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108TH CONGRESS
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S. 333

To promote elder justice, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2003

Mr. BREAU (for himself, Mr. HATCH, Mr. BAUCUS, Mr. BOND, Mr. BURNS, Ms. COLLINS, Mr. HARKIN, Mr. KOHL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SMITH, Mr. JEFFORDS, Mr. MILLER, Ms. STABENOW, Mr. FITZGERALD, Mr. DURBIN, Mr. BINGAMAN, Mr. DOMENICI, Mr. SCHUMER, Mr. BUNNING, Mr. HOLLINGS, Mrs. CLINTON, Ms. MIKULSKI, Mr. CHAMBLISS, Mr. VOINOVICH, Mr. PRYOR, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mrs. BOXER, Mr. DAYTON, Mr. SPECTER, Mr. CORZINE, Mr. SARBANES, Mr. REED, Mr. LAUTENBERG, Mr. CRAIG, Mr. DEWINE, Mr. WARNER, Mr. BAYH, Ms. SNOWE, Mr. WYDEN, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Finance

SEPTEMBER 28, 2004

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To promote elder justice, 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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Elder Justice Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 101. Amendment to the social security act.

Sec. 102. Patient abuse prevention.

Sec. 103. Increasing the number of health care professionals with geriatric
training.

Sec. 104. Supporting the long-term care ombudsman program.

Sec. 105. Establishment of office of adult protective services.

Sec. 106. Assuring safety of residents when nursing facilities close.

TITLE II—DEPARTMENT OF JUSTICE

Sec. 201. Definitions; rule.

Sec. 202. Model State laws and practices.

Sec. 203. Office of elder justice of the department of justice.

Sec. 204. Grants under the social security act.

Sec. 205. Victim advocacy grants.

Sec. 206. Supporting local prosecutors in elder justice matters.

Sec. 207. Supporting State prosecutors in elder justice matters.

Sec. 208. Supporting Federal cases involving elder justice.

Sec. 209. Community policing.

Sec. 210. Supporting law enforcement in elder justice matters.

Sec. 211. Evaluations.

Sec. 212. Authorization of appropriations.

Sec. 213. Cause of action for elder abuse and neglect.

Sec. 214. Civil actions for elder abuse and neglect.

TITLE III—TAX PROVISIONS

Sec. 301. Long-term care facility worker employment tax credit.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The proportion of the United States popu-
9 lation age 60 years or older will drastically increase

1 in the next 30 years as 77,000,000 baby boomers
2 approach retirement and old age.

3 (2) Each year, anywhere between 500,000 and
4 5,000,000 elders in the United States are abused,
5 neglected, or exploited.

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

9 (4) Victims of elder abuse, neglect, and exploi-
10 tation are not only subject to injury from mistreat-
11 ment and neglect, they are also 3.1 times more likely
12 to die at an earlier age than expected than elders
13 who were not victims of elder abuse, neglect, and ex-
14 ploitation.

15 (5) There is a dearth of data as to the
16 nature and scope of elder abuse, neglect, and exploi-
17 tation.

18 (6) Despite the dearth of data in the field, ex-
19 perts agree that most cases of elder abuse, neglect,
20 and exploitation are never reported and that abuse
21 and neglect shorten a victim's life, often triggering
22 a downward spiral of an otherwise productive, self-
23 sufficient elder's life. Programs addressing other dif-
24 ficult issues such as domestic violence and child
25 abuse and neglect have demonstrated the need for a

1 multi-faceted law, combining public health, social
2 service, and law enforcement approaches.

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

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

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

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

21 (11) The Federal Government has played an
22 important role in promoting research, training, pub-
23 lic safety, data collection, the identification, develop-
24 ment, and dissemination of promising health care,
25 social, and protective services, and law enforcement

1 practices, relating to child abuse and neglect, domes-
2 tic violence, and violence against women. The Fed-
3 eral Government should promote similar efforts and
4 protections relating to elder abuse, neglect, and ex-
5 ploitation.

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

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

12 (B) generating and sharing knowledge rel-
13 evant to protecting elders;

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

17 (D) providing resources to States and com-
18 munities to promote elder justice.

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

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

24 (B) emphasizes the need for prevention, re-
25 porting, investigation, assessment, treatment,

1 and prosecution of elder abuse, neglect, and ex-
2 ploitation at all levels of government;

3 (C) ensures that sufficient numbers of
4 properly trained personnel with specialized
5 knowledge are in place to treat, assess, and pro-
6 vide services relating to elder abuse, neglect,
7 and exploitation; and carry out elder and vul-
8 nerable adult protection duties;

9 (D) is sensitive to ethnic and cultural di-
10 versity;

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

16 (F) balances adults' right to self-deter-
17 mination with society's responsibility to protect
18 elders and vulnerable adults.

19 (14) The human, social, and economic cost of
20 elder abuse, neglect, and exploitation is high and in-
21 cludes unnecessary expenditures of medicare and
22 medicaid funds.

23 (15) The failure to coordinate activities relating
24 to, and comprehensively prevent and treat, elder
25 abuse, neglect, and exploitation threatens the future

1 and well-being of millions of elders in the United
2 States.

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

7 **SEC. 3. PURPOSES.**

8 The purposes of this Act are as follows:

9 (1) To bring a comprehensive approach to pre-
10 venting and combating elder abuse, neglect, and ex-
11 ploitation, a long invisible problem that afflicts the
12 most vulnerable among the aging population of the
13 United States.

14 (2) To raise the issue of elder abuse, neglect,
15 and exploitation to national attention, and to create
16 the infrastructure at the Federal, State, and local
17 levels, to assure that individuals and organizations
18 on the front lines, who are fighting elder abuse, ne-
19 glect, and exploitation with scarce resources and
20 fragmented systems, have the resources and infor-
21 mation needed to carry out their fight.

22 (3) To bring a comprehensive multi-disciplinary
23 approach to elder justice.

1 (4) To set in motion research and data collec-
2 tion to fill gaps in knowledge about elder abuse, ne-
3 glect, and exploitation.

4 (5) To supplement the activities of service pro-
5 viders and programs, to enhance training, and to le-
6 verage scarce resources efficiently to ensure that
7 elder justice receives the attention it deserves as the
8 Nation's population ages.

9 (6) To examine the many different laws and
10 practices relating to elder justice in different States
11 and jurisdictions to ascertain which among those
12 laws and practices are the most effective.

13 (7) To promote the development of an effective
14 adult fiduciary system, including an adult guardian-
15 ship system, that protects individuals with dimin-
16 ished capacity, maximizes their autonomy, and devel-
17 ops effective resources and an elder rights system.

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

23 (9) To create a short- and long-term strategic
24 plan for the development and coordination of elder

1 justice research, programs, studies, training, and
 2 other efforts nationwide.

3 (10) To promote collaborative efforts and di-
 4 minish overlap and gaps in efforts in developing the
 5 important field of elder justice.

6 **TITLE I—DEPARTMENT OF**
 7 **HEALTH AND HUMAN SERVICES**

8 **SEC. 101. AMENDMENT TO THE SOCIAL SECURITY ACT.**

9 The Social Security Act (42 U.S.C. 301 et seq.) is
 10 amended by adding at the end the following:

11 **“TITLE XXII—ELDER JUSTICE**

12 **“SEC. 2201. DEFINITIONS; RULE.**

13 “(a) DEFINITIONS.—In this title:

14 “(1) ABUSE.—The term ‘abuse’ means the
 15 knowing infliction of physical or psychological harm
 16 or the knowing deprivation of goods or services that
 17 are necessary to meet essential needs or to avoid
 18 physical or psychological harm.

19 “(2) ADULT PROTECTIVE SERVICES.—The term
 20 ‘adult protective services’ means those services pro-
 21 vided to elders and to people age 18 and older with
 22 disabilities who are, or who are in danger of being,
 23 abused, neglected, or exploited, who are unable to
 24 protect themselves, or who have no one to assist
 25 them adequately. The term includes services such as

1 disseminating reports of adult abuse, neglect or ex-
 2 ploitation, investigating those reports, case planning,
 3 monitoring, evaluation, providing other case work
 4 and services, and providing, arranging for, or facili-
 5 tating the provision of medical, social service, eco-
 6 nomic, legal, housing, law enforcement, or other pro-
 7 tective, emergency, or support services.

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

17 “(4) DIRECT CARE.—The term ‘direct care’
 18 means care by an employee or contractor who pro-
 19 vides assistance or long-term care services to a re-
 20 cipient.

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

23 “(6) ELDER JUSTICE.—The term ‘elder justice’
 24 means—

1 “(A) from a societal perspective, efforts to
2 prevent, detect, treat, intervene in, and pros-
3 ecute elder abuse, neglect, and exploitation and
4 to protect elders with diminished capacity while
5 maximizing their autonomy; and

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

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

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

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

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

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

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

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

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

14 “(11) GRANTING AUTHORITY.—The term
15 ‘granting authority’ means the Secretary of Health
16 and Human Services, the Attorney General, or the
17 Secretary of Health and Human Services and the
18 Attorney General jointly, as appropriate.

19 “(12) GUARDIANSHIP.—The term ‘guardian-
20 ship’ means—

21 “(A) the process by which a State court
22 determines that an adult individual lacks capac-
23 ity to make decisions about self-care and prop-
24 erty, and appoints another individual or entity

1 known as a guardian, as a conservator, or by a
2 similar term, as surrogate decisionmaker;

3 “(B) the manner in which the court-ap-
4 pointed surrogate carries out duties to the indi-
5 vidual and the court; or

6 “(C) the manner in which the court exer-
7 cises oversight of the surrogate.

8 “(13) INDIAN.—The term ‘Indian’ means a per-
9 son who is a member of an Indian tribe.

10 “(14) INDIAN TRIBE.—The term ‘Indian tribe’
11 means any Indian tribe, band, nation, or other orga-
12 nized group or community, including any Alaska Na-
13 tive village or regional corporation as defined in or
14 established pursuant to the Alaska Native Claims
15 Settlement Act (43 U.S.C. 1601 et seq.), that is rec-
16 ognized as eligible for the special programs and serv-
17 ices provided by the United States to Indians be-
18 cause of their status as Indians.

19 “(15) KNOWINGLY.—The term ‘knowingly’ has
20 the meaning given such term in section 3729(b) of
21 title 31, United States Code.

22 “(16) LAW ENFORCEMENT.—The term ‘law en-
23 forcement’ means the full range of potential re-
24 sponders to elder abuse, neglect, and exploitation in-
25 cluding—

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

3 “(B) prosecutors;

4 “(C) medical examiners;

5 “(D) investigators; and

6 “(E) coroners.

