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ELDER JUSTICE ACT

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Mr. GRASSLEY, from the Committee on Finance, submitted the following

R E P O R T

[To accompany S. 2010]

The Committee on Finance, to which was referred the bill (S. 2010) to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute and recommends the bill, as amended, do pass.

I. BACKGROUND

More than a quarter of a century has passed since the first Congressional hearings on elder abuse declared it to be a national disgrace. Throughout this period, Congressional action has remained limited. From a policy perspective, elder justice means assuring that adequate public-private infrastructure and resources exist to prevent, detect, treat, understand, intervene in and, where appropriate, prosecute elder abuse, neglect, and exploitation. From an individual perspective, elder justice is the right of every older individual to be free of abuse, neglect, and exploitation.

There are between 500,000 and 5 million older individuals who are abused in this country every year. Despite the dearth of data to quantify precisely the number of seniors subjected to abuse, experts agree that we have only seen the tip of the iceberg. In fact, according to the National Elder Abuse Incidence Study conducted by the National Center on Elder Abuse, 84 percent of all cases of elder abuse are never reported. It is clear that abuse and neglect shorten the victim's life, often triggering a downward spiral, "tipping over" an otherwise productive, self-sufficient older individual.

There are three main types of elder abuse: abuse and neglect in homes and domestic settings; abuse and neglect in institutions and other types of residential care; and financial fraud and exploitation.

Studying the results of efforts to respond to other family violence issues, such as domestic violence and child abuse, has resulted in the conclusion that abuse, neglect, and exploitation require a multifaceted solution, including public health, social service, and law enforcement approaches. While these other types of abuse have been recognized and receive sizable Federal funding, elder abuse remains under-researched, under-reported, and under-funded. The Elder Justice Act provides Federal leadership to those on the front lines who are fighting elder abuse with scarce resources and fragmented systems.

Highlights of the Elder Justice Act include the following:

Elevating elder justice issues to national attention. The bill will establish within the Department of Health and Human Services programmatic, grant-making, policy and technical assistance functions relating to elder justice; creation of a public-private Coordinating Council to coordinate activities of all relevant Federal agencies, States, communities, and private and not-for-profit entities; and provide a consistent funding stream and national coordination for Adult Protective Services (APS).

Improving the quality, quantity, and accessibility of information. An elder justice national data repository will be developed to increase the knowledge base and collect data about elder abuse, neglect, and exploitation.

Increasing knowledge and supporting promising projects. To help overcome the lack of research on elder abuse and related issues, the Elder Justice Act will enhance research, clinical practice, training, and dissemination of information relating to these issues. Priorities include jump-starting intervention research, developing community strategies to make elders safer, and enhancing multi-disciplinary efforts.

Developing forensic capacity. There is scant data to assist in the detection of elder abuse, neglect, and exploitation. Creating new forensic expertise (similar to that in child abuse) will promote detection and increase expertise. New programs will train health professionals in both forensic pathology and geriatrics.

Increasing prosecution. The Elder Justice Act establishes new penalties for failure to promptly report crimes in residential care facilities and to provide notice of nursing home closings.

Training. The Act supports training to combat elder abuse, neglect, and exploitation both within individual disciplines and in multi-disciplinary (such as public health-social service-law enforcement) settings.

Model State Laws and Practices. A study will review State practices and laws relating to elder justice.

Increasing Security, Collaboration, and Consumer Information in Long-Term Care. The bill will:

- Improve prompt reporting of crimes in long-term care settings,
- Enhance long-term care staffing,
- Enhance the long-term care ombudsman program,
- Require a study on establishment of a national nurse aide registry to enable background checks on nurse's aids,

• Provide information about long-term care for consumers through a Consumer Clearinghouse,

• Require new reporting of crimes in nursing homes on the official Federal website, and

• Require establishment of consumer information on nursing homes on the official Federal website.

Evaluations/Accountability. The bill contains provisions to determine what works and assure funds are properly spent.

LEGISLATIVE HISTORY

After dozens of hearings in various Senate and House committees from 1979 to the present, the Elder Justice Act, S. 2933, was first introduced by Senator John Breaux (D–LA) and Senator Orrin G. Hatch (R–UT) on September 12, 2002, and referred to the Senate Finance Committee. Under the Chairmanship of Senator Max Baucus (D–MT), the Senate Finance Committee held a hearing on June 18, 2002, entitled Elder Justice: Protecting Seniors from Abuse and Neglect. Five experts on elder abuse testified, including Robert Blancato, President, National Committee for Prevention of Elder Abuse; Catherine Hawes, Ph.D., Professor, Department of Health Policy and Management, School of Rural Public Health, Texas A&M University; Joanne Otto, M.S.W., Executive Director, National Association of Adult Protective Services Administrators; Carmel Dyer, M.D., Associate Professor of Medicine, Baylor College of Medicine; Randolph Thomas, M.A., Law Enforcement Instructor, South Carolina Department of Public Safety, Criminal Justice Academy; and Richard Bonnie, J.D., Chair, Panel to Review Risk and Prevalence of Elder Abuse and Neglect, Committee on National Statistics of the National Research Council. Prominent in the discussion were the findings of the National Research Council publication entitled Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America. The National Research Council was directed by Congress to assess the current state of knowledge in the area of elder mistreatment and to formulate a set of recommendations for a research agenda in the field. The National Research Council reported that it was unable to formulate a research agenda for several reasons, including unclear and inconsistent definitions; unclear and inadequate measures; incomplete professional accounts; lack of population-based data; lack of prospective data; lack of control group; and lack of systematic evaluation studies. No legislative action was taken during the 107th Congress.

Senators Breaux and Hatch introduced the Elder Justice Act, S. 333, again during the 108th Congress on February 10, 2003, and the bill was referred to the Senate Finance Committee.

On September 28, 2004, under the leadership of Chairman Charles E. Grassley (R–IA), the Senate Finance Committee considered the bill in Executive Session and reported it unanimously. It was placed on the Legislative Calendar, but the Senate failed to act on the bill.

Senator Orrin G. Hatch and Senator Blanche L. Lincoln (D–AR) introduced the Elder Justice Act, S. 2010, again during the 109th Congress on November 15, 2005, and the bill was referred to the Senate Finance Committee. Under the leadership of Chairman Charles E. Grassley, the Senate Finance Committee considered the bill in Executive Session on August 4, 2006 and, for the second

time, unanimously reported it as an amendment in the nature of a substitute.

II. SECTION-BY-SECTION ANALYSIS

Short Title; Table of Contents; Definitions

PRESENT LAW

No provision.

COMMITTEE BILL

The bill sets forth the title of the Act as the Elder Justice Act and outlines the table of contents. It also specifies that any term defined in new amendment to title XX of the Social Security Act has the meaning set forth by the Committee Bill.

Findings

PRESENT LAW

No provision.

COMMITTEE BILL

The Committee Bill describes the following findings of Congress:

1. The proportion of the United States population age 60 years or older will drastically increase in the next 30 years as more than 76,000,000 baby boomers approach retirement and old age.
2. Each year, anywhere between 500,000 and 5,000,000 elders in the United States are abused, neglected, or exploited.
3. Elder abuse, neglect, and exploitation have no boundaries and cross all racial, social class, gender, and geographic lines.
4. Victims of elder abuse, neglect, and exploitation are not only subject to injury from mistreatment and neglect, they are also 3.1 times more likely than elders who were not victims of elder abuse, neglect, and exploitation to die at an earlier age than expected.
5. There is a general dearth of data as to the nature and scope of elder abuse, neglect, and exploitation.
6. Despite the dearth of data in the field, experts agree that most cases of elder abuse, neglect, and exploitation are never reported and that abuse, neglect, and exploitation shorten a victim's life, often triggering a downward spiral of an otherwise productive, self-sufficient elder's life. Programs addressing other difficult issues such as domestic violence and child abuse and neglect have demonstrated the need for a multi-faceted law, combining public health, social service, and law enforcement approaches.
7. For over 20 years, Congress has been presented with facts and testimony calling for a coordinated Federal effort to combat elder abuse, neglect, and exploitation.
8. The Federal Government has been slow to respond to the needs of victims of elder abuse, neglect, and exploitation or to undertake prevention efforts.
9. No Federal law has been enacted that adequately and comprehensively addresses the issues of abuse, neglect, and ex-

ploitation, and there are very limited resources available to those in the field who directly deal with the issues.

10. Differences in State laws and practices in the areas of elder abuse, neglect, and exploitation lead to significant disparities in prevention, protective and social services, treatment systems, and law enforcement and lead to other inequities.

11. The Federal Government has played an important role in promoting research, training, public safety, data collection, the identification, development, and dissemination of promising health care, social, and protective services, and law enforcement practices relating to child abuse and neglect, domestic violence, and violence against women. The Federal Government should promote similar efforts and protections relating to elder abuse, neglect, and exploitation.

12. The Federal Government should provide leadership and assist States and communities in their efforts to protect elders in the United States by—

(A) promoting coordinated planning among all levels of government;

(B) generating and sharing knowledge relevant to protecting elders;

(C) providing leadership to combat the abuse, neglect, and exploitation of the Nation's elders; and

(D) providing resources to States and communities to promote elder justice.

13. The problem of elder abuse, neglect, and exploitation requires a comprehensive approach that—

(A) integrates the work of health, legal, and social services agencies and organizations;

(B) emphasizes the need for prevention, reporting, investigation, assessment, treatment, and prosecution of elder abuse, neglect, and exploitation at all levels of government;

(C) ensures that sufficient numbers of properly trained personnel with specialized knowledge are in place to—

(i) treat, assess, and provide services relating to elder abuse, neglect, and exploitation; and

(ii) carry out elder protection duties;

(D) is sensitive to ethnic and cultural diversity;

(E) recognizes the role of mental health, disability, dementia, substance abuse, medication mismanagement, and family dysfunction problems in increasing and exacerbating elder abuse, neglect, and exploitation; and

(F) balances elders' right to self-determination with society's responsibility to protect elders.

14. The human, social, and economic cost of abuse, neglect, and exploitation is high and includes unnecessary expenditures of funds from many public programs.

15. The failure to coordinate activities relating to, and comprehensively prevent and treat, elder abuse, neglect, and exploitation threatens the future and well-being of millions of elders in the United States.

16. All elements of society in the United States have a shared responsibility in responding to a national problem of elder abuse, neglect, and exploitation.

Purposes

PRESENT LAW

No provision.

COMMITTEE BILL

The Committee Bill defines the purposes of the Elder Justice Act, as follows:

1. To enhance the social security of the Nation by ensuring adequate public-private infrastructure and resolve to prevent, detect, treat, understand, and intervene in, and where appropriate, aid in the prosecution of, elder abuse, neglect, and exploitation.

2. To bring a comprehensive approach to preventing and combating elder abuse, neglect, and exploitation, a long invisible problem that afflicts the most vulnerable among the aging population of the United States.

3. To raise the issue of elder abuse, neglect, and exploitation to national attention, and to create the infrastructure at the Federal, State and local levels to ensure that individuals and organizations on the front lines, who are fighting elder abuse, neglect, and exploitation with scarce resources and fragmented systems, have the resources and information needed to carry out their fight.

4. To bring a comprehensive multidisciplinary approach to elder justice.

5. To set in motion research and data collection to fill gaps in knowledge about elder abuse, neglect, and exploitation.

6. To supplement activities of service providers and programs, to enhance training, and to leverage scarce resources efficiently, in order to ensure that elder justice receives the attention it deserves as the Nation's population ages.

7. To recognize and address the role of mental health, disability, dementia, substance abuse, medication mismanagement, and family dysfunction problems in increasing and exacerbating elder abuse, neglect, and exploitation.

8. To create short- and long-term strategic plans for the development and coordination of elder justice research, programs, studies, training, and other efforts nationwide.

9. To promote collaborative efforts and diminish overlap and gaps in efforts in developing the important field of elder justice.

10. To honor and respect the right of all persons with diminished capacity to decision making, autonomy, self-determination, and dignity of choice.

11. To respect the wishes of individuals with diminished capacity and their family members in providing supportive services and care plans intended to protect elders from abuse, neglect (including self-neglect), and exploitation.

Definitions

PRESENT LAW

No provision.

COMMITTEE BILL

Section 4 adopts the meaning of any term used in Section 2011 of the Social Security Act, unless specifically provided otherwise in the Committee Bill.

Elder justice

PRESENT LAW

No provision.

COMMITTEE BILL

Section 5 of the Committee Bill would amend the Social Security Act by adding "Elder Justice" to an amended title XX, entitled "Block Grants to States for Social Services and Elder Justice" and adding a new "Subtitle 2—Elder Justice".

Definitions

PRESENT LAW

Under current law, "abuse," "exploitation," "long term care facility," and "neglect" are defined in the "Older Americans Act."

COMMITTEE BILL

For data collection and other purposes of the bill, the Committee Bill defines the following terms: adult protective services, caregiver, direct care, elder, elder justice, eligible entity, exploitation, fiduciary, grant, guardianship, Indian tribe, law enforcement, long-term care, long-term care facility, neglect, self-neglect, serious bodily injury, criminal sexual abuse, social, State, State legal assistance developer, and State long-term care ombudsman.

