned: 11:32 AM

Prepared by Carol S. Frain, GOEA Administrative Assistant

- Handouts:**
- (1) LEBA Sign In Sheet, February 14, 2012
 - (2) SB 690
 - (3) SB 762
 - (4) LA RS 46:936
 - (5) Merging of APS and EPS

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JUNE WILLIAMS
Chair

State Of Louisiana
Executive Board on Aging

Governor's Office of Elderly Affairs
525 Florida Street, 4th Floor, Room 427
Baton Rouge, LA
Tuesday, May 8, 2012
10:00 A.M.

AGENDA

Call to Order	June S. Williams, Chairman
Invocation	Vanue Lacour, PSC 5
Pledge of Allegiance	Willie Lewis, PSC 2
Roll Call / Approval of February 14, 2012	Carol Frain, Adm. Assist.
Chairman's Report	June S. Williams, Chairman
GOEA Executive Director's Report	Karen Ryder, Deputy Assist. Sec. 2
Date For Next Board Meeting	
Adjourn	



QUARTELY LEBA MEETING
 Tuesday, May 8, 2012

	<u>NAME</u>	<u>TITLE</u>	<u>AGENCY</u>
1.	Dinah Ranch	Director	Dameron AAA
2.	Helen Langley	Director	J. Davis, COA/AAA
3.	Jasper McElroy	Director	Winn COA
4.	W. D. Lewis		
5.	Gay Marie Neal		Grant COA
6.	Gay Baker		GOSA
7.	Kenneth Rodgers		NO COA
8.	Huey L. Beverly		Leb 9
9.	Vance B. Lacombe Jr.		LEBA
10.	Paul Aguillard		GEBA
11.	Bob Baker		JCOA
12.	Myrtle Minchew		N.O. COA.
13.			
14.			
15.			
16.			
17.			
18.			

Regular Session, 2012

SENATE BILL NO. 690

BY SENATOR BUFFINGTON

AGED PERSONS. Relative to the providing of services to the elderly. (gov sig)

AN ACT

To amend and reenact R.S. 36:258(F) and R.S. 46:931, relative to providing services to the elderly; to provide for the Department of Health and Hospitals, office of aging and adult services; to provide for the office of elderly affairs in the office of the governor; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:258(F) is hereby amended and reenacted to read as follows:

§258. Offices; purposes and functions

* * *

F. The office of aging and adult services shall be responsible for the programs and functions of the Department of Health and Hospitals related to the long-term care of the elderly and the protection and long-term care of persons with adult onset disabilities. It shall administer the residential state-operated nursing homes, the Villa Feliciana Medical Complex, the protection services program of adults from ages eighteen to fifty-nine, the department's long-term support and services programs, the State Personal Assistance Services program, the Community and Family Support Program, the Traumatic Head and Spinal Cord Injury Trust Fund, as well as other

1 related programs and functions within the department.

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* * *

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Section 2. R.S. 46:931 is hereby amended and reenacted to read as follows:

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§931. Creation; personnel

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An agency of the state to be known as the office of elderly affairs is hereby created and established in the office of the governor. ~~Said~~ The office shall exercise the powers and duties hereinafter set forth or otherwise provided by law. The office shall be administered by an executive director, who shall be recommended for appointment by the Louisiana Executive Board on Aging to the governor to serve at his pleasure, subject to confirmation by the Senate. The executive director shall employ necessary staff to carry out the duties and functions of the office as otherwise provided in this Chapter, or as otherwise provided by law.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Present law provides for the Department of Health and Hospitals, office of aging and adult services and the office of elderly affairs in the office of the governor.

Proposed law amends present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 36:258(F) and R.S. 46:931)

Regular Session, 2012

SENATE BILL NO. 762 (Substitute of Senate Bill No. 690 by Senator Buffington)

BY SENATOR BUFFINGTON

AGED PERSONS. Transfers the adult protection services of the office of elderly affairs in the office of the governor to the Department of Health and Hospitals, office of aging and adult services. (7/1/12)

AN ACT

To amend and reenact R.S. 14:35.1(A)(3), R.S. 15:1503(4), R.S. 35:406(A) and (D), R.S. 36:258(F), R.S. 46:56(A), (B)(1), and (F)(4)(b), 61(A)(1) and (C), 932(10), and 2136.2(F), relative the transfer of adult protection services of the office of elderly affairs in the office of the governor to the Department of Health and Hospitals, office of aging and adult services; to provide for functions of the programs and services transferred; to provide for contracts and leases; to provide for administrative rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:35.1(A)(3) is hereby amended and reenacted to read as follows:

§35.1. Battery of a child welfare or adult protective service worker

A.(1) * * *

(3) For purposes of this Section, "adult protective service worker" shall include any adult protection specialist or adult protection specialist supervisor employed by the Department of Health and Hospitals or the Governor's Office of Elderly Affairs.

* * *

1 Section 2. R.S. 15:1503(4) is hereby amended and reenacted to read as follows:

2 §1503. Definitions

3 For the purposes of this Chapter, the following terms shall have the following
4 meanings, unless the context clearly indicates a different meaning:

5 * * *

6 ~~(4)(a) "Adult protection agency" means the office of elderly affairs in the~~
7 ~~office of the governor, for any individual sixty years of age or older in need of adult~~
8 ~~protective services as provided in this Chapter.~~

9 (b) "Adult protection agency" means the Department of Health and Hospitals
10 for any individual ~~between the ages of eighteen and fifty-nine years of age~~ or older
11 or an emancipated minor in need of adult protective services as provided in this
12 Chapter. The secretary of the Department of Health and Hospitals may assign the
13 duties and powers provided in this Chapter to any office of the department for
14 provision of adult protective services, as provided in this Chapter.

