

110TH CONGRESS
1ST SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Elder Justice Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

2

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.
- Sec. 5. Elder Justice.

“Subtitle 2—Elder Justice

- “Sec. 2011. Definitions.
- “Sec. 2012. General provisions.

“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.
- “Sec. 2022. Advisory Board on Elder Abuse, Neglect, and Exploitation.
- “Sec. 2023. Research protections.
- “Sec. 2024. Authorization of appropriations.

“SUBPART 2—ELDER ABUSE, NEGLECT, AND EXPLOITATION FORENSIC CENTERS

- “Sec. 2031. Establishment and support of elder abuse, neglect, and Exploitation forensic Centers.

“PART B—PROGRAMS TO PROMOTE ELDER JUSTICE

- “Sec. 2041. Enhancement of long-term care.
- “Sec. 2042. Adult protective services functions and grant programs.
- “Sec. 2043. Long-term care ombudsman program grants and training.
- “Sec. 2044. Provision of information regarding, and evaluations of, elder justice programs.
- “Sec. 2045. Report.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The proportion of the United States popu-
 4 lation age 60 years or older will drastically increase
 5 in the next 30 years as more than 76,000,000 baby
 6 boomers approach retirement and old age.

7 (2) Each year, anywhere between 500,000 and
 8 5,000,000 elders in the United States are abused,
 9 neglected, or exploited.

1 (3) Elder abuse, neglect, and exploitation have
2 no boundaries, and cross all racial, social class, gen-
3 der, and geographic lines.

4 (4) Victims of elder abuse, neglect, and exploi-
5 tation are not only subject to injury from mistreat-
6 ment and neglect, they are also 3.1 times more likely
7 than elders who were not victims of elder abuse, ne-
8 glect, and exploitation to die at an earlier age than
9 expected.

10 (5) There is a general dearth of data as to the
11 nature and scope of elder abuse, neglect, and exploi-
12 tation. In recognition of the need to improve data
13 collection efforts with respect to elder abuse, neglect,
14 and exploitation, Congress required the Secretary of
15 Health and Human Services to conduct a study by
16 the end of 2008 on establishing a uniform national
17 database on elder abuse under section 405 of title
18 IV of Division C of the Tax Relief and Health Care
19 Act of 2006 (Public Law 109–432).

20 (6) Despite the dearth of data in the field, ex-
21 perts agree that most cases of elder abuse, neglect,
22 and exploitation are never reported and that abuse,
23 neglect, and exploitation shorten a victim's life, often
24 triggering a downward spiral of an otherwise pro-
25 ductive, self-sufficient elder's life. Programs address-

1 ing other difficult issues such as domestic violence
2 and child abuse and neglect have demonstrated the
3 need for a multifaceted law, combining public health,
4 social service, and law enforcement approaches.

5 (7) For over 20 years, Congress has been pre-
6 sented with facts and testimony calling for a coordi-
7 nated Federal effort to combat elder abuse, neglect,
8 and exploitation.

9 (8) The Federal Government has been slow to
10 respond to the needs of victims of elder abuse, ne-
11 glect, and exploitation or to undertake prevention ef-
12 forts.

13 (9) No Federal law has been enacted that ade-
14 quately and comprehensively addresses the issues of
15 elder abuse, neglect, and exploitation and there are
16 very limited resources available to those in the field
17 that directly deal with the issues.

18 (10) Differences in State laws and practices in
19 the areas of elder abuse, neglect, and exploitation
20 lead to significant disparities in prevention, protec-
21 tive and social services, treatment systems, and law
22 enforcement, and lead to other inequities.

23 (11) The Federal Government has played an
24 important role in promoting research, training, pub-
25 lic safety, and data collection, and the identification,

1 development, and dissemination of promising health
2 care, social, and protective services, and law enforce-
3 ment practices, relating to child abuse and neglect,
4 domestic violence, and violence against women. The
5 Federal Government should promote similar efforts
6 and protections relating to elder abuse, neglect, and
7 exploitation.

8 (12) The Federal Government should provide
9 leadership and assist States and communities in
10 their efforts to protect elders in the United States
11 by—

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

14 (B) generating and sharing knowledge rel-
15 evant to protecting elders;

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

19 (D) providing resources to States and com-
20 munities to promote elder justice.

21 (13) The problem of elder abuse, neglect, and
22 exploitation requires a comprehensive approach
23 that—

24 (A) integrates the work of health, legal,
25 and social service agencies and organizations;

1 (B) emphasizes the need for prevention, re-
2 porting, investigation, assessment, treatment,
3 and prosecution of elder abuse, neglect, and ex-
4 ploitation at all levels of government;

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

8 (i) treat, assess, and provide services
9 relating to elder abuse, neglect, and exploi-
10 tation; and

11 (ii) carry out elder protection duties;

12 (D) is sensitive to ethnic and cultural di-
13 versity;

14 (E) recognizes the role of mental health,
15 disability, dementia, substance abuse, medica-
16 tion mismanagement, and family dysfunction
17 problems in increasing and exacerbating elder
18 abuse, neglect, and exploitation; and

19 (F) balances elders' right to self-deter-
20 mination with society's responsibility to protect
21 elders.

22 (14) The human, social, and economic cost of
23 elder abuse, neglect, and exploitation is high and in-
24 cludes unnecessary expenditures of funds from many
25 public programs.

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

6 (16) All elements of society in the United
7 States have a shared responsibility in responding to
8 a national problem of elder abuse, neglect, and ex-
9 ploitation.

10 **SEC. 3. PURPOSES.**

11 The purposes of this Act are as follows:

12 (1) To enhance the social security of the Nation
13 by ensuring adequate public-private infrastructure
14 and resolving to prevent, detect, treat, understand,
15 and intervene in, and where appropriate, aid in the
16 prosecution of, elder abuse, neglect, and exploitation.

17 (2) To bring a comprehensive approach to pre-
18 venting and combating elder abuse, neglect, and ex-
19 ploitation, a long invisible problem that afflicts the
20 most vulnerable among the aging population of the
21 United States.

22 (3) To raise the issue of elder abuse, neglect,
23 and exploitation to national attention, and to create
24 the infrastructure at the Federal, State, and local
25 levels, to ensure that individuals and organizations

1 on the front lines, who are fighting elder abuse, ne-
2 glect, and exploitation with scarce resources and
3 fragmented systems, have the resources and infor-
4 mation needed to carry out their fight.

5 (4) To bring a comprehensive multidisciplinary
6 approach to elder justice.

7 (5) To set in motion research and data collec-
8 tion to fill gaps in knowledge about elder abuse, ne-
9 glect, and exploitation.

10 (6) To supplement the activities of service pro-
11 viders and programs, to enhance training, and to le-
12 verage scarce resources efficiently, in order to ensure
13 that elder justice receives the attention it deserves as
14 the Nation's population ages.

15 (7) To recognize and address the role of mental
16 health, disability, dementia, substance abuse, medi-
17 cation mismanagement, and family dysfunction prob-
18 lems in increasing and exacerbating elder abuse, ne-
19 glect, and exploitation.

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

1 (9) To promote collaborative efforts and dimin-
2 ish overlap and gaps in efforts in developing the im-
3 portant field of elder justice.

4 (10) To honor and respect the right of all indi-
5 viduals with diminished capacity to decisionmaking
6 autonomy, self-determination, and dignity of choice.

7 (11) To respect the wishes of individuals with
8 diminished capacity and their family members in
9 providing supportive services and care plans in-
10 tended to protect elders from abuse, neglect (includ-
11 ing self-neglect), and exploitation.

12 **SEC. 4. DEFINITIONS.**

13 Except as otherwise specifically provided, any term
14 that is defined in section 2011 of the Social Security Act
15 (as added by section 5(a)) and is used in this Act has
16 the meaning given such term by such section.

17 **SEC. 5. ELDER JUSTICE.**

18 (a) ELDER JUSTICE.—

19 (1) IN GENERAL.—Title XX of the Social Secu-
20 rity Act (42 U.S.C. 1397 et seq.) is amended—

21 (A) in the heading, by inserting “**AND**
22 **ELDER JUSTICE**” after “**SOCIAL**
23 **SERVICES**”;

24 (B) by inserting before section 2001 the
25 following:

1 **“Subtitle 1—Block Grants to States**
2 **for Social Services”;**

3 and

4 (C) by adding at the end the following:

5 **“Subtitle 2—Elder Justice**

6 **“SEC. 2011. DEFINITIONS.**

7 “In this subtitle:

8 “(1) ABUSE.—The term ‘abuse’ means the
9 knowing infliction of physical or psychological harm
10 or the knowing deprivation of goods or services that
11 are necessary to meet essential needs or to avoid
12 physical or psychological harm.

