

COMPARISON OF ELDER JUSTICE PROVISIONS IN OLDER AMERICANS ACT DRAFT BILLS

SENATE S. 3570 (HELP Committee passed)

HOUSE SUBSTITUTE TO H.R. 5293 (as reported to)

Administration

Establishes an Office of Elder Abuse Prevention and Services within the Administration on Aging

Establishes an Assistant Secretary to the head of the Office of Elder Abuse Prevention and Services, and establishes the Assistant Secretary's duty to develop objectives, priorities, policy, and a long-term plan for:

- Elder abuse prevention, detection, treatment, intervention, and response
- Training individuals to carry out the above activities
- Improving the elder justice system in the United States
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The Assistant Secretary is also responsible for:

- Annually collecting, maintaining, and disseminating data related to the abuse, neglect, and exploitation of elders
- Disseminating information concerning best practices regarding activities related to abuse, neglect, and exploitation of elders
- Conducting research related to elder abuse, neglect, and exploitation
- Providing technical assistance to states or other entities that provide or fund the provision of services described in subtitle B of Title VII
- Carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation

Administration

The Assistant Secretary may designate within the Administration responsibility for elder abuse prevention and services.

It shall be the duty of the assistant secretary, acting through the person designated with responsibility for elder abuse prevention and services, to develop objectives, priorities, policy, and a long-term plan for carrying out elder justice programs and activities relating to—

- elder abuse prevention, detection, treatment, and intervention, and response;
- training of individuals regarding the matters described in clause (i); and (iii) the improvement of the elder justice system in the United States;
- collecting and disseminating data relating to the abuse, neglect, and exploitation of older individuals;
- disseminating information concerning best practices regarding, and providing training on, carrying out activities related to abuse, neglect, and exploitation of older individuals;
- conducting research related to abuse, neglect, and exploitation of older individuals;
- providing technical assistance to States and other eligible entities under title VII;
- assisting States and other eligible entities under title VII to develop strategic plans to better coordinate elder justice activities, research, and training; and

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- promoting collaborative efforts and diminishing duplicative efforts in the development and carrying out of elder justice programs at the Federal, State, and local levels.'

Elder Abuse Prevention and Programs:

Includes states activities providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals as eligible for section 702 funding allotments

Creates a new section that outlines the purpose of elder justice programs in order that they:

- Assist states and Indian tribes in developing a comprehensive, multidisciplinary approach to elder justice
- Promote research and data collection to increase knowledge of elder abuse, neglect, and exploitation
- Support innovative and effective activities of providers and programs that address issues of elder justice
- Assist states and Indian tribes in the development of short and long-term strategic plans for the coordination of elder justice research, programs, training, and other efforts

Authorizes the Assistant Secretary to award grants to states and Indian tribes to strengthen long-term care and provide assistance for elder

Includes states activities providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals as eligible for section 702 funding allotments

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justice programs. States or Indian tribes may use grants to award grants to eligible entities for:

- Prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation
- Examination of various types of elder shelters (or “safe havens”) and models for their establishment
- The establishment or continuation of volunteer programs related to elder justice
- Support for multidisciplinary elder justice activities such as studying team approaches to elder justice, establishing a state or Tribal coordinating council, providing training and other support to groups carrying out multidisciplinary efforts, and studying models of elder fatality and serious injury in order to make broad recommendations
- Training of individuals within a discipline or cross-training
- Addressing underserved populations of elders such as minorities, low-income, and those that live in rural areas
- The provision of incentives for individuals to train for, seek, and maintain employment providing direct care in long-term care facilities
- The establishment of eligible partnerships
- The establishment of multidisciplinary panels to develop best practices for improving the quality of long-term care and addressing abuse in long-term care

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Definitions:

Defines “exploitation” 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 older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets”

Defines “neglect” as:

“(i) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual or
 (2) self-neglect, which is defined as “an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

- Obtaining essential food, clothing, shelter, and medical care
- Obtaining goods and services necessary to maintain physical health, mental health, or general safety, or
- Managing one’s own financial affairs

Defines “elder justice” as:

“(A)efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to 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.

Defines “exploitation” as:

“the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.”

Defines “neglect” as:

“the failure of a caregiver or fiduciary to provide goods or services that are necessary to maintain the health or safety of an elder; or self neglect.”

Defines “elder justice” as:

“efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect elders with diminished capacity while maximizing their autonomy.”

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