15 * * *

16 Section 3. R.S. 35:406(A) and (D) are hereby amended and reenacted to read as
17 follows:

18 §406. Ex officio notaries public of the adult protection agency

19 A. Notwithstanding any provisions of law relative to qualifications for
20 notaries public, except R.S. 35:391,

21 ~~(1) The director of the office of elderly affairs may appoint two investigators~~
22 ~~in each region of the adult protection agency, office of elderly affairs, office of the~~
23 ~~governor, as ex officio notaries public.~~

24 ~~(2) The~~ the secretary of the Department of Health and Hospitals may appoint
25 three five investigators in the adult protection agency, Department of Health and
26 Hospitals, as ex officio notaries public.

27 * * *

28 D. The ~~director~~ or secretary authorized to make such appointments may
29 suspend or terminate any appointment made pursuant to this Section at any time.

1 Separation from the employ of the adult protection agency shall automatically
2 terminate the powers of such an ex officio notary public.

3 Section 4. R.S. 36:258(F) is hereby amended and reenacted to read as follows:

4 §258. Offices; purposes and functions

5 * * *

6 F. The office of aging and adult services shall be responsible for the programs
7 and functions of the Department of Health and Hospitals related to the ~~long-term~~
8 care services ~~to~~ of the elderly and the ~~protection and long-term care of~~ persons with
9 adult onset disabilities. It shall administer the residential state-operated nursing
10 homes, the Villa Feliciano Medical Complex, the protection services program of
11 adults from ~~ages~~ aged eighteen to ~~fifty-nine~~, and older or an emancipated minor,
12 the department's long-term support and services programs, the State Personal
13 Assistance Services program, the Community and Family Support Program, the
14 Traumatic Head and Spinal Cord Injury Trust Fund, as well as other related
15 programs within the department.

16 * * *

17 Section 5. R.S. 46:56(A), (B)(1), and (F)(4)(b), 61(A)(1) and (C), 932(10), and
18 2136.2(F) are hereby amended and reenacted to read as follows:

19 §56. Applications and client case records; definitions; confidentiality; waiver;
20 penalty

21 A. Applications for assistance and information contained in case records of
22 clients of the Department of Health and Hospitals; ~~or~~ the Department of Children
23 and Family Services; ~~or the Office of Elderly Affairs, for the purpose of adult~~
24 ~~protective services~~; shall be confidential and, except as otherwise provided, it shall
25 be unlawful for any person to solicit, disclose, receive, make use of, or to authorize,
26 knowingly permit, participate in, or acquiesce in the use of applications or client case
27 records or the information contained therein for any purpose not directly connected
28 with the administration of the programs of the department.

29 B.(1) For the purposes of this Section, "department" means the Department

1 of Health and Hospitals; and the Department of Children and Family Services; ~~and~~
 2 ~~the adult protection agency as provided in R.S. 15:1503(4).~~ It is the express intent
 3 of this Section that the Department of Health and Hospitals; and the Department of
 4 Children and Family Services; ~~and; for the purpose of adult protective services, the~~
 5 ~~Office of Elderly Affairs~~ share access to each other's case records to the extent that
 6 such access is not prohibited by any contrary provision of federal law or regulation.

7 * * *

8 F. The following information shall not be subject to waiver and shall not be
 9 released to applicants, recipients, or outside sources, except those outside sources
 10 engaged in the administration of the programs of the department:

11 * * *

12 (4)(a) * * *

13 (b) In addition, the department may release information to other agencies of
 14 state government that are engaged in rendering services or treatment to a department
 15 recipient or former recipient. The agency receiving the information from the
 16 department under this Paragraph shall be bound by the same confidentiality standard
 17 as prescribed in this Section with regard to release of this information to the
 18 recipient, the client's legal representative, or an outside source. The Department of
 19 Health and Hospitals; and the Department of Children and Family Services; ~~and; for~~
 20 ~~the purpose of adult protective services, the Office of Elderly Affairs~~ may release
 21 information to each other for the purpose of furthering services or treatment to
 22 clients or recipients of services of either department. Information subject to release
 23 under this Section that is covered by federal statutes or regulations restricting release
 24 of the information shall be released only in accordance with the federal statutes or
 25 regulations.

26 * * *

27 §61. Elderly abuse; release of information

28 A.(1) The Department of Health and Hospitals shall, following an
 29 investigation by the department, ~~the Office of Elderly Affairs;~~ the office of the

1 attorney general, or a local law enforcement agency, of any report of elderly abuse
 2 and the conviction of any person investigated for such abuse or the entering of a plea
 3 of guilty or nolo contendere by any person so investigated who is accused of such
 4 abuse, make available to any health care facility licensed by the department, upon
 5 request, the name and a photograph of any such person who has been convicted of
 6 or pled guilty or nolo contendere to a crime involving elderly abuse.

7 * * *

8 C. The department, ~~in consultation with the Office of Elderly Affairs;~~ shall
 9 adopt and promulgate rules and regulations in accordance with the Administrative
 10 Procedure Act to implement the provisions of this Section, including provisions
 11 which establish procedures under which the department shall request information
 12 from law enforcement officials and district attorneys and which establish procedures
 13 under which health care facilities may request information concerning whether or not
 14 a person has been convicted of or pled guilty or nolo contendere to a crime listed in
 15 R.S. 14:403.2.