13 “(2) ADULT PROTECTIVE SERVICES.—The term
14 ‘adult protective services’ means such services pro-
15 vided to adults as the Secretary may specify and in-
16 cludes services such as—

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

19 “(B) investigating the reports described in
20 subparagraph (A);

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

23 “(D) providing, arranging for, or facili-
24 tating the provision of medical, social service,

1 economic, legal, housing, law enforcement, or
2 other protective, emergency, or support services.

3 “(3) CAREGIVER.—The term ‘caregiver’ means
4 an individual who has the responsibility for the care
5 of an elder, either voluntarily, by contract, by receipt
6 of payment for care, or as a result of the operation
7 of law, and means a family member or other indi-
8 vidual who provides (on behalf of such individual or
9 of a public or private agency, organization, or insti-
10 tution) compensated or uncompensated care to an
11 elder who needs supportive services in any setting.

12 “(4) DIRECT CARE.—The term ‘direct care’
13 means care by an employee or contractor who pro-
14 vides assistance or long-term care services to a re-
15 cipient.

16 “(5) ELDER.—The term ‘elder’ means an indi-
17 vidual age 60 or older.

18 “(6) ELDER JUSTICE.—The term ‘elder justice’
19 means—

20 “(A) from a societal perspective, efforts
21 to—

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

1 “(ii) protect elders with diminished
2 capacity while maximizing their autonomy;
3 and

4 “(B) from an individual perspective, the
5 recognition of an elder’s rights, including the
6 right to be free of abuse, neglect, and exploi-
7 tation.

8 “(7) ELIGIBLE ENTITY.—The term ‘eligible en-
9 tity’ means a State or local government agency, In-
10 dian tribe or tribal organization, or any other public
11 or private entity that is engaged in and has expertise
12 in issues relating to elder justice or in a field nec-
13 essary to promote elder justice efforts.

14 “(8) EXPLOITATION.—The term ‘exploitation’
15 means the fraudulent or otherwise illegal, unauthor-
16 ized, or improper act or process of an individual, in-
17 cluding a caregiver or fiduciary, that uses the re-
18 sources of an elder for monetary or personal benefit,
19 profit, or gain, or that results in depriving an elder
20 of rightful access to, or use of, benefits, resources,
21 belongings, or assets.

22 “(9) FIDUCIARY.—The term ‘fiduciary’—

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

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

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

5 “(B) includes a trustee, a guardian, a con-
6 servator, an executor, an agent under a finan-
7 cial power of attorney or health care power of
8 attorney, or a representative payee.

9 “(10) GRANT.—The term ‘grant’ includes a
10 contract, cooperative agreement, or other mechanism
11 for providing financial assistance.

12 “(11) GUARDIANSHIP.—The term ‘guardian-
13 ship’ means—

14 “(A) the process by which a State court
15 determines that an adult individual lacks capac-
16 ity to make decisions about self-care and prop-
17 erty, and appoints another individual or entity
18 known as a guardian, as a conservator, or by a
19 similar term, as a surrogate decisionmaker;

20 “(B) the manner in which the court-ap-
21 pointed surrogate decisionmaker carries out du-
22 ties to the individual and the court; or

23 “(C) the manner in which the court exer-
24 cises oversight of the surrogate decisionmaker.

25 “(12) INDIAN TRIBE.—

1 “(A) IN GENERAL.—The term ‘Indian
2 tribe’ has the meaning given such term in sec-
3 tion 4 of the Indian Self-Determination and
4 Education Assistance Act (25 U.S.C. 450b).

5 “(B) INCLUSION OF PUEBLO AND
6 RANCHERIA.—The term ‘Indian tribe’ includes
7 any Pueblo or Rancheria.

8 “(13) LAW ENFORCEMENT.—The term ‘law en-
9 forcement’ means the full range of potential re-
10 sponders to elder abuse, neglect, and exploitation in-
11 cluding—

12 “(A) police, sheriffs, detectives, public safe-
13 ty officers, and corrections personnel;

14 “(B) prosecutors;

15 “(C) medical examiners;

16 “(D) investigators; and

17 “(E) coroners.

18 “(14) LONG-TERM CARE.—

19 “(A) IN GENERAL.—The term ‘long-term
20 care’ means supportive and health services spec-
21 ified by the Secretary for individuals who need
22 assistance because the individuals have a loss of
23 capacity for self-care due to illness, disability,
24 or vulnerability.

1 “(B) LOSS OF CAPACITY FOR SELF-
2 CARE.—For purposes of subparagraph (A), the
3 term ‘loss of capacity for self-care’ means an in-
4 ability to engage in 1 or more activities of daily
5 living, including eating, dressing, bathing, and
6 management of one’s financial affairs.

7 “(15) LONG-TERM CARE FACILITY.—The term
8 ‘long-term care facility’ means a residential care pro-
9 vider that arranges for, or directly provides, long-
10 term care.

11 “(16) NEGLECT.—The term ‘neglect’ means—

12 “(A) the failure of a caregiver or fiduciary
13 to provide the goods or services that are nec-
14 essary to maintain the health or safety of an
15 elder; or

16 “(B) self-neglect.

17 “(17) NURSING FACILITY.—

18 “(A) IN GENERAL.—The term ‘nursing fa-
19 cility’ has the meaning given such term under
20 section 1919(a).

21 “(B) INCLUSION OF SKILLED NURSING FA-
22 CILITY.—The term ‘nursing facility’ includes a
23 skilled nursing facility (as defined in section
24 1819(a))

1 “(18) SELF-NEGLECT.—The term ‘self-neglect’
2 means an adult’s inability, due to physical or mental
3 impairment or diminished capacity, to perform es-
4 sential self-care tasks including—

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

7 “(B) obtaining goods and services nec-
8 essary to maintain physical health, mental
9 health, or general safety; or

10 “(C) managing one’s own financial affairs.

11 “(19) SERIOUS BODILY INJURY.—

12 “(A) IN GENERAL.—The term ‘serious
13 bodily injury’ means an injury—

14 “(i) involving extreme physical pain;

15 “(ii) involving substantial risk of
16 death;

17 “(iii) involving protracted loss or im-
18 pairment of the function of a bodily mem-
19 ber, organ, or mental faculty; or

20 “(iv) requiring medical intervention
21 such as surgery, hospitalization, or phys-
22 ical rehabilitation.

23 “(B) CRIMINAL SEXUAL ABUSE.—Serious
24 bodily injury shall be considered to have oc-
25 curred if the conduct causing the injury is con-

1 duct described in section 2241 (relating to ag-
2 gravated sexual abuse) or 2242 (relating to sex-
3 ual abuse) of title 18, United States Code, or
4 any similar offense under State law.

5 “(20) SOCIAL.—The term ‘social’, when used
6 with respect to a service, includes adult protective
7 services.

8 “(21) STATE LEGAL ASSISTANCE DEVEL-
9 OPER.—The term ‘State legal assistance developer’
10 means an individual described in section 731 of the
11 Older Americans Act of 1965.

12 “(22) STATE LONG-TERM CARE OMBUDSMAN.—
13 The term ‘State Long-Term Care Ombudsman’
14 means the State Long-Term Care Ombudsman de-
15 scribed in section 712(a)(2) of the Older Americans
16 Act of 1965.

17 **“SEC. 2012. GENERAL PROVISIONS.**

18 “(a) PROTECTION OF PRIVACY.—In pursuing activi-
19 ties under this subtitle, the Secretary shall ensure the pro-
20 tection of individual health privacy consistent with the reg-
21 ulations promulgated under section 264(c) of the Health
22 Insurance Portability and Accountability Act of 1996 and
23 applicable State and local privacy regulations.