7 “(17) LONG-TERM CARE.—

8 “(A) IN GENERAL.—The term ‘long-term
9 care’ means a wide range of supportive and
10 health services for individuals who need assist-
11 ance because the individuals have a loss of ca-
12 pacity for self-care due to illness, disability, or
13 vulnerability.

14 “(B) NEED FOR ASSISTANCE.—For pur-
15 poses of subparagraph (A), a need for assist-
16 ance is often measured in terms of the capa-
17 bility to engage in activities of daily living, in-
18 cluding eating, dressing, bathing, and manage-
19 ment of one’s financial affairs.

20 “(18) LONG-TERM CARE FACILITY.—The term
21 ‘long-term care facility’ means a residential care pro-
22 vider that arranges for, or directly provides, long-
23 term care.

24 “(19) NEGLECT.—The term ‘neglect’ means—

1 “(A) the failure of a caregiver or fiduciary
2 to provide the goods or services that are nec-
3 essary to maintain the health or safety of an
4 elder; or

5 “(B) self-neglect.

6 “(20) NURSING FACILITY.—The term ‘nursing
7 facility’ has the meaning given such term under sec-
8 tion 1919(a).

9 “(21) SELF-NEGLECT.—The term ‘self-neglect’
10 means an adult’s inability, due to physical or mental
11 impairment or diminished capacity, to perform es-
12 sential self-care tasks including—

13 (A) obtaining essential food, clothing, shel-
14 ter, and medical care;

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

18 (C) managing one’s own financial affairs.

19 “(22) SERIOUS BODILY INJURY.—

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

22 “(i) involving extreme physical pain;

23 “(ii) involving substantial risk of
24 death;

1 ~~“(iii) involving protracted loss or im-~~
 2 ~~pairment of the function of a bodily mem-~~
 3 ~~ber, organ, or mental faculty; or~~

4 ~~“(iv) requiring medical intervention~~
 5 ~~such as surgery, hospitalization, or phys-~~
 6 ~~ical rehabilitation.~~

7 ~~“(B) CRIMINAL SEXUAL ABUSE.—Serious~~
 8 ~~bodily injury shall be considered to have oc-~~
 9 ~~curred if the conduct causing the injury is con-~~
 10 ~~duct constituting aggravated sexual abuse~~
 11 ~~under section 2241, or sexual abuse under sec-~~
 12 ~~tion 2242, of title 18, United States Code, or~~
 13 ~~any similar offense under State law.~~

14 ~~“(23) SOCIAL.—The term ‘social’, when used~~
 15 ~~with respect to a service, includes adult protective~~
 16 ~~services.~~

17 ~~“(24) STATE.—The term ‘State’ means any of~~
 18 ~~the several States, the District of Columbia, the~~
 19 ~~Commonwealth of Puerto Rico, and any other pos-~~
 20 ~~session or territory of the United States.~~

21 ~~“(25) STATE LONG-TERM CARE OMBUDSMAN.—~~
 22 ~~The term ‘State Long-Term Care Ombudsman’~~
 23 ~~means the State Long-Term Care Ombudsman de-~~
 24 ~~scribed in section 712(a)(2) of the Older Americans~~
 25 ~~Act of 1965 (42 U.S.C. 3058g(a)(2)).~~

1 “(26) **UNDERSERVED POPULATION.**—The term
 2 ‘underserved population’ means the population of an
 3 area designated by the Secretary as an area with a
 4 shortage of elder justice programs or a population
 5 group designated by the Secretary as having a short-
 6 age of such programs. Such areas or groups des-
 7 ignated by the Secretary may include—

8 “(A) areas or groups that are geographi-
 9 cally isolated (such as isolated in a rural area);

10 “(B) racial and ethnic minority popu-
 11 lations; and

12 “(C) populations underserved because of
 13 special needs (such as language barriers, dis-
 14 abilities, alien status, or age).

15 “(27) **VULNERABLE ADULT.**—The term ‘vulner-
 16 able adult’ means an adult, age 18 or older, who
 17 needs protections and programs that are the same
 18 as or similar to protections and programs for elders,
 19 including an adult who, due to a developmental, cog-
 20 nitive, psychological, physical, or other type of dis-
 21 ability, may be abused, neglected, or exploited.

22 “(b) **RULE.**—The Secretary may determine, in an ap-
 23 propriate case, that a provision of this title that applies
 24 to elders also applies to vulnerable adults.

1 **“Subtitle A—Federal Elder Justice**
 2 **System**

3 **“SEC. 2211. OFFICE OF ELDER JUSTICE OF THE DEPART-**
 4 **MENT OF HEALTH AND HUMAN SERVICES.**

5 “(a) **ESTABLISHMENT.**—There is established within
 6 the Department of Health and Human Services under the
 7 Assistant Secretary for Aging an Office of Elder Justice.

8 “(b) **DIRECTOR.**—

9 “(1) **APPOINTMENT.**—The President, with the
 10 advice and consent of the Senate, shall appoint a Di-
 11 rector of the Office of Elder Justice, from among in-
 12 dividuals with experience and expertise in elder jus-
 13 tice issues, to manage the Office of Elder Justice es-
 14 tablished under this section.

15 “(2) **DUTIES.**—The Director of the Office of
 16 Elder Justice shall—

17 “(A)(i) develop objectives, priorities, policy,
 18 and a long-term plan for elder justice programs
 19 and activities relating to prevention, detection,
 20 training, treatment, evaluation, intervention, re-
 21 search, and improvement of the elder justice
 22 system in the United States;

23 “(ii) implement the overall policy and a
 24 strategy to carry out the plan described in
 25 clause (i); and

1 “(iii) hire personnel to assist the director
2 in carrying out the policy, program, and admin-
3 istrative activities related to the duties under
4 clauses (i) and (ii);

5 “(B) provide advice to the Secretary on
6 elder justice issues; and

7 “(C) coordinate activities with the Senior
8 Advisor on Elder Justice.

9 “(3) REPORTING RELATIONSHIP.—The Director
10 of the Office of Elder Justice shall report to the As-
11 sistant Secretary for Aging.

12 “(4) COMPENSATION.—The Director shall be
13 compensated at a rate that shall not exceed the rate
14 established for level I of the Executive Schedule
15 under section 5312 of title 5, United States Code.

16 “(e) SENIOR ADVISOR.—

17 “(1) APPOINTMENT.—The Secretary shall ap-
18 point a Senior Advisor on Elder Justice, from
19 among individuals with experience and expertise in
20 elder justice issues.

21 “(2) DUTIES.—The Senior Advisor on Elder
22 Justice shall—

23 “(A) coordinate elder justice activities
24 among all relevant divisions, offices, and compo-

1 nents of the Department of Health and Human
2 Services;

3 “(B) serve as the chairperson of the Intra-
4 Agency Elder Justice Steering Committee es-
5 tablished under section 2212; and

6 “(C) provide advice to the Secretary on
7 elder justice issues.

8 “(3) LOCATION.—The Senior Advisor on Elder
9 Justice shall be located in the Office of the Sec-
10 retary.

11 “(4) POSITION.—The position of the Senior Ad-
12 visor on Elder Justice shall be a Senior Executive
13 Service position, as defined in section 3132 of title
14 5, United States Code.

15 **“SEC. 2212. HEALTH AND HUMAN SERVICES INTRA-AGENCY**
16 **ELDER JUSTICE STEERING COMMITTEE.**

17 “(a) IN GENERAL.—There is established within the
18 Department of Health and Human Services an Intra-
19 Agency Elder Justice Steering Committee (in this section
20 referred to as the ‘steering committee’) to coordinate the
21 elder justice programs and policy of the Department of
22 Health and Human Services.

23 “(b) MEMBERSHIP.—The steering committee shall be
24 composed of representatives, appointed by the Secretary,
25 from—

1 “(1) the Administration on Aging;

2 “(2) the National Institute on Aging;

3 “(3) the Centers for Medicare & Medicaid Serv-
4 ices;

5 “(4) the Centers for Disease Control and Pre-
6 vention;

7 “(5) the Agency for Healthcare Research and
8 Quality;

9 “(6) the Administration for Children and Fami-
10 lies, including a representative who works in adult
11 protective services;

12 “(7) the Office of the Assistant Secretary for
13 Planning and Evaluation;

14 “(8) the Health Resources and Services Admin-
15 istration;

16 “(9) the Substance Abuse and Mental Health
17 Services Administration;

18 “(10) the Indian Health Service; and

19 “(11) such other offices or divisions within the
20 Department of Health and Human Services as the
21 Secretary determines appropriate.

22 “(c) DUTIES.—The steering committee shall coordi-
23 nate elder justice matters for the Department of Health
24 and Human Services to enhance programs and collabora-
25 tions and to avoid unnecessary duplication of efforts.

1 ~~“SEC. 2213. ELDER JUSTICE COORDINATING COUNCIL.~~

2 ~~“(a) ESTABLISHMENT.—There is established a com-~~
 3 ~~mittee to be known as the Elder Justice Coordinating~~
 4 ~~Council (in this section referred to as the ‘Council’).~~

5 ~~“(b) MEMBERSHIP.—The Council shall be composed~~
 6 ~~of the following:~~

7 ~~“(1) The Secretary (or the Secretary’s des-~~
 8 ~~ignee).~~

9 ~~“(2) The Attorney General (or the Attorney~~
 10 ~~General’s designee).~~

11 ~~“(3) A representative, appointed by the head of~~
 12 ~~the Federal department or agency, or other entity,~~
 13 ~~involved from—~~

14 ~~“(A) the Department of Housing and~~
 15 ~~Urban Development;~~

16 ~~“(B) the Department of Education;~~

17 ~~“(C) the Department of Labor;~~

18 ~~“(D) the Department of Transportation;~~

19 ~~“(E) the Department of the Treasury;~~

20 ~~“(F) the Office of Management and Budg-~~

21 ~~et;~~

22 ~~“(G) the Office of the Surgeon General;~~

23 ~~“(H) the Social Security Administration;~~

24 ~~“(I) the Food and Drug Administration;~~

25 ~~“(J) the Federal Trade Commission;~~

26 ~~“(K) the Department of Commerce;~~

1 “(L) the Pension Benefit Guaranty Cor-
2 poration;

3 “(M) the Securities and Exchange Com-
4 mission;

5 “(N) the Commodity Futures Trading
6 Commission;

7 “(O) the Board of Governors of the Fed-
8 eral Reserve System;

9 “(P) the Office of the Comptroller of the
10 Currency;

11 “(Q) the Federal Deposit Insurance Cor-
12 poration;

13 “(R) the Federal Bureau of Investigation;

14 “(S) the Centers for Disease Control and
15 Prevention;

16 “(T) the Secret Service;

17 “(U) the National Institute on Aging;

18 “(V) the Internal Revenue Service; and

19 “(W) the United States Postal Service.