16 * * *

17 §932. Powers and duties

18 The office shall have the following powers and duties:

19 * * *

20 (10) To perform the functions of the state which are designed to meet the
 21 social and community needs of Louisiana residents sixty years of age or older,
 22 including but not limited to the provision of such comprehensive social programs as
 23 homemaker services, home repair and maintenance services, employment and
 24 training services, recreational and transportation services, counseling, information
 25 and referral services, ~~protective services under R.S. 15:1501 et seq.~~, and health-
 26 related outreach; but excluding the transportation program for the elderly and the
 27 handicapped program administered by the Department of Transportation and
 28 Development under Section 16(b)(2) of the Federal Urban Mass Transportation Act
 29 of 1964 as amended and other such programs and services assigned to departments

1 of state government as provided in Title 36 of the Louisiana Revised Statutes of
2 1950.

3 * * *

4 §2136.2. Louisiana Protective Order Registry

5 * * *

6 F. The judicial administrator's office shall make the Louisiana Protective
7 Order Registry available to state and local law enforcement agencies, district
8 attorney offices, the Department of Children and Family Services, office of children
9 and family services, support enforcement services, office of community services, the
10 Department of Health and Hospitals, bureau of protective services, ~~the Governor's~~
11 ~~Office of Elderly Affairs, elderly protective services,~~ the office of the attorney
12 general, and the courts.

13 Section 6. All employees engaged in the performance of duties relating to the
14 functions of the programs and services transferred from the office of elderly affairs in the
15 office of the governor to the Department of Health and Hospitals, office of aging and adult
16 services, are hereby transferred to the office of aging and adult services to carry out the
17 functions of the office of aging and adult services.

18 Section 7. In order to ensure continuity of services, all office of elderly affairs
19 contracts and leases related to the operation and administration of its adult protective service
20 programs transferred to the Department of Health and Hospitals, office of aging and adult
21 services shall be deemed to have been transferred and assigned to the Department of Health
22 and Hospitals upon the effective date of this Act without the necessity of amendment of the
23 lease or contract, and the Department of Health and Hospitals shall be solely responsible for
24 all related obligations and liabilities arising on or after that effective date.

25 Section 8. The administrative rules contained in the Louisiana Administrative Code
26 promulgated by the office of elderly affairs of the office of the governor which govern or are
27 applicable to the programs and operations transferred from the office of elderly affairs in the
28 office of the governor to the Department of Health and Hospitals, office of aging and adult
29 services by this Act shall continue to be effective, and the office of state register shall change

1 all applicable references to the office of elderly affairs to the office of aging and adult
2 services and redesignate and renumber, as the need may be, all applicable provisions as are
3 necessary to maintain continuity in the Louisiana Administrative Code.

4 Section 9. This Act shall become effective on July 1, 2012; if vetoed by the governor
5 and subsequently approved by the legislature, this Act shall become effective on July 1,
6 2012, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Buffington (SB 762)

Proposed law transfers the adult protection services of the office of elderly affairs in the office of the governor to the Department of Health and Hospitals, office of aging and adult services.

Proposed law provides for the transfer of employees from the office of elderly affairs in the office of the governor to the Department of Health and Hospitals, office of aging and adult services.

Proposed law provides for the transfer of leases and contracts from the office of elderly affairs in the office of the governor to the Department of Health and Hospitals, office of aging and adult services.

Proposed law provides for the transfer of administrative rules from the office of elderly affairs in the office of the governor to the Department of Health and Hospitals, office of aging and adult services.

Effective July 1, 2012.

(Amends R.S. 14:35.1(A)(3), R.S. 15:1503(4), R.S. 35:406(A) and (D), R.S. 36:258(F), R.S. 46:56(A), (B)(1), and (F)(4)(b), 61(A)(1) and (C), 932(10), and 2136.2(F))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Removes language which repealed R.S. 46:936 (statement of intent regarding the Office of Elderly Affairs).

Merging of APS and EPS

Once again you are being asked to destroy a working successful program such as Elderly Protective Service and combine it with an unsuccessful program located in Department of Health and Hospitals. DHH told you that 42 states operate a single APS program, what they did not tell you is that these single APS programs are located at the State Unit on Aging in this case, that would be the Office of Elderly Affairs.