24 “(b) RULE OF CONSTRUCTION.—Nothing in this sub-
25 title shall be construed to interfere with or abridge an el-

1 der's right to practice his or her religion through reliance
2 on prayer alone for healing when this choice—

3 “(1) is contemporaneously expressed, either
4 orally or in writing, with respect to a specific illness
5 or injury which the elder has at the time of the deci-
6 sion by an elder who is competent at the time of the
7 decision;

8 “(2) is previously set forth in a living will,
9 health care proxy, or other advance directive docu-
10 ment that is validly executed and applied under
11 State law; or

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

14 **“PART A—NATIONAL COORDINATION OF ELDER**
15 **JUSTICE ACTIVITIES AND RESEARCH**

16 **“Subpart 1—Elder Justice Coordinating Council and**
17 **Advisory Board on Elder Abuse, Neglect, and Ex-**
18 **ploitation**

19 **“SEC. 2021. ELDER JUSTICE COORDINATING COUNCIL.**

20 “(a) ESTABLISHMENT.—There is established within
21 the Office of the Secretary an Elder Justice Coordinating
22 Council (in this section referred to as the ‘Council’).

23 “(b) MEMBERSHIP.—

24 “(1) IN GENERAL.—The Council shall be com-
25 posed of the following members:

1 “(A) The Secretary (or the Secretary’s
2 designee).

3 “(B) The Attorney General (or the Attor-
4 ney General’s designee).

5 “(C) The head of each Federal department
6 or agency or other governmental entity identi-
7 fied by the Chair referred to in subsection (d)
8 as having responsibilities, or administering pro-
9 grams, relating to elder abuse, neglect, and ex-
10 ploitation.

11 “(2) REQUIREMENT.—Each member of the
12 Council shall be an officer or employee of the Fed-
13 eral Government.

14 “(c) VACANCIES.—Any vacancy in the Council shall
15 not affect its powers, but shall be filled in the same man-
16 ner as the original appointment was made.

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

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

21 “(f) DUTIES.—

22 “(1) IN GENERAL.—The Council shall make
23 recommendations to the Secretary for the coordina-
24 tion of activities of the Department of Health and
25 Human Services, the Department of Justice, and

1 other relevant Federal, State, local, and private
2 agencies and entities, relating to elder abuse, ne-
3 glect, and exploitation and other crimes against el-
4 ders.

5 “(2) REPORT.—Not later than the date that is
6 2 years after the date of enactment of the Elder
7 Justice Act and every 2 years thereafter, the Council
8 shall submit to the Committee on Finance of the
9 Senate and the Committee on Ways and Means and
10 the Committee on Energy and Commerce of the
11 House of Representatives a report that—

12 “(A) describes the activities and accom-
13 plishments of, and challenges faced by—

14 “(i) the Council; and

15 “(ii) the entities represented on the
16 Council; and

17 “(B) makes such recommendations for leg-
18 islation, model laws, or other action as the
19 Council determines to be appropriate.

20 “(g) POWERS OF THE COUNCIL.—

21 “(1) INFORMATION FROM FEDERAL AGEN-
22 CIES.—Subject to the requirements of section
23 2012(a), the Council may secure directly from any
24 Federal department or agency such information as
25 the Council considers necessary to carry out this sec-

1 tion. Upon request of the Chair of the Council, the
2 head of such department or agency shall furnish
3 such information to the Council.

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

8 “(h) TRAVEL EXPENSES.—The members of the
9 Council shall not receive compensation for the perform-
10 ance of services for the Council. The members shall be
11 allowed travel expenses, including per diem in lieu of sub-
12 sistence, at rates authorized for employees of agencies
13 under subchapter I of chapter 57 of title 5, United States
14 Code, while away from their homes or regular places of
15 business in the performance of services for the Council.
16 Notwithstanding section 1342 of title 31, United States
17 Code, the Secretary may accept the voluntary and uncom-
18 pensated services of the members of the Council.

19 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
20 Federal Government employee may be detailed to the
21 Council without reimbursement, and such detail shall be
22 without interruption or loss of civil service status or privi-
23 lege.

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

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

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

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

10 “(2) VACANCIES.—

11 “(A) IN GENERAL.—Any vacancy on the
12 Advisory Board shall not affect its powers, but
13 shall be filled in the same manner as the origi-
14 nal appointment was made.

15 “(B) FILLING UNEXPIRED TERM.—An in-
16 dividual chosen to fill a vacancy shall be ap-
17 pointed for the unexpired term of the member
18 replaced.

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

22 “(e) ELECTION OF OFFICERS.—The Advisory Board
23 shall elect a Chair and Vice Chair from among its mem-
24 bers. The Advisory Board shall elect its initial Chair and
25 Vice Chair at its initial meeting.

1 “(f) DUTIES.—

2 “(1) ENHANCE COMMUNICATION ON PRO-
3 MOTING QUALITY OF, AND PREVENTING ABUSE AND
4 NEGLECT IN, LONG-TERM CARE.—The Advisory
5 Board shall develop collaborative and innovative ap-
6 proaches to improve the quality of, including pre-
7 venting abuse and neglect in, long-term care.

8 “(2) COLLABORATIVE EFFORTS TO DEVELOP
9 CONSENSUS AROUND THE MANAGEMENT OF CER-
10 TAIN QUALITY-RELATED FACTORS.—

11 “(A) IN GENERAL.—The Advisory Board
12 shall establish multidisciplinary panels to ad-
13 dress, and develop consensus on, subjects relat-
14 ing to improving the quality of long-term care.
15 At least 1 such panel shall address, and develop
16 consensus on, methods for managing resident-
17 to-resident abuse in long-term care.

18 “(B) ACTIVITIES CONDUCTED.—The multi-
19 disciplinary panels established under subpara-
20 graph (A) shall examine relevant research and
21 data, identify best practices with respect to the
22 subject of the panel, determine the best way to
23 carry out those best practices in a practical and
24 feasible manner, and determine an effective

1 manner of distributing information on such
2 subject.

3 “(3) REPORT.—Not later than the date that is
4 18 months after the date of enactment of the Elder
5 Justice Act, and annually thereafter, the Advisory
6 Board shall prepare and submit to the Elder Justice
7 Coordinating Council, the Committee on Finance of
8 the Senate, and the Committee on Ways and Means
9 and the Committee on Energy and Commerce of the
10 House of Representatives a report containing—

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

14 “(B) recommendations (including rec-
15 ommended priorities) regarding—

16 “(i) elder justice programs, research,
17 training, services, practice, enforcement,
18 and coordination;

19 “(ii) coordination between entities
20 pursuing elder justice efforts and those in-
21 volved in related areas that may inform or
22 overlap with elder justice efforts, such as
23 activities to combat violence against women
24 and child abuse and neglect; and

1 “(iii) activities relating to adult fidu-
2 ciary systems, including guardianship and
3 other fiduciary arrangements;

4 “(C) recommendations for specific modi-
5 fications needed in Federal and State laws (in-
6 cluding regulations) or for programs, research,
7 and training to enhance prevention, detection,
8 and treatment (including diagnosis) of, inter-
9 vention in (including investigation of), and
10 prosecution of elder abuse, neglect, and exploi-
11 tation;

12 “(D) recommendations on methods for the
13 most effective coordinated national data collec-
14 tion with respect to elder justice, and elder
15 abuse, neglect, and exploitation; and

16 “(E) recommendations for a multidisci-
17 plinary strategic plan to guide the effective and
18 efficient development of the field of elder jus-
19 tice.

20 “(g) POWERS OF THE ADVISORY BOARD.—

21 “(1) INFORMATION FROM FEDERAL AGEN-
22 CIES.—Subject to the requirements of section
23 2012(a), the Advisory Board may secure directly
24 from any Federal department or agency such infor-
25 mation as the Advisory Board considers necessary to

1 carry out this section. Upon request of the Chair of
2 the Advisory Board, the head of such department or
3 agency shall furnish such information to the Advi-
4 sory Board.

5 “(2) SHARING OF DATA AND REPORTS.—The
6 Advisory Board may request from any entity pur-
7 suing elder justice activities under the Elder Justice
8 Act or an amendment made by that Act, any data,
9 reports, or recommendations generated in connection
10 with such activities.

11 “(3) POSTAL SERVICES.—The Advisory Board
12 may use the United States mails in the same man-
13 ner and under the same conditions as other depart-
14 ments and agencies of the Federal Government.