20 “(4) A representative appointed by the Board
21 of Directors of the Legal Services Corporation from
22 the Legal Services Corporation.

23 “(5) A representative appointed by the Presi-
24 dent from—

25 “(A) the State Justice Institute;

1 “(B) the National Research Council of the
2 National Academy of Sciences; and

3 “(C) the Institute of Medicine of the Na-
4 tional Academy of Sciences.

5 “(6) Representatives from other Federal agen-
6 cies, appointed by the heads of the Federal agencies
7 with responsibilities or programs relating to elder
8 abuse, neglect, and exploitation as determined ap-
9 propriate by the Secretary and the Attorney Gen-
10 eral.

11 “(7) One representative from each State, rep-
12 resenting State and local governments, appointed by
13 the President from among persons designated by the
14 Governor of such State due to expertise in, and ac-
15 tive work in, the area of elder justice.

16 “(8) The members of the advisory board estab-
17 lished under section 2214.

18 “(e) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
19 bers shall be appointed for terms of 3 years. Any vacancy
20 in the Council shall not affect its powers, but shall be filled
21 in the same manner as the original appointment was
22 made.

23 “(d) CO-CHAIRPERSONS.—The Council shall be co-
24 chaired by the Secretary and the Attorney General (or
25 their designees).

1 “(e) MEETINGS.—

2 “(1) IN GENERAL.—The Council shall meet at
3 least 2 times per year as determined by the co-chair-
4 persons.

5 “(2) ELDER JUSTICE SUMMIT.—

6 “(A) IN GENERAL.—One of the meetings
7 described in paragraph (1) shall be an Elder
8 Justice Summit to review the state of elder jus-
9 tice, including—

10 “(i) a summary presentation directly
11 to the Secretary and the Attorney General
12 regarding—

13 “(I) the nature and dimension of
14 the problems of elder abuse, neglect,
15 and exploitation;

16 “(II) Federal, State, local, and
17 private efforts in elder justice;

18 “(III) challenges to be faced in
19 elder justice;

20 “(IV) promising practices in
21 elder justice; and

22 “(V) plans and priorities for the
23 future in elder justice;

1 “(ii) additional presentations to ad-
2 dress in greater detail those topics de-
3 scribed in clause (i); and

4 “(iii) presentations on such other top-
5 ics as the Council determines appropriate.

6 “(B) PARTICIPANTS.—Additional partici-
7 pants, in addition to the members of the Coun-
8 cil, to be invited to the Elder Justice Summit
9 shall include—

10 “(i) experts in the fields of elder
11 abuse, neglect, and exploitation, selected by
12 the co-chairpersons;

13 “(ii) the chairman and ranking mem-
14 ber of the Special Committee on Aging of
15 the Senate;

16 “(iii) designees of the Speaker of the
17 House of Representatives and the minority
18 leader of the House of Representatives;
19 and

20 “(iv) governmental representatives in-
21 vited jointly by the co-chairpersons, includ-
22 ing—

23 “(I) 1 representative from the
24 Federal Government;

1 “(II) 1 representative from a
2 State government; and

3 “(III) 1 representative from a
4 local government.

5 “(C) ADDITIONAL OBSERVERS.—Addi-
6 tional observers of the Elder Justice Summit
7 may include representatives of Federal, State,
8 and local public and private entities, as well as
9 experts and members of the public designated
10 by the Council to be observers.

11 “(3) OTHER MEETINGS.—In addition to the
12 meeting described in paragraph (2), the Council
13 shall have at least 1 additional meeting per year in
14 order to—

15 “(A) conduct an in-depth analysis of the
16 numerous phenomena that make up elder
17 abuse, neglect, and exploitation;

18 “(B) permit participants to highlight
19 promising practices, exchange information
20 about addressing challenges, and identify needs
21 and priorities; and

22 “(C) determine a procedure for examining
23 and eliciting national elder justice issues and
24 priorities in order to guide the Council.

25 “(f) DUTIES.—

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

8 “(2) REPORT.—Not later than 2 years after the
9 date of enactment of the Elder Justice Act and
10 every 2 years thereafter, the Council shall provide to
11 Congress a report that—

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

14 “(i) the Council; and

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

17 “(B) makes recommendations for legisla-
18 tion, model laws, or other appropriate action.

19 “(g) POWERS OF THE COUNCIL.—

20 “(1) HEARINGS.—The Council may hold such
21 hearings, sit and act at such times and places, take
22 such testimony, and receive such evidence as the
23 Council considers advisable to carry out this section.

24 “(2) INFORMATION FROM FEDERAL AGEN-
25 CIES.—The Council may secure directly from any

1 Federal department or agency such information as
2 the Council considers necessary to carry out this sec-
3 tion. Upon request of the co-chairpersons of the
4 Council, the head of such department or agency
5 shall furnish such information to the Council.

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

10 “(h) TRAVEL EXPENSES.—The members of the
11 Council, and the participants in and observers of the Elder
12 Justice Summit shall not receive compensation for the per-
13 formance of services for the council. The members shall
14 be allowed, and the participants may be allowed, travel
15 expenses, including per diem in lieu of subsistence, at
16 rates authorized for employees of agencies under sub-
17 chapter I of chapter 57 of title 5, United States Code,
18 while away from their homes or regular places of business
19 in the performance of services for the Council. Notwith-
20 standing section 1342 of title 31, United States Code, the
21 Secretary and the Attorney General may accept the vol-
22 untary and uncompensated services of the members and
23 the participants.

24 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
25 Federal Government employee may be detailed to the

1 Council without reimbursement, and such detail shall be
2 without interruption or loss of civil service status or privi-
3 lege.

4 “(j) EFFECTIVE DATE.—Section 14 of the Federal
5 Advisory Committee Act (5 U.S.C. App.) shall not apply
6 to the Council.

7 **“SEC. 2214. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
8 **AND EXPLOITATION.**

9 “(a) ESTABLISHMENT.—There is established a board
10 to be known as the ‘Advisory Board on Elder Abuse, Ne-
11 glect, and Exploitation’ (in this section referred to as the
12 ‘advisory board’) to create a short- and long-term multi-
13 disciplinary strategic plan for the development of the field
14 of elder justice, and to make recommendations to the Sec-
15 retary, the Attorney General, the Elder Justice Coordi-
16 nating Council established under section 2213, and the ap-
17 propriate committees of Congress.

18 “(b) SOLICITATION OF NOMINATIONS.—The Sec-
19 retary and the Attorney General shall jointly publish a no-
20 tice in the Federal Register soliciting nominations for the
21 appointment of members of the advisory board under sub-
22 section (c).

23 “(c) COMPOSITION.—The advisory board shall be
24 composed of members appointed jointly by the Secretary
25 and the Attorney General, from the general public who

1 are individuals with experience and expertise in elder
2 abuse, neglect, and exploitation prevention, intervention,
3 treatment, law enforcement, or research, with due consid-
4 eration to representation of ethnic or racial minorities and
5 diverse geographic areas, including individuals who rep-
6 resent—

7 “(1) social service providers (including State
8 and local agencies with the statutory responsibility
9 for adult protective services);

10 “(2) health care providers (including geriatrics,
11 emergency medicine, and nursing and mental health
12 professionals);

13 “(3) legal professionals (including law enforce-
14 ment and the judiciary);

15 “(4) gerontologists;

16 “(5) psychologists;

17 “(6) State and local government;

18 “(7) organizations providing services to elders
19 and disabled persons;

20 “(8) volunteer groups;

21 “(9) elder rights advocates;

22 “(10) family groups;

23 “(11) experts in adult fiduciary relationships,
24 and those serving as or monitoring fiduciaries, in-
25 cluding guardians; and

1 ~~“(12) individuals in forensics-related positions~~
 2 ~~(including coroners and forensic pathologists).~~

3 ~~“(d) VACANCIES.—Members shall be appointed for~~
 4 ~~terms of 3 years. Any vacancy in the advisory board shall~~
 5 ~~not affect its powers, but shall be filled in the same man-~~
 6 ~~ner as the original appointment was made.~~

7 ~~“(e) ELECTION OF OFFICERS.—The advisory board~~
 8 ~~shall elect a chairperson and vice chairperson from among~~
 9 ~~the members of the advisory board. The advisory board~~
 10 ~~shall elect its initial chairperson and vice chairperson at~~
 11 ~~its initial meeting.~~

12 ~~“(f) DUTIES.—Not later than 18 months after the~~
 13 ~~establishment of the advisory board under subsection (a),~~
 14 ~~and annually thereafter, the advisory board shall prepare~~
 15 ~~and submit to the Secretary, the Attorney General, and~~
 16 ~~the appropriate committees of Congress a report con-~~
 17 ~~taining—~~

18 ~~“(1) information on the status of Federal,~~
 19 ~~State, and local public and private elder justice ac-~~
 20 ~~tivities;~~

21 ~~“(2) recommendations (including recommended~~
 22 ~~priorities) regarding—~~

23 ~~“(A) elder justice programs, research,~~
 24 ~~training, services, practice, enforcement, and~~
 25 ~~coordination;~~

1 “(B) coordination between entities pur-
2 suing elder justice efforts and those involved in
3 related areas that may inform or overlap with
4 elder justice efforts, such as activities to combat
5 violence against women and child abuse and ne-
6 glect; and

7 “(C) activities relating to adult fiduciary
8 systems, including guardianship and other fidu-
9 ciary arrangements;

10 “(3) recommendations for specific modifications
11 needed in Federal and State laws (including regula-
12 tions) or for programs, research, and training to en-
13 hance prevention, detection, diagnosis, treatment,
14 intervention in, investigation, and prosecution of
15 elder abuse, neglect, and exploitation;

16 “(4) recommendations for the most effective co-
17 ordinated national data collection with respect to
18 elder justice, and elder abuse, neglect, and exploi-
19 tation; and

20 “(5) recommendations for a multidisciplinary
21 strategic plan to guide the effective and efficient de-
22 velopment of the elder justice area.

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

24 “(1) HEARINGS.—The advisory board may hold
25 such hearings, sit and act at such times and places,

1 take such testimony, and receive such evidence as
2 the advisory board considers advisable to carry out
3 this section.