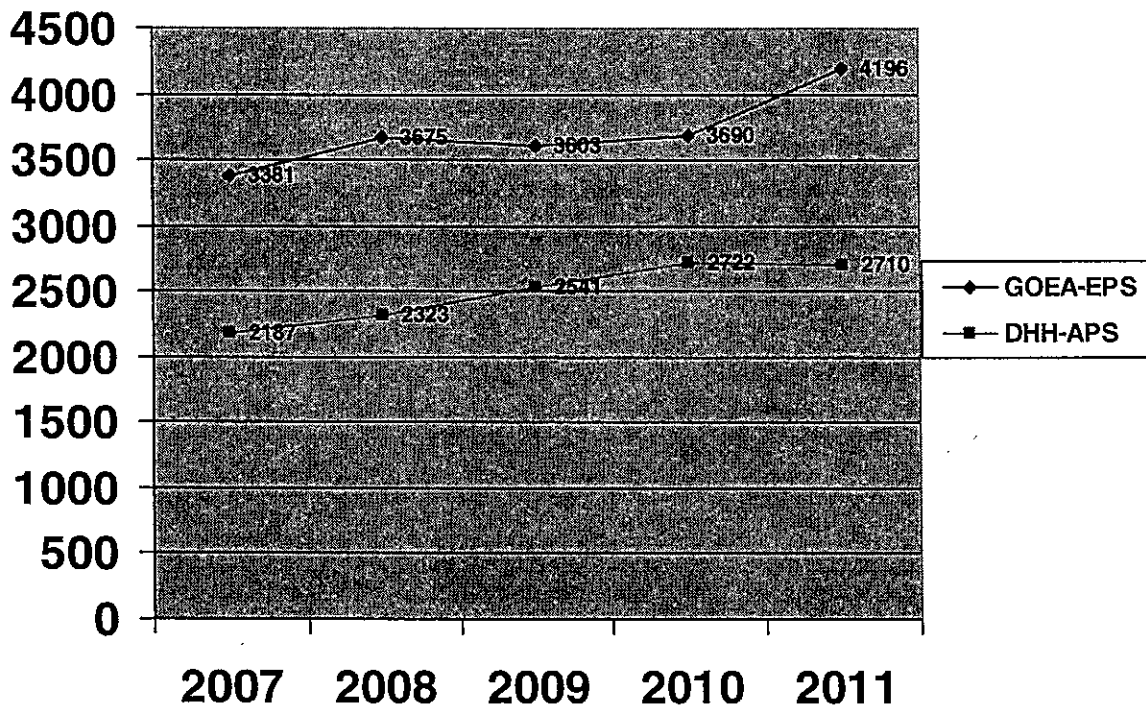
Let's tackle the Benefits of Merging these two programs, we agree that it would be beneficial to combine these two programs, where we differ is that the program should not be at DHH. The combine program should be located at the State Unit on Aging (GOEA). Every **Council on Aging** has a Memorandum of Understanding with their regional EPS office to work with the investigator insuring that the abused received services if they are needed and check on the individual to insure that they are not caught in this abusive trap again. Every day, older adults and adults with disabilities are suffering from abuse, neglect and exploitation; the **Council on Agings (COAs)** are the boots on the ground and are one of the reporters of suspected abuse to protective service. **Area Agencies on Aging, Senior Centers and Councils on Aging** have worked at the state and local levels, to effectively recognize, report, and respond to the needs of elders who are victims of abuse, neglect or exploitation and prevent such abuse whenever possible.

The Office of Elderly Affairs EPS unit have build partnerships with public and private organizations, including law enforcement, district attorneys, self-advocacy organizations, victim services agencies, including domestic violence and sexual assault, financial services, mental health and substance abuse organizations, and social services.

Our seniors are important to each of us in the Aging Network. Elder Abuse is common 7.6 % of seniors report being abused, neglected, or exploited within the past 12 months. This equals the US rate of coronary heart disease. (1)

EPS is the 911 system for elder Abuse. EPS is nation's only victim services system which receives NO designated federal funding to serve extremely vulnerable victims of crime. (2)

COMPARATIVE ANALYSIS BETWEEN DHH-APS AND GOEA-EPS



**The above chart compares the number of client's served by DHH-APS and GOEA-EPS over the past 5 years.

Spreadsheet:

	2007	2008	2009	2010	2011
GOEA-EPS	3381	3675	3603	3690	4196
DHH-APS	2187	2323	2541	2722	2710

<https://wwwprd.doa.louisiana.gov/lapas/view/viewframe.cfm?tab=dept>

KEY DIFFERENCE BETWEEN EPS AND APS:

The following are very important factors in distinguishing the differences between who we serve and what we provide as opposed to the population served by APS and what they provide.

- The majority of EPS clients **do not receive any of the services provided for elders by OAAS** because most are retired or receive spousal benefits, therefore, they have Medicare and/or private insurance, not just Medicaid which is administered by DHH-OAAS.
- APS cases, whether community or provider, all address ONLY citizens with diagnoses of mental retardation, mental illness, substance abuse, psycho-social disorders, and/or similar diagnoses who receive services via Medicaid providers or state-funded programs.
- EPS accepts cases for investigation based on whether a person 60 or older and suspected to have been abused, neglected, and/exploited
- Many of the individuals served by APS do not have the ability to advocate on their own behalf, make informed decisions in their own best interests or even have a voice in the decisions made for their own livelihood.
- Callers make reports to EPS for Elder abuse directly to the region in which the senior is located. Supervisors can review the report and assign it for investigation within the same working day. All reports made to APS go to centralized number in Baton Rouge, once approved for investigation; it is then forwarded to the regional office.
- **EPS has an office in each region. Reporters and elderly clients can access each office to make a report of abuse in person or by phone in their region. Office locations and phone numbers are made public. APS Office locations are not assessable to the public unless provided by the APS worker.**
- **IN SOME CASES, THE APS CLIENT IS THE ALLEGED ABUSER OF THE SENIOR AND EPS IS REQUIRED TO REPORT THE ADULT TO APS OR TO LAW ENFORCEMENT. THEREFORE, PRESENTING A CONFLICT SHOULD THE AGENCIES BE MERGED.**

OTHER KEY FACTS ABOUT EPS:

- EPS's public records are easily available to the public upon request.
- EPS has an active Coordinating Councils in **each** of its Regions. These councils include agencies such as law enforcement, social services, financial institutions, and medical personnel.
- The Elder Financial Exploitation Task Force is housed at the Governor's Office of Elderly Affairs-Elderly Protective Services.
- The goal of Elderly Protective Services is to assure that adults in need of protection are able to maintain **the highest quality of life in the least restrictive environment** appropriate to their individual capabilities and life style.
- Elderly Protective Services provides community presentations and in-services training to groups such as: home health agencies, educational institutions, councils on aging, hospitals, law enforcement agencies, and others (churches, civic and social organization). **EPS made 69 community presentations in FY 2011 to over 8346 attendees.**
- EPS has Memorandums of Understanding with local Councils on Aging and other state agencies such as the State Ombudsman program, the Office for Citizens with Developmental Disabilities and DHH-Adult Protective Services.
- EPS cooperates with other state agencies by providing information sharing.
- **EPS INVESTIGATORS ARE UNIQUELY TRAINED AND EXPERIENCED AT DEALING WITH THE SPECIALIZED NEEDS OF OUR ELDERLY POPULATION.** To mention a few:
 - The **medical conditions** that effect the senior population are often **complicated by the aging process**. A significant number of those who are abused and neglected also suffer from **dementia** or other **end of life related mental health conditions such as depression**. Specialized skills are required to ensure autonomy and dignity of the victims while remedying abusive situations that often times are caused by their loved ones.
 - **Retirement and Social Security** issues face many of our elderly citizens.
 - **Nursing Home Placement**
 - **Loss of Independence**
 - **Mobility Declining**
 - **Incontinence**

- **Dietary Needs Change**
- **The role reverses and children become their caregivers**
- **Resources available to Seniors only**

Elder Abuse and Neglect Basics: Elder Abuse Laws

Both federal and state laws address elder abuse, neglect and exploitation, but state law is the primary source of sanctions, remedies and protections related to elder abuse. This page provides a brief overview of the major areas of federal and state law related to services for elder abuse victims, civil remedies for elder abuse, neglect and exploitation, and the prosecution of crimes against elderly people.

Federal Laws. A few federal laws relate specifically to elder abuse and neglect, but none of these laws provides broad regulatory mechanisms for state or local programs established specifically to support services for victims of elder abuse. Until the recent passage of the Elder Justice Act of 2009, federal law authorized little funding to states and local agencies for identification, prevention or remediation of elder abuse (see Elder Justice Act of 2009, below). Federal criminal law aimed to address elder abuse is limited, although legislation is pending that would significantly increase federal resources to respond to crimes against the elderly (see Elder Abuse Victims Act, below). Some examples of federal laws applicable to elder abuse are summarized below.

Elder Justice Act of 2009 was enacted in March 2010 as part of the Patient Protection and Affordable Care Act ([H.R. 3590](#); P.L. 111-148). The Elder Justice Act coordinates federal elder abuse detection and prevention programs within the Office of the Secretary of Health and Human Services. The Act establishes an Elder Abuse Coordinating Council, composed of federal department and agency heads or designees, and an Advisory Board on Elder Abuse, Neglect, and Exploitation, composed of 27 members of the public with expertise in elder abuse prevention, detection, treatment, intervention or prosecution.

The Elder Justice Act authorizes funding in several areas, including (1) stationary and mobile elder abuse forensic centers to develop forensic markers, methodologies for intervention, forensic expertise, and capacity to collect forensic evidence; (2) enhancement of long-term care through programs to recruit, train and retain long-term care staff; programs to improve management practices; and adoption of standards for electronic exchange of clinical data; (3) grants to enhance the provision of adult protective services by state and local agencies and to conduct demonstration programs to test training on and methods to detect and prevent elder abuse and financial exploitation; (4) grants to support long-term care ombudsman programs; (5) evaluations of grant funded activities; and (6) a national institute for training, technical assistance, and development of best practices to improve investigations of elder abuse reported in long-term care facilities.

The Act also requires owners, operators and employees of long-term care facilities to report suspected crimes committed there and to provide 60 days written notice to the HHS Secretary and the state of a facility's impending closure. The notice must include a plan for transfer and adequate relocation of all residents. Another provision of the Patient Protection and Affordable Care Act requires the HHS Secretary to establish a nationwide program for national and state background checks on prospective direct patient access employees of long-term care facilities and providers.

The Older Americans Act (42 U.S.C. 3001 et seq.) contains definitions of elder abuse and authorizes federal funding for the [National Center on Elder Abuse](#) (NCEA), a program of the U.S. Administration on Aging. The NCEA collaborates with several organizations to promote and support elder abuse awareness initiatives, multidisciplinary responses to elder maltreatment, and professional training and education. The NCEA currently partners with the University of Delaware's [Clearinghouse on Abuse and Neglect of the Elderly](#) (CANE), the [National Committee for the Prevention of Elder Abuse](#), and the [National Adult Protective Services Association](#) to provide these services in states and local communities. Congress will consider reauthorization and amendments to the Older Americans Act in 2011. The Department of Health and

Human Services Administration on Aging has set up mechanisms for public input on reauthorization and content of amendments.

Elderly and Adult Protective Services

The Adult Abuse and Neglect Study Group was established to study the existing laws on adult abuse and neglect and the need for laws to protect those who cannot protect themselves; examine the structure, operation, and outcomes of the programs to protect vulnerable adults from abuse and neglect in Louisiana; investigate existing jurisdictions; explore ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults; and other related issues. Study Group members represent a broad spectrum of interested parties, including state officials, provider agencies, law enforcement, and social services. Consumers and their advocates were also included.