15 “(h) TRAVEL EXPENSES.—The members of the Advi-
16 sory Board shall not receive compensation for the perform-
17 ance of services for the Advisory Board. The members
18 shall be allowed travel expenses for up to 4 meetings per
19 year, including per diem in lieu of subsistence, at rates
20 authorized for employees of agencies under subchapter I
21 of chapter 57 of title 5, United States Code, while away
22 from their homes or regular places of business in the per-
23 formance of services for the Advisory Board. Notwith-
24 standing section 1342 of title 31, United States Code, the

1 Secretary may accept the voluntary and uncompensated
2 services of the members of the Advisory Board.

3 “(i) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any
4 Federal Government employee may be detailed to the Ad-
5 visory Board without reimbursement, and such detail shall
6 be without interruption or loss of civil service status or
7 privilege.

8 “(j) **STATUS AS PERMANENT ADVISORY COM-**
9 **MITTEE.**—Section 14 of the Federal Advisory Committee
10 Act (5 U.S.C. App.) shall not apply to the advisory board.

11 **“SEC. 2023. RESEARCH PROTECTIONS.**

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

16 “(b) **DEFINITION OF LEGALLY AUTHORIZED REP-**
17 **RESENTATIVE FOR APPLICATION OF REGULATIONS.**—For
18 purposes of the application of subpart A of part 46 of title
19 45, Code of Federal Regulations, to research conducted
20 under this subpart, the term ‘legally authorized represent-
21 ative’ means, unless otherwise provided by law, the indi-
22 vidual or judicial or other body authorized under the appli-
23 cable law to consent to medical treatment on behalf of an-
24 other person.

1 **“SEC. 2024. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to carry out
3 this subpart—

4 “(1) for fiscal year 2008, \$6,500,000; and

5 “(2) for each of fiscal years 2009 through
6 2011, \$7,000,000.

7 **“Subpart 2—Elder Abuse, Neglect, and Exploitation**
8 **Forensic Centers**

9 **“SEC. 2031. ESTABLISHMENT AND SUPPORT OF ELDER**
10 **ABUSE, NEGLECT, AND EXPLOITATION FO-**
11 **RENSIC CENTERS.**

12 “(a) IN GENERAL.—The Secretary, in consultation
13 with the Attorney General, shall make grants to eligible
14 entities to establish and operate stationary and mobile fo-
15 rensic centers, to develop forensic expertise regarding, and
16 provide services relating to, elder abuse, neglect, and ex-
17 ploitation.

18 “(b) STATIONARY FORENSIC CENTERS.—The Sec-
19 retary shall make 4 of the grants described in subsection
20 (a) to institutions of higher education with demonstrated
21 expertise in forensics or commitment to preventing or
22 treating elder abuse, neglect, or exploitation, to establish
23 and operate stationary forensic centers.

24 “(c) MOBILE CENTERS.—The Secretary shall make
25 6 of the grants described in subsection (a) to appropriate
26 entities to establish and operate mobile forensic centers.

1 “(d) AUTHORIZED ACTIVITIES.—

2 “(1) DEVELOPMENT OF FORENSIC MARKERS
3 AND METHODOLOGIES.—An eligible entity that re-
4 ceives a grant under this section shall use funds
5 made available through the grant to assist in deter-
6 mining whether abuse, neglect, or exploitation oc-
7 curred and whether a crime was committed and to
8 conduct research to describe and disseminate infor-
9 mation on—

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

13 “(B) methodologies for determining, in
14 such a case, when and how health care, emer-
15 gency service, social and protective services, and
16 legal service providers should intervene and
17 when the providers should report the case to
18 law enforcement authorities.

19 “(2) DEVELOPMENT OF FORENSIC EXPER-
20 TISE.—An eligible entity that receives a grant under
21 this section shall use funds made available through
22 the grant to develop forensic expertise regarding
23 elder abuse, neglect, and exploitation in order to
24 provide medical and forensic evaluation, therapeutic

1 intervention, victim support and advocacy, case re-
2 view, and case tracking.

3 “(3) COLLECTION OF EVIDENCE.—The Sec-
4 retary, in coordination with the Attorney General,
5 shall use data made available by grant recipients
6 under this section to develop the capacity of geriatric
7 health care professionals and law enforcement to col-
8 lect forensic evidence, including collecting forensic
9 evidence relating to a potential determination of
10 elder abuse, neglect, or exploitation.

11 “(e) APPLICATION.—To be eligible to receive a grant
12 under this section, an entity shall submit an application
13 to the Secretary at such time, in such manner, and con-
14 taining such information as the Secretary may require.

15 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to carry out this sec-
17 tion—

18 “(1) for fiscal year 2008, \$4,000,000;

19 “(2) for fiscal year 2009, \$6,000,000; and

20 “(3) for each of fiscal years 2010 and 2011,
21 \$8,000,000.

1 ties to carry out programs through which
2 the facilities—

3 “(I) offer, to employees who pro-
4 vide direct care to residents of a long-
5 term care facility, continuing training
6 and varying levels of certification,
7 based on observed clinical care prac-
8 tices and the amount of time the em-
9 ployees spend providing direct care;
10 and

11 “(II) provide, or make arrange-
12 ments to provide, bonuses or other in-
13 creased compensation or benefits to
14 employees who achieve certification
15 under such a program.

16 “(ii) APPLICATION.—To be eligible to
17 receive a grant under this subparagraph, a
18 long-term care facility shall submit an ap-
19 plication to the Secretary at such time, in
20 such manner, and containing such infor-
21 mation as the Secretary may require
22 (which may include evidence of consulta-
23 tion with the State in which the long-term
24 care facility is located with respect to car-

1 rying out activities funded under the
2 grant).

3 “(iii) AUTHORITY TO LIMIT NUMBER
4 OF APPLICANTS.—Nothing in this subpara-
5 graph shall be construed as prohibiting the
6 Secretary from limiting the number of ap-
7 plicants for a grant under this subpara-
8 graph.

9 “(3) SPECIFIC PROGRAMS TO IMPROVE MAN-
10 AGEMENT PRACTICES.—

11 “(A) IN GENERAL.—The Secretary shall
12 make grants to long-term care facilities to en-
13 able the facilities to provide training and tech-
14 nical assistance to eligible employees.

15 “(B) AUTHORIZED ACTIVITIES.—A long-
16 term care facility that receives a grant under
17 subparagraph (A) shall use funds made avail-
18 able through the grant to provide training and
19 technical assistance to eligible employees re-
20 garding management practices using methods
21 that are demonstrated to promote retention of
22 individuals who provide direct care to residents
23 of the long-term care facility, such as—

24 “(i) the establishment of standard
25 human resource policies that reward high

1 performance, including policies that pro-
2 vide for improved wages and benefits on
3 the basis of job reviews;

4 “(ii) the establishment of motivational
5 and thoughtful work organization prac-
6 tices;

7 “(iii) the creation of a workplace cul-
8 ture that respects and values caregivers
9 and their needs;

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

14 “(v) the establishment of other pro-
15 grams that promote the provision of high
16 quality care, such as a continuing edu-
17 cation program that provides additional
18 hours of training, including on-the-job
19 training, for employees who are certified
20 nurse aides.

21 “(C) APPLICATION.—To be eligible to re-
22 ceive a grant under this paragraph, a long-term
23 care facility shall submit an application to the
24 Secretary at such time, in such manner, and
25 containing such information as the Secretary

1 may require (which may include evidence of
2 consultation with the State in which the long-
3 term care facility is located with respect to car-
4 rying out activities funded under the grant).

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

10 “(E) ELIGIBLE EMPLOYEE DEFINED.—In
11 this paragraph, the term ‘eligible employee’
12 means an individual who establishes or imple-
13 ments management practices applicable with re-
14 spect to individuals who provide direct care to
15 residents of a long-term care facility and in-
16 cludes administrators, directors of nursing,
17 staff developers, and charge nurses.

18 “(4) ACCOUNTABILITY MEASURES.—The Sec-
19 retary shall develop accountability measures to en-
20 sure that the activities conducted using funds made
21 available under this subsection benefit eligible em-
22 ployees and increase the stability of the long-term
23 care workforce.