4 “(2) INFORMATION FROM FEDERAL AGEN-
5 CIES.—The advisory board may secure directly from
6 any Federal department or agency such information
7 as the advisory board considers necessary to carry
8 out this section. Upon request of the co-chairpersons
9 of the advisory board, the head of such department
10 or agency shall furnish such information to the advi-
11 sory board.

12 “(3) SHARING OF DATA AND REPORTS.—The
13 advisory board may secure from any entity pursuing
14 elder justice activities under the Elder Justice Act or
15 an amendment made by that Act, any data, reports,
16 or recommendations generated in connection with
17 such activities.

18 “(4) POSTAL SERVICES.—The advisory board
19 may use the United States mails in the same man-
20 ner and under the same conditions as other depart-
21 ments and agencies of the Federal Government.

22 “(h) TRAVEL EXPENSES.—The members of the advi-
23 sory board shall not receive compensation for the perform-
24 ance of services for the advisory board, but shall be al-
25 lowed travel expenses, including per diem in lieu of sub-

1 sistence, at rates authorized for employees of agencies
 2 under subchapter I of chapter 57 of title 5, United States
 3 Code, while away from their homes or regular places of
 4 business in the performance of services for the advisory
 5 board. Notwithstanding section 1342 of title 31, United
 6 States Code, the Secretary and the Attorney General may
 7 accept the voluntary and uncompensated services of the
 8 members of the advisory board.

9 “(i) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any
 10 Federal Government employee may be detailed to the advi-
 11 sory board without reimbursement, and such detail shall
 12 be without interruption or loss of civil service status or
 13 privilege.

14 “(j) **EFFECTIVE DATE.**—Section 14 of the Federal
 15 Advisory Committee Act (5 U.S.C. App.) shall not apply
 16 to the advisory board.

17 **“Subtitle B—Activities to Promote**
 18 **Elder Justice**

19 **“SEC. 2221. DATA COLLECTION AND DISSEMINATION.**

20 “(a) **ELDER JUSTICE RESOURCE CENTER.**—

21 “(1) **ESTABLISHMENT.**—The Secretary, after
 22 consultation with the Attorney General, shall estab-
 23 lish within the Office of Elder Justice (established
 24 under this title), an Elder Justice Resource Center
 25 (in this section referred to as the ‘Center’) to be the

1 central repository for information regarding elder
2 abuse, neglect, and exploitation.

3 ~~“(2) DUTIES.—~~The Center shall—

4 ~~“(A) develop the capacity and procedures~~
5 ~~to collect, maintain, and disseminate informa-~~
6 ~~tion relevant to consumers, families, providers,~~
7 ~~clinicians, advocates, regulators, law enforce-~~
8 ~~ment, policymakers, researchers, fiduciaries in-~~
9 ~~cluding guardians, judges, and lawyers, relevant~~
10 ~~to the prevention, detection, assessment, identi-~~
11 ~~fication, and treatment of, intervention in, and~~
12 ~~prosecution of, elder abuse, neglect, and exploi-~~
13 ~~tation;~~

14 ~~“(B) provide, in a user-friendly manner,~~
15 ~~information on—~~

16 ~~“(i) ways to promote autonomy in the~~
17 ~~face of aging or diminishing capacity and~~
18 ~~mobility;~~

19 ~~“(ii) how to avoid becoming a victim~~
20 ~~of elder abuse, neglect, or exploitation; and~~

21 ~~“(iii) advance planning and how to~~
22 ~~avoid the need for a fiduciary;~~

23 ~~“(C) provide links and references to other~~
24 ~~sources of information;~~

1 “(D) compile, analyze, and publish a sum-
2 mary of research conducted on elder abuse, ne-
3 glect, and exploitation and information on how
4 to obtain the original research materials;

5 “(E) solicit public comment and comment
6 from the advisory board established under sec-
7 tion 2214 on the activities of the Center;

8 “(F) establish a toll-free number for infor-
9 mation and referrals;

10 “(G) coordinate activities with resource
11 centers and clearinghouses on elder justice top-
12 ics; and

13 “(H) provide funding to public and private
14 agencies and entities to develop or continue the
15 efforts of specialized elder justice-related clear-
16 inghouses and information repositories, to be
17 linked to the Center, that address topics such
18 as those enumerated in subparagraphs (A) and
19 (B) and that provide effective services.

20 “(3) COORDINATION OF AVAILABLE RE-
21 SOURCES.—In establishing the Center under this
22 subsection the Secretary, after consultation with the
23 Attorney General, shall—

24 “(A) consult with other Federal agencies
25 that operate similar resource centers;

1 “(B) consult with private entities that op-
2 erate resource centers or clearinghouses on
3 elder justice related topics;

4 “(C) consult with the head of each agency
5 participating in the Elder Justice Coordinating
6 Council established under section 2213, as well
7 as other agencies with clearinghouses com-
8 parable to the Center, such as clearinghouses
9 relating to child abuse and neglect, to deter-
10 mine the most efficient and effective manner for
11 collecting, maintaining, and disseminating in-
12 formation on elder abuse, neglect, and exploi-
13 tation; and

14 “(D) solicit public comment on the compo-
15 nents of such Center.

16 “(4) NATIONAL ELDER JUSTICE LIBRARY.—

17 “(A) ESTABLISHMENT.—The Secretary
18 shall establish within the Center, a National
19 Elder Justice Library (in this paragraph re-
20 ferred to as the ‘Library’) to serve as a central-
21 ized repository for all types of appropriate ma-
22 terials concerning training, technical assistance,
23 and promising practices relating to elder justice
24 including—

25 “(i) brochures and pamphlets;

1 “(ii) video and computer-based re-
2 sources;

3 “(iii) books; and

4 “(iv) training materials.

5 “(B) INDEX.—The Library shall create
6 and maintain an up-to-date index of the mate-
7 rials described in subparagraph (A) by title, au-
8 thor, date, subject, and type of material, and a
9 brief description of such materials. Such index
10 shall be available on the Internet as well as in
11 printed form in order to be easily accessible to
12 the general public.

13 “(C) AVAILABILITY.—The materials held
14 by the Library shall be available for copying by
15 individuals and entities nationwide and shall be
16 disseminated at a nominal or no fee. The mate-
17 rials shall be copied and disseminated in ac-
18 cordance with the applicable provisions of title
19 17, United States Code.

20 “(D) DUTIES.—

21 “(i) ADDITIONAL MATERIALS.—The
22 Library shall—

23 “(I) collect data on materials
24 that would be appropriate for such li-
25 brary;

1 “(II) make efforts to identify and
2 obtain appropriate materials; and

3 “(III) identify and obtain mate-
4 rials relating to effective methods of
5 conducting training and providing
6 technical assistance relating to elder
7 justice, including conducting the train-
8 ing and providing the assistance for
9 underserved populations.

10 “(ii) INFORMATION PACKETS.—After
11 evaluating the materials described in this
12 paragraph, the Library shall compile and
13 develop information packets for use by
14 groups in various settings including groups
15 who are underserved or have other special
16 needs. Such information packets shall in-
17 clude information and materials on train-
18 ing, technical assistance, and promising
19 practices targeted at specific topics,
20 groups, and settings.

21 “(b) COLLECTION OF UNIFORM NATIONAL DATA ON
22 ELDER ABUSE, NEGLECT, AND EXPLOITATION.—

23 “(1) PURPOSE.—The purpose of this subsection
24 is to improve, streamline, and promote uniform col-
25 lection, maintenance, and dissemination of national

1 data relating to elder abuse, neglect, and exploi-
2 tation.

3 ~~“(2) PHASE I.—~~

4 ~~“(A) IN GENERAL.—Not later than 1 year~~
5 ~~after the date of enactment of the Elder Justice~~
6 ~~Act, the Director of the Centers for Disease~~
7 ~~Control and Prevention (in this subsection re-~~
8 ~~ferred to as the ‘Director’), after consultation~~
9 ~~with the Attorney General and working with ex-~~
10 ~~perts in relevant disciplines, shall—~~

11 ~~“(i) develop a method for collecting~~
12 ~~national data regarding elder abuse, ne-~~
13 ~~glect, and exploitation; and~~

14 ~~“(ii) develop uniform national data re-~~
15 ~~porting forms adapted to each relevant en-~~
16 ~~tity or discipline (such as health, public~~
17 ~~safety, social and protective services, and~~
18 ~~law) reflecting—~~

19 ~~“(I) the distinct manner in which~~
20 ~~each discipline receives and maintains~~
21 ~~information; and~~

22 ~~“(II) the sequence and history of~~
23 ~~reports to or involvement of different~~
24 ~~disciplines, independently, or the se-~~

1 quence and history of reports from
2 one discipline to another over time.

3 “(B) FORMS.—The national data reporting
4 forms described in subparagraph (A)(ii) shall
5 incorporate the definitions of this title, for use
6 in determining what is considered a reportable
7 event.

8 “(3) PHASE II.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the completion of the activities described
11 in paragraph (2), the Director shall ensure that
12 the national data reporting forms and data col-
13 lection methods developed in accordance with
14 such paragraph are pilot tested in 6 States de-
15 termined by the Director.

16 “(B) ADJUSTMENTS TO THE FORM AND
17 METHODS.—The Director, after considering the
18 results of the pilot testing described in subpara-
19 graph (A), and after consultation with the At-
20 torney General and relevant experts shall adjust
21 the national data reporting forms and data col-
22 lection methods as necessary.

23 “(4) PHASE III.—

24 “(A) DISTRIBUTION OF NATIONAL DATA
25 REPORTING FORMS.—After completion of the

1 adjustment to the national data reporting forms
2 under paragraph (3)(B), the Director shall sub-
3 mit the national data reporting forms along
4 with instructions to—

5 “(i) the heads of the relevant compo-
6 nents of the Department of Health and
7 Human Services, the Department of Jus-
8 tice, and the Department of the Treasury,
9 and such other Federal entities as may be
10 appropriate; and

11 “(ii) the Governor’s office of each
12 State for collection from all relevant State
13 entities of data, including health care, so-
14 cial services, and law enforcement data.

15 “(B) DATA COLLECTION GRANTS.—

16 “(i) AUTHORIZATION.—The Director
17 is authorized to award grants to States to
18 improve data collection activities relating
19 to elder abuse, neglect, and exploitation.

20 “(ii) AMOUNT.—The amount of funds
21 provided under each grant awarded to a
22 State under this subsection shall not ex-
23 ceed \$200,000, to be distributed in accord-
24 ance with clause (v).

1 “(iii) APPLICATION.—Each State de-
2 siring a grant under this subparagraph
3 shall submit to the Director an application
4 at such time, in such manner, and con-
5 taining such information as the Director
6 may require.

