

Grassley-Blumenthal-Cornyn-Klobuchar-Rubio-Bennet-Feinstein-Tillis
“Elder Abuse Prevention and Response Act of 2016”
Section-by-Section Summary
Reflecting Judiciary Committee Substitute Amendment ALB16846
Filed September 13, 2016

Section 1. Short Title: Table of Contents. Cites the short title of the Act as the “Elder Abuse Prevention and Prosecution Act.” Provides the table of contents for the Act.

Sec. 2. Definitions. Defines certain terms used in the legislation (including “abuse,” “adult protective services,” “elder,” elder justice,” “exploitation,” “law enforcement,” and “neglect”) by reference to section 2011 of the Social Security Act (42 U.S.C. 1397j). Provides additional definitions of terms “elder abuse” and ~~used in the bill, including “adult protective services,” “elder,” “elder abuse,” and~~ “State.” *[Note: edited to ensure consistency in definitional terms.]*

TITLE I—Supporting Federal Cases Involving Elder Justice

Sec. 101. Supporting Federal Cases Involving Elder Justice. Requires the designation of at least one Assistant United States Attorney to serve as the Elder Justice Coordinator in every judicial district who will serve as the legal counsel for the district on elder abuse, prosecute (or assist with) elder abuse cases, conduct public outreach, and ensure the collection of the statistical data on elder abuse that’s required under section 202 of this Act.

Requires the Attorney General, in consultation with the FBI, to implement a comprehensive training program for FBI agents on the investigation and prosecution of elder abuse (including specialized communication strategies and relevant forensic training).

Requires the Attorney General through the Executive Office for U.S. Attorneys (“EOUSA”), to operate an elder abuse resource group that facilitates information sharing among prosecutors.

Requires the Attorney General, in consultation with the EOUSA Director, to establish an advisory working group or subcommittee of U.S. Attorneys (within 60 days after the bill’s enactment) for the purpose of providing advice on the U.S. Department of Justice (DOJ) elder abuse policies.

Requires the Attorney General to designate (within 60 days after this bill’s enactment), an Elder Justice Coordinator within DOJ, and specifies the Coordinator’s duties.

Requires the chairman of the Federal Trade Commission (“FTC”) to designate (within 60 days after this bill’s enactment), an Elder Justice Coordinator within the FTC’s Bureau of Consumer Protection, and specifies the Coordinator’s duties.

Requires the chairman of the FTC and the Attorney General to annually report to Congress on enforcement actions by FTC and DOJ, respectively, in which an elder abuse victim was identified.

Clarifies that no additional appropriations are authorized for the implementation of this section.

TITLE II—Improved Data Collection and Federal Coordination

Sec. 201. Establishment of Best Practices for Local, State, and Federal Data Collection. Requires the Attorney General, in consultation with Federal, State, and local law enforcement agencies, to establish best practices for the collection of data focused on elder abuse. Requires that best practices be posted online within a year after enactment. Also calls for the Attorney General to provide technical assistance to state, local, and tribal governments in adopting the best practices.

Sec. 202. Effective Interagency Coordination and Federal Data Collection. Requires the Attorney General, in consultation with the Secretary of Health and Human Services (HHS), to annually collect statistical data on elder abuse enforcement actions initiated by Federal law enforcement agencies, **other agencies as appropriate**, and federal prosecutors. Specifies the type of data to be collected (e.g., number of investigations initiated and prosecuted by law enforcement agencies, **other agencies as appropriate**, and federal prosecutors, types of elder abuse scams perpetrated, case outcomes). Also requires the HHS Secretary to annually provide statistical data to the Attorney General on elder abuse cases investigated by adult protective services agencies. Requires that a summary of such data be posted in a publicly accessible manner on DOJ’s website. Further requires that the Attorney General develop and post on the DOJ website recommendations for collecting additional elder abuse data, including improved data reporting by Federal, State, and local agencies. Prohibits the reporting of any data that would reveal the identities of individuals.

TITLE III—Enhanced Victim Assistance to Elder Abuse Survivors

Sec. 301. Sense of the Senate. Expresses the sense of the Senate concerning the problems posed by elder abuse and exploitation as well as the importance of supporting the victims of these crimes and developing a multi-pronged approach to elder abuse and exploitation. *[Note technical correction to (b)(2): struck “seniors” and substituted “older adults.”]*

Sec. 302. Report. Calls for DOJ’s Office for Victims of Crime to report to Congress, **within one year after the collection of statistical data in Sec. 202 begins and annually thereafter, -of enactment**, on the nature, extent, and amount of victims’ compensation and victims’ assistance received by victims of crime who are aged 60 years or older, under the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.).