24 “(b) INFORMATICS SYSTEMS GRANT PROGRAM.—

1 “(1) GRANTS AUTHORIZED.—The Secretary is
2 authorized to make grants to long-term care facili-
3 ties for the purpose of assisting such entities in off-
4 setting the costs related to purchasing, leasing, de-
5 veloping, and implementing standardized clinical
6 health care informatics systems designed to improve
7 patient safety and reduce adverse events and health
8 care complications resulting from medication errors.

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

12 “(A) Purchasing, leasing, and installing
13 computer software and hardware, including
14 handheld computer technologies.

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

17 “(C) Making upgrades and other improve-
18 ments to existing computer software and hard-
19 ware to enable e-prescribing.

20 “(D) Providing education and training to
21 eligible long-term care facility staff on the use
22 of technology to implement the electronic trans-
23 mission of prescription and patient information.

24 “(3) APPLICATION.—To be eligible to receive a
25 grant under this subsection, a long-term care facility

1 shall submit an application to the Secretary at such
2 time, in such manner, and containing such informa-
3 tion as the Secretary may require (which may in-
4 clude evidence of consultation with the State in
5 which the long-term care facility is located with re-
6 spect to carrying out activities funded under the
7 grant).

8 “(4) **AUTHORITY TO LIMIT NUMBER OF APPLI-**
9 **CANTS.**—Nothing in this subsection shall be con-
10 strued as prohibiting the Secretary from limiting the
11 number of applicants for a grant under this sub-
12 section.

13 “(5) **ACCOUNTABILITY MEASURES.**—The Sec-
14 retary shall develop accountability measures to en-
15 sure that the activities conducted using funds made
16 available under this subsection help improve patient
17 safety and reduce adverse events and health care
18 complications resulting from medication errors.

19 “(c) **INCLUSION OF ADJUDICATED CRIMES ON NURS-**
20 **ING HOME COMPARE WEBSITE.**—Not later than 1 year
21 after the date of enactment of the Elder Justice Act, the
22 Secretary shall ensure that the Department of Health and
23 Human Services includes, as part of the information pro-
24 vided for comparison of nursing facilities on the official
25 Internet website of the Federal Government for Medicare

1 beneficiaries (commonly referred to as the ‘Nursing Home
2 Compare’ Medicare website), the number of adjudicated
3 instances of criminal violations by a nursing facility or
4 crimes committed by an employee of a nursing facility—

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

7 “(2) with respect to such instances of violations
8 or crimes committed outside of the facility, that
9 were the violations or crimes of elder abuse, neglect,
10 and exploitation, criminal sexual abuse of an elder,
11 or other violations or crimes that resulted in the se-
12 rious bodily injury of an elder.

13 “(d) DEVELOPMENT OF CONSUMER RIGHTS INFOR-
14 MATION PAGE ON NURSING HOME COMPARE WEBSITE.—

15 Not later than 1 year after the date of enactment of the
16 Elder Justice Act, the Secretary shall ensure that the De-
17 partment of Health and Human Services, as part of the
18 information provided for comparison of nursing facilities
19 on the Nursing Home Compare Medicare website develops
20 and includes a consumer rights information page that con-
21 tains links to descriptions of, and information with respect
22 to, the following:

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

1 “(2) General information and tips on choosing
2 a nursing facility that meets the needs of the indi-
3 vidual.

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

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

8 “(5) On a State-specific basis, the services
9 available through the State long-term care ombuds-
10 man for such State.

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

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

19 “(2) COMPATIBILITY WITH OTHER STAND-
20 ARDS.—The standards developed and adopted under
21 paragraph (1) shall be compatible with standards es-
22 tablished under part C of title XI, standards estab-
23 lished under subsections (b)(2)(B)(i) and (e)(4) of
24 section 1860D–4, and with general health informa-
25 tion technology standards.

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

3 “(A) IN GENERAL.—Not later than 10
4 years after the date of enactment of the Elder
5 Justice Act, the Secretary shall have procedures
6 in place to accept the optional electronic sub-
7 mission of clinical data by long-term care facili-
8 ties pursuant to the standards developed and
9 adopted under paragraph (1).

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

14 “(f) REGULATIONS.—The Secretary shall promulgate
15 regulations to carry out subsections (c), (d), and (e) of
16 this section. Such regulations shall require a State, as a
17 condition of the receipt of funds under this part, to con-
18 duct such data collection and reporting as the Secretary
19 determines are necessary to satisfy the requirements of
20 such subsections.

21 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out this sec-
23 tion—

24 “(1) for fiscal year 2008, \$20,000,000;

25 “(2) for fiscal year 2009, \$17,500,000; and

1 “(3) for each of fiscal years 2010 and 2011,
2 \$15,000,000.

3 **“SEC. 2042. ADULT PROTECTIVE SERVICES FUNCTIONS AND**
4 **GRANT PROGRAMS.**

5 “(a) SECRETARIAL RESPONSIBILITIES.—

6 “(1) IN GENERAL.—The Secretary shall ensure
7 that the Department of Health and Human Serv-
8 ices—

9 “(A) provides funding authorized by this
10 part to State and local adult protective services
11 offices that investigate reports of the abuse, ne-
12 glect, and exploitation of elders;

13 “(B) collects and disseminates data annu-
14 ally relating to the abuse, exploitation, and ne-
15 glect of elders in coordination with the Depart-
16 ment of Justice;

17 “(C) develops and disseminates informa-
18 tion on best practices regarding, and provides
19 training on, carrying out adult protective serv-
20 ices;

21 “(D) conducts research related to the pro-
22 vision of adult protective services; and

23 “(E) provides technical assistance to
24 States and other entities that provide or fund
25 the provision of adult protective services, in-

1 cluding through grants made under subsections
2 (b) and (c).

3 “(2) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to carry out
5 this subsection, \$3,000,000 for fiscal year 2008 and
6 \$4,000,000 for each of fiscal years 2009 through
7 2011.

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

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

16 “(2) AMOUNT OF PAYMENT.—

17 “(A) IN GENERAL.—Subject to the avail-
18 ability of appropriations and subparagraphs (B)
19 and (C), the amount paid to a State for a fiscal
20 year under the program under this subsection
21 shall equal the amount appropriated for that
22 year to carry out this subsection multiplied by
23 the percentage of the total number of elders
24 who reside in the United States who reside in
25 that State.

1 “(B) GUARANTEED MINIMUM PAYMENT
2 AMOUNT.—

3 “(i) 50 STATES.—Subject to clause
4 (ii), if the amount determined under sub-
5 paragraph (A) for a State for a fiscal year
6 is less than 0.75 percent of the amount ap-
7 propriated for such year, the Secretary
8 shall increase such determined amount so
9 that the total amount paid under this sub-
10 section to the State for the year is equal
11 to 0.75 percent of the amount so appro-
12 priated.

13 “(ii) TERRITORIES.—In the case of a
14 State other than 1 of the 50 States, clause
15 (i) shall be applied as if each reference to
16 ‘0.75’ were a reference to ‘0.1’.

17 “(C) PRO RATA REDUCTIONS.—The Sec-
18 retary shall make such pro rata reductions to
19 the amounts described in subparagraph (A) as
20 are necessary to comply with the requirements
21 of subparagraph (B).

22 “(3) AUTHORIZED ACTIVITIES.—

23 “(A) ADULT PROTECTIVE SERVICES.—
24 Funds made available pursuant to this sub-
25 section may only be used by States and local

1 units of government to provide adult protective
2 services and may not be used for any other pur-
3 pose.

4 “(B) USE BY AGENCY.—Each State receiv-
5 ing funds pursuant to this subsection shall pro-
6 vide such funds to the agency or unit of State
7 government having legal responsibility for pro-
8 viding adult protective services within the State.

9 “(C) SUPPLEMENT NOT SUPPLANT.—Each
10 State or local unit of government shall use
11 funds made available pursuant to this sub-
12 section to supplement and not supplant other
13 Federal, State, and local public funds expended
14 to provide adult protective services in the State.

15 “(4) STATE REPORTS.—Each State receiving
16 funds under this subsection shall submit to the Sec-
17 retary, at such time and in such manner as the Sec-
18 retary may require, a report on the number of elders
19 served by the grants awarded under this subsection.