7 “(iv) REQUIREMENTS.—Each State
8 receiving a grant under this subparagraph
9 for a fiscal year is required to report data
10 for the calendar year that begins during
11 that fiscal year, using the national data re-
12 porting forms described in subparagraph
13 (A).

14 “(v) FUNDING.—

15 “(I) FIRST YEAR.—For the first
16 fiscal year in which a State receives
17 grant funds under this subsection the
18 Director shall initially distribute 50
19 percent of such funds. The Director
20 shall distribute the remaining funds at
21 the end of the calendar year that be-
22 gins during that fiscal year, if the Di-
23 rector determines that the State has
24 properly reported data required under
25 this subsection for the calendar year.

1 “(H) SUBSEQUENT YEARS.—Ex-
2 cept as provided in subclause (I), the
3 Director shall distribute grant funds
4 to a State under this subsection for a
5 fiscal year if the Director determines
6 that the State properly reported data
7 required under this subsection for the
8 calendar year that ends during that
9 fiscal year.

10 “(C) REQUIRED INFORMATION.—Each re-
11 port submitted under this paragraph shall re-
12 ceive an identifier beginning with a 2-letter
13 State code, and a 2-letter year code, and such
14 numbers as the Director determines to be ap-
15 propriate. Each individual report shall be as-
16 signed a new identifier, even if a victim de-
17 scribed in the report is reported to have been
18 victimized more than once. If the State submits
19 a report for more than one discipline, the State
20 shall submit a combined report to avoid double
21 counting. The State shall note in each report
22 whether an event was ongoing or occurred in
23 distinct separate episodes.

24 “(5) REPORT.—Not later than 1 year after the
25 date of enactment of the Elder Justice Act and an-

1 nually thereafter, the Director shall prepare and
 2 submit to the appropriate committees of Congress,
 3 including to the Special Committee on Aging of the
 4 Senate, a report regarding activities conducted
 5 under this subsection.

6 “(6) REGULATIONS.—The Secretary shall pro-
 7 mulgate such regulations as are necessary to carry
 8 out this subsection.

9 **“SEC. 2222. ENHANCING RESEARCH AND TRAINING AND**
 10 **STRENGTHENING SERVICES, SYSTEMS, AND**
 11 **PREVENTION.**

12 “(a) GRANTS.—The Secretary may award grants to
 13 eligible entities for the prevention, detection, assessment,
 14 and treatment of, intervention in, investigation of, and
 15 prosecution of elder abuse, neglect, and exploitation in-
 16 cluding—

17 “(1) physical, psychological, and emotional
 18 abuse and neglect by family and other in-home care-
 19 givers;

20 “(2) physical, psychological, and emotional
 21 abuse and neglect of residents in institutional and
 22 other residential care facilities;

23 “(3) elder sexual abuse;

24 “(4) domestic violence in later life;

25 “(5) financial fraud and exploitation; and

1 “(6) self-neglect.

2 “(b) CENTERS OF EXCELLENCE.—

3 “(1) GRANTS AUTHORIZED.—The Secretary,
4 through the Director of the National Institute on
5 Aging, and after consultation with the Director of
6 the Centers for Disease Control and Prevention, the
7 Director of the Office of Elder Justice in the De-
8 partment of Health and Human Services, the Direc-
9 tor of the Office of Elder Justice in the Department
10 of Justice, and the members of the advisory board
11 established under section 2214, may award grants to
12 institutions of higher education and other appro-
13 priate entities to establish 5 Centers of Excellence
14 nationwide that shall specialize in research, clinical
15 practice, and training relating to elder abuse, ne-
16 glect, and exploitation.

17 “(2) AUTHORIZED ACTIVITIES.—The Centers of
18 Excellence established with funds provided under
19 paragraph (1) shall conduct the following activities:

20 “(A) Examine potential issues relating to
21 the protection of elders who are the subjects of
22 research on elder abuse, neglect, and exploi-
23 tation and provide guidance to other elder
24 abuse, neglect, or exploitation researchers re-
25 garding human subjects, protections, and the

1 institutional or peer review boards at research
2 institutions.

3 “(B) After consultation with the Director
4 of the National Institute on Aging, and the Di-
5 rector of the Office of Human Research Protec-
6 tions, develop and recommend to the Secretary
7 guidelines to assist the institutional or peer re-
8 view boards in the review of research under this
9 title.

10 “(C) Coordinate activities, to the extent
11 feasible, among the Centers and with other re-
12 searchers of elder abuse, neglect, and exploi-
13 tation and related areas, and designate 1 such
14 Center to lead such coordination.

15 “(3) ADDITIONAL ACTIVITIES.—The Centers of
16 Excellence established under paragraph (1) may con-
17 duct activities including the following:

18 “(A) Carrying out a study to determine
19 the national incidence and prevalence of elder
20 abuse, neglect, and exploitation in all settings.

21 “(B) Developing uniform, validated screen-
22 ing tools to assist individuals, families, practi-
23 tioners, institutions, and communities in detect-
24 ing ongoing or potential elder abuse, neglect,

1 and exploitation. The tools that may be devel-
2 oped include—

3 “(i) a screening tool to determine
4 whether a particular elder is at risk for be-
5 coming, or is, a victim;

6 “(ii) a screening tool to measure
7 whether caregivers are at risk of commit-
8 ting elder abuse, neglect, or exploitation;

9 “(iii) a screening tool to measure
10 whether families are at risk for elder
11 abuse, neglect, and exploitation; and

12 “(iv) a screening tool to assess com-
13 munities, evaluating how each individual
14 agency or system relating to elder abuse,
15 neglect, or exploitation operates in such a
16 community and how all of such agencies or
17 systems communicate and operate in rela-
18 tionship to each other within such commu-
19 nity.

20 “(C) Carrying out various types of inter-
21 vention research.

22 “(D) Identifying steps that can be taken
23 (and replicated) to make homes, neighborhoods,
24 communities, and facilities safer for elders, and

1 to enhance their sense of security in all kinds
2 of environments.

3 ~~“(E) Researching successful fiduciary~~
4 ~~practices and systems to enhance the well-being~~
5 ~~of persons with diminished capacity.~~

6 ~~“(4) COLLABORATION AND ACCESS TO~~
7 ~~RECORDS.—In awarding a grant under this sub-~~
8 ~~section the Secretary shall—~~

9 ~~“(A) consider the potential for collabora-~~
10 ~~tion among researchers and other relevant enti-~~
11 ~~ties, such as State agencies with statutory re-~~
12 ~~sponsibility for adult protective services and~~
13 ~~State Long-Term Care Ombudsmen, that re-~~
14 ~~ceive reports of elder abuse, neglect, and exploi-~~
15 ~~tation, but that may be restricted from partici-~~
16 ~~pating in research as a result of State law, con-~~
17 ~~fidentiality requirements, or other provisions;~~
18 ~~and~~

19 ~~“(B) require that each institution of higher~~
20 ~~education desiring a grant under this subsection~~
21 ~~ensure that the researchers working at such in-~~
22 ~~stitution will have access to records necessary~~
23 ~~to conduct research in accordance with this sub-~~
24 ~~section.~~

25 ~~“(5) EXCELLENCE ADVISORY COMMITTEE.—~~

1 “(A) COMMITTEE ESTABLISHED.—There is
2 established in the Department of Health and
3 Human Services an Excellence Advisory Com-
4 mittee (in this subsection referred to as the
5 ‘Committee’).

6 “(B) MEMBERSHIP.—The Committee shall
7 be composed of individuals appointed by the
8 Secretary with a demonstrated interest and ex-
9 pertise in research, education, and clinical ac-
10 tivities related to elder abuse, neglect, and ex-
11 ploitation, or individuals with related experience
12 in essential fields such as epidemiology or fo-
13 rensic pathology, including—

14 “(i) representatives from private enti-
15 ties; and

16 “(ii) representatives from Federal and
17 State agencies, including—

18 “(I) researchers;

19 “(II) health care practitioners;

20 “(III) policy experts; and

21 “(IV) other individuals appro-
22 priate to promote useful research,
23 training, and clinical practice.

24 “(C) PERIOD OF APPOINTMENT; VACAN-
25 CIES.—Members shall be appointed for terms of

1 3 years. Any vacancy in the Committee shall
2 not affect its powers, but shall be filled in the
3 same manner as the original appointment was
4 made.

5 “(D) DUTIES.—The Committee shall co-
6 ordinate with the Advisory Board established
7 under section 2214 and shall make rec-
8 ommendations to the Secretary, the Attorney
9 General, the Elder Justice Coordinating Council
10 established under section 2213, and the Centers
11 of Excellence established under this subsection
12 concerning—

13 “(i) facilitating the coordination of the
14 activities of the Centers of Excellence es-
15 tablished under this subsection;

16 “(ii) developing procedures and mech-
17 anisms for data sharing between such Cen-
18 ters of Excellence; and

19 “(iii) ensuring that such Centers of
20 Excellence have similar systems and re-
21 search and reporting procedures in order
22 to facilitate the sharing of data.

23 “(E) TRAVEL EXPENSES.—The members
24 of the Committee shall not receive compensa-
25 tion for the performance of services for the

1 committee, but shall be allowed travel expenses,
 2 including per diem in lieu of subsistence, at
 3 rates authorized for employees of agencies
 4 under subchapter I of chapter 57 of title 5,
 5 United States Code, while away from their
 6 homes or regular places of business in the per-
 7 formance of services for the Committee. Not-
 8 withstanding section 1342 of title 31, United
 9 States Code, the Secretary may accept the vol-
 10 untary and uncompensated services of members
 11 of the Committee.

12 “(F) DETAIL OF GOVERNMENT EMPLOY-
 13 EES.—Any Federal Government employee may
 14 be detailed to the Committee without reim-
 15 bursement, and such detail shall be without
 16 interruption or loss of civil service status or
 17 privilege.

18 “(G) TERMINATION.—Section 14 of the
 19 Federal Advisory Committee Act (5 U.S.C.
 20 App.) shall not apply to the Committee.

21 “(e) SAFE HAVEN AND LEGAL ADVOCACY
 22 GRANTS.—

23 “(1) SAFE HAVEN GRANTS.—

24 “(A) GRANTS AUTHORIZED.—The Sec-
 25 retary may award grants to 6 diverse commu-

1 nities to examine various types of elder shelters
2 (in this paragraph referred to as ‘safe havens’)
3 and to test various models for establishing safe
4 havens at home or elsewhere.