TITLE IV—Robert Matava Elder Abuse Prosecution Act of 2016

Sec. 401. Short Title. Cites the short title as the “Robert Matava Elder Abuse Prosecution Act of 2016.”

Sec. 402. Enhanced Penalty for Telemarketing and Email Marketing Fraud Directed At Elders. Amends the Federal criminal code to add new definition of “telemarketing or email marketing” and prohibit such conduct under the telemarketing fraud statute. Also makes it mandatory for a Federal court, in sentencing criminals under 18 U.S.C. § 2326,^[1] to order the forfeiture of property, equipment, software, or other

^[1] This statute, 18 U.S.C. § 2326, provides: “A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or a conspiracy to commit such an offense, in connection with the conduct of telemarketing—(1) shall be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and (2) in the case of an offense under any of those sections that—(A) victimized ten or more persons over the age of 55; or (B) targeted persons over the age of 55, shall be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.”

technology that was used (or intended to be used) in perpetrating a financial exploitation scheme against individuals over the age of 55. *[Note: technical correction to ensure all intended conduct is covered.]*

Sec. 403. Training and Technical Assistance for States. Requires the Attorney General, in consultation with the HHS Secretary, and in coordination with the Elder Justice Coordinating Council, to disseminate information and provide training and technical assistance to states and local governments on the investigation, prosecution, prevention, and mitigation of various forms of elder abuse and neglect.

Sec. 404. Interstate Initiatives. Provides congressional consent for the formation of interstate compacts or cooperative agreements by two or more states (acting through adult protective services agencies) that will promote elder safety and wellbeing as well as the enforcement of such laws. Requires the State Justice Institute (in consultation with state and local **adult protective services**, aging, social and human services and law enforcement agencies as well as certain nonprofits) as well as the HHS Secretary to submit proposed legislation to Congress that will facilitate such interstate agreements or compacts.

TITLE IV—Miscellaneous

Sec. 501. Court-Appointed Guardianship Oversight Activities Under the Elder Justice Act of 2009. Amends title XX (Block Grants to States for Social Services and Elder Justice) of the Social Security Act to direct the HHS Secretary award grants to the highest court of each state for demonstration programs that: (1) assess adult guardianship and conservatorship proceedings, including the appointment and the monitoring of the performance of court-appointed guardians and conservators; and (2) implement changes deemed necessary as a result of the assessments, such as requiring background checks for all potential guardians and conservators, and establishing systems that enable electronic filing and review of the annual accountings and other required conservatorship and guardianship filings. Directs the HHS Secretary to consider the recommendations of the Attorney General and State Justice Institute in awarding such grants. Requires the highest court of a state awarded such a grant to collaborate with the state's own Unit on Aging and its Adult Protective Services agency in conducting the demonstration program. *[Note: incorporates text of “Court-Appointed Guardian Accountability and Senior Protection Act” (S. 1614), with one minor change: S. 1614 would require the HHS Secretary to base any grant decisions on the recommendations of the AG and SJI, while ALB16846 requires that the HHS Secretary shall consider such recommendations in awarding grants.]*

Sec. 502. GAO Reports. Requires GAO to provide recommendations to Congress (within 18 months of enactment) on programs and initiatives in the Federal criminal justice system relevant to elder abuse. Also requires GAO report to Congress (within 18 months of enactment) on the extent to which older adults of the United States are being exploited in international criminal enterprises as well as the extent to which their exploitation has resulted in these older adults' incarceration in other countries.

Sec. 503. Outreach to State and Local Law Enforcement Agencies. Requires the Attorney General to report to Congress on DOJ's efforts to conduct outreach to state and local law enforcement agencies on the process for collaborating with the Federal government for the purpose of investigating and prosecuting interstate and international elder financial exploitation cases. *[Note: based on recommendation in 2012 GAO report, GAO-13-110, entitled “Elder Justice”]*

Sec. 504. Model Power of Attorney Legislation. Requires the Attorney General to publish model power of attorney legislation for the purpose of preventing elder abuse. *[Note: based on recommendation in 2012 GAO report, GAO-13-110, entitled “Elder Justice”]*

Sec. 505. Best Practices and Model Legislation for Guardianship Proceedings. Requires the Attorney General to publish best practices for improving guardianship proceedings and model legislation relating to guardianship proceedings for the purpose of preventing elder abuse.