20 “(5) AUTHORIZATION OF APPROPRIATIONS.—
21 There are authorized to be appropriated to carry out
22 this subsection, \$100,000,000 for each of fiscal
23 years 2008 through 2011.

24 “(c) STATE DEMONSTRATION PROGRAMS.—

1 “(1) ESTABLISHMENT.—The Secretary shall
2 award grants to States for the purposes of con-
3 ducting demonstration programs in accordance with
4 paragraph (2).

5 “(2) DEMONSTRATION PROGRAMS.—Funds
6 made available pursuant to this subsection may be
7 used by States and local units of government to con-
8 duct demonstration programs that test—

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

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

13 “(C) methods to detect elder abuse;

14 “(D) whether training on elder abuse
15 forensics enhances the detection of elder abuse
16 by employees of the State or local unit of gov-
17 ernment; or

18 “(E) other matters relating to the detec-
19 tion or prevention of elder abuse.

20 “(3) APPLICATION.—To be eligible to receive a
21 grant under this subsection, a State shall submit an
22 application to the Secretary at such time, in such
23 manner, and containing such information as the Sec-
24 retary may require.

1 “(4) STATE REPORTS.—Each State that re-
2 ceives funds under this subsection shall submit a re-
3 port to the Secretary at such time, in such manner,
4 and containing such information as the Secretary
5 may require on the results of the demonstration pro-
6 gram conducted by the State using funds made
7 available under this subsection.

8 “(5) AUTHORIZATION OF APPROPRIATIONS.—
9 There are authorized to be appropriated to carry out
10 this subsection, \$25,000,000 for each of fiscal years
11 2008 through 2011.

12 **“SEC. 2043. LONG-TERM CARE OMBUDSMAN PROGRAM**
13 **GRANTS AND TRAINING.**

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

16 “(1) IN GENERAL.—The Secretary shall make
17 grants to eligible entities with relevant expertise and
18 experience in abuse and neglect in long-term care fa-
19 cilities or long-term care ombudsman programs and
20 responsibilities, for the purpose of—

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

1 “(B) conducting pilot programs with State
2 long-term care ombudsman offices or local om-
3 budsman entities; and

4 “(C) providing support for such State
5 long-term care ombudsman programs and such
6 pilot programs (such as through the establish-
7 ment of a national long-term care ombudsman
8 resource center).

9 “(2) AUTHORIZATION OF APPROPRIATIONS.—

10 There are authorized to be appropriated to carry out
11 this subsection—

12 “(A) for fiscal year 2008, \$5,000,000;

13 “(B) for fiscal year 2009, \$7,500,000; and

14 “(C) for each of fiscal years 2010 and
15 2011, \$10,000,000.

16 “(b) OMBUDSMAN TRAINING PROGRAMS.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish programs to provide and improve ombudsman
19 training with respect to elder abuse, neglect, and ex-
20 ploitation for national organizations and State long-
21 term care ombudsman programs.

22 “(2) AUTHORIZATION OF APPROPRIATIONS.—

23 There are authorized to be appropriated to carry out
24 this subsection, for each of fiscal years 2008
25 through 2011, \$10,000,000.

1 **“SEC. 2044. PROVISION OF INFORMATION REGARDING, AND**
2 **EVALUATIONS OF, ELDER JUSTICE PRO-**
3 **GRAMS.**

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

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

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

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

17 “(1) EVALUATIONS REQUIRED.—Except as pro-
18 vided in paragraph (2), the Secretary shall—

19 “(A) reserve a portion (not less than 2 per-
20 cent) of the funds appropriated with respect to
21 each program carried out under this part; and

22 “(B) use the funds reserved under sub-
23 paragraph (A) to provide assistance to eligible
24 entities to conduct evaluations of the activities
25 funded under each program carried out under
26 this part.

1 “(2) INFORMATICS SYSTEMS GRANT PROGRAM
2 NOT INCLUDED.—The provisions of this subsection
3 shall not apply to the informatics systems grant pro-
4 gram under section 2041(b).

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

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

17 “(5) REPORTS.—Not later than a date specified
18 by the Secretary, an eligible entity receiving assist-
19 ance under paragraph (1)(B) shall submit to the
20 Secretary, the Committee on Ways and Means and
21 the Committee on Energy and Commerce of the
22 House of Representatives, and the Committee on Fi-
23 nance of the Senate a report containing the results
24 of the evaluation conducted using such assistance to-

1 gether with such recommendations as the entity de-
2 termines to be appropriate.

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

5 “(1) EVALUATIONS.—The Secretary shall con-
6 duct an evaluation of the activities funded under the
7 informatics systems grant program under section
8 2041(b). Such evaluation shall include an evaluation
9 of whether the funding provided under the grant is
10 expended only for the purposes for which it is made.

11 “(2) AUDITS.—The Secretary shall conduct ap-
12 propriate audits of grants made under section
13 2041(b).

14 **“SEC. 2045. REPORT.**

15 “Not later than October 1, 2011, the Secretary shall
16 submit to the Elder Justice Coordinating Council, the
17 Committee on Ways and Means and the Committee on En-
18 ergy and Commerce of the House of Representatives, and
19 the Committee on Finance of the Senate a report—

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

1 “(2) containing such recommendations for legis-
2 lative or administrative action as the Secretary de-
3 termines to be appropriate.”.

4 (2) OPTION FOR STATE PLAN UNDER PROGRAM
5 FOR TEMPORARY ASSISTANCE FOR NEEDY FAMI-
6 LIES.—

7 (A) IN GENERAL.—Section 402(a)(1)(B) of
8 the Social Security Act (42 U.S.C.
9 602(a)(1)(B)) is amended by adding at the end
10 the following new clause:

11 “(v) The document shall indicate
12 whether the State intends to assist individ-
13 uals to train for, seek, and maintain em-
14 ployment—

15 “(I) providing direct care in a
16 long-term care facility (as such terms
17 are defined under section 2011); or

18 “(II) in other occupations related
19 to elder care determined appropriate
20 by the State for which the State iden-
21 tifies an unmet need for service per-
22 sonnel,

23 and, if so, shall include an overview of such
24 assistance.”.

1 (B) EFFECTIVE DATE.—The amendment
2 made by subparagraph (A) shall take effect on
3 October 1, 2008.

4 (b) PROTECTING RESIDENTS OF LONG-TERM CARE
5 FACILITIES.—

6 (1) NATIONAL TRAINING INSTITUTE FOR SUR-
7 VEYORS.—

8 (A) IN GENERAL.—The Secretary of
9 Health and Human Services shall enter into a
10 contract with an entity for the purpose of estab-
11 lishing and operating a National Training Insti-
12 tute for Federal and State surveyors. Such In-
13 stitute shall provide and improve the training of
14 surveyors with respect to investigating allega-
15 tions of abuse, neglect, and misappropriation of
16 property in programs and long-term care facili-
17 ties that receive payments under title XVIII or
18 XIX of the Social Security Act.

19 (B) ACTIVITIES CARRIED OUT BY THE IN-
20 STITUTE.—The contract entered into under
21 subparagraph (A) shall require the Institute es-
22 tablished and operated under such contract to
23 carry out the following activities:

24 (i) Assess the extent to which State
25 agencies use specialized surveyors for the

1 investigation of reported allegations of
2 abuse, neglect, and misappropriation of
3 property in such programs and long-term
4 care facilities.

5 (ii) Evaluate how the competencies of
6 surveyors may be improved to more effec-
7 tively investigate reported allegations of
8 such abuse, neglect, and misappropriation
9 of property, and provide feedback to Fed-
10 eral and State agencies on the evaluations
11 conducted.

12 (iii) Provide a national program of
13 training, tools, and technical assistance to
14 Federal and State surveyors on inves-
15 tigating reports of such abuse, neglect, and
16 misappropriation of property.

17 (iv) Develop and disseminate informa-
18 tion on best practices for the investigation
19 of such abuse, neglect, and misappropria-
20 tion of property.

21 (v) Assess the performance of State
22 complaint intake systems, in order to en-
23 sure that the intake of complaints occurs
24 24 hours per day, 7 days a week (including
25 holidays).

1 (vi) To the extent approved by the
2 Secretary of Health and Human Services,
3 provide a national 24 hours per day, 7
4 days a week (including holidays), back-up
5 system to State complaint intake systems
6 in order to ensure optimum national re-
7 sponsiveness to complaints of such abuse,
8 neglect, and misappropriation of property.