Relevant Recommendations from the study group include:

- Centralized intake would have benefit to both protective service agencies. The Work group recommends the necessary study and funding for the establishment of a 24/7 call center for adult protective services intake. As an interim step the committee recommends outreach to 211-Louisiana and similar entities to ensure calls are referred correctly.
- The role and function of the Coordinating Council (CC) needs to be clarified, and a consistent model incorporating both EPS and APS be developed in accordance with the statute.
- The EPS and APS Programs need to coordinate training to make better use of scarce resources.
- The Elderly Services Officer (ESO) Law Enforcement Training needs to be continued with the inclusion of other vulnerable adults in the curriculum.
- The EPS and APS Programs need to continue to develop relationships with law enforcement entities by the inclusion of Law Enforcement on the regional CC.
- The Louisiana EPS and APS Programs need to be fully evaluated by an independent, outside agency with protective services experience.
- Professional community outreach efforts should increase.
- Community resources for elders and vulnerable adults should increase. Protective service agencies should have their own funds to purchase resources on behalf of clients.
- Unifying EPS/APS services (See Appendix C)

Comparison of APS and EPS on Selected Factors		
	Adult Protective Services DHH	Elderly Protective Services GOEA
Total Budget FY '07-'08	\$2,089,705 (Excludes F&P Staff)	\$1,504,441 (Excludes Contract Staff)
Average Caseload	83 Cases Average	144 Cases Average
Total Staff	29	23
Intake Process	Number of Staff performing Intake: 3 including manager	Number of Staff Performing Intake: 8 total, one in each office.
# of Intakes Received	1,848	3,675
# of Cases Opened	1,438	3,449
# not accepted	373	226
# of Referrals	182	9,676
Priority System	Staff must respond to Priority One cases as rapidly as possible, but <u>within 8 working hours</u> of receipt in the Bureau of Protective Services.	Staff must respond to priority One Cases as Rapidly as possible, but <u>Within 8 working hours</u> of receipt from Intake Specialist within Regional Office.
# High Priority	182	785
# Medium Priority	1,199	1,657
# Low Priority	57	1,233
# Legal Referrals		
Act 80	309	120
APS Law	36	46
DA Office	2	108
Coroner	2	114
Interdiction	0	47
Law Enforc.	0	439

Realignment 1 -- Merge APS and EPS within GOEA

Elderly Protective Services (EPS) and Adult Protective Services (APS) both function under the same legislative statute. However, both agencies are structured somewhat differently and both are largely understaffed— **EPS has 3 state administrative staff** overseeing 4 regional state offices (T.O. of approximately 20) and 4 regional contract offices. **APS has 7 state administrative staff** overseeing 3 regional offices (T.O. of approximately 22) and 1 state administrative staff overseeing the facilities and providers section which is primarily developmental centers(T.O. approximately 21 for a total staffing of 51).

For many years, the OEA has contracted with four non-profit organizations in an effort to improve cost-effectiveness and quality. However, when comparing the state run offices to the contract offices, it is apparent that significant differences exist. Dr. Van Slyke (2003) notes that "Competition provides the logical foundation for an expectation of cost savings and quality improvements, but competition does not exist in many local marketplaces—especially in [protective services], where governments contract primarily with nonprofit organizations". This has been the experience of OEA with regard to the contract offices. There is virtually no competition among contractors and as a result of contracting with non-profits for services, we have simultaneously reduced our ability to manage these contract offices and our ability to be a smart buyer of contracted goods and services decreases drastically as these providers have a monopoly.

Further exacerbating the problem is the complexity of protective services. The intricate work of protective services employees is loosely termed Case Management, this includes: investigating allegations of abuse, neglect and exploitation, assisting with the prosecution of the legal case, making difficult decisions about where adults should live, establishing guardianship and coordinating services to elderly and families. There is no competitive market for case management; and as mentioned previously, the few who currently do provide Case Management in essence have monopoly power. As is currently being experienced in the current economic climate, at least two of the contractors are requesting budget increases to continue to provide protective services with GOEA having no alternatives.

Regardless, protective services, whether APS or EPS are understaffed and carry more than the nationally recommended caseload of open cases at any one time. Below is a proposal to unify Elderly Protective Services and Adult Protective Services under the umbrella of GOEA. This unification would not result in a decrease in TO, instead it would reallocate the structure of the T.O. to further support the investigative/case management role in each region while more evenly distributing caseloads among office staff. It would also eliminate the four contract offices, reduce the total number of combined administrative staff, free up funds for computing system upgrades, create a centralized intake, create a training position, and increase the number of investigators all while remaining budget neutral.

Additionally, this merger of Adult Protective and Elderly Protective under the umbrella of GOEA makes intuitive sense as the Elder Rights Unit within OEA also houses the State Long Term Care Ombudsman's office and both currently share intake/clerical staff at the state office. The State Long-Term Care Ombudsman Program is authorized by the federal Older Americans Act. The primary responsibility of the program is to investigate and endeavor to resolve complaints made by, or on behalf of, individual residents in

long-term care facilities. These facilities include nursing homes, residential care facilities for the elderly, and assisted living facilities. The Ombudsman Program investigates elder abuse complaints in long-term care facilities and in residential care facilities for the elderly as well as develops policy and provides oversight to the local Long-Term Care Ombudsman Programs. The goal of the State Long-Term Care Ombudsman Program is to advocate for the rights of all residents of long-term care facilities. The Ombudsman's advocacy role takes two forms: 1) to receive and resolve individual complaints and issues by, or on behalf of, these residents; and 2) to pursue resident advocacy in the long-term care system, its laws, policies, regulations, and administration through public education and consensus building.

