

February 12, 2020

To: Ann Pugh, Chair, House Human Services
House Human Services Committee Members
From: Joe Nusbaum, Director of the Division of Licensing & Protection
Re: Comments on Resources Required to Implement H. 611

Thank you for the opportunity to provide testimony on H. 611, specifically the role of Adult Protective Services' (APS) in relation to this bill, and necessary resources to meet the requirements of H. 611 as introduced. My Division, which includes APS as a program component, aligns with all of DAIL in our enthusiasm and support for an Older Vermonters Act. We do have some concerns about the positioning of APS requirements in a bill for older Vermonters. It is important to note that any focus of APS' efforts to investigate maltreatment and refer services for vulnerable adults may not appropriately align with bill that establishes services, supports and protections specifically for older Vermonters. APS' statute (Title 33, Chapter 69), establishes services for adults with vulnerabilities and diminished capacities, not their status as an older adult. APS' actively advocates that older Vermonters should not confer an assumption of vulnerability; establishing APS requirements through an *Older Vermonters Act*, and not its own statute under Title 33 Chapter 69, runs antithetical to the advocacy and efforts APS works to promote.

If H. 611 were to move forward as introduced, the proposed augmentation of APS's data collection and reporting efforts, while suggesting expansive areas of data reporting, does not match the capabilities of our contracted data management system (Wellsky Human Services). The current APS data management system is a commercial-off-the-shelf (COTS) product with established data reporting fields and metric tools that would require substantial programming development to meet the notional reporting in Section 6206 (e)(6) (see below). While APS does have the ability to contract with our COTS vendor to customize modifications, it is a protracted process to engineer changes at an established rate of \$175.00 per hour. For a frame of reference, APS is currently contracting their vendor to build in a staff-identifier field; that effort started 18 months ago and is ongoing.

In addition to the necessary technical developments to produce reports on the items proposed in Section 6206 (e)(6), to meet all the data collection requirements specified, APS would also need to increase capacity by a minimum of 3.5 additional FTE staff to conduct data collection efforts and author reports (see below for estimated staff time for specific efforts). While APS would welcome this increased capacity and the added data this effort would yield, it may not be the most efficient use of resources; the existing data management system produces alternate data without need for system modifications or additional staff resources, much of which may meet the intent proposed in Section 6206 (e)(6). Beginning in 2014, APS has produced annual reports that provide similar data as requested in Section 6206 (e)(6), but more accurately aligns with APS' statutory requirements and existing capabilities of its COTS data management system. [Past annual reports available here: <https://dlp.vermont.gov/aps/statistical-info>]

As proposed in Section 6206 (e)(6), APS would require the following to specifically meet the data requirements proposed below:

(6) with respect to the Department's adult protective services activities during the previous fiscal year:

(A) the number of unduplicated reports of abuse, neglect, or exploitation of a vulnerable adult received by the Department's Adult Protective Services program and the number of these reports assigned for investigation;

*APS does not differentiate between unduplicated and duplicated reports; all are reviewed on their merits, regardless of whether or not they involve the same incident. **To capture this metric would require development and implementation for our data management system, as well as the staff effort to establish this for each report.***

(B) the total number of cases currently open and under investigation; the number of reports assigned for investigation that were not substantiated;

*APS can easily provide a **current** total for these items in real time, though if there is a request for an account of these metrics from some point in the past, this will require development for this capacity in our data management system.*

(C) the number of reports assigned for investigation that were not substantiated

This metric can never be fully realized as the appeal process through the Human Services Board and the courts can extend indefinitely. We can certainly provide an annual accounting of those cases with the recognition that the number could change based on ongoing appeal processes.