9 (vii) Analyze and report annually on
10 the following:

11 (I) The total number and sources
12 of complaints of such abuse, neglect,
13 and misappropriation of property.

14 (II) The extent to which such
15 complaints are referred to law en-
16 forcement agencies.

17 (III) General results of Federal
18 and State investigations of such com-
19 plaints.

20 (viii) Conduct a national study of the
21 cost to State agencies of conducting com-
22 plaint investigations of skilled nursing fa-
23 cilities and nursing facilities under sections
24 1819 and 1919, respectively, of the Social
25 Security Act (42 U.S.C. 1395i-3; 1396r),

1 and making recommendations to the Sec-
2 retary of Health and Human Services with
3 respect to options to increase the efficiency
4 and cost-effectiveness of such investiga-
5 tions.

6 (C) AUTHORIZATION.—There are author-
7 ized to be appropriated to carry out this para-
8 graph, for the period of fiscal years 2008
9 through 2011, \$12,000,000.

10 (2) GRANTS TO STATE SURVEY AGENCIES.—

11 (A) IN GENERAL.—The Secretary of
12 Health and Human Services shall make grants
13 to State agencies that perform surveys of
14 skilled nursing facilities or nursing facilities
15 under sections 1819 or 1919, respectively, of
16 the Social Security Act (42 U.S.C. 1395i–3;
17 1395r).

18 (B) USE OF FUNDS.—A grant awarded
19 under subparagraph (A) shall be used for the
20 purpose of designing and implementing com-
21 plaint investigations systems that—

22 (i) promptly prioritize complaints in
23 order to ensure a rapid response to the
24 most serious and urgent complaints;

1 (ii) respond to complaints with opti-
2 mum effectiveness and timeliness; and

3 (iii) optimize the collaboration be-
4 tween local authorities, consumers, and
5 providers, including—

6 (I) such State agency;

7 (II) the State Long-Term Care
8 Ombudsman;

9 (III) local law enforcement agen-
10 cies;

11 (IV) advocacy and consumer or-
12 ganizations;

13 (V) State aging units;

14 (VI) Area Agencies on Aging;

15 and

16 (VII) other appropriate entities.

17 (C) AUTHORIZATION.—There are author-
18 ized to be appropriated to carry out this para-
19 graph, for each of fiscal years 2008 through
20 2011, \$5,000,000.

21 (3) REPORTING OF CRIMES AND ENSURING
22 SAFETY OF RESIDENTS WHEN FEDERALLY FUNDED
23 LONG-TERM CARE FACILITIES CLOSE.—Part A of
24 title XI of the Social Security Act (42 U.S.C. 1301

1 et seq.) is amended by adding at the end the fol-
2 lowing new sections:

3 “REPORTING TO LAW ENFORCEMENT OF CRIMES OCCUR-
4 RING IN FEDERALLY FUNDED LONG-TERM CARE FA-
5 CILITIES

6 “SEC. 1150A. (a) DETERMINATION AND NOTIFICA-
7 TION.—

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

13 “(2) NOTIFICATION.—If the owner or operator
14 determines under paragraph (1) that the facility re-
15 ceived at least \$10,000 in such Federal funds during
16 the preceding year, such owner or operator shall an-
17 nually notify each covered individual (as defined in
18 paragraph (3)) of that individual’s obligation to
19 comply with the reporting requirements described in
20 subsection (b).

21 “(3) COVERED INDIVIDUAL DEFINED.—In this
22 section, the term ‘covered individual’ means each in-
23 dividual who is an owner, operator, employee, man-
24 ager, agent, or contractor of a long-term care facility
25 that is the subject of a determination described in
26 paragraph (1).

1 “(b) REPORTING REQUIREMENTS.—

2 “(1) IN GENERAL.—Each covered individual
3 shall report to the Secretary and 1 or more law en-
4 forcement entities for the political subdivision in
5 which the facility is located any reasonable suspicion
6 of a crime (as defined by the law of the applicable
7 political subdivision) against any individual who is a
8 resident of, or is receiving care from, the facility.

9 “(2) TIMING.—If the events that cause the sus-
10 picion—

11 “(A) result in serious bodily injury, the in-
12 dividual shall report the suspicion immediately,
13 but not later than 2 hours after forming the
14 suspicion; and

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

18 “(c) PENALTIES.—

19 “(1) IN GENERAL.—If a covered individual vio-
20 lates subsection (b)—

21 “(A) the covered individual shall be subject
22 to a civil money penalty of not more than
23 \$200,000; or

1 “(B) the Secretary shall classify the cov-
2 ered individual as an excluded individual, for a
3 period of not more than 3 years.

4 “(2) INCREASED HARM.—If a covered indi-
5 vidual violates subsection (b) and the violation exac-
6 erbates the harm to the victim of the crime or re-
7 sults in harm to another individual—

8 “(A) the covered individual shall be subject
9 to a civil money penalty of not more than
10 \$300,000; and

11 “(B) the Secretary shall classify the cov-
12 ered individual as an excluded individual, for a
13 period of not more than 3 years.

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

20 “(4) EXTENUATING CIRCUMSTANCES.—

21 “(A) IN GENERAL.—The Secretary may
22 take into account the financial burden on pro-
23 viders with underserved populations in deter-
24 mining any penalty to be imposed under this
25 subsection.

1 “(B) UNDERSERVED POPULATION DE-
2 FINED.—In this paragraph, the term ‘under-
3 served population’ means the population of an
4 area designated by the Secretary as an area
5 with a shortage of elder justice programs or a
6 population group designated by the Secretary
7 as having a shortage of such programs. Such
8 areas or groups designated by the Secretary
9 may include—

10 “(i) areas or groups that are geo-
11 graphically isolated (such as isolated in a
12 rural area);

13 “(ii) racial and ethnic minority popu-
14 lations; and

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

18 “(d) ADDITIONAL PENALTIES FOR RETALIATION.—

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

21 “(A) discharge, demote, suspend, threaten,
22 harass, or deny a promotion or other employ-
23 ment-related benefit to an employee, or in any
24 other manner discriminate against an employee

1 in the terms and conditions of employment be-
2 cause of lawful acts done by the employee; or

3 “(B) file a complaint or a report against a
4 nurse or other employee with the appropriate
5 State professional disciplinary agency because
6 of lawful acts done by the nurse or employee,
7 for making a report, causing a report to be made,
8 or for taking steps in furtherance of making a report
9 pursuant to subsection (b)(1).

10 “(2) PENALTIES FOR RETALIATION.—If a long-
11 term care facility violates subparagraph (A) or (B)
12 of paragraph (1) the facility shall be subject to a
13 civil money penalty of not more than \$200,000 or
14 the Secretary may classify the entity as an excluded
15 entity for a period of 2 years pursuant to section
16 1128(b), or both.

17 “(3) REQUIREMENT TO POST NOTICE.—Each
18 long-term care facility shall post conspicuously in an
19 appropriate location a sign (in a form specified by
20 the Secretary) specifying the rights of employees
21 under this section. Such sign shall include a state-
22 ment that an employee may file a complaint with the
23 Secretary against a long-term care facility that vio-
24 lates the provisions of this subsection and informa-

1 tion with respect to the manner of filing such a com-
2 plaint.

3 “(e) PROCEDURE.—The provisions of section 1128A
4 (other than subsections (a) and (b) and the second sen-
5 tence of subsection (f)) shall apply to a civil money penalty
6 under this section in the same manner as such provisions
7 apply to a penalty or proceeding under section 1128A(a).

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

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

13 “SEC. 1150B. (a) IN GENERAL.—

14 “(1) NOTIFICATION OF FACILITY CLOSURE.—
15 Subject to paragraph (2), if the owner or operator
16 determines under section 1150A(a)(1) that a long-
17 term care facility received at least \$10,000 in Fed-
18 eral funds under this Act during the preceding year,
19 the owner or operator of the facility shall—

20 “(A) submit to the Secretary and the ap-
21 propriate State regulatory agency written notifi-
22 cation of an impending closure not later than
23 the date that is 60 days prior to the date of
24 such closure;

25 “(B) include in the notice a plan for the
26 transfer and adequate relocation of the resi-

1 dents of the facility prior to closure, including
2 assurances that the residents will be transferred
3 to the most appropriate facility in terms of
4 quality, services, and location; and

5 “(C) not later than 10 days after the facil-
6 ity closure, submit to the Secretary and the ap-
7 propriate State agency information identifying
8 where residents of the closed facility were trans-
9 ferred and on what date.

10 “(2) EXCEPTION WHERE THE SECRETARY HAS
11 ISSUED A TERMINATION NOTICE.—In the case of a
12 long-term care facility described in paragraph (1) for
13 which the Secretary has issued a termination notice
14 for the facility to close by not later than 15 days
15 after the issuance of such notice, the Secretary shall
16 establish requirements for the notification, transfer,
17 and adequate relocation of residents within an ap-
18 propriate timeframe.

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

22 “(1) a civil monetary penalty of up to
23 \$1,000,000;

1 “(2) exclusion from participation in the pro-
2 grams under this Act (in accordance with the proce-
3 dures of section 1128); and

4 “(3) any other applicable civil monetary pen-
5 alties and assessments.

6 “(c) PROCEDURE.—The provisions of section 1128A
7 (other than subsections (a) and (b) and the second sen-
8 tence of subsection (f)) shall apply to a civil money penalty
9 or assessment under this section in the same manner as
10 such provisions apply to a penalty or proceeding under
11 section 1128A(a).

12 “(d) DEFINITION.—In this section, the term ‘long-
13 term care facility’ has the meaning given that term in sec-
14 tion 2011.”.

15 (4) REPORT TO CONGRESS ON PILOT PROGRAM
16 FOR NATIONAL AND STATE BACKGROUND CHECKS
17 ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-
18 TERM CARE FACILITIES OR PROVIDERS.—Not later
19 than the date that is 6 months after the completion
20 of the pilot program for national and State back-
21 ground checks on direct patient access employees of
22 long-term care facilities or providers established
23 under section 307 of the Medicare Prescription
24 Drug, Improvement, and Modernization Act of 2003
25 (42 U.S.C. 1395aa note), the Secretary shall submit

1 to the Committee on Finance of the Senate and the
2 Committee on Ways and Means and the Committee
3 on Energy and Commerce of the House of Rep-
4 resentatives a report containing the results of the
5 evaluation required under subsection (e) of such sec-
6 tion of such Act, together with recommendations for
7 such legislation and administrative action as the
8 Secretary determines appropriate.

9 (c) NATIONAL NURSE AIDE REGISTRY.—

10 (1) DEFINITION OF NURSE AIDE.—In this sub-
11 section, the term “nurse aide” has the meaning
12 given that term in sections 1819(b)(5)(F) and
13 1919(b)(5)(F) of the Social Security Act (42 U.S.C.
14 1395i–3(b)(5)(F); 1396r(b)(5)(F)).

15 (2) STUDY AND REPORT.—

16 (A) IN GENERAL.—The Secretary, in con-
17 sultation with appropriate government agencies
18 and private sector organizations, shall conduct
19 a study on establishing a national nurse aide
20 registry.

21 (B) AREAS EVALUATED.—The study con-
22 ducted under this subsection shall include an
23 evaluation of—

24 (i) who should be included in the reg-
25 istry;

1 (ii) how such a registry would comply
2 with Federal and State privacy laws and
3 regulations;

4 (iii) how data would be collected for
5 the registry;

6 (iv) what entities and individuals
7 would have access to the data collected;

8 (v) how the registry would provide ap-
9 propriate information regarding violations
10 of Federal and State law by individuals in-
11 cluded in the registry;

12 (vi) how the functions of a national
13 nurse aide registry would be coordinated
14 with the pilot program for national and
15 State background checks on direct patient
16 access employees of long-term care facili-
17 ties or providers established under section
18 307 of the Medicare Prescription Drug,
19 Improvement, and Modernization Act of
20 2003 (Public Law 108–173); and

21 (vii) how the information included in
22 State nurse aide registries developed and
23 maintained under sections 1819(e)(2) and
24 1919(e)(2) of the Social Security Act (42
25 U.S.C. 1395i–3(e)(2); 1396r(e)(2)(2))

1 would be provided as part of a national
2 nurse aide registry.

3 (C) CONSIDERATIONS.—In conducting the
4 study and preparing the report required under
5 this subsection, the Secretary shall take into
6 consideration the findings and conclusions of
7 relevant reports and other relevant resources,
8 including the following:

9 (i) The Department of Health and
10 Human Services Office of Inspector Gen-
11 eral Report, Nurse Aide Registries: State
12 Compliance and Practices (February
13 2005).

14 (ii) The General Accounting Office
15 (now known as the Government Account-
16 ability Office) Report, Nursing Homes:
17 More Can Be Done to Protect Residents
18 from Abuse (March 2002).

19 (iii) The Department of Health and
20 Human Services Office of the Inspector
21 General Report, Nurse Aide Registries:
22 Long-Term Care Facility Compliance and
23 Practices (July 2005).

24 (iv) The Department of Health and
25 Human Services Health Resources and

1 Services Administration Report, Nursing
2 Aides, Home Health Aides, and Related
3 Health Care Occupations—National and
4 Local Workforce Shortages and Associated
5 Data Needs (2004)(in particular with re-
6 spect to chapter 7 and appendix F).

7 (v) The 2001 Report to CMS from
8 the School of Rural Public Health, Texas
9 A&M University, Preventing Abuse and
10 Neglect in Nursing Homes: The Role of
11 Nurse Aide Registries.

12 (vi) Information included in State
13 nurse aide registries developed and main-
14 tained under sections 1819(e)(2) and
15 1919(e)(2) of the Social Security Act (42
16 U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)).

17 (D) REPORT.—Not later than 18 months
18 after the date of enactment of this Act, the Sec-
19 retary shall submit a report to the Elder Jus-
20 tice Coordinating Council, the Committee on
21 Finance of the Senate, and the Committee on
22 Ways and Means and the Committee on Energy
23 and Commerce of the House of Representatives
24 containing the findings and recommendations of
25 the study conducted under this paragraph.

1 (E) FUNDING LIMITATION.—Funding for
2 the study conducted under this subsection shall
3 not exceed \$500,000.

4 (3) CONGRESSIONAL ACTION.—After receiving
5 the report submitted by the Secretary under para-
6 graph (2)(D), the Committee on Finance of the Sen-
7 ate and the Committee on Ways and Means and the
8 Committee on Energy and Commerce of the House
9 of Representatives shall, as they deem appropriate,
10 take action based on the recommendations contained
11 in the report.

12 (4) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated such sums
14 as are necessary for the purpose of carrying out this
15 subsection.

16 (d) CONFORMING AMENDMENTS.—

17 (1) TITLE XX.—Title XX of the Social Security
18 Act (42 U.S.C. 1397 et seq.), as amended by section
19 5(a), is amended—

20 (A) in the heading of section 2001, by
21 striking “TITLE” and inserting “SUBTITLE”;
22 and

23 (B) in subtitle 1, by striking “this title”
24 each place it appears and inserting “this sub-
25 title”.

1 (2) TITLE IV.—Title IV of the Social Security
2 Act (42 U.S.C. 601 et seq.) is amended—

3 (A) in section 404(d)—

4 (i) in paragraphs (1)(A), (2)(A), and
5 (3)(B), by inserting “subtitle 1 of” before
6 “title XX” each place it appears;

7 (ii) in the heading of paragraph (2),
8 by inserting “SUBTITLE 1 OF” before
9 “TITLE XX”; and

10 (iii) in the heading of paragraph
11 (3)(B), by inserting “SUBTITLE 1 OF” be-
12 fore “TITLE XX”; and

13 (B) in sections 422(b), 471(a)(4),
14 472(h)(1), and 473(b)(2), by inserting “subtitle
15 1 of” before “title XX” each place it appears.

16 (3) TITLE XI.—Title XI of the Social Security
17 Act (42 U.S.C. 1301 et seq.) is amended—

18 (A) in section 1128(h)(3)—

19 (i) by inserting “subtitle 1 of” before
20 “title XX”; and

21 (ii) by striking “such title” and in-
22 serting “such subtitle”; and

23 (B) in section 1128A(i)(1), by inserting
24 “subtitle 1 of” before “title XX”.