

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)

1 AN ACT

2 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.
3 36:258(F), R.S. 46:56(A), (B)(1), and (F)(4)(b), 61(A)(1) and (C), 932(10), and
4 2136.2(F) and to repeal R.S. 46:936, relative the transfer of adult protection services
5 of the office of elderly affairs in the office of the governor to the Department of
6 Health and Hospitals, office of aging and adult services; to provide for functions of
7 the programs and services transferred; to provide for contracts and leases; to provide
8 for administrative rules; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

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

11 §35.1. Battery of a child welfare or adult protective service worker

12 A.(1) * * *

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

17 * * *

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~~;~~₂

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 Feliciana 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. R.S. 46:936 is hereby repealed.

14 Section 7. All employees engaged in the performance of duties relating to the
15 functions of the programs and services transferred from the office of elderly affairs in the
16 office of the governor to the Department of Health and Hospitals, office of aging and adult
17 services, are hereby transferred to the office of aging and adult services to carry out the
18 functions of the office of aging and adult services.

19 Section 8. In order to ensure continuity of services, all office of elderly affairs
20 contracts and leases related to the operation and administration of its adult protective service
21 programs transferred to the Department of Health and Hospitals, office of aging and adult
22 services shall be deemed to have been transferred and assigned to the Department of Health
23 and Hospitals upon the effective date of this Act without the necessity of amendment of the
24 lease or contract, and the Department of Health and Hospitals shall be solely responsible for
25 all related obligations and liabilities arising on or after that effective date.

26 Section 9. The administrative rules contained in the Louisiana Administrative Code
27 promulgated by the office of elderly affairs of the office of the governor which govern or are
28 applicable to the programs and operations transferred from the office of elderly affairs in the
29 of the office of the governor to the Department of Health and Hospitals, office of aging and

1 adult services by this Act shall continue to be effective, and the office of state register shall
2 change all applicable references to the office of elderly affairs to the office of aging and
3 adult services and redesignate and renumber, as the need may be, all applicable provisions
4 as are necessary to maintain continuity in the Louisiana Administrative Code.

5 Section 10. This Act shall become effective on July 1, 2012; if vetoed by the governor
6 and subsequently approved by the legislature, this Act shall become effective on July 1,
7 2012, or on the day following such approval by the legislature, whichever is later.

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

DIGEST

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); repeals R.S. 46:936)