Current EPS/APS regional office composition and state staffing							
Region	Supervisor		Investigator		Clerical		Total
	EPS	APS	EPS	APS	EPS	APS	
State Office	3	7					10.5
1	Contract	1	Contract	2	Contract	0	3
2	Contract	1	Contract	3	Contract	0	4
3	Contract	0	Contract	2	Contract	0	2
4	Contract	0	Contract	2	Contract	0	2
5	1	1	3	2	1	0	8
6	1	0	3	2	1	0	7
7	1	0	3	2	1	0	7
8	1	0	3	2	1	0	7
9	Contract	0	Contract	2	Contract	0	2
Total	7	10	12	19	4.5		52

EPS Budget – \$2,400,000 (includes contract offices)

APS Budget – \$2,089,705 (Does not include staff for Facilities and Providers section)

Combined Budget: \$4,489,705

Proposed Realignment				
Region	Supervisors**	Investigators	Intake Specialist	Total
State Office	4		3 (centralized)	7
1	1*	4		5
2	1	4		5
3	1	4		5
4	1*	4		5
5	1	4		5
6	1	4		5
7	1	4		5
8	1*	4		5
9	1	4		5

* Numerous other ways to redistribute state offices re: supervision.

Region 1, 2, 3 and 9 can be managed from Region 1, freeing up 2 investigator positions.

Region 2, 4 and 5 can be managed from Region 4, freeing up 2 investigator positions.

Regions 6, 7 and 8 can be managed from Region 8, freeing up 2 investigator positions.

This would result in 6 additional investigators statewide and reduce the number of supervisors 6.

**** Note:** Supervisors also serve as investigators when need arises.
Required Changes in State Offices:

While Protective services would still be understaffed, based on best practices, etc, this would more evenly distribute the caseloads among all workers and establish much closer local support and alignment with law enforcement and district attorney offices. Additionally, as Developmental centers are closed and residents are relocated to community, these 22 APS specialist positions within F&P should be transitioned to Protective Services either in their respective regions or elsewhere based on need.

Current State Office Staffing:

(2.5 FTE) EPS (GOEA)
(7 FTE) APS (DHH)
(9.5 FTE) Total Staffing

Current Statewide Investigator/Supervisor Staffing:

(12 FTE) EPS Investigator
(4 FTE) EPS Supervisor
(4 FTE) EPS Clerical

(19 FTE) APS Investigator
(3 FTE) APS Supervisor
(? FTE) APS Clerical (Unknown)

(31 FTE) EPS/APS Investigators
(7 FTE) EPS/APS Supervisors

(52 FTE) APS/EPS Combined TO

Realigned State Office Staffing

(1 FTE) Unit Supervisor
(2 FTE) Regional Supervisors
Regional Support Monitor (1, 2, 3 and 4)
Regional Support Monitor (5, 6, 7, 8 and 9)
(3 FTE) Full time centralized intake specialist (7am-7pm, 7 days per week)
(1 FTE) Training Specialist (Potentially also regional monitor for 2 regions)
(7 FTE) Total Staffing for State Office

Realignment of State Regional Offices – Option 1

(9 FTE) Regional Supervisors
(36 FTE) Investigators
(45 FTE) Total Regional Office Staffing

Realignment of State Regional Offices – Option 2

(3 FTE) Regional Supervisors
(42 FTE) Investigators
(45 FTE) Total Regional Office Staffing

(52) TO for Unified Protective Services

Tentative Scope of Work:

- DHH: Transition Facility and Provider to DHH Health Standards; APS Investigator and Supervisor T.O. to the Office of Elderly Affairs.
- OEA: Retain current EPS Supervisor; two statewide regional supervisors (covering 9 regions); utilize APS T.O. for creation of centralized intake (3); training specialist (1). Remaining TO available for regional offices- 25.
- OEA: Reallocate clerical T.O. in field offices to Investigator T.O. and reallocate to new regional office (4), remaining APS positions used to create new field offices and to maintain minimum staffing.
- OEA: transition all offices to web based centralized EPS Case Management and reporting system; paperless office, electronic referrals, etc. using existing resources freed by eliminating contract offices.

Justification:

- **RS 46:932 (6) – To make recommendations to the governor and to the legislature** for needed improvements and additional resources to promote the welfare of the aging in the state.
- **RS 46:932 (13c) To develop a plan on the best method to efficiently coordinate services to all elderly citizens in the state....**
 - (ii) Recommendations on eliminating duplication of services with other departments and agencies with provide services to the elderly

Adult Abuse, LA S.S. 14:403.2 (1992) - Relevant Sections

§ 403.2. Abuse and neglect of adults; reports; investigation; waiver of privileges; penalties; immunity

A. (1) The purpose of this Section is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other parties, by requiring mandatory reporting of suspected cases of abuse or neglect by any person having reasonable cause to believe that such a case exists. It is intended that, as a result of such reports, protective services shall be provided by the adult protection agency. Such services shall be available as needed without regard to income.

(2) It is the further intent of the legislature to authorize only the least possible restriction on the exercise of personal and civil rights consistent with the person's need for services and to require that due process be followed in imposing such restrictions.

B. For the purposes of this Section, the following definitions shall apply:

(2) "Adult" is any individual eighteen years of age or older or an emancipated minor who, because of mental or physical dysfunction, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, or hazardous or abusive situations without assistance from others, and who has no available, willing, and responsibly able person to assist him.