Definitions related to some of the purposes of the amended title XX are defined in other related statutes. Related statutes are as follows:

PRESENT LAW AND COMMITTEE BILL: DEFINITIONS

Term	Present law	Committee Bill
Abuse	Section 102(13) of the Older Americans Act: ''Abuse'' of an older person is defined as the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish, or deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish or mental illness.	''Abuse'' is defined as the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.
Exploitation	Section 102(24) of the Older Americans Act: ''Exploitation'' of an older person is defined as the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.	''Exploitation'' is defined as the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

PRESENT LAW AND COMMITTEE BILL: DEFINITIONS—Continued

Term	Present law	Committee Bill
Long-term care facility	Section 102(32) of the Older Americans Act: ''Long term care facility'' is defined as a skilled nursing facility as defined in Section 1819(a) of the Social Security Act; any nursing facility as defined in Section 1919(a) of the Social Security Act; and for purposes of the title III and title VII provisions for elder abuse prevention, a board and care facility.	''Long-term care facility'' is defined as a residential care provider that arranges for, or directly provides, long-term care.
Neglect	Section 102(34) of the Older Americans Act: ''Neglect'' is defined as the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or the failure of a caregiver to provide the goods or services.	''Neglect'' is defined as the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder, or self-neglect.
Criminal sexual abuse	Title XVII of the Violent Crime Control and Enforcement Act: A ''sexually violent offense'' is defined as any criminal offense that consists of aggravated sexual abuse or sexual abuse (as defined by 18 U.S.C. Section 2241 and 2242 or as defined by State law) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse.	''Criminal sexual abuse'' is defined as serious bodily injury that shall be considered to have occurred if the conduct causing the injury is conduct constituting aggravated sexual abuse under Section 2241, or sexual abuse under 18 U.S.C. or any similar offense under State law.

General provisions

(a) Protection of privacy

PRESENT LAW

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Section 264 governs the protection of individual health privacy.

COMMITTEE BILL

The activities that would be carried out under this Part must ensure the protection of individual health privacy consistent with the regulations under Section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any State and local privacy regulations.

(b) Rule of construction

PRESENT LAW

No provision.

COMMITTEE BILL

Includes a provision to accommodate religious beliefs in health care when determining whether there is abuse for data collection purposes.

PART A—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND RESEARCH

Elder Justice Coordinating Council

PRESENT LAW

No provision.

COMMITTEE BILL

The bill would establish an Elder Justice Coordinating Council in the Office of the Secretary of HHS.

Membership. The Council would be composed of the following members: the Secretary of HHS (or designee) who will chair the Council and the Attorney General (or designee). Membership would also include the head of each Federal department or agency having administrative responsibility for administering programs related to elder abuse, neglect, or exploitation. Members must be officers or employees of the Federal Government.

Meetings. The Council is to meet at least twice a year.

Duties and Reports. The Council would be required to make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant Federal, State, local, and private agencies and entities, relating to elder abuse, neglect, and exploitation and other crimes against elders. The Council would be required to submit a report to Congress that describes its activities and challenges and make recommendations for legislation, model laws, and other actions deemed appropriate. The report is to be submitted to Congress within 2 years of enactment of the Elder Justice Act and every 2 years thereafter.

Other Requirements. The Committee Bill also sets forth requirements for powers of the Council, vacancies in membership, travel expenses, and detail of Federal Government employees to the Council.

Advisory Board on Elder Abuse, Neglect, and Exploitation

PRESENT LAW

No provision.

COMMITTEE BILL

The bill would establish the Advisory Board on Elder Abuse, Neglect and Exploitation.

Solicitation of Nominations, Membership, and Terms. The Secretary of HHS would be required to publish a notice in the Federal Register soliciting nominations for Advisory Board membership. The Board would be composed of 27 members appointed by the Secretary and must have experience and expertise in prevention of elder abuse, neglect, and exploitation. Each member would be appointed for a 3–year term, except for the first members of the Board whose terms would be staggered.

Duties and Reports. The Board would be required to create a short and long-term multidisciplinary plan for development of the field of elder justice.

Within 18 months of the Committee Bill's enactment and annually thereafter, the Advisory Board would be required to prepare and submit to the Elder Justice Coordinating Council and the appropriate committees of Congress, a report containing information on Federal, State, and local public and private elder justice activities. The report is also to contain recommendations on programs, research, services, practice, enforcement, and coordination among entities that carry out elder justice and other related activities; modifications needed in Federal and State laws, research, training, and national data collection; and on a multidisciplinary strategic plan to guide the field of elder justice.

Other Requirements. The Committee Bill sets forth requirements relating to powers of the Board, vacancies, expired terms, election of officers, travel expenses, and detail of government employees to the Board.

Research protections

PRESENT LAW

Definition of Legally Authorized Representative. Subpart A of part 46 of title 45, Code of Federal Regulations, known as the Common Rule, that governs most federally-funded human subjects research, currently defines the term "legally authorized representative" as "an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the procedure(s) involved in the research."

Researcher Guidelines. No guidelines are currently in place to assist researchers who work in the areas of elder abuse, neglect, and exploitation with issues relating to human subjects research.

COMMITTEE BILL

The Bill would define "legally authorized representative," for purposes of research under the proposed title XX, to mean, unless otherwise provided by law, the individual, or judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person."

It would also require the Secretary, acting through the Director of the National Institute on Aging (NIA), to promulgate guidelines to assist researchers working in the areas of elder abuse, neglect, and exploitation, with issues relating to human subjects research.

Authorization of appropriations

PRESENT LAW

No provision.

COMMITTEE BILL

To carry out the functions under subtitle A (the Federal Elder Justice System), the Committee Bill authorizes $6.5 million for FY 2007, and $7 million for each of FYs 2008–2010.

Subpart 2—Elder Abuse, Neglect, and Exploitation Forensic Centers

Establishment and support of Elder Abuse, Neglect, and Exploitation Forensic Centers

PRESENT LAW

No provision.

COMMITTEE BILL

The Bill would require the Secretary, in consultation with the Attorney General, to award grants to eligible entities to establish and operate both stationary and mobile forensic centers and to develop forensic expertise pertaining to elder abuse, neglect, and exploitation. With respect to the stationary forensic centers, the Committee Bill would require the Secretary to make four grants to higher education institutions with demonstrated expertise in forensics or commitment to preventing or treating elder abuse, neglect, or exploitation; and with respect to mobile forensic centers, the Committee Bill would require the Secretary to make six grants to appropriate entities.

Funding would be authorized for the centers to: (1) develop forensic markers that would determine whether abuse or neglect occurred and whether a crime was committed, and determine methodologies for how and when intervention should occur; (2) develop forensic expertise with respect to elder abuse, neglect, and exploitation in order to provide relevant evaluation, intervention, support and advocacy, case review and tracking; and (3) in coordination with the Attorney General, use data made available by grant recipients under this section to develop the capacity of geriatric health care professionals and law enforcement to collect forensic evidence, including forensic evidence relating to a potential determination of elder abuse, neglect, or exploitation. The Committee Bill would also require the Secretary, in consultation with the Attorney General, to use data to develop the capacity to collect forensic evidence.

The Committee Bill would authorize $4 million in funding for FY 2007, $6 million for FY 2008, and $8 million for each of FYs 2009–2010.

PART B—PROGRAMS TO PROMOTE ELDER JUSTICE

Enhancement of long-term care

PRESENT LAW

Nursing homes that receive Federal funds are required to meet certain Federal laws and standards to receive funding. These laws require nursing aides, who work on a full-time basis for more than 4 months, to complete a training and/or competency evaluation program and be competent to provide care. Nursing homes must also provide regular performance reviews and in-service education (including training for individuals providing nursing and nursing-related services to residents with cognitive impairments) to assure that nursing aides are competent to perform services. Regulations also require nursing aides to complete a training program lasting

no less than 75 clock hours of training, at least 16 of which must be supervised practical training, in order to be certified.

A number of States have also used enhanced Medicaid funding to improve recruitment and retention of nursing aides working in nursing homes. For these States, some portion of an increase in State Medicaid payments (and other public funding sources) to long-term care providers must be (or intended to be) used to increase wages and or benefits for nursing aides. Typically, this "wage pass-though" legislation has either designated some specified dollar amount (e.g., $.50 or $1.00) or a certain percentage of increased State payments to be used for wages and or benefits.

Nursing Home Compare is a website hosted by the Department of Health and Human Services that allows consumers to search for data on certain quality indicators for nursing homes certified to participate in Medicare and/or Medicaid across the country. The information reported on this site includes selected findings of the Survey and Certification surveys conducted by State Survey agencies during the three most recent inspections and complaint investigations. Specifically, the website contains data on the Federal regulatory requirements that the nursing home failed to meet as reported on form HCFA–2567. There is currently no requirement that information about the adjudication of criminal violations be reported on this website.

COMMITTEE BILL

The Bill would require the Secretary of HHS to carry out activities that provide incentives for individuals to train for, seek, and maintain employment providing direct care in long-term care facilities.

Coordination of Federal Agencies to Train Long-Term Care Staff. The Secretary of HHS would be required to coordinate activities with the Secretary of Labor and the Assistant Secretary of ACF to provide incentives to welfare-to-work and TANF recipients to train for and seek employment as direct care providers in long-term care facilities.

Career Ladders, Wage and Benefit Grants. The Secretary of HHS would be required to award grants to long-term care facilities to conduct programs that offer direct care employees continuing training and varying levels of certification. Grants would also be used to provide for or make arrangements with employers to pay bonuses, or other increased compensation or benefits, to employees who obtain certification. To receive grant funds, long-term care facilities would submit applications directly to the Secretary.

Management Improvement. The Secretary of HHS would be required to award grants to long-term care facilities for training and technical assistance. Eligible recipients could include administrators, directors of nursing, staff developers, charge nurses, and others who establish or implement management practices for direct care employees. Training and technical assistance would be intended to promote retention and could include: (1) the establishment of human resource policies rewarding high performance, including policies that provide for improved wages and benefits on the basis of job reviews; (2) the establishment of motivational organizational practices; (3) the creation of a workplace culture that respects and values caregivers and their needs; (4) the promotion of

a workplace culture that respects the rights of residents and results in improvements in their care; and (5) the establishment of other programs that promote high quality care, such as continuing education for certified nursing aide employees. Long-term care facilities would submit applications to the Administrator to qualify for grant funds. The Secretary would be required to develop accountability measures to ensure that funded activities under this title benefit eligible employees and increase the stability of the long-term care workforce.

Informatics Systems Grant Program. The Secretary is authorized to make grants to long-term care facilities for the purpose of assisting such entities in off-setting the costs related to purchasing, leasing, developing, and implementing standardized clinical health care informatics systems designed to improve patient safety and reduce adverse events and health care complications resulting from medication errors.

Inclusion of Certain Crimes on Nursing Home Compare Website. The Secretary is required to ensure that information relating to the number of criminal convictions by nursing facilities or by an employee of a nursing facility are part of the information provided for comparison of nursing facilities on the official Internet website of the Federal Government for medicare beneficiaries.

Consumer Rights Information Page on Nursing Home Compare Website. The Secretary shall ensure that the Nursing Home Compare Medicare website develops and includes a consumer rights information page that includes documentation on available nursing facilities, consumer rights, the survey process, and services available through the State long-term care ombudsman.

Standards Involving Clinical Data by Long-Term Care Facilities. The Secretary shall develop and adopt uniform open electronic standards for transactions involving clinical data by long-term care facilities.

The Committee bill would authorize $20 million for FY 2007, $17.5 million for FY 2008, and $15 million for FY 2009 and FY 2010.

Adult protective services functions and grant programs

Adult protective services—Functions

PRESENT LAW

Provisions related to some functions of adult protective services are found in title XX of the Social Security Act (Social Services Block Grant) (administered by the Administration on Children and Families (ACF)) and the Older Americans Act (administered by AoA), both in DHHS, as follows.

Title XX of the Social Security Act. Title XX provides funds to States to carry out a wide range of social services on behalf of various groups. The statute sets out a number of goals for the use of these funds, including the goal of "preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests. . . ."

Funds are generally administered by State social services or human services agencies (for this purpose, sometimes referred to as adult protective services offices), and/or State agencies on aging.

No match is required for Federal title XX funds, and Federal law does not specify a sub-State allocation formula. In other words, States have complete discretion for the distribution of funds within their borders. Based on the 2002 Annual Report for the Social Services Block Grant, 34 States used some portion of title XX funds for adult protective services, and approximately 425,000 adults received adult protective services that were funded in whole or in part with title XX funds. Of all State expenditures under title XX for 2002, 5.8 percent were for protective services for adults.[1]

Older Americans Act. Title II of the Older Americans Act requires the Assistant Secretary on Aging in DHHS to establish a National Center on Elder Abuse. The Center is required to, among other things, compile, publish and disseminate research and training materials on prevention of elder abuse, neglect, and exploitation; maintain a clearinghouse on programs showing promise in preventing elder abuse, neglect, and exploitation; conduct research and demonstration projects that identify causes, prevention, and treatment; and provide technical assistance to State agencies and other organizations in planning and improving prevention programs. AoA awards funds to six organizations that share the funds: the National Association of State Units on Aging, which administers the Center, in cooperation with the National Protective Services Association; the National Committee for the Prevention of Elder Abuse; the American Bar Association; and the Clearinghouse on Abuse, Neglect, and Exploitation.

Funding history for the Center is as follows: FY 1998, $250,000; FY 1999, $200,000; FY 2000, $815,250; FY 2001, $815,000; FY 2002, $815,000, and FY 2003, $815,000. The 2000 amendments to the Act required that the Center receive at least the same amount of funds as it received in FY 2000.