5 “(B) AUTHORIZED ACTIVITIES.—Grant
6 funds awarded pursuant to subparagraph (A)
7 shall be used to establish safe havens that—

8 “(i) provide a comprehensive, cul-
9 turally sensitive, and multidisciplinary
10 team response to allegations of elder
11 abuse, neglect, or exploitation;

12 “(ii) provide a dedicated, elder-friend-
13 ly setting;

14 “(iii) have the capacity to meet the
15 needs of elders for care; and

16 “(iv) provide various services includ-
17 ing—

18 “(I) nursing and forensic evalua-
19 tion;

20 “(II) therapeutic intervention;

21 “(III) victim support and advo-
22 eacy; and

23 “(IV) case review and assistance
24 to make the elder safer at home or to
25 find appropriate placement in safer

1 environments, including shelters, and;
 2 in some circumstances long-term care
 3 facilities, other residential care facili-
 4 ties, and hospitals.

5 ~~“(2) LEGAL ADVOCACY GRANTS.—~~

6 ~~“(A) GRANTS AUTHORIZED.—~~The Sec-
 7 retary, after consultation with the Attorney
 8 General, may award grants—

9 ~~“(i) to study the need for community~~
 10 ~~resources in order to provide assistance for~~
 11 ~~legal and related services for victims of~~
 12 ~~elder abuse, neglect, or exploitation; and~~

13 ~~“(ii) to provide assistance for such~~
 14 ~~services by awarding grants for demonstra-~~
 15 ~~tion projects in diverse communities.~~

16 ~~“(B) AUTHORIZED ACTIVITIES.—~~Grant
 17 funds awarded pursuant to subparagraph (A)
 18 shall be used to provide—

19 ~~“(i) court-appointed advocates;~~

20 ~~“(ii) authorized fiduciaries, including~~
 21 ~~public guardians;~~

22 ~~“(iii) monitoring and oversight of fi-~~
 23 ~~duciaries;~~

24 ~~“(iv) legal services; and~~

1 “(v) such other services as the Sec-
2 retary, after consultation with the Attorney
3 General, determines appropriate.

4 “(d) GRANTS TO ENHANCE VOLUNTEER SERV-
5 ICES.—The Secretary, after consultation with the Attor-
6 ney General, may award grants to nonprofit organizations
7 and faith-based organizations to encourage such organiza-
8 tions to establish or continue volunteer programs that
9 focus on the issues of elder abuse, neglect, and exploi-
10 tation, or that provide related services.

11 “(e) MULTIDISCIPLINARY EFFORTS.—

12 “(1) GRANTS.—The Secretary may award
13 grants to fund various multidisciplinary elder justice
14 activities, including the following:

15 “(A) Supporting and studying team ap-
16 proaches for bringing a coordinated multidisci-
17 plinary or interdisciplinary response to elder
18 abuse, neglect, and exploitation, including a re-
19 sponse from individuals in social service, health
20 care, public safety, and legal disciplines.

21 “(B) Establishing State coordinating coun-
22 cils modeled after the national Elder Justice
23 Coordinating Council established under section
24 2213. Such State coordinating councils shall
25 identify the individual States’ needs and provide

1 the national Elder Justice Coordinating Council
2 with information and recommendations relating
3 to State efforts to combat elder abuse, neglect,
4 and exploitation.

5 “(C) Providing training, technical assist-
6 ance, and other methods of support to groups
7 carrying out multidisciplinary efforts at the
8 State level (referred to in some States as ‘State
9 Working Groups’).

10 “(D) Broadening and studying various
11 models for elder fatality and serious injury re-
12 view teams, to make recommendations about
13 their composition, protocols, functions, timing,
14 roles, and responsibilities, with a goal of pro-
15 ducing models and information that will allow
16 for replication based on the needs of other
17 States and communities.

18 “(E) Carrying out other interdisciplinary
19 or multidisciplinary efforts as determined by
20 the Secretary to be appropriate.

21 “(2) INTRADISCIPLINARY REVIEW.—

22 “(A) IN GENERAL.—The Director of the
23 Centers for Disease Control and Prevention,
24 after consultation with the Director of the Of-
25 fice of Elder Justice in the Department of

1 Health and Human Services and the Director
2 of the Office of Elder Justice in the Depart-
3 ment of Justice, shall conduct an intensive
4 intradisciplinary review of entities that conduct
5 elder justice activities in several different com-
6 munities, examining how the entities address
7 elder abuse, neglect, and exploitation issues
8 (such as an assessment of various types of
9 health care and social service providers, public
10 safety agencies, law enforcement agencies, pros-
11 ecutor offices, and the judiciary).

12 “(B) GOAL.—The goals of the study de-
13 scribed in subparagraph (A) include—

14 “(i) making an assessment of the
15 functioning and effectiveness of each entity
16 in a community that conducts elder justice
17 activities, and the interdisciplinary commu-
18 nications and collaborations among such
19 entities; and

20 “(ii) developing a procedure for com-
21 munities to conduct a self-assessment to
22 assist them in identifying the manner in
23 which the entities described in clause (i) in
24 such communities respond to elder justice
25 issues, the needs of such communities re-

1 lating to elder justice issues, and ways to
2 improve the response systems of such com-
3 munities for elder abuse, neglect, and ex-
4 ploitation.

5 “(f) TRAINING GRANTS.—

6 “(1) GRANTS AUTHORIZED.—The Secretary
7 may award grants to groups representing the tar-
8 geted disciplines described in paragraph (2)(B) to
9 train individuals with respect to issues of elder
10 abuse, neglect, and exploitation.

11 “(2) AUTHORIZED ACTIVITIES.—

12 “(A) IN GENERAL.—Grant funds awarded
13 under paragraph (1) shall be used for training
14 within a discipline as well as cross-training ac-
15 tivities that permit individuals in multiple dis-
16 ciplines to train together, fostering communica-
17 tion, coordinating efforts, and ensuring collabo-
18 ration.

19 “(B) TARGETED DISCIPLINES.—Groups
20 representing disciplines that will be targeted for
21 training through grants awarded under para-
22 graph (1) include—

23 “(i) physicians (geriatricians, family
24 physicians, internists, emergency physi-
25 cians, forensic pathologists and medical ex-

1 aminers, psychiatrists, and other special-
2 ists); and medical residents, interns, and
3 fellows;

4 “(ii) nurses and nurse’s aides, includ-
5 ing geriatric nurse practitioners, directors
6 of nursing; and Sexual Abuse Nurse Ex-
7 aminers (SANE) nurses;

8 “(iii) social workers;

9 “(iv) public health and safety profes-
10 sionals including Emergency Medical Serv-
11 ices professionals;

12 “(v) therapists, including creative
13 arts, occupational, speech, and physical
14 therapists;

15 “(vi) State surveyors (who survey
16 nursing facilities and other long-term care
17 facilities);

18 “(vii) long-term care facility and hos-
19 pital staff;

20 “(viii) coroners and funeral home op-
21 erators;

22 “(ix) Federal, State, and local offices
23 with responsibility for elder justice or long-
24 term care matters;

1 “(x) employees or contractors of State
2 and local agencies with responsibility for
3 training persons who provide adult protec-
4 tive services;

5 “(xi) State Long-Term Care Ombuds-
6 men;

7 “(xii) victim advocates and advocates
8 for elders and individuals with disabilities;

9 “(xiii) individuals involved in volun-
10 teer organizations (including faith-based
11 organizations) who are involved in issues of
12 elder abuse, neglect, and exploitation;

13 “(xiv) police officers, sheriffs, detec-
14 tives, firefighters, Federal and State inves-
15 tigators, public safety officers, and correc-
16 tions personnel;

17 “(xv) Federal, State, and local pros-
18 ecutors, attorneys in private practice in-
19 volved in elder justice issues, and judges
20 and court employees;

21 “(xvi) TRIADs (federally recognized
22 partnerships of elders, sheriff departments,
23 and the American Association of Retired
24 Persons);

25 “(xvii) elder service officers;

1 “(xviii) individuals who work with the
2 public, including bank personnel, postal
3 workers, utility workers, providers of
4 home-delivered meals, and others who may
5 work with elders;

6 “(xix) students in professional and
7 paraprofessional schools, internships, fel-
8 lowships, and other training programs in a
9 relevant profession;

10 “(xx) fiduciaries, including guardians,
11 conservators, and agents under powers of
12 attorney; and

13 “(xxi) staff and volunteers of domestic
14 violence and child abuse and neglect pro-
15 grams.

16 “(g) PILOT PROJECT TO EVALUATE UTILITY OF
17 SERVICES TO ELDERS IN NEED.—The Secretary, acting
18 through the Director of the Office of Elder Justice in the
19 Department of Health and Human Services, and after
20 consultation with the Director of the Office of Elder Jus-
21 tice in the Department of Justice, is authorized to award
22 grants to develop and implement pilot projects designed
23 to ameliorate gaps in basic elder justice-related health, so-
24 cial, or protective services, with the goal of identifying

1 what types of services are most useful to elders in need;
2 and in what contexts the services are useful.

3 “(h) INCREASING THE NUMBER OF HEALTH CARE
4 PROFESSIONALS WITH GERIATRIC TRAINING.—The Sec-
5 retary shall establish programs to increase—

6 “(1) the number of health care professionals
7 (including physicians, nurses, nursing personnel, so-
8 cial workers, and therapists) and students in the
9 health care professions, who receive education and
10 training related to geriatrics; and

11 “(2) the number of such professionals who pro-
12 vide health care related to geriatrics.

13 “(i) SPECIAL NEEDS GRANTS.—

14 “(1) GRANTS AUTHORIZED.—The Secretary
15 may award grants to eligible entities to identify, ad-
16 dress, and make recommendations on meeting the
17 special needs of underserved populations of elders.

18 “(2) POPULATIONS INCLUDED.—The grant
19 funds awarded pursuant to paragraph (1) shall be
20 used to fund programs including the following:

21 “(A) RURAL SETTINGS.—Programs de-
22 signed to meet the needs of elders living in
23 rural locations, including the needs of their in-
24 formal caregivers and fiduciaries. The programs
25 shall include—

1 “(i) strategies to decrease isolation;

2 “(ii) training for informal caregivers
3 and fiduciaries;

4 “(iii) activities involving collaboration
5 between the entities and local secondary
6 schools and institutions of higher education
7 to offer classes for credit, focusing on
8 training individuals to work with elders
9 and caregivers;

10 “(iv) training for volunteers to serve
11 in rural communities; and

12 “(v) strategies on the use of advance
13 planning to avoid the need for a guardian
14 or other fiduciary.