(D) the number of cases that were not investigated pursuant to section 6906 of this title because:
(i) the report was based on self-neglect; 21
(ii) the alleged victim did not meet the statutory definition of a vulnerable adult;
(iii) the allegation did not meet the statutory definition of abuse, neglect, or exploitation;
(iv) the report was based on "resident on resident" abuse;
(v) the alleged victim died;
(vi) for any other reason;

*Some of these metrics are not currently collected or available in our data management system (nor are they relevant for APS' current statutory requirements). **Expanding our operations to capture and report on these data will require system development as well as increased staff capacity.***

(E) for reports not investigated because the alleged victim did not meet the definition of a vulnerable adult, the relationship of the reporter to the alleged victim;

Please see above for explanation of this component of the current system.

(F) regardless of whether a report was investigated, substantiated, or unsubstantiated, the number of reports referred to other agencies for investigation by the Adult Protective Services program, including identification of each agency and the number of referrals it received;

Please see above for explanation of this component of the current system.

(G) the number of reports that the Adult Protective Services program referred for protective services, including a summary of the services provided;

*Protective Services are treated as PII/PHI, and it protected under HIPAA and therefore not openly available in our data management system (which has a different level of permissions not appropriate for many of the specified services). It would be possible for designated staff with appropriate authorization to access this information, aggregate, and anonymize the results. **The estimated effort to produce this product would take approximately thirty (30) minutes per report, or 2,000 hours of staff time annually.***

(H) the number of reports resulting in a written coordinated treatment plan pursuant to subsection 6907(a) of this title or a plan of care as defined in subdivision 6902(8) of this title;

As this item is worded, the result will always be zero (0). An informed discussion about APS statutory requirements for reports and investigations may alter this item to provide more valuable information.

(I) the number of reports for which an individual was placed on the abuse and neglect registry as the result of a substantiation;

This metric can never be fully realized as the appeal process through the Human Services Board and the courts can extend indefinitely. (see (6)(C)) although an incomplete total might be able to be reported.

(J) the number of reports referred to law enforcement agencies;

APS collects this data as part of its current data management efforts, and can easily provide this information without need for additional staff effort or information system development.

(K) the number of reports for which a penalty was imposed pursuant to section 6913 of this title and the number of reports for which actions for intermediate sanctions were brought pursuant to section 7111 of this title;

APS plays no role (and has no statutory requirements) pursuant to section 7111, and does not collect, store or report on related data.

(L) for reports not investigated pursuant to section 6906 of this title, the services or agencies to which the reporter, alleged victim, or both were referred; and

*This would result in a single listing of various providers and emergency services throughout the state, and as such may not be particularly valuable. An informed discussion about the intent of this item might yield different results. **If the desired result is specifics metrics on each service and agency, that would require development and implementation for our data management system, as well as the staff effort to establish this for each report.***

(M) for each of the items reported pursuant to subdivisions (A)–(L) of this subdivision (6), a statistical breakdown of the number of reports according to the type of abuse¹ and to the victim's:

- (i) relationship to the reporter;
- (ii) relationship to the alleged perpetrator;
- (iii) age;
- (iv) disability or impairment; and
- (v) place of residence.

*Similar to items (D), (E), (F), and (G), some of these metrics are not currently collected or available in our data management system. **Expanding our operations to capture and report on all of these data will require system development as well as increased staff capacity, not only in compiling the report, but in seeking out information that is not initially reported nor required under statute.** Though difficult to definitively quantify, the resulting product would likely be a one-page report detailing the specified data points for each of the (on average) 80 reports and 10 investigations that are completed in APS on a weekly basis. **If each of these reports requires one (1) hour of staff effort, that would result in a report that is approximately 5,000 pages and requires 5,000 hours of staff time annually.***

Again, thanks to Committee and to sponsors of H. 611 for the opportunity to work collaboratively on this bill. We hope that we have offered relevant information to consider in imagining an Older Vermonters Act.

¹ "Abuse" only constitutes 1/3 of the maltreatment APS investigates under statute (abuse, neglect, and exploitation). It would appear it may not be the intent to omit other areas of maltreatment, as worded.]