Title III of the Older Americans Act authorizes, but does not require, State agencies on aging to conduct various activities related to prevention of elder abuse, neglect, and exploitation. No Federal funds are separately allotted for this purpose under title III, and States decide how much of their title III allotments are to be used for prevention activities. In many States, State agencies on aging administer funds for adult protective services funded under title XX of the Social Security Act (described below).

Title VII of the Older Americans Act authorizes a program of grants to States to carry out activities related to prevention of elder abuse, neglect, and exploitation. Funds are administered by State agencies on aging. In FY 2006, the appropriation level for this program under title VII is $5.2 million.

Section 1128E of the Social Security Act requires the Secretary to maintain a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made), including health care related civil judgments and criminal convictions of health care practitioners, providers, and suppliers. The database is directed by HHS, acting through the office of the Attorney General, and is named the Healthcare Integrity and Protection Data Bank (HIPDB).

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[1] A percentage of expenditures differs from a percentage of the title XX appropriation. Title XX expenditures include spending from funds transferred from the Temporary Assistance for Needy Families (TANF) program to title XX.

For the purposes of this database, Medicaid regulation 42 CFR § 455.12 requires that State agencies report the number of complaints of fraud and abuse made to the agency that warrant preliminary investigation. For each case, reports should include the provider's name and number; the source of the complaint; the type of provider; the nature of the complaint; the approximate range of dollars involved; and the legal and administrative disposition of the case, including actions taken by law enforcement officials to whom the case has been referred. Section 1128E requires the Secretary to include procedures assuring that the privacy of individuals receiving health care services is appropriately protected.

The Secretary makes available the information in the database to government agencies and health plans and, upon request, to health care providers, suppliers, and practitioners who wish to self-query. The Secretary may establish or approve fees sufficient to recover the full costs of the databases' operation.

According to Section 1128E(g)(1)(A) of the Social Security Act, a final adverse action includes: (1) civil judgments related to the delivery of a health care item or service that are against a health care provider or practitioner in Federal or State court; (2) Federal or State criminal convictions related to the delivery of health care; (3) certain actions by Federal or State agencies responsible for the licensing and certification of providers and licensed practitioners; (4) prohibition against participating in Federal or State health care programs; or (5) any other adjudicated actions or decisions established by the Secretary under regulation. Medicaid regulation 42 CFR § 483.374 also requires facilities to report each serious occurrence to both the State Medicaid agency and, unless prohibited by State law, the State-designated protection and advocacy system.

COMMITTEE BILL

The Bill would establish certain functions with respect to Adult Protective Services (APS) to be administered by the Secretary.

Adult Protective Services—Functions. Functions include providing funding and support to State and local adult protective services offices that investigate reports of abuse, neglect and exploitation of elders and vulnerable adults; collecting and disseminating information on abuse in coordination with the Department of Justice; developing and disseminating information on best practices; conducting research and providing technical assistance to States that provide or fund protective services; and reporting crimes on the Nursing Home Compare website.

To carry out these functions, the Committee Bill authorizes $3 million for FY 2007 and $4 million for each of FYs 2008–2010.

Adult protective service grant program (State formula grants)

PRESENT LAW

No provision in current law for State formula grants that are solely and specifically targeted at providing adult protective services and carrying out projects to employ workers having caseloads of elders alone.

Some other legislation is related to adult protective services, as follows.

Title XX of the Social Security Act. Title XX provides funds to States to carry out a wide range of social services on behalf of various groups. The statute sets out a number of goals for the use of these funds, including the goal of "preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests...." Funds are generally administered by State social services or human services agencies (for this purpose, sometimes referred to as adult protective services offices), and/or State agencies on aging.

Title III of the Older Americans Act authorizes, but does not require, State agencies on aging to conduct various activities related to prevention of elder abuse, neglect, and exploitation, which may include adult protective services. No Federal funds are separately appropriated for this purpose under title III, and States decide how much of their title III allotments are to be used for these activities. In many States, State agencies on aging administer funds for adult protective services funded under title XX of the Social Security Act (described below).

Title VII of the Older Americans Act authorizes a program of grants to States to carry out activities related to prevention of elder abuse, neglect, and exploitation. Funds are administered by State agencies on aging. In FY 2006, the appropriation level for this program under title VII is $5.2 million.

COMMITTEE BILL

The Bill provides for grants to improve Adult Protective Services.

Grants to Improve Worker Caseloads for Adult Protective Services. The Secretary would be required to award annual grants to enhance adult protective service programs provided by States and local governments.

Formula for Distribution of Funds. Distribution of funds to States would be based on a formula that takes into account the number of elders (people age 60 or older) residing in a State relative to the total U.S. population of elders. States would receive no less than 0.75 percent of the grant program's annual appropriation. The District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa would receive no less than 0.1 percent of the annual appropriation. In order to comply with these minimum amount requirements, the Secretary is required to make pro rata reductions in amounts to be allotted.

Use of Funds. Funds may be used only by States and local governments to provide adult protective services. States receiving funds would be required to provide these funds to the agency or unit of State government having legal responsibility for providing adult protective services in the State. Each State would be required to use these funds to supplement and not supplant other Federal, State, and local public funds expended to provide adult protective services.

Reports. Each State would be required to submit a report to the Secretary on the number of elders served by the grants. The Secretary would be required to submit to the appropriate congressional committees a report compiling, summarizing, and analyzing the State reports.

The Committee Bill would authorize $100 million for each of FYs 2007–2010.

State adult protective service grants (Demonstration program)

PRESENT LAW

No provision in current law specifically authorizes a dedicated amount of funds for State adult protective service demonstration programs. However, the Older American Act authorizes a related demonstration program (as follows), but no specific authorization is specified by law.

Section 413 of the Older Americans Act, Older Individuals' Protection from Violence Projects, requires the Assistant Secretary to award funds to States' area agencies on aging, and nonprofit organizations, or tribal organizations, to carry out a wide range of projects related to protection of older persons from violence. Funds are to be used to: support local communities to coordinate activities regarding intervention in and prevention of abuse, neglect, and exploitation; develop outreach to assist victims; expand access to family violence and sexual assault programs (including shelters, rape crisis centers, and support groups) as well as mental health services, safety planning and other services; and promote research on legal organization and training impediments to providing services through shelters and other programs.

COMMITTEE BILL

The Bill would require the Secretary to establish grants to States for adult protective service demonstration programs. Funds may be used by State and local units of government to conduct demonstration programs that test: training modules developed for the purpose of detecting or preventing elder abuse; methods to detect or prevent financial exploitation and elder abuse; whether training on elder abuse forensics enhances the detection of abuse by employees of State or local government; and other related matters. States would be required to submit applications to the Secretary.

Each State receiving funds would be required to submit a report on the demonstration to the Secretary. The Secretary would be required to submit to the appropriate congressional committees a report compiling, summarizing, and analyzing the State reports, as well making recommendations for appropriate legislative or administrative action.

The Committee Bill would authorize $25 million for each of FYs 2007–2010.

Long-Term Care Ombudsman program grants and training

PRESENT LAW

Title II of the Older Americans Act requires the Assistant Secretary on Aging to establish the National Ombudsman Resource Center under the Director of the Long-Term Care Ombudsman program. The Center is required to, through grants and contracts, conduct research and provide training, technical assistance, and information to State long-term care ombudsmen; and to assist State long-term care ombudsmen in the implementation of the State long-term care ombudsman program. Funds awarded to the Center are not separately authorized, but are not to be less than the amount made available to the Center for FY 2000. Funds for the Center are awarded through title IV of the Older Americans Act

(Research, Training, and Demonstration Projects and Programs). The State long-term care ombudsman program is authorized by title VII of the Act (Allotments for Vulnerable Elder Rights Protection Activities).

COMMITTEE BILL

The Committee Bill requires the Secretary to provide grants to improve the capacity of ombudsman programs to respond to and resolve complaints about abuse and neglect; conduct pilot programs; provide support for the resource center; and improve training. This provision is authorized at $5 million for FY 2007, $7.5 million for FY 2008, and $10 million for FY 2009 and FY 2010.

The Secretary shall establish programs to provide and improve ombudsman training with respect to elder abuse, neglect and exploitation for national organizations and State long-term care ombudsman programs. These programs are authorized at $10 million for each of the fiscal years FY 2007 through FY 2010.

PART C—COLLECTION OF DATA, DISSEMINATION OF INFORMATION AND STUDIES

Collection of uniform national data on elder abuse, neglect and exploitation

PRESENT LAW

No provision that establishes an ongoing, uniform national data collection process or provides grants to States to assist with data collection.

A related law, the Family Violence Prevention and Services Act of 1992 (P.L. 102–295), required HHS to conduct a study of the national incidence of abuse, neglect, and exploitation of elderly persons. This study, referred to as "the National Elder Abuse Incidence Study," used a nationally-representative sample of 20 counties in 15 States and combined local Adult Protective Services (APS) reports with reports from other community service agencies to estimate the number of new elder abuse and neglect cases over a given period. The final report for this study was released by HHS in 1998.

In addition to the study described above, the Federal Government has periodically surveyed State APS units over the last 20 years on the prevalence of elder abuse, neglect, and exploitation. In these surveys, there was significant variation among the States in the definitions used and the comprehensiveness of data collected. This variation has created challenges in establishing a national data set and identifying trends in abuse, neglect, and exploitation.

COMMITTEE BILL

The Bill would establish as the purpose of the section the improvement, streamlining, and promotion of uniform collection, maintenance, and dissemination of national data regarding elder abuse, neglect, and exploitation. The activities of the Secretary would be carried out in three phases.

The Secretary would be required to develop, under Phase I, a method for collecting national data regarding elder abuse, neglect, and exploitation and uniform national data reporting forms adapt-

ed to each relevant entity or discipline (e.g., health, public safety, social and protective services, and law enforcement). The Secretary would be required to consult with the Attorney General to develop this method for national data collection. The national data reporting forms must include the definitions of title XX for determining whether an event will be reportable. Finally, the activities that would be carried out under this section must ensure the protection of individual health privacy consistent with the regulations under Section 264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any State and local privacy regulations. Phase I must occur no later than 1 year after the date of enactment.

Phase II would require the Secretary to ensure that the national data reporting forms and data collection methods (developed under Phase I) would be pilot tested in six States selected by the Secretary. After pilot testing the data collection efforts, the Secretary must review the findings, consult with the Attorney General and other relevant experts, and adjust the national data reporting forms and data collection methods as necessary. Phase II must occur no later than 1 year following the completion of activities under Phase I.

Phase III would require the Secretary to submit the national data reporting forms and instructions to: (1) the heads of the relevant Federal entities as may be appropriate, and (2) the Governor's office of each State for collection from all relevant State entities of data including health care, social services, and law enforcement data.

In Phase III, the Secretary would be authorized to award grants to States to improve data collection activities relating to elder abuse, neglect, and exploitation. Each State that wants to apply for a grant must submit an application to the Administrator following the prescribed requirements. Each State receiving a grant in a fiscal year would be required to submit data for the calendar year that begins during that year using the national data forms.

The amount of each grant to a State must be distributed using the following method: For the first fiscal year in which a State receives grant funds, the Secretary would be required to initially distribute 50 percent of those funds. The remaining funds are to be distributed at the end of the calendar year that begins during that fiscal year if the Secretary determines that the State has properly reported data required under this section for the calendar year. For subsequent years, the Secretary would be required to distribute grant funds to a State for a fiscal year if the State properly reported required data for the calendar year that ends during that fiscal year. The reports submitted by States must indicate the State and year in which the event occurred and identify the total number of events that occurred in each State during the year and the type of event.

The Secretary would be required to submit a report no later than 1 year after the enactment date regarding the activities required by this section to Congress, including the Senate Committee on Finance and the House Committee on Ways and Means, and the House Committee on Energy and Commerce.

To carry out the activities of this section, the Committee Bill would authorize $10 million for FY 2007, $30 million for FY 2008, and $100 million for each of FYs 2009 and 2010.

Long-term care consumer clearinghouse

PRESENT LAW

No provision requiring establishment of a long-term care consumer clearinghouse.

In related activities, DHHS has funded some States to establish State-based consumer-friendly access to information about long-term care services. In FY 2003 through FY 2006, the Centers for Medicare and Medicaid Services (CMS) and AoA awarded approximately $18 million in grants to States for the purpose of assisting States in their efforts to create a single, coordinated system of information and access for all persons seeking long-term care to minimize confusion, enhance individual choice, and support informed decision-making. A total of 24 States have received grants for this purpose. Some of the common activities under this grant program include information and referral, outreach, counseling about public benefits and long-term care options, and case management. States' methods for implementing the grant may vary; some States have established an actual physical location, and other States have established a State-wide clearinghouse through a toll-free number or a web-based information site.

In addition, CMS has made available to the public, via its website, a comparison of Medicare and Medicaid-certified nursing homes and home health agencies. The information provides detailed facility and agency information and characteristics, and contains several measures of quality (e.g., improvement in mobility). This website does not cover assisted living facilities, group homes and other residential facilities that are not nursing facilities; nor does it cover non-medical, non-certified, home- and community-based long-term care services.

COMMITTEE BILL

The Bill would require the Secretary to establish a long-term care consumer clearinghouse which must provide comprehensive detailed information, in a consumer-friendly form, to consumers about choices relating to long-term care providers.

The clearinghouse is to include information about obtaining the services of, and employing, caregivers; options for residential long-term care (e.g., the type of care provided by nursing facilities, and the type of care provided by group homes and other residential facilities); benefits available through the Federal health care programs; and links to Federal and State websites that describe the care available through specific long-term care facilities including information about the satisfaction of those residents and their families with the care provided. The clearinghouse must also provide information (from States and other sources) on long-term care providers, including assisted living facilities, board and care facilities, congregate care facilities, home health care providers, and other long-term care providers.

To carry out the activities of this section, the Committee Bill would authorize $2 million for FY 2007, $3 million for FY 2008, and $4 million for each of FYs 2009 and 2010.

Consumer information about the continuum of residential long-term care facilities

PRESENT LAW

No provision.

COMMITTEE BILL

The Bill would require the Secretary, in consultation with the Attorney General, to conduct a study on consumer concerns relating to residential long-term care facilities other than nursing facilities. The study may be carried out either directly or through a grant. The organization conducting the study must develop definitions for classes of residential long-term care facilities and collect information on the following features of these facilities: prices, level of services, oversight and enforcement provisions, and admission and discharge criteria.

The Secretary would be required to prepare a report containing the results of the study and submit the report to the appropriate committees.

To carry out the study, the Committee Bill would authorize $3 million for each of FYs 2007–2010.

Evaluations of elder justice programs

PRESENT LAW

No provision.

COMMITTEE BILL

The Bill would require the Secretary of HHS to reserve a portion of the funds appropriated in each program under title XX to be used to provide assistance to eligible entities to conduct validated evaluations of the effectiveness of the activities funded under each program under title XX. To be eligible to receive these funds, an eligible entity must submit an application to the Secretary following the timing and requirements prescribed by the Secretary, including a proposal for the evaluation.

Entities would be required to submit to the Secretary and appropriate congressional committees a report containing the results of the evaluation together with any recommendations deemed appropriate. The report would be due by the date specified by the Secretary.

Report

PRESENT LAW

Currently, no provision exists concerning Federal agency coordination to encourage the employment of welfare recipients or recipients of Temporary Assistance to Needy Families (TANF) in long-term care facilities.

COMMITTEE BILL

The Committee Bill requires, not later than October 1, 2011, a report from the Secretary to the Elder Justice Coordinating Council and appropriate committees, summarizing: (1) State reports submitted under section 2042; (2) results of the study under section 2053; (3) recommendations for legislative or administrative action; and (4) a requirement for State plans under the program for Temporary Assistance for Needy Families.

Amendments to Part A, Title XI of the Social Security Act—Long-term care facilities

PRESENT LAW

No Federal provisions for mandatory reporting of crimes in federally funded long-term care facilities. There are some Federal laws and regulations under Medicare and Medicaid in the event that a facility participating in either of those programs closes.

Reporting. Based on a 2000 survey of State Adult Protective Services systems, all States had elder/adult abuse reporting laws. State laws varied in who was a mandated reporter and who was encouraged to report incidents of elder/adult abuse. Many States and territories named health care professionals, such as nurses, physicians and nursing aides, as mandated reporters of elder/adult abuse. Five States did not list anyone as a mandated reporter.

Eleven States reported that there were no statutory consequences for failure of mandated reporters to report abuse; the remaining States and the District of Columbia and Guam had a specified consequence. The most common consequence for failing to report was a misdemeanor with a possible fine and/or jail sentence. State law also varied with regard to specifying a time frame within which reporters were required to report suspicion of abuse. Nineteen States had no time frame. Of those that specified a time frame, the requirements varied from immediately to more than 4 days.

Notification of Facility Closure. If a long-term care facility that receives Federal funds through participation in Medicare or Medicaid closes, current Federal laws and regulations provide some guidance on the parties that need to be notified and the process for relocating residents. If a facility wants to terminate its status as a Medicare provider (for example, due to facility closure), the facility must notify both CMS and the public no later than 15 days in advance of the proposed termination date. If a facility wants to terminate its status as a Medicaid provider, Federal regulations do not specify a timeframe for notifying Federal or State agencies; however, the facility is required to notify Medicaid residents at least 30 days before transferring or discharging him or her. Facility closure is one circumstance in which a resident would need to be transferred.

The State Medicaid agency has the primary responsibility for relocating Medicaid patients and for ensuring their safe and orderly transfer from a facility that no longer participates in Medicaid to a participating facility that meets acceptable standards. CMS has provided guidance to States concerning relocating patients. Each State is expected to have a plan that describes the relocation of patients. Additionally, the notice to residents is to include informa-

tion as to how to contact the ombudsman established by the Older Americans Act.

COMMITTEE BILL

Reporting of Crimes in Federally Funded Facilities. The Committee Bill would require reporting to law enforcement of crimes occurring in federally funded long-term care facilities that receive at least $10,000 in Federal funds during the preceding year. The owner or operator of these facilities would be required to annually notify each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility that they are required to report any reasonable suspicion of a crime against any person who is a resident of or receiving care from the facility. These individuals are referred to in this section as "covered individuals." Suspected crimes must be reported to the Secretary and one or more law enforcement entities for the political subdivision in which the facility is located.

Timing of Reporting. If the events that cause the suspicion of a crime result in serious bodily injury, the covered individual must report the suspicion immediately, but not later than 2 hours after forming the suspicion. If the events that cause the suspicion do not result in serious bodily injury, the individual must report the suspicion not later than 24 hours after forming the suspicion.

Penalties for Non-Reporting. If a covered individual does not report suspicion of a crime within the timeframe described above, the individual will be subject to a civil money penalty of up to $200,000, or the Secretary shall classify the individual as an "excluded individual" (i.e., any employer of the individual is unable to receive Federal funds) for a period of not more than 3 years. If a covered individual does not report suspicion of a crime within the timeframe described above and this violation exacerbates the harm to the victim, or results in harm to another person, the individual will be subject to a civil money penalty of up to $300,000, and the Secretary shall classify the individual as an "excluded individual" (i.e., any employer of the individual is unable to receive Federal funds) for a period of not more than 3 years.

If an individual is classified as an "excluded individual," any entity that employs that individual will not be eligible to receive Federal funds. The Secretary may take into account the financial burden on providers with underserved populations in determining any penalty to be imposed under this section. Underserved populations are defined as the population of an area designated by the Secretary as an area or population group with a shortage of elder justice programs. These may include those that are geographically isolated, racial and ethnic minority populations, and populations underserved because of special needs (such as language barriers, disabilities, alien status, or age).

Additional Penalties for Retaliation. A long-term care facility may not retaliate against an employee for making a report, causing a report to be made, or for taking steps to make a report. Retaliation includes discharge, demotion, suspension, threats, harassment, denial of a promotion or other employment-related benefit, or any other manner of discrimination against an employee in the terms and conditions of employment because of lawful acts done by the employee. Long-term care facilities may also not retaliate against

a nurse by filing a complaint or report with the appropriate State professional disciplinary agency because of lawful acts done by the nurse.

If a long-term care facility does retaliate, it shall be subject to a civil money penalty of up to $200,000 or the Secretary may exclude it from participation in any Federal health care program for a period of 2 years.

Notice to Employees. Each long-term care facility must post conspicuously, in an appropriate location, a sign specifying rights of employees under this section. The sign shall include a statement that an employee may file a complaint against a long-term care facility that violates the provisions of this section with the Secretary. The notice must also contain information as to how to file a complaint.

Notification of Public Agencies and Safety of Residents in the Event of Facility Closure. In addition, if a long-term care facility (that received at least $10,000 in Federal funds during the previous year) is going to close, the owner or operator of the facility must submit to the Secretary and the appropriate State regulatory agency written notification of an impending closure within 60 days prior to the closure date. In the notice, the owner or operator must include a plan for transfer and adequate relocation of residents, including assurances that residents will be moved to the most appropriate facility in terms of quality, services, and location. Within 10 days after the facility closes, the owner or operator of the facility must submit to the Secretary, and the appropriate State agency, information on where the residents were transferred to and when.

Anyone who owns a skilled nursing facility that fails to comply with the notification of closure and reporting requirements shall be subject to a civil monetary penalty of up to $1,000,000, exclusion from participation in the programs under the Social Security Act, and any other civil monetary penalties and assessments.

A civil monetary penalty or assessment will be imposed in the same manner as a civil monetary penalty, assessment or exclusion under Section 1128A of the Social Security Act.

Amendments to Part A, Title XI of the Social Security Act—National nursing aide registry study and report

PRESENT LAW

Section 1819(b)(5)(F) (Medicare law) and 1919(b)(5)(F) (Medicaid law) of the Social Security Act define nursing aides as individuals providing nursing or nursing-related services to residents in nursing facilities as well as registered dieticians or persons who volunteer to provide such services without monetary compensation. Nursing aides do not include physicians; physician assistants; nurse practitioners; physical, speech, or occupational therapists; physical or occupational therapy assistants; registered professional nurses; licensed practical nurses; or licensed certified social workers. For Medicare-certified facilities, nursing aides also exclude registered respiratory therapists or certified respiratory therapy technicians.

No present law exists concerning a nursing aide registry study.

The Secretary shall conduct a study on establishing a national nursing aide registry that shall include an evaluation of who should be included in the registry; how the registry would comply with Federal and State privacy laws and regulations; how data would be collected for the registry; what entities and individuals would have access to the data collected; how the registry would provide appropriate information regarding violations of Federal and State law by individuals included in the registry; how the functions of the registry would be coordinated with the pilot program for national and State background checks on direct care patient access employees of long-term care facilities; and how the information in State nursing aide registries would be maintained in a national registry.

After receiving the report submitted to Secretary, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate shall, as they deem appropriate, take action based on the recommendations contained in the report.

Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Elder Justice Coordinating Council, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate containing the findings and recommendations of the study. Funding for the study shall not exceed $500,000.

III. REGULATORY IMPACT AND OTHER MATTERS

A. Regulatory Impact

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

Impact on individuals and businesses

The provisions of the bill are not expected to impose additional administrative requirements or regulatory burdens on individuals or businesses.

B. Unfunded Mandates Statement

Impact on personal privacy and paperwork

The provisions of the bill do not reduce personal privacy.

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

The Committee has determined that the provisions of the bill contain no Federal private sector mandates.

The Committee has determined that the provisions of the bill do not impose a Federal intergovernmental mandate on State, local, or tribal governments.

IV. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 8, 2006.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2010, the Elder Justice Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

S. 2010—Elder Justice Act

Summary: S. 2010 would amend Title XX of the Social Security Act by creating a new subtitle dealing with elder justice issues. The bill would authorize appropriations totaling $974 million over the 2007–2011 period for grants and other activities authorized in the new subtitle. Assuming appropriation of the authorized amounts, CBO estimates the bill would result in additional outlays of $32 million in 2007 and $894 million over the 2007–2011 period. Enacting the bill would not affect direct spending. CBO estimates that the civil monetary penalties authorized by the bill would have a negligible effect on revenues.

S. 2010 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit state, local, and tribal governments and any costs they incur would result from complying with conditions of federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of is shown in the following table. The costs of this legislation fall within budget function 500 (education, employment, training, and social services).

Basis of estimate: The bill would amend Title XX of the Social Security Act to create a new subtitle for "Elder Justice" that would authorize programs aimed at providing legal protection and services to older individuals. S. 2010 would authorize discretionary appropriations totaling $189 million in 2007 and $974 million over the 2007–2011 period for administrative activities and grants. Assuming appropriation of the authorized amounts, CBO estimates that enacting the bill would increase outlays by $32 million in 2007 and by $894 million from 2007 to 2011. For this estimate, CBO assumes the bill will be enacted early in fiscal year 2007, that the authorized amounts are appropriated for each year, and that outlays will follow historical spending patterns of similar programs.

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Part A: National Coordination of Elder Justice Activities and Research					
Coordination of Elder Justice Activities:					
Authorization Level	7	7	7	7	0
Estimated Outlays	4	7	7	7	3
Forensic Centers:					
Authorization Level	4	6	8	8	0
Estimated Outlays	2	5	7	8	4
Part B: Programs to Promote Elder Justice					
Grants and Incentives for Long-Term Care:					
Authorization Level	20	18	15	15	0
Estimated Outlays	2	12	16	16	14
Secretarial Responsibilities:					
Authorization Level	3	4	4	4	0
Estimated Outlays	2	4	4	4	1
Adult Protective Services Grant Programs:					
Authorization Level	100	100	100	100	0
Estimated Outlays	10	60	90	100	90
Adult Protective Services Demonstrations:					
Authorization Level	25	25	25	25	0
Estimated Outlays	3	15	23	25	23
Long-Term Care Ombudsman Grants:					
Authorization Level	5	8	10	10	0
Estimated Outlays	1	3	6	9	9
Ombudsman Training:					
Authorization Level	10	10	10	10	0
Estimated Outlays	1	6	9	10	9
Part C: Collection of Data, Dissemination of Information, and Studies					
Data Collection:					
Authorization Level	10	30	100	100	0
Estimated Outlays	5	20	65	100	50
Long-Term Care Clearinghouse:					
Authorization Level	2	3	4	4	0
Estimated Outlays	1	3	4	4	2
Consumer Information on Residential Long-Term Care:					
Authorization Level	3	3	3	3	0
Estimated Outlays	2	3	3	3	2
National Nurses Aid Registry:					
Authorization Level	1	0	0	0	0
Estimated Outlays	*	*	*	0	0
Total Spending Under S. 2010:					
Authorization Level	189	213	286	286	0
Estimated Outlays	32	137	234	286	205

NOTE: * = less than $500,000.

Spending subject to appropriation

Part A: National Coordination of Elder Justice Activities and Research. Part A of the new subtitle would establish an Elder Justice Coordinating Council and an advisory board on Elder Abuse, Neglect, and Exploitation. The bill would authorize the appropriation of $6.5 million for fiscal year 2007 and $7 million annually for fiscal years 2008 through 2010 for those activities.

In addition, Part A would establish stationary and mobile centers for the provision of forensic services relating to elder abuse, neglect, and exploitation. For example, such centers would establish indicators of crimes related to elder abuse as well as methodologies for determining whether and how various service providers should intervene if such abuse is indicated. The bill would authorize appropriations of $4 million for fiscal year 2007, $6 million for fiscal

year 2008, and $8 million for each of fiscal years 2009 and 2010 to establish those centers.

Part B: Programs to Promote Elder Justice. Part B would provide grants and incentives to long-term care facilities that would improve management practices, and encourage training, recruitment, and retention of employees. In addition, part B would authorize grants to long-term care facilities to improve and upgrade computer software and hardware that would improve patient safety and reduce health care complications resulting from mediation errors. The bill would authorize appropriations of $20 million for fiscal year 2007, $18 million for fiscal year 2008, and $15 million for each of fiscal years 2009 and 2010 for those purposes.

Part B also would authorize funding for state and local adult protective service offices that would investigate reports of the abuse, neglect, and exploitation of elders, and would require the Department of Health and Human Services (HHS) to collect and disseminate data related to elder abuse. The bill would authorize appropriations of $3 million for fiscal year 2007 and $4 million for each of fiscal years 2008 through 2010 for the administrative responsibilities of HHS, and $100 million for each of fiscal years 2007 through 2010 for grants to states. In addition, the bill would authorize demonstration programs for states and local governments to test methods aimed at detecting and preventing elder abuse. Those demonstration programs would be authorized at $25 million per year for the 2007–2010 period.

The bill would authorize grants to support the existing long-term care ombudsman program by improving the capacity of state programs to respond to and resolve complaints about abuse and neglect, conducting pilot programs with state or local offices and providing support for those programs through a national resource center. Those grants would be authorized at $5 million for fiscal year 2007, $7.5 million for fiscal year 2008, and $10 million for each of fiscal years 2009 and 2010.

Finally, Part B would authorize appropriations of $10 million in each of fiscal years 2007 through 2010 for ombudsman training programs.

Part C: Collection of Data, Dissemination of Information, and Studies. The bill would establish standards for the collection, maintenance and dissemination of data relating to elder abuse, neglect, and exploitation under Part C of the new subtitle. In the first year after enactment of the bill, HHS would develop methods for collecting national data relating to elder abuse, neglect, and exploitation. In the following year, the data reporting forms and collection methods would be tested in six states, and adjusted as necessary, before being distributed nationally. The bill would authorize HHS to provide grants to states to improve their data collection activities relating to elder abuse, neglect, and exploitation. For those data collection activities, S. 2010 would authorize appropriations of $10 million for fiscal year 2007, $30 million for fiscal year 2008, and $100 million for each of fiscal years 2009 and 2010.

In addition, the bill would establish a consumer clearinghouse on long-term care that would provide information about choices relating to long-term care. For that purpose, the bill would authorize appropriations of $2 million for fiscal year 2007, $3 million for fis-

cal year 2008, and $4 million for each of fiscal years 2009 and 2010.

The bill also would authorize a study on consumer concerns relating to residential long-term care facilities (other than nursing facilities). funding for that study would be authorized at $3 million for each of fiscal years 2007 through 2010.

Finally, the bill would authorize a national nurses aide registry, but funding for the registry could not exceed $500,000.

Revenues

S. 2010 could affect revenues through the creation of several new civil penalties for violations relating to non-reporting of crimes against residents in long-term care facilities. Collections of such penalties are recorded as revenues and deposited in the Treasury; however, CBO expects that any increase in revenues related to those penalties would be negligible.

Intergovernmental and private-sector impact: S. 2010 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would authorize grants to state, local, and tribal governments for prevention and intervention programs, training, and multidisiplinary and collaborative programs tied to elder abuse, neglect, and exploitations. The costs of any requirements tied to these grants would be incurred voluntarily.

Estimate prepared by: Federal Costs: Christina Hawley Anthony; Impact on state, local, and tribal governments: Lisa Ramirez-Branum; Impact on the private sector: Paige Shevlin.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the votes taken on the Committee's consideration of the bill.

On August 3, 2006, the bill, as modified, was ordered favorably reported by roll call vote—20 ayes, 0 nays.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

* * * * * * *

ELIGIBLE STATES; STATE PLAN

SEC. 402. (a) IN GENERAL.—As used in this part, the term "eligible State" means, with respect to a fiscal year, a State that, during the 27-month period ending with the close of the 1st quarter of the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work and support services to enable them to leave the program and become self-sufficient.

* * * * * * *

(vii) Coordinate the program with activities carried out by the Secretary under section 2041(a) in order to facilitate such activities and provide incentives for individuals to train for, seek, and maintain employment providing direct care in a long-term care facility (as such terms are defined in section 2011).

* * * * * * *

USE OF GRANTS

SEC. 404. (a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 403 may use the grant—

* * * * * * *

(d) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

(1) IN GENERAL.—Subject to paragraph (2), a State may use not more than 30 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

(A) *Subtitle 1 of* title XX of this Act.

(B) The Child Care and Development Block Grant Act of 1990.

(2) LIMITATION ON AMOUNT TRANSFERABLE TO *SUBTITLE 1 OF* TITLE XX PROGRAMS.—

(A) IN GENERAL.—A State may use not more than the applicable percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to *subtitle 1 of* title XX.

(B) APPLICABLE PERCENT.—For purposes of subparagraph (A), the applicable percent is 4.25 percent in the case of fiscal year 2001 and each succeeding fiscal year.

(3) APPLICABLE RULES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, any amount paid to a State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program, and the expenditure of any amount so used shall not be considered to be an expenditure under this part.

(B) EXCEPTION RELATING TO *SUBTITLE 1 OF* TITLE XX PROGRAMS.—All amounts paid to a State under this part that are used to carry out State programs pursuant to *subtitle 1 of* title XX shall be used only for programs and services to children or their families whose income is less than 200 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

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PART B—CHILD AND FAMILY SERVICES

SUBPART 1—CHILD WELFARE SERVICES

APPROPRIATION

SEC. 420. (a) * * *

* * * * * * *

STATE PLANS FOR CHILD WELFARE SERVICES

SEC. 422. (a) In order to be eligible for payment under this subpart, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency des-

ignated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

(b) Each plan for child welfare services under this subpart shall—

(1) provide that (A) the individual or agency that administers or supervises the administration of the State's services program under *subtitle 1 of* title XX will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under *subtitle 1 of* title XX, under the State program funded under part A, under the State plan approved under subpart 2 of this part, under the State plan approved under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

(3) provide that the standards and requirements imposed with respect to child day care under *subtitle 1 of* title XX shall apply with respect to day care services under this subpart, except insofar as eligibility for such services is involved;

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PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

* * * * * * *

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance in accordance with section 473;

(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts

A and B of this title, under *subtitle 1 of* title XX of this Act, and under any other appropriate provision of Federal law;

* * * * * * *

FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 472. (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would have met the requirements of section 406(a) or of section 407 (as such sections were in effect on July 16, 1996) but for his removal from the home of a relative (specified in section 406(a) (as so in effect)), if—

* * * * * * *

(h)(1) For purposes of titles XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of *subtitle 1 of* title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

* * * * * * *

ADOPTION ASSISTANCE PROGRAM

SEC. 473. (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

* * * * * * *

(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

(2) For purposes of *subtitle 1 of* title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

* * * * * * *

TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION

PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 1101. (a) When used in this Act—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles IV, V, VII, XI, XIX, and XXI includes the Virgin Islands and Guam. Such term when used in titles III, IX, and XII also includes the Virgin Islands. Such term when used in title V and in part B of this title also includes American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. Such term when used in titles XIX and XXI also includes the Northern Mariana Islands and American Samoa. In the case of Puerto Rico, the Virgin Islands, and Guam, titles I, X, and XIV, and title XVI (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "State" when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam. Such term when used in title XX also includes the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Such term when used in title IV also includes American Samoa.

* * * * * * *

EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS

SEC. 1128. (a) MANDATORY EXCLUSION.—The Secretary shall exclude the following individuals and entities from participation in any Federal health care program (as defined in section 1128B(f)):

* * * * * * *

(h) DEFINITION OF STATE HEALTH CARE PROGRAM.—For purposes of this section and sections 1128A and 1128B, the term "State health care program" means—

(1) a State plan approved under title XIX,

(2) any program receiving funds under title V or from an allotment to a State under such title,

(3) any program receiving funds under *subtitle 1 of* title XX or from an allotment to a State under [such title] *such subtitle*, or

(4) a State child health plan approved under title XXI.

* * * * * * *

CIVIL MONETARY PENALTIES

SEC. 1128A. (a) Any person (including an organization, agency, or other entity, but excluding a beneficiary, as defined in subsection (i)(5)) that—

* * * * * * *

(i) For the purposes of this section:

(1) The term "State agency" means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act or designated to administer the State's program under title V or *subtitle 1 of* title XX of this Act.

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STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES

SEC. 1150. * * *

* * * * * * *

REPORTING TO LAW ENFORCEMENT OF CRIMES OCCURRING IN FEDERALLY FUNDED LONG-TERM CARE FACILITIES

SEC. 1150A. (a) DETERMINATION AND NOTIFICATION.—

(1) DETERMINATION.—The owner or operator of each long-term care facility that receives Federal funds under this Act shall annually determine whether the facility received at least $10,000 in such Federal funds during the preceding year.

(2) NOTIFICATION.—If the owner or operator determines under paragraph (1) that the facility received at least $10,000 in such Federal funds during the preceding year, such owner or operator shall annually notify each covered individual (as defined in paragraph (3)) of that individual's obligation to comply with the reporting requirements described in subsection (b).

(3) COVERED INDIVIDUAL DEFINED.—In this section, the term "covered individual" means each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility that is the subject of a determination described in paragraph (1).

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each covered individual shall report to the Secretary and 1 or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime (as defined by the law of the applicable political subdivision) against any individual who is a resident of, or is receiving care from, the facility.

(2) TIMING.—If the events that cause the suspicion—

(A) result in serious bodily injury, the individual shall report the suspicion immediately, but not later than 2 hours after forming the suspicion; and

(B) do not result in serious bodily injury, the individual shall report the suspicion not later than 24 hours after forming the suspicion.

(c) PENALTIES.—

(1) IN GENERAL.—If a covered individual violates subsection (b)—

(A) the covered individual shall be subject to a civil money penalty of not more than $200,000; or

(B) the Secretary shall classify the covered individual as an excluded individual, for a period of not more than 3 years.

(2) INCREASED HARM.—If a covered individual violates subsection (b) and the violation exacerbates the harm to the victim of the crime or results in harm to another individual—

(A) the covered individual shall be subject to a civil money penalty of not more than $300,000; and

(B) the Secretary shall classify the covered individual as an excluded individual, for a period of not more than 3 years.

(3) EXCLUDED INDIVIDUAL.—During any period for which a covered individual is classified as an excluded individual under paragraph (1)(B) or (2)(B), a long-term care facility that employs such individual shall be ineligible to receive Federal funds under this Act.

(4) EXTENUATING CIRCUMSTANCES.—

(A) IN GENERAL.—The Secretary may take into account the financial burden on providers with underserved populations in determining any penalty to be imposed under this subsection.

(B) UNDERSERVED POPULATION DEFINED.—In this paragraph, the term "underserved population" means the population of an area designated by the Secretary as an area with a shortage of elder justice programs or a population group designated by the Secretary as having a shortage of such programs. Such areas or groups designated by the Secretary may include—

(i) areas or groups that are geographically isolated (such as isolated in a rural area);

(ii) racial and ethnic minority populations; and

(iii) populations underserved because of special needs (such as language barriers, disabilities, alien status, or age).

(d) ADDITIONAL PENALTIES FOR RETALIATION.—

(1) IN GENERAL.—A long-term care facility may not—

(A) discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee; or

(B) file a complaint or a report against a nurse or other employee with the appropriate State professional disciplinary agency because of lawful acts done by the nurse or employee,

for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to subsection (b)(1).

(2) PENALTIES FOR RETALIATION.—If a long-term care facility violates subparagraph (A) or (B) of paragraph (1) the facility

shall be subject to a civil money penalty of not more than $200,000 or the Secretary may classify the entity as an excluded entity for a period of 2 years pursuant to section 1128(b), or both.

(3) REQUIREMENT TO POST NOTICE.—Each long-term care facility shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying the rights of employees under this section. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint.

(e) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this section in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

(f) DEFINITIONS.—In this section, the terms "elder justice", "long-term care facility", and "law enforcement" have the meanings given those terms in section 2011.

ENSURING SAFETY OF RESIDENTS WHEN FEDERALLY FUNDED LONG-TERM CARE FACILITIES CLOSE

SEC. 1150B. (a) NOTIFICATION OF FACILITY CLOSURE.—If the owner or operator determines under section 1150A(a)(1) that a long-term care facility received at least $10,000 in Federal funds under this Act during the preceding year, the owner or operator of the facility shall—

(1) submit to the Secretary and the appropriate State regulatory agency written notification of an impending closure not later than the date that is 60 days prior to the date of such closure;

(2) include in the notice a plan for the transfer and adequate relocation of the residents of the facility prior to closure, including assurances that the residents will be transferred to the most appropriate facility in terms of quality, services, and location; and

(3) not later than 10 days after the facility closure, submit to the Secretary and the appropriate State agency information identifying where residents of the closed facility were transferred and on what date.

(b) SANCTIONS.—Any person owning or operating a long-term care facility that fails to comply with the requirements of subsection (a) shall be subject to—

(1) a civil monetary penalty of up to $1,000,000;

(2) exclusion from participation in the programs under this Act (in accordance with the procedures of section 1128); and

(3) any other applicable civil monetary penalties and assessments.

(c) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty or assessment under this section in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

(d) DEFINITION.—In this section, the term "long-term care facility" has the meaning given that term in section 2011.

* * * * * * *

TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES *AND ELDER JUSTICE*

Subtitle 1—Block Grants to States for Social Services

PURPOSES OF [TITLE] *SUBTITLE*; AUTHORIZATION OF APPROPRIATIONS

SEC. 2001. For the purposes of consolidating Federal assistance to States for social services into a single grant, increasing State flexibility in using social service grants, and encouraging each State, as far as practicable under the conditions in that State, to furnish services directed at the goals of—

(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,

there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of [this title] *this subtitle.*

PAYMENTS TO STATES

SEC. 2002. (a)(1) Each State shall be entitled to payment under [this title] *this subtitle* for each fiscal year in an amount equal to its allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of [this title] *this subtitle*.

(2) For purposes of paragraph (1)—

(A) services which are directed at the goals set forth in section 2001 include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the

physically handicapped, and alcoholics and drug addicts; and

(B) expenditures for such services may include expenditures for—

(i) administration (including planning and evaluation);

(ii) personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions); and

(iii) conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining (and this clause shall apply with respect to all persons involved in the delivery of such services).

(b) The Secretary shall make payments in accordance with section 6503 of title 31, United States Code, to each State from its allotment for use under [this title] *this subtitle*.

(c) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

(d) A State may transfer up to 10 percent of its allotment under section 2003 for any fiscal year for its use for that year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or low-income home energy assistance (or any combination of those activities). Amounts allotted to a State under any provisions of Federal law referred to in the preceding sentence and transferred by a State for use in carrying out the purposes of [this title] *this subtitle* shall be treated as if they were paid to the State under [this title] *this subtitle* but shall not affect the computation of the State's allotment under [this title] *this subtitle*. The State shall inform the Secretary of any such transfer of funds.

(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under [this title] *this subtitle*.

(f) A State may use funds provided under [this title] *this subtitle* to provide vouchers, for services directed at the goals set forth in section 2001, to families, including—

(1) families who have become ineligible for assistance under a State program funded under part A of title IV by reason of a durational limit on the provision of such assistance; and

(2) families denied cash assistance under the State program funded under part A of title IV for a child who is born to a member of the family who is—

(A) a recipient of assistance under the program; or

(B) a person who received such assistance at any time during the 10-month period ending with the birth of the child.

ALLOTMENTS

SEC. 2003. (a) The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands shall be an amount which bears the same ratio to the amount specified in subsection (c) as the amount which was specified for allocation to the particular jurisdiction involved for the fiscal year 1981 under section 2002(a)(2)(C) of this Act (as in effect prior to the enactment of this section) bore to $2,900,000,000. The allotment for fiscal year 1989 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.

* * * * * * *

STATE ADMINISTRATION

SEC. 2004. Prior to expenditure by a State of payments made to it under section 2002 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under [this title] *this subtitle*, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under [this title] *this subtitle*, and any revision shall be subject to the requirements of the previous sentence.

LIMITATIONS ON USE OF GRANTS

SEC. 2005. (a) Except as provided in subsection (b), grants made under [this title] *this subtitle* may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of [this title] *this subtitle*—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelter provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under [this title] *this subtitle*;

(5) for social services (except services to an alcoholic or drug dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(6) for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income;

(7) for any child day care services unless such services meet applicable standards of State and local law;

(8) for the provision of cash payments as a service (except as otherwise provided in this section);

(9) for payment for any item or service (other than an emergency item or service) furnished—

(A) by an individual or entity during the period when such individual or entity is excluded under [this title] *this subtitle* or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded under [this title] *this subtitle* or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, or 1842(j)(2) and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person); or

(10) in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.

(b) The Secretary may waive the limitation contained in subsection (a)(1) and (4) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of [this title] *this subtitle*.

REPORTS AND AUDITS

SEC. 2006. (a) Each State shall prepare reports on its activities carried out with funds made available (or transferred for use) under [this title] *this subtitle*. Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c)) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the reports required by section 2004. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall also be provided, upon re-

quest, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(b) Each State shall, not less often than every two years, audit its expenditures from amounts received (or transferred for use) under [this title] *this subtitle*. Such State audits shall be conducted by an entity independent of any agency administering activities funded under [this title] *this subtitle*, in accordance with generally accepted auditing principles. Within 30 days following the completion of each audit, the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with [this title] *this subtitle*, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under [this title] *this subtitle*.

(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

(1) the number of individuals who received services paid for in whole or in part with funds made available under [this title] *this subtitle*, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

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ADDITIONAL GRANTS

SEC. 2007. (a) ENTITLEMENT.— * * *

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(f) DEFINITIONS.—AS USED IN THIS SECTION:

(1) QUALIFIED EMPOWERMENT ZONE.— * * *

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(6) URBAN AREA.—The term "urban area" has the meaning given such term in section 1393(a)(3) of the Internal Revenue Code of 1986.

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Subtitle 2—Elder Justice

SEC. 2011. DEFINITIONS.

In this subtitle:

(1) ABUSE.—The term "abuse" means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.

(2) ADULT PROTECTIVE SERVICES.—The term "adult protective services" means such services provided to adults as the Secretary may specify and includes services such as—

(A) disseminating reports of adult abuse, neglect, or exploitation;

(B) investigating the reports described in subparagraph (A);

(C) case planning, monitoring, evaluation, and other case work and services; and

(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.

(3) CAREGIVER.—The term "caregiver" means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder who needs supportive services in any setting.

(4) DIRECT CARE.—The term "direct care" means care by an employee or contractor who provides assistance or long-term care services to a recipient.

(5) ELDER.—The term "elder" means an individual age 60 or older.

(6) ELDER JUSTICE.—The term "elder justice" means—

(A) from a societal perspective, efforts to—

(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and

(ii) protect elders with diminished capacity while maximizing their autonomy; and

(B) from an individual perspective, the recognition of an elder's rights, including the right to be free of abuse, neglect, and exploitation.

(7) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local government agency, Indian tribe or tribal organization, or any other public or private entity that is engaged in and has expertise in issues relating to elder justice or in a field necessary to promote elder justice efforts.

(8) EXPLOITATION.—The term "exploitation" means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

(9) FIDUCIARY.—The term "fiduciary"—

(A) means a person or entity with the legal responsibility—

(i) to make decisions on behalf of and for the benefit of another person; and

(ii) to act in good faith and with fairness; and

(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

(10) GRANT.—The term "grant" includes a contract, cooperative agreement, or other mechanism for providing financial assistance.

(11) GUARDIANSHIP.—The term "guardianship" means—

(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care and property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

(12) INDIAN TRIBE.—

(A) IN GENERAL.—The term "Indian tribe" has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(B) INCLUSION OF PUEBLO AND RANCHERIA.—The term "Indian tribe" includes any Pueblo or Rancheria.

(13) LAW ENFORCEMENT.—The term "law enforcement" means the full range of potential responders to elder abuse, neglect, and exploitation including—

(A) police, sheriffs, detectives, public safety officers, and corrections personnel;

(B) prosecutors;

(C) medical examiners;

(D) investigators; and

(E) coroners.

(14) LONG-TERM CARE.—

(A) IN GENERAL.—The term "long-term care" means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

(B) LOSS OF CAPACITY FOR SELF-CARE.—For purposes of subparagraph (A), the term "loss of capacity for self-care" means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, and management of one's financial affairs.

(15) LONG-TERM CARE FACILITY.—The term "long-term care facility" means a residential care provider that arranges for, or directly provides, long-term care.

(16) NEGLECT.—The term "neglect" means—

(A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or

(B) self-neglect.

(17) NURSING FACILITY.—

(A) IN GENERAL.—The term "nursing facility" has the meaning given such term under section 1919(a).

(B) INCLUSION OF SKILLED NURSING FACILITY.—The term "nursing facility" includes a skilled nursing facility (as defined in section 1819(a)).

(18) SELF-NEGLECT.—The term "self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, and medical care;

(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(C) managing one's own financial affairs.

(19) SERIOUS BODILY INJURY.—

(A) IN GENERAL.—The term "serious bodily injury" means an injury—

(i) involving extreme physical pain;

(ii) involving substantial risk of death;

(iii) involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or

(iv) requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

(B) CRIMINAL SEXUAL ABUSE.—Serious bodily injury shall be considered to have occurred if the conduct causing the injury is conduct described in section 2241 (relating to aggravated sexual abuse) or 2242 (relating to sexual abuse) of title 18, United States Code, or any similar offense under State law.

(20) SOCIAL.—The term "social", when used with respect to a service, includes adult protective services.

(21) STATE LEGAL ASSISTANCE DEVELOPER.—The term "State legal assistance developer" means an individual described in section 731 of the Older Americans Act of 1965.

(22) STATE LONG-TERM CARE OMBUDSMAN.—The term "State Long-Term Care Ombudsman" means the State Long-Term Care Ombudsman described in section 712(a)(2) of the Older Americans Act of 1965.

SEC. 2012. GENERAL PROVISIONS.

(a) PROTECTION OF PRIVACY.—In pursuing activities under this subtitle, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.

(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to interfere with or abridge an elder's right to practice his or her religion through reliance on prayer alone for healing when this choice—

(1) is contemporaneously expressed, either orally or in writing, with respect to a specific illness or injury which the elder has at the time of the decision by an elder who is competent at the time of the decision;

(2) is previously set forth in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

(3) may be unambiguously deduced from the elder's life history.

PART A—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND RESEARCH

Subpart 1—Elder Justice Coordinating Council and Advisory Board on Elder Abuse, Neglect, and Exploitation

SEC. 2021. ELDER JUSTICE COORDINATING COUNCIL.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Elder Justice Coordinating Council (in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of the following members:

(A) The Secretary (or the Secretary's designee).

(B) The Attorney General (or the Attorney General's designee).

(C) The head of each Federal department or agency or other governmental entity identified by the Chair referred to in subsection (d) as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation.

(2) REQUIREMENT.—Each member of the Council shall be an officer or employee of the Federal Government.

(c) VACANCIES.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) CHAIR.—The member described in subsection (b)(1)(A) shall be Chair of the Council.

(e) MEETINGS.—The Council shall meet at least 2 times per year, as determined by the Chair.

(f) DUTIES.—

(1) IN GENERAL.—The Council shall make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant Federal, State, local, and private agencies and entities, relating to elder abuse, neglect, and exploitation and other crimes against elders.

(2) REPORT.—Not later than the date that is 2 years after the date of enactment of the Elder Justice Act and every 2 years thereafter, the Council shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report that—

(A) describes the activities and accomplishments of, and challenges faced by—

(i) the Council; and

(ii) the entities represented on the Council; and

(B) makes such recommendations for legislation, model laws, or other action as the Council determines to be appropriate.

(g) POWERS OF THE COUNCIL.—

(1) INFORMATION FROM FEDERAL AGENCIES.—Subject to the requirements of section 2012(a), the Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon re-

quest of the Chair of the Council, the head of such department or agency shall furnish such information to the Council.

(2) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(h) TRAVEL EXPENSES.—The members of the Council shall not receive compensation for the performance of services for the Council. The members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Council.

(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) STATUS AS PERMANENT COUNCIL.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

SEC. 2022. ADVISORY BOARD ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

(a) ESTABLISHMENT.—There is established a board to be known as the "Advisory Board on Elder Abuse, Neglect, and Exploitation" (in this section referred to as the "Advisory Board") to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council established under section 2021.

(b) COMPOSITION.—The Advisory Board shall be composed of 27 members appointed by the Secretary from among members of the general public who are individuals with experience and expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution.

(c) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the Advisory Board under subsection (b).

(d) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Board shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 9 shall be appointed for a term of 3 years;

(B) 9 shall be appointed for a term of 2 years; and

(C) 9 shall be appointed for a term of 1 year.

(2) VACANCIES.—

(A) IN GENERAL.—Any vacancy in the Advisory Board shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(3) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the member's successor takes office.

(e) ELECTION OF OFFICERS.—The Advisory Board shall elect a Chair and Vice Chair from among its members. The Advisory Board shall elect its initial Chair and Vice Chair at its initial meeting.

(f) DUTIES.—

(1) ENHANCE COMMUNICATION ON PROMOTING QUALITY OF, AND PREVENTING ABUSE AND NEGLECT IN, LONG-TERM CARE.—The Advisory Board shall develop collaborative and innovative approaches to improve the quality of, including preventing abuse and neglect in, long-term care.

(2) COLLABORATIVE EFFORTS TO DEVELOP CONSENSUS AROUND THE MANAGEMENT OF CERTAIN QUALITY-RELATED FACTORS.—

(A) IN GENERAL.—The Advisory Board shall establish multidisciplinary panels to address, and develop consensus on, subjects relating to improving the quality of long-term care. At least 1 such panel shall address, and develop consensus on, methods for managing resident-to-resident abuse in long-term care.

(B) ACTIVITIES CONDUCTED.—The multidisciplinary panels established under subparagraph (A) shall examine relevant research and data, identify best practices with respect to the subject of the panel, determine the best way to carry out those best practices in a practical and feasible manner, and determine an effective manner of distributing information on such subject.

(3) REPORT.—Not later than the date that is 18 months after the date of enactment of the Elder Justice Act, and annually thereafter, the Advisory Board shall prepare and submit to the Elder Justice Coordinating Council, the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing—

(A) information on the status of Federal, State, and local public and private elder justice activities;

(B) recommendations (including recommended priorities) regarding—

(i) elder justice programs, research, training, services, practice, enforcement, and coordination;

(ii) coordination between entities pursuing elder justice efforts and those involved in related areas that may inform or overlap with elder justice efforts, such as activities to combat violence against women and child abuse and neglect; and

(iii) activities relating to adult fiduciary systems, including guardianship and other fiduciary arrangements;

(C) recommendations for specific modifications needed in Federal and State laws (including regulations) or for programs, research, and training to enhance prevention, detection, and treatment (including diagnosis) of, intervention in

(including investigation of), and prosecution of elder abuse, neglect, and exploitation;

(D) recommendations on methods for the most effective coordinated national data collection with respect to elder justice, and elder abuse, neglect, and exploitation; and

(E) recommendations for a multidisciplinary strategic plan to guide the effective and efficient development of the field of elder justice.

(g) POWERS OF THE ADVISORY BOARD.—

(1) INFORMATION FROM FEDERAL AGENCIES.—Subject to the requirements of section 2012(a), the Advisory Board may secure directly from any Federal department or agency such information as the Advisory Board considers necessary to carry out this section. Upon request of the Chair of the Advisory Board, the head of such department or agency shall furnish such information to the Advisory Board.

(2) SHARING OF DATA AND REPORTS.—The Advisory Board may request from any entity pursuing elder justice activities under the Elder Justice Act or an amendment made by that Act, any data, reports, or recommendations generated in connection with such activities.

(3) POSTAL SERVICES.—The Advisory Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(h) TRAVEL EXPENSES.—The members of the Advisory Board shall not receive compensation for the performance of services for the Advisory Board. The members shall be allowed travel expenses for up to 4 meetings per year, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Board. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Advisory Board.

(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Advisory Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) STATUS AS PERMANENT ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

SEC. 2023. RESEARCH PROTECTIONS.

(a) GUIDELINES.—The Secretary shall promulgate guidelines to assist researchers working in the area of elder abuse, neglect, and exploitation, with issues relating to human subject protections.

(b) DEFINITION OF LEGALLY AUTHORIZED REPRESENTATIVE FOR APPLICATION OF REGULATIONS.—For purposes of the application of subpart A of part 46 of title 45, Code of Federal Regulations, to research conducted under this subpart, the term "legally authorized representative" means, unless otherwise provided by law, the individual or judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person.

SEC. 2024. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart—

(1) for fiscal year 2007, $6,500,000; and

(2) for each of fiscal years 2008 through 2010, $7,000,000.

Subpart 2—Elder Abuse, Neglect, and Exploitation Forensic Centers

SEC. 2031. ESTABLISHMENT AND SUPPORT OF ELDER ABUSE, NEGLECT, AND EXPLOITATION FORENSIC CENTERS.

(a) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall make grants to eligible entities to establish and operate stationary and mobile forensic centers, to develop forensic expertise regarding, and provide services relating to, elder abuse, neglect, and exploitation.

(b) STATIONARY FORENSIC CENTERS.—The Secretary shall make 4 of the grants described in subsection (a) to institutions of higher education with demonstrated expertise in forensics or commitment to preventing or treating elder abuse, neglect, or exploitation, to establish and operate stationary forensic centers.

(c) MOBILE CENTERS.—The Secretary shall make 6 of the grants described in subsection (a) to appropriate entities to establish and operate mobile forensic centers.

(d) AUTHORIZED ACTIVITIES.—

(1) DEVELOPMENT OF FORENSIC MARKERS AND METHODOLOGIES.—An eligible entity that receives a grant under this section shall use funds made available through the grant to assist in determining whether abuse, neglect, or exploitation occurred and whether a crime was committed and to conduct research to describe and disseminate information on—

(A) forensic markers that indicate a case in which elder abuse, neglect, or exploitation may have occurred; and

(B) methodologies for determining, in such a case, when and how health care, emergency service, social and protective services, and legal service providers should intervene and when the providers should report the case to law enforcement authorities.

(2) DEVELOPMENT OF FORENSIC EXPERTISE.—An eligible entity that receives a grant under this section shall use funds made available through the grant to develop forensic expertise regarding elder abuse, neglect, and exploitation in order to provide medical and forensic evaluation, therapeutic intervention, victim support and advocacy, case review, and case tracking.

(3) COLLECTION OF EVIDENCE.—The Secretary, in coordination with the Attorney General, shall use data made available by grant recipients under this section to develop the capacity of geriatric health care professionals and law enforcement to collect forensic evidence, including collecting forensic evidence relating to a potential determination of elder abuse, neglect, or exploitation.

(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) for fiscal year 2007, $4,000,000;

(2) for fiscal year 2008, $6,000,000; and

(3) for each of fiscal years 2009 and 2010, $8,000,000.

PART B—PROGRAMS TO PROMOTE ELDER JUSTICE

SEC. 2041. ENHANCEMENT OF LONG-TERM CARE.

(a) GRANTS AND INCENTIVES FOR LONG-TERM CARE STAFFING.—

(1) IN GENERAL.—The Secretary shall carry out activities, including activities described in paragraphs (2) and (3), to provide incentives for individuals to train for, seek, and maintain employment providing direct care in a long-term care facility.

(2) SPECIFIC PROGRAMS TO ENHANCE TRAINING, RECRUITMENT, AND RETENTION OF STAFF.—

(A) COORDINATION WITH OTHER PROGRAMS TO RECRUIT AND TRAIN LONG-TERM CARE STAFF.—The Secretary shall coordinate activities under this subsection with the Secretary of Labor and the Assistant Secretary for the Administration for Children and Families in order to provide incentives to participants in programs carried out under part A of title IV to train for and seek employment providing direct care in a long-term care facility.

(B) CAREER LADDERS AND WAGE OR BENEFIT INCREASES TO INCREASE STAFFING IN LONG-TERM CARE FACILITIES.—

(i) IN GENERAL.—The Secretary shall make grants to long-term care facilities to carry out programs through which the facilities—

(I) offer, to employees who provide direct care to residents of a long-term care facility, continuing training and varying levels of certification, based on observed clinical care practices and the amount of time the employees spend providing direct care; and

(II) provide, or make arrangements to provide, bonuses or other increased compensation or benefits to employees who achieve certification under such a program.

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, a long-term care facility shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the long-term care facility is located with respect to carrying out activities funded under the grant).

(iii) AUTHORITY TO LIMIT NUMBER OF APPLICANTS.—Nothing in this subparagraph shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this subparagraph.

(3) SPECIFIC PROGRAMS TO IMPROVE MANAGEMENT PRACTICES.—

(A) IN GENERAL.—The Secretary shall make grants to long-term care facilities to enable the facilities to provide training and technical assistance to eligible employees.

(B) AUTHORIZED ACTIVITIES.—A long-term care facility that receives a grant under subparagraph (A) shall use funds made available through the grant to provide training and technical assistance to eligible employees regarding management practices using methods that are demonstrated to promote retention of individuals who provide direct care to residents of the long-term care facility, such as—

(i) the establishment of standard human resource policies that reward high performance, including policies that provide for improved wages and benefits on the basis of job reviews;

(ii) the establishment of motivational and thoughtful work organization practices;

(iii) the creation of a workplace culture that respects and values caregivers and their needs;

(iv) the promotion of a workplace culture that respects the rights of residents of a long-term care facility and results in improved care for the residents; and

(v) the establishment of other programs that promote the provision of high quality care, such as a continuing education program that provides additional hours of training, including on-the-job training, for employees who are certified nurse aides.

(C) APPLICATION.—To be eligible to receive a grant under this paragraph, a long-term care facility shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the long-term care facility is located with respect to carrying out activities funded under the grant).

(D) AUTHORITY TO LIMIT NUMBER OF APPLICANTS.—Nothing in this paragraph shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this paragraph.

(E) ELIGIBLE EMPLOYEE DEFINED.—In this paragraph, the term "eligible employee" means an individual who establishes or implements management practices applicable with respect to individuals who provide direct care to residents of a long-term care facility and includes administrators, directors of nursing, staff developers, and charge nurses.

(4) ACCOUNTABILITY MEASURES.—The Secretary shall develop accountability measures to ensure that the activities conducted using funds made available under this subsection benefit eligible employees and increase the stability of the long-term care workforce.

(b) INFORMATICS SYSTEMS GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to long-term care facilities for the purpose of assisting such entities in offsetting the costs related to purchasing,

leasing, developing, and implementing standardized clinical health care informatics systems designed to improve patient safety and reduce adverse events and health care complications resulting from medication errors.

(2) USE OF GRANT FUNDS.—Funds provided under grants under this subsection may be used for any of the following:

(A) Purchasing, leasing, and installing computer software and hardware, including handheld computer technologies.

(B) Making improvements to existing computer software and hardware.

(C) Making upgrades and other improvements to existing computer software and hardware to enable e-prescribing.

(D) Providing education and training to eligible long-term care facility staff on the use of technology to implement the electronic transmission of prescription and patient information.

(3) APPLICATION.—To be eligible to receive a grant under this subsection, a long-term care facility shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the long-term care facility is located with respect to carrying out activities funded under the grant).

(4) AUTHORITY TO LIMIT NUMBER OF APPLICANTS.—Nothing in this subsection shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this subsection.

(5) ACCOUNTABILITY MEASURES.—The Secretary shall develop accountability measures to ensure that the activities conducted using funds made available under this subsection help improve patient safety and reduce adverse events and health care complications resulting from medication errors.

(c) INCLUSION OF ADJUDICATED CRIMES ON NURSING HOME COMPARE WEBSITE.—Not later than 1 year after the date of enactment of the Elder Justice Act, the Secretary shall ensure that the Department of Health and Human Services includes, as part of the information provided for comparison of nursing facilities on the official Internet website of the Federal Government for Medicare beneficiaries (commonly referred to as the "Nursing Home Compare" Medicare website), the number of adjudicated instances of criminal violations by a nursing facility or crimes committed by an employee of a nursing facility—

(1) that were committed inside of the facility; and

(2) with respect to such instances of violations or crimes committed outside of the facility, that were the violations or crimes of elder abuse, neglect, and exploitation, criminal sexual abuse of an elder, or other violations or crimes that resulted in the serious bodily injury of an elder.

(d) DEVELOPMENT OF CONSUMER RIGHTS INFORMATION PAGE ON NURSING HOME COMPARE WEBSITE.—Not later than 1 year after the date of enactment of the Elder Justice Act, the Secretary shall ensure that the Department of Health and Human Services, as part of the information provided for comparison of nursing facilities on

the Nursing Home Compare Medicare website develops and includes a consumer rights information page that contains links to descriptions of, and information with respect to, the following:

(1) The documentation on nursing facilities that is available to the public.

(2) General information and tips on choosing a nursing facility that meets the needs of the individual.

(3) General information on consumer rights with respect to nursing facilities.

(4) The nursing facility survey process (on a national and State-specific basis).

(5) On a State-specific basis, the services available through the State long-term care ombudsman for such State.

(e) DEVELOPMENT AND ADOPTION OF STANDARDS FOR TRANSACTIONS INVOLVING CLINICAL DATA BY LONG-TERM CARE FACILITIES.—

(1) STANDARDS.—The Secretary shall develop and adopt uniform open electronic standards for transactions involving clinical data by long-term care facilities. Such standards shall include messaging and nomenclature standards.

(2) COMPATIBILITY WITH OTHER STANDARDS.—The standards developed and adopted under paragraph (1) shall be compatible with standards established under part C of title XI, standards established under subsections (b)(2)(B)(i) and (e)(4) of section 1860D–4, and with general health information technology standards.

(3) ELECTRONIC SUBMISSION OF DATA TO THE SECRETARY.—

(A) IN GENERAL.—Not later than 10 years after the date of enactment of the Elder Justice Act, the Secretary shall have procedures in place to accept the optional electronic submission of clinical data by long-term care facilities pursuant to the standards developed and adopted under paragraph (1).

(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a long-term care facility to submit clinical data electronically to the Secretary.

(f) REGULATIONS.—The Secretary shall promulgate regulations to carry out subsections (c), (d), and (e) of this section. Such regulations shall require a State, as a condition of the receipt of funds under this part, to conduct such data collection and reporting as the Secretary determines are necessary to satisfy the requirements of such subsections.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) for fiscal year 2007, $20,000,000;

(2) for fiscal year 2008, $17,500,000; and

(3) for each of fiscal years 2009 and 2010, $15,000,000.

SEC. 2042. ADULT PROTECTIVE SERVICES FUNCTIONS AND GRANT PROGRAMS.

(a) SECRETARIAL RESPONSIBILITIES.—

(1) IN GENERAL.—The Secretary shall ensure that the Department of Health and Human Services—

(A) provides funding authorized by this part to State and local adult protective services offices that investigate reports of the abuse, neglect, and exploitation of elders;

(B) collects and disseminates data annually relating to the abuse, exploitation, and neglect of elders in coordination with the Department of Justice;

(C) develops and disseminates information on best practices regarding, and provides training on, carrying out adult protective services;

(D) conducts research related to the provision of adult protective services; and

(E) provides technical assistance to States and other entities that provide or fund the provision of adult protective services, including through grants made under subsections (b) and (c).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $3,000,000 for fiscal year 2007 and $4,000,000 for each of fiscal years 2008 through 2010.

(b) GRANTS TO ENHANCE THE PROVISION OF ADULT PROTECTIVE SERVICES.—

(1) ESTABLISHMENT.—There is established an adult protective services grant program under which the Secretary shall annually award grants to States in the amounts calculated under paragraph (2) for the purposes of enhancing adult protective services provided by States and local units of government.

(2) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Subject to the availability of appropriations and subparagraphs (B) and (C), the amount paid to a State for a fiscal year under the program under this subsection shall equal the amount appropriated for that year to carry out this subsection multiplied by the percentage of the total number of elders who reside in the United States who reside in that State.

(B) GUARANTEED MINIMUM PAYMENT AMOUNT.—

(i) 50 STATES.—Subject to clause (ii), if the amount determined under subparagraph (A) for a State for a fiscal year is less than 0.75 percent of the amount appropriated for such year, the Secretary shall increase such determined amount so that the total amount paid under this subsection to the State for the year is equal to 0.75 percent of the amount so appropriated.

(ii) TERRITORIES.—In the case of a State other than 1 of the 50 States, clause (i) shall be applied as if each reference to "0.75" were a reference to "0.1".

(C) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the amounts described in subparagraph (A) as are necessary to comply with the requirements of subparagraph (B).

(3) AUTHORIZED ACTIVITIES.—

(A) ADULT PROTECTIVE SERVICES.—Funds made available pursuant to this subsection may only be used by States and local units of government to provide adult protective services and may not be used for any other purpose.

(B) USE BY AGENCY.—Each State receiving funds pursuant to this subsection shall provide such funds to the agency or unit of State government having legal responsibility for providing adult protective services within the State.

(C) SUPPLEMENT NOT SUPPLANT.—Each State or local unit of government shall use funds made available pursuant to this subsection to supplement and not supplant other Federal, State, and local public funds expended to provide adult protective services in the State.

(4) STATE REPORTS.—Each State receiving funds under this subsection shall submit to the Secretary, at such time and in such manner as the Secretary may require, a report on the number of elders served by the grants awarded under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $100,000,000 for each of fiscal years 2007 through 2010.

(c) STATE DEMONSTRATION PROGRAMS.—

(1) ESTABLISHMENT.—The Secretary shall award grants to States for the purposes of conducting demonstration programs in accordance with paragraph (2).

(2) DEMONSTRATION PROGRAMS.—Funds made available pursuant to this subsection may be used by States and local units of government to conduct demonstration programs that test—

(A) training modules developed for the purpose of detecting or preventing elder abuse;

(B) methods to detect or prevent financial exploitation of elders;

(C) methods to detect elder abuse;

(D) whether training on elder abuse forensics enhances the detection of elder abuse by employees of the State or local unit of government; or

(E) other matters relating to the detection or prevention of elder abuse.

(3) APPLICATION.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(4) STATE REPORTS.—Each State that receives funds under this subsection shall submit a report to the Secretary at such time, in such manner, and containing such information as the Secretary may require on the results of the demonstration program conducted by the State using funds made available under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $25,000,000 for each of fiscal years 2007 through 2010.

SEC. 2043. LONG-TERM CARE OMBUDSMAN PROGRAM GRANTS AND TRAINING.

(a) GRANTS TO SUPPORT THE LONG-TERM CARE OMBUDSMAN PROGRAM.—

(1) IN GENERAL.—The Secretary shall make grants to eligible entities with relevant expertise and experience in abuse and ne-

glect in long-term care facilities or long-term care ombudsman programs and responsibilities, for the purpose of—

(A) improving the capacity of State long-term care ombudsman programs to respond to and resolve complaints about abuse and neglect;

(B) conducting pilot programs with State long-term care ombudsman offices or local ombudsman entities; and

(C) providing support for such State long-term care ombudsman programs and such pilot programs (such as through the establishment of a national long-term care ombudsman resource center).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) for fiscal year 2007, $5,000,000;

(B) for fiscal year 2008, $7,500,000; and

(C) for each of fiscal years 2009 and 2010, $10,000,000.

(b) OMBUDSMAN TRAINING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall establish programs to provide and improve ombudsman training with respect to elder abuse, neglect, and exploitation for national organizations and State long-term care ombudsman programs.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, for each of fiscal years 2007 through 2010, $10,000,000.

PART C—COLLECTION OF DATA, DISSEMINATION OF INFORMATION, AND STUDIES

SEC. 2051. COLLECTION OF UNIFORM NATIONAL DATA ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

(a) PURPOSE.—The purpose of this section is to improve, streamline, and promote uniform collection, maintenance, and dissemination of national data relating to the various types of elder abuse, neglect, and exploitation.

(b) PHASE I—DEVELOPMENT.—

(1) IN GENERAL.—Not later than the date that is 1 year after the date of enactment of the Elder Justice Act, the Secretary, after consultation with the Attorney General, shall develop—

(A) a method for collecting national data regarding elder abuse, neglect, and exploitation; and

(B) uniform national data reporting forms adapted to each relevant entity or discipline (such as health, public safety, social and protective services, and law enforcement) reflecting—

(i) the distinct manner in which each entity or discipline receives and maintains information; and

(ii) the sequence and history of reports to, or involvement of, different entities or disciplines, independently, or the sequence and history of reports from 1 entity or discipline to another over time.

(2) FORMS.—Subject to the requirements of section 2012(a), the national data reporting forms described in paragraph (1)(B) shall incorporate the definitions of this subtitle for use in determining whether an event is reportable.

(c) PHASE II—PILOT TESTS.—

(1) IN GENERAL.—Not later than the date that is 1 year after the date on which the activities described in subsection (b)(1) are completed, the Secretary shall ensure that the national data reporting forms and data collection methods developed in accordance with such subsection are pilot tested in 6 States selected by the Secretary.

(2) ADJUSTMENTS TO THE FORM AND METHODS.—The Secretary, after considering the results of the pilot testing described in paragraph (1) and consultation with the Attorney General, shall adjust the national data reporting forms and data collection methods as necessary.

(d) PHASE III—NATIONAL DISTRIBUTION.—

(1) DISTRIBUTION OF NATIONAL DATA REPORTING FORMS.—After completion of the adjustment to the national data reporting forms under subsection (c)(2), the Secretary shall submit the national data reporting forms along with instructions to—

(A) the heads of the relevant Federal entities as may be appropriate; and

(B) the appropriate office of each State for collection from all relevant State entities of data, including health care, social services, and law enforcement data.

(2) DATA COLLECTION GRANTS.—

(A) AUTHORIZATION.—The Secretary is authorized to award grants to States to improve data collection activities relating to elder abuse, neglect, and exploitation.

(B) APPLICATION.—To be eligible to receive a grant under this paragraph, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) REQUIREMENTS.—Each State receiving a grant under this paragraph for a fiscal year shall report data for the calendar year that begins during that fiscal year, using the national data reporting forms described in paragraph (1).

(D) FUNDING.—

(i) FIRST YEAR.—For the first fiscal year for which a State receives grant funds under this paragraph, the Secretary shall initially distribute 50 percent of such funds to the State. The Secretary shall distribute the remaining funds to the State at the end of the calendar year that begins during that fiscal year, if the Secretary determines that the State has properly reported data required under this paragraph for the calendar year.

(ii) SUBSEQUENT YEARS.—Except as provided in clause (i), the Secretary shall distribute grant funds to a State under this paragraph for a fiscal year if the Secretary determines that the State properly reported data required under this paragraph for the calendar year that ends during that fiscal year.

(E) REQUIRED INFORMATION.—Each report submitted under this paragraph shall—

(i) indicate the State and year in which each event occurred; and

(ii) identify the total number of events that occurred in each State during the year and the type of each event.

(e) REPORT.—Not later than 1 year after the date of enactment of the Elder Justice Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report regarding activities conducted under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) for fiscal year 2007, $10,000,000;

(2) for fiscal year 2008, $30,000,000; and

(3) for each of fiscal years 2009 and 2010, $100,000,000.

SEC. 2052. LONG-TERM CARE CONSUMER CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary shall establish a long-term care consumer clearinghouse.

(b) INFORMATION.—The clearinghouse shall provide comprehensive detailed information, in a consumer-friendly form, to consumers about choices relating to long-term care providers, such as information about—

(1) obtaining the services of, and employing, caregivers who provide long-term care at an individual's home; and

(2) options for residential long-term care, such as—

(A)(i) the type of care provided by nursing facilities; and

(ii) the type of care provided by group homes and other residential long-term care facilities that are not nursing facilities;

(B) the benefits related to long-term care that are available through the programs carried out under titles XVIII and XIX; and

(C) links to Federal and State Internet websites that describe the care available through specific long-term care facilities, including data on the satisfaction level of residents of, and families of residents of, the facilities.

(c) PROVIDERS.—In providing information on long-term care providers under this section, the clearinghouse shall provide information (from States and other sources) on assisted living facilities, board and care facilities, congregate care facilities, home health care providers, and other long-term care providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) for fiscal year 2007, $2,000,000;

(2) for fiscal year 2008, $3,000,000; and

(3) for each of fiscal years 2009 and 2010, $4,000,000.

SEC. 2053. CONSUMER INFORMATION ABOUT THE CONTINUUM OF RESIDENTIAL LONG-TERM CARE FACILITIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, after consultation with the Attorney General, shall, directly or through a grant, conduct a study on consumer concerns relating to residential long-term care facilities, other than nursing facilities.

(2) SPECIFIC TOPICS.—The entity conducting the study shall—

(A) develop definitions for classes of the residential long-term care facilities described in paragraph (1); and

(B) collect information on the prices of, level of services provided by, oversight and enforcement provisions of, and admission and discharge criteria of, the facilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, for each of fiscal years 2007 through 2010, $3,000,000.

SEC. 2054. PROVISION OF INFORMATION REGARDING, AND EVALUATIONS OF, ELDER JUSTICE PROGRAMS.

(a) PROVISION OF INFORMATION.—To be eligible to receive a grant under this part, an applicant shall agree—

(1) except as provided in paragraph (2), to provide the eligible entity conducting an evaluation under subsection (b) of the activities funded through the grant with such information as the eligible entity may require in order to conduct such evaluation; or

(2) in the case of an applicant for a grant under section 2041(b), to provide the Secretary with such information as the Secretary may require to conduct an evaluation or audit under subsection (c).

(b) USE OF ELIGIBLE ENTITIES TO CONDUCT EVALUATIONS.—

(1) EVALUATIONS REQUIRED.—Except as provided in paragraph (2), the Secretary shall—

(A) reserve a portion (not less than 2 percent) of the funds appropriated with respect to each program carried out under this part; and

(B) use the funds reserved under subparagraph (A) to provide assistance to eligible entities to conduct evaluations of the activities funded under each program carried out under this part.

(2) INFORMATICS SYSTEMS GRANT PROGRAM NOT INCLUDED.—The provisions of this subsection shall not apply to the informatics systems grant program under section 2041(b).

(3) AUTHORIZED ACTIVITIES.—A recipient of assistance described in paragraph (1)(B) shall use the funds made available through the assistance to conduct a validated evaluation of the effectiveness of the activities funded under a program carried out under this part.

(4) APPLICATIONS.—To be eligible to receive assistance under paragraph (1)(B), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a proposal for the evaluation.

(5) REPORTS.—Not later than a date specified by the Secretary, an eligible entity receiving assistance under paragraph (1)(B) shall submit to the Secretary, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report containing the results of the evaluation conducted using such assistance together with such recommendations as the entity determines to be appropriate.

(c) EVALUATIONS AND AUDITS OF INFORMATICS SYSTEMS GRANT PROGRAM BY THE SECRETARY.—

(1) EVALUATIONS.—The Secretary shall conduct an evaluation of the activities funded under the informatics systems grant program under section 2041(b). Such evaluation shall include an evaluation of whether the funding provided under the grant is expended only for the purposes for which it is made.

(2) AUDITS.—The Secretary shall conduct appropriate audits of grants made under section 2041(b).

SEC. 2055. REPORT.

Not later than October 1, 2011, the Secretary shall submit to the Elder Justice Coordinating Council, the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report—

(1) compiling, summarizing, and analyzing the information contained in the State reports submitted under subsections (b)(4) and (c)(4) of section 2042; and

(2) containing—

(A) the results of the study conducted under section 2053; and

(B) such recommendations for legislative or administrative action as the Secretary determines to be appropriate."

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