15 “(B) MINORITY POPULATIONS.—Programs
16 designed to meet the needs of elders in minority
17 populations, including culturally and linguis-
18 tically appropriate programs.

19 “(C) INDIAN TRIBES.—Programs designed
20 to provide necessary services to elders who are
21 members of Indian tribes including successful
22 programs in elder abuse, neglect, and exploi-
23 tation prevention and treatment that target In-
24 dian populations. The entities carrying out the
25 programs shall deliver services and distribute

1 educational information on elder abuse, neglect,
2 and exploitation to Indian tribes and other pol-
3 icymakers, health and social service providers,
4 law enforcement, and researchers with a par-
5 ticular interest in elders who are members of
6 Indian tribes.

7 “(j) PUBLIC AWARENESS GRANTS.—

8 “(1) GRANTS AUTHORIZED.—The Secretary
9 and the Attorney General, after consultation with
10 the advisory board established under section 2214
11 and the coordinating council established under sec-
12 tion 2213, shall jointly award 1 grant to a national
13 organization, or 1 or more grants to eligible entities,
14 to conduct a national multimedia campaign designed
15 to raise awareness about elder abuse, neglect, and
16 exploitation.

17 “(2) AUTHORIZED ACTIVITIES.—Grant funds
18 awarded under paragraph (1) shall be used for ac-
19 tivities including the following:

20 “(A) Raising public awareness regarding
21 financial schemes that target elders.

22 “(B) Pilot testing of the effectiveness of
23 various types of multimedia campaigns in rais-
24 ing awareness about—

1 “(i) the types of elder abuse, neglect,
2 and exploitation;

3 “(ii) steps to take if an individual sus-
4 pects elder abuse, neglect, or exploitation
5 has occurred; and

6 “(iii) ways to prevent elder abuse, ne-
7 glect, or exploitation.

8 “(k) **ELDER JUSTICE INNOVATION FUND.**—The Sec-
9 retary and the Attorney General are authorized to jointly
10 award grants to individuals or entities working in the elder
11 justice field or related fields for research, a demonstration
12 project, development or implementation of a promising
13 program or practice, or another innovative effort, that
14 might not otherwise be funded or pursued in the absence
15 of a grant under this subsection.

16 **“SEC. 2223. STUDIES.**

17 “(a) **ROLES OF ENTITIES RESPONDING TO ELDER**
18 **ABUSE, NEGLECT, AND EXPLOITATION.**—

19 “(1) **IN GENERAL.**—The Secretary of Health
20 and Human Services and the Attorney General shall
21 jointly sponsor or conduct a study of the roles and
22 responsibilities of government and government-fund-
23 ed entities responsible for responding to, inves-
24 tigating, and taking other actions in response to re-

1 ports of elder abuse, neglect, and exploitation includ-
 2 ing—

3 “(A) State and local agencies with the re-
 4 sponsibility for adult protective services;

5 “(B) the State Long-Term Care Ombuds-
 6 men;

7 “(C) law enforcement (including prosecu-
 8 tors);

9 “(D) fiduciaries;

10 “(E) judges and other court personnel; and

11 “(F) such other social and protective serv-
 12 ice, advocacy, and protection organizations as
 13 the Secretary and the Attorney General deter-
 14 mine to be appropriate.

15 “(2) GOALS.—The goals of the study author-
 16 ized in paragraph (1) (which may be conducted in
 17 distinct sections, if there is overall coordination)
 18 are—

19 “(A) to identify gaps in detection of, inves-
 20 tigation of, and intervention in elder abuse, ne-
 21 glect, and exploitation;

22 “(B) to improve the response to elder
 23 abuse, neglect, and exploitation; and

24 “(C) to reduce elder victimization and its
 25 consequences by assessing and improving the

1 systems created to address reports of the prob-
2 lems.

3 ~~“(3) AUTHORIZED ACTIVITIES.—~~In conducting
4 the study authorized in paragraph (1), the Director
5 shall—

6 ~~“(A) conduct an evaluation of—~~

7 ~~“(i) how the social and protective~~
8 ~~service, advocacy, protection, judicial, and~~
9 ~~law enforcement entities and systems are~~
10 ~~operating;~~

11 ~~“(ii) the interplay and allocation of re-~~
12 ~~sponsibilities among those entities;~~

13 ~~“(iii) how that allocation differs from~~
14 ~~community to community and State to~~
15 ~~State; and~~

16 ~~“(iv) how those differences impact the~~
17 ~~population intended to be protected by the~~
18 ~~entities and systems;~~

19 ~~“(B) make recommendations on how to~~
20 ~~clarify the roles (at the national level) of enti-~~
21 ~~ties such as State agencies with responsibility~~
22 ~~for adult protective services, the State Long-~~
23 ~~Term Care Ombudsmen, and other protection~~
24 ~~and advocacy entities to enhance efficiency,~~
25 ~~eliminate gaps in service, and identify con-~~

1 conflicting mandates and duplication of efforts;
2 and

3 “(C) evaluate how various communities de-
4 lineate the roles and responsibilities of the types
5 of entities described in subparagraph (A) in
6 order to identify and recommend effective mod-
7 els and methods to duplicate the delineation ef-
8 forts (such as duplication through memoranda
9 of understanding).

10 “(b) FAMILY ELDER ABUSE, NEGLECT, AND EX-
11 PLOITATION STUDY.—

12 “(1) IN GENERAL.—The Director of the Cen-
13 ters for Disease Control and Prevention (in this sub-
14 section referred to as the ‘Director’), after consulta-
15 tion with the Director of the Office of Elder Justice
16 in the Department of Health and Human Services
17 and the Director of the Office of Elder Justice in
18 the Department of Justice, shall conduct a study to
19 determine the best method to address elder abuse,
20 neglect, and exploitation from a public health per-
21 spective, including examining methods to reduce
22 elder abuse, neglect, and exploitation committed by
23 family members.

24 “(2) COLLABORATION.—The Director, in ear-
25 rying out activities under this subsection, shall col-

1 laborate with the Director of the National Institute
 2 on Aging; the Director of the Office of Elder Justice
 3 in the Department of Health and Human Services;
 4 the Director of the Office of Elder Justice in the
 5 Department of Justice; the heads of State agencies
 6 with responsibility for adult protective services; and
 7 the heads of such other entities as the Director de-
 8 termines appropriate.

9 **“SEC. 2224. FORENSIC MARKERS, METHODOLOGIES, AND**
 10 **TRAINING.**

11 “(a) FORENSIC CENTERS.—

12 “(1) GRANTS.—The Secretary shall make
 13 grants to appropriate entities to establish and oper-
 14 ate stationary and mobile forensic centers; to de-
 15 velop forensic expertise regarding; and provide serv-
 16 ices relating to; elder abuse; neglect; and exploi-
 17 tation.

18 “(2) COORDINATION AMONG FORENSIC CEN-
 19 TERS AND CENTERS OF EXCELLENCE.—The entities
 20 establishing and operating the forensic centers shall
 21 coordinate activities on an ongoing basis with the
 22 Centers of Excellence described in section
 23 2222(b)(1) and with the Excellence Advisory Com-
 24 mittee described in section 2222(b)(5). Such coordi-
 25 nation shall include ongoing communication among

1 the entities, the Centers of Excellence, and the Ex-
2 cellence Advisory Committee. The entities shall ad-
3 here to the procedures and mechanisms developed by
4 the Excellence Advisory Committee including proce-
5 dures and mechanisms relating to the sharing of
6 data.

7 “(3) STATIONARY FORENSIC CENTERS.—The
8 Secretary shall make 4 of the grants described in
9 paragraph (1) to institutions of higher education
10 with demonstrated expertise in forensics or commit-
11 ment to preventing or treating elder abuse, neglect,
12 or exploitation, to establish and operate stationary
13 forensic centers. The Secretary shall make at least
14 2 of the 4 grants to an entity operating a Center of
15 Excellence described in section 2222(b)(1) at an in-
16 stitution of higher education.

17 “(4) MOBILE CENTERS.—The Secretary shall
18 make 6 of the grants described in paragraph (1) to
19 appropriate entities to establish and operate mobile
20 forensic centers.

21 “(5) USE OF FUNDS.—

22 “(A) DEVELOPMENT OF FORENSIC MARK-
23 ERS AND METHODOLOGIES.—An entity that re-
24 ceives a grant under this subsection shall use
25 funds made available through the grant to as-

1 sist in the determination of whether abuse or
2 neglect occurred, a crime was committed, to
3 conduct research to describe and disseminate
4 information on—

5 “(i) forensic markers that indicate a
6 case in which elder abuse, neglect, or ex-
7 ploitation may have occurred; and

8 “(ii) methodologies for determining, in
9 such a case, when and how health care,
10 emergency service, social and protective
11 service, and legal service providers should
12 intervene and when the providers should
13 report the case to law enforcement authori-
14 ties.

15 “(B) APPLICATIONS.—An entity that re-
16 ceives a grant under this subsection shall use
17 funds made available through the grant to de-
18 velop forensic expertise regarding elder abuse,
19 neglect, and exploitation; in order to provide
20 medical and forensic evaluation, therapeutic
21 intervention, victim support and advocacy, case
22 review, and case tracking.

23 “(C) COLLECTION OF EVIDENCE.—An en-
24 tity operating a Center of Excellence described
25 in section 2222(b)(1) that receives a grant

1 under this subsection shall use funds made
 2 available through the grant to develop the ca-
 3 pacity to collect forensic evidence, including col-
 4 lecting forensic evidence relating to a potential
 5 determination of elder abuse, neglect, or exploi-
 6 tation.

7 “(b) TRAINING TO DEVELOP EXPERTISE IN GERI-
 8 ATRIC FORENSICS.—

9 “(1) FELLOWSHIP PROGRAMS.—

10 “(A) IN GENERAL.—The Secretary shall
 11 provide fellowships to eligible individuals; to en-
 12 able the individuals to obtain training through
 13 a standard forensic science training program.

14 “(B) ELIGIBLE INDIVIDUALS.—To be eligi-
 15 ble to receive a fellowship under this paragraph,
 16 an individual shall be a physician who—

17 “(i) is board certified or board eligible
 18 in internal medicine or family practice;

19 “(ii) has completed a program in geri-
 20 atries that meets such criteria as the Sec-
 21 retary may prescribe; and

22 “(iii) has entered into an agreement
 23 with the Secretary to provide the team
 24 training described in subparagraph (C);

1 after receiving the training described in
2 subparagraph (A).

3 ~~“(C) TEAM TRAINING.—An individual who~~
4 receives a fellowship under this paragraph shall
5 provide training in forensic geriatrics to inter-
6 disciplinary teams of health care professionals.

7 ~~“(2) OTHER PROGRAMS.—The Secretary shall~~
8 establish programs, and make grants to carry out
9 the programs, to provide forensic training to experi-
10 enced geriatricians.

11 **“Subtitle C—Increasing Security,**
12 **Quality, and Consumer Informa-**
13 **tion for Long-Term Care**

14 **“CHAPTER 1—INCREASING SECURITY FOR**
15 **LONG-TERM CARE**

16 **“SEC. 2231. REPORTING TO LAW ENFORCEMENT OF CRIMES**
17 **OCCURRING IN FEDERALLY FUNDED LONG-**
18 **TERM CARE FACILITIES.**

19 ~~“(a) DETERMINATION AND NOTIFICATION.—~~

20 ~~“(1) DETERMINATION.—Except as provided in~~
21 paragraph (2), the owner or operator of each long-
22 term care facility that receives Federal funds shall
23 annually determine if the facility received an amount
24 of Federal funds that was not less than \$10,000
25 during the past year.

1 “(2) SINGLE POSITIVE DETERMINATION.—The
 2 owner or operator shall make the determination for
 3 a year unless the owner or operator determined that
 4 the facility received that amount during any previous
 5 year.

6 “(3) NOTIFICATION.—If the owner or operator
 7 determines that the facility received that amount
 8 during any year, the owner or operator shall annu-
 9 ally notify each individual described in subsection (b)
 10 of the obligation to comply with subsection (b).

11 “(b) REPORTING REQUIREMENT.—

12 “(1) IN GENERAL.—Each individual who is an
 13 owner, operator, employee, manager, agent, or con-
 14 tractor of a long-term care facility that is the sub-
 15 ject of a determination described in subsection (a)(3)
 16 shall report to 1 or more law enforcement entities
 17 for the jurisdiction in which the facility is located,
 18 any reasonable suspicion of a crime (as defined by
 19 the law of the applicable political subdivision)
 20 against any person who is a resident of or receiving
 21 care from the facility.

22 “(2) TIMING.—If the events that cause the sus-
 23 picion—

24 “(A) result in serious bodily injury, the in-
 25 dividual shall report the suspicion immediately,

1 but not later than 2 hours after forming the
2 suspicion; and

3 “(B) do not result in serious bodily injury;
4 the individual shall report the suspicion not
5 later than 24 hours after forming the suspicion.

6 “(c) PENALTY.—

7 “(1) IN GENERAL.—If an individual described
8 in subsection (b) violates subsection (b)—

9 “(A) the individual shall be fined not more
10 than \$200,000 or subject to a civil money pen-
11 alty of not more than \$200,000; or

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

15 “(2) INCREASED HARM.—If an individual de-
16 scribed in subsection (b) violates subsection (b), and
17 the violation exacerbates the harm to the victim of
18 the crime or results in harm to another person—

19 “(A) the individual shall be fined not more
20 than \$200,000 or subject to a civil money pen-
21 alty of not more than \$200,000; and

22 “(B) the Secretary shall classify the indi-
23 vidual as an excluded individual, for a period of
24 not more than 3 years.

1 “(3) EXCLUDED INDIVIDUAL.—During any pe-
2 riod for which an individual is classified as an ex-
3 cluded individual under this paragraph, an entity
4 that employs the individual shall be ineligible to re-
5 ceive funds under the medicare program under title
6 XVIII or the medicaid program under title XIX.

7 “(4) EXTENUATING CIRCUMSTANCES.—The
8 Secretary may take into account the financial bur-
9 den on providers with underserved populations in de-
10 termining the penalty.

11 “(d) REGULATIONS.—The Secretary, after consulting
12 with the Attorney General, shall issue regulations to carry
13 out this section.

14 **“CHAPTER 2—IMPROVING THE QUALITY**
15 **OF LONG-TERM CARE**

16 **“SEC. 2241. GRANTS AND INCENTIVES TO ENHANCE LONG-**
17 **TERM CARE STAFFING.**

18 “(a) GENERAL AUTHORITY.—The Administrator of
19 the Centers for Medicare & Medicaid Services (in this sec-
20 tion referred to as the ‘Administrator’) shall carry out ac-
21 tivities, including activities described in subsection (b) and
22 (c), to provide incentives for individuals to train for, seek,
23 and maintain employment providing direct care in a long-
24 term care facility.

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

3 “(1) COORDINATION WITH OTHER PROGRAMS
4 TO RECRUIT AND TRAIN LONG-TERM CARE STAFF.—

5 The Administrator shall coordinate activities with
6 the Secretary of Labor and the Assistant Secretary
7 for the Administration for Children and Families, in
8 order to provide incentives to participants in pro-
9 grams carried out under section 403(a)(5) and part
10 A of title IV to train for and seek employment pro-
11 viding direct care in a long-term care facility.

12 “(2) CAREER LADDERS AND WAGE OR BENEFIT
13 INCREASES TO INCREASE STAFFING IN LONG-TERM
14 CARE FACILITIES.—

15 “(A) IN GENERAL.—The Administrator
16 shall make grants to eligible entities to carry
17 out programs through which the entities—

18 “(i) offer, to employees who provide
19 direct care in a long-term care facility,
20 continuing training and varying levels of
21 certification, based on observed clinical
22 care practices and the amount of time the
23 employees spend providing direct care; and

24 “(ii) provide, or make arrangements
25 with employers to provide, bonuses or

1 other increased compensation or benefits to
 2 employees who achieve certification under
 3 such a program.

4 “(B) APPLICATION.—To be eligible to re-
 5 ceive a grant under this paragraph, an entity
 6 shall submit an application to the Adminis-
 7 trator at such time, in such manner, and con-
 8 taining such information as the Administrator
 9 may require.

10 “(c) SPECIFIC PROGRAMS TO IMPROVE MANAGE-
 11 MENT PRACTICES.—

12 “(1) IN GENERAL.—The Administrator shall
 13 make grants to eligible organizations to enable the
 14 organizations to provide training and technical as-
 15 sistance to eligible persons (including administra-
 16 tors, directors of nursing, staff developers, and
 17 charge nurses) who establish or implement manage-
 18 ment practices for long-term care facilities.

19 “(2) USE OF FUNDS.—An organization that re-
 20 ceives a grant under paragraph (1) shall use funds
 21 made available through the grant—

22 “(A) to provide training and technical as-
 23 sistance regarding management practices, that
 24 are for employees that provide direct care in a
 25 long-term care facility, and that are dem-

1 onstrated to promote retention of those employ-
2 ees, such as—

3 “(i) the establishment of basic human
4 resource policies that reward high perform-
5 ance, including policies that provide for im-
6 proved wages and benefits on the basis of
7 job reviews;

8 “(ii) the establishment of motivational
9 and thoughtful work organization prac-
10 tices;

11 “(iii) the creation of a workplace cul-
12 ture that respects and values caregivers
13 and their needs;

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

18 “(v) the establishment of other pro-
19 grams that promote the provision of high
20 quality care, such as a continuing edu-
21 cation program that provides additional
22 hours of training, including on-the-job
23 training, for employees who are certified
24 nurse aides; or

1 “(B) to disseminate training materials for
2 the training described in subparagraph (A), and
3 to provide the materials to the National Elder
4 Justice Library established in section
5 2221(a)(4), so that the materials are available
6 to other providers of such training.

7 “(3) APPLICATION.—To be eligible to receive a
8 grant under this subsection, an organization shall
9 submit an application to the Administrator at such
10 time, in such manner, and containing such informa-
11 tion as the Administrator may require.

12 “(d) EVALUATING PROGRAMS.—After the first pro-
13 grams developed under this section have been completed,
14 the Administrator shall evaluate the outcomes of such pro-
15 grams in determining which future applications to fund.

16 “(e) ACCOUNTABILITY MEASURES.—The Adminis-
17 trator shall develop accountability measures to assure that
18 funds made available under this section benefit the staff
19 who are the intended beneficiaries of the programs pro-
20 vided under this section, to promote increases and stability
21 in the long-term care workforce.

22 “(f) COMPLIANCE WITH APPLICABLE LAWS.—In
23 order to receive funds under this section, an eligible entity
24 shall comply with all applicable laws, regulations, and
25 guidelines.

1 **“SEC. 2242. COLLABORATIVE EFFORTS TO ENHANCE COM-**
2 **MUNICATION ON PROMOTING QUALITY OF**
3 **AND PREVENTING ABUSE AND NEGLECT IN**
4 **LONG-TERM CARE.**

5 “(a) **IN GENERAL.**—The Director of the Agency for
6 Healthcare Research and Quality (in this section referred
7 to as the ‘Director’), after consultation with the Attorney
8 General, may establish pilot projects to improve long-term
9 care. In carrying out the projects, the Director shall make
10 grants to eligible partnerships to develop collaborative and
11 innovative approaches to improve the quality of, including
12 preventing abuse and neglect in, long-term care.

13 “(b) **ELIGIBLE PARTNERSHIPS.**—To be eligible to re-
14 ceive a grant under this section, a partnership shall be
15 a multidisciplinary community partnership, such as a
16 partnership consisting of representatives in a community
17 of nursing facility providers, advocates for residents of
18 long-term care facilities, State Long-Term Care Ombuds-
19 men, surveyors, the State agency with responsibility for
20 adult protective services, the State agency with responsi-
21 bility for licensing long-term care facilities, law enforce-
22 ment agencies, courts, family councils, residents, certified
23 nurse aides, registered nurses, physicians, and other ap-
24 propriate entities and individuals.

25 “(c) **APPLICATION.**—To be eligible to receive a grant
26 under this section, a partnership shall submit an applica-

1 tion to the Director at such time, in such manner, and
 2 containing such information as the Director may require.

3 **“SEC. 2243. COLLABORATIVE EFFORTS TO DEVELOP CON-**
 4 **SENSUS AROUND THE MANAGEMENT OF CER-**
 5 **TAIN QUALITY-RELATED FACTORS.**

6 “(a) IN GENERAL.—The Director of the Agency for
 7 Healthcare Research and Quality (in this section referred
 8 to as the ‘Director’), after consultation with the Attorney
 9 General and the Advisory Board established under section
 10 2214, may make grants to eligible entities to establish
 11 multidisciplinary panels to address, and develop consensus
 12 on, subjects relating to improving the quality of long-term
 13 care. The Director shall make a limited number of such
 14 grants, including at least 1 grant for the establishment
 15 of such a panel to address, and develop consensus on,
 16 methods of managing resident-to-