3) "Adult protection agency" is the office of elderly affairs in the office of the governor, for any individual sixty years of age or older in need of adult protective services as provided in this Section. Adult protection agency is the Department of Health and Hospitals for any individual between the ages of eighteen and fifty-nine years of age in need of adult protective services as provided in this Section. The secretary of the Department of Health and Hospitals may assign the duties and powers provided in this Section to any office of the department for provision of adult protective services, as provided in Subsection E(1).

(8) "Protective services" include but are not limited to:

- (a) Conducting investigations and assessments of complaints of possible abuse, neglect, or exploitation to determine if the situation and condition of the adult warrants further action;
- (b) Preparing a social services plan utilizing community resources aimed at remedying abuse, neglect and exploitation;
- (c) Case management to assure stabilization of the situation; and
- (d) Referral for legal assistance to initiate any necessary extrajudicial remedial action.

E. (1) The adult protection agency shall make prompt investigation and assessment. When the report concerns care in a facility or program under the supervision of the Department of Health and Hospitals, the secretary of the department may assign the duties and powers enumerated in Paragraph (2) of this Subsection to any office or entity within the department to carry out the purposes of this Section.

(5) The adult protection agencies shall convene a regional level coordinating council composed of representatives of both public and private agencies providing services, with the objectives of identifying resources, increasing needed supportive services, avoiding duplication of effort, and assuring maximum community coordination of effort.

(2) (a) The adult protection agencies shall implement adult protective services for aged and disabled adults in accordance with an agency plan and shall submit an annual funding request in accordance with its plan. No funds shall be expended to implement the plan until the budget is approved by the commissioner of administration and by the legislature in the annual state appropriations act, with the exception of Subparagraph (c) of Paragraph 1(2) providing for initial implementation during the course of a state fiscal year by transition of funds and positions across programs.

(b) Subject to the availability of funds and positions appropriated, the office of elderly affairs shall implement an adult protective services program for persons sixty years of age or older during state Fiscal Year 1992-1993.

(3) When the adult protection agency's staff is not sufficient to respond promptly to all reported cases, the said protection agency shall set priorities for case response and allocate staff resources to cases in accordance with the rules and regulations promulgated in accordance with Paragraph (1) of this Subsection. Until the funding becomes available for a protective services program for disabled adults within the Department of Health and Hospitals and in view of the Office of Elderly Affairs' earlier implementation date for adult protective service, this office shall have the authority to intervene, as provided in this Section, on an emergency basis in reported cases of imminent life-threatening circumstances involving disabled adults age eighteen to fifty-nine. Absent evidence of willful or intentional misconduct or gross negligence in carrying out the investigative functions of the adult protective services

program, caseworkers, supervisors, program managers, and agency heads shall be immune from civil or criminal liability in any legal action arising from any decision by the adult protection agency relative to the setting of priorities for cases and targeting of staff resources.

RS:40:1300.214 A. Subject to appropriation for the programs, the department shall provide assistance to persons determined to be eligible for services authorized by this Part. The assistance provided by the office shall include:

1. Assisting **seniors and adults with a disability** in accessing manufacturers' pharmaceutical assistance programs and supports and services.
2. Assisting **seniors and adults with a disability** in applying for manufacturers' pharmaceutical assistance programs and supports and services.

(42 U.S.C. 3058)

Section. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM (In GOEA)

(3) **FUNCTIONS.**—The Ombudsman shall serve on a fulltime basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents; and

(ii) **relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—**

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(42 U.S.C. 3058)

CHAPTER 3—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION

(b) **USE OF ALLOTMENTS.**—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), **activities to develop, strengthen, and carry out programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation), including—**

- a. activities to develop, strengthen, and carry out programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation), including—

B) under which a State agency—

(i) **on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and**

(ii) **on a finding of elder abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited older individual;**

(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

- (i) such administrative procedures;
- (ii) **such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;**
- (iii) **such training procedures;**
- (iv) such institutional and other facilities (public and private); and
- (v) **such related multidisciplinary programs and services, as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;**

(F) that enables an older individual to participate in decisions regarding the welfare of the older individual, and makes the least restrictive alternatives available to an older individual who is abused, neglected, or exploited; and

Section. 731. STATE LEGAL ASSISTANCE DEVELOPMENT.

A State agency shall provide the services of an individual who shall be known as a State legal assistance developer, and the services of other personnel, sufficient to ensure—

- (1) State leadership in securing and maintaining the legal rights of older individuals;**
- (2) State capacity for coordinating the provision of legal assistance;
- (3) State capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons, as appropriate;
- (4) State capacity to promote financial management services to older individuals at risk of conservatorship;**
- (5) State capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and**
- (6) State capacity to improve the quality and quantity of legal services provided to older individuals.

§936. Statement of intent

A. It is the intention of the legislature that, insofar as is practical and consistent with the efficient administration of state government, programs and services for the elderly population of Louisiana, with the exception of any programs administered by the Department of Social Services or the Department of Health and Hospitals on August 15, 1995, shall eventually be consolidated within the Office of Elderly Affairs, to be administered at the local level by the sixty-four parish voluntary councils on aging.

B. It is further the intention of the legislature that the Office of Elderly Affairs administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Social Services or the Department of Health and Hospitals on August 15, 1995. The Office of Elderly Affairs shall distribute such funds in accordance with appropriate state and federal requirements and consistent with this Section.

Acts 1995, No. 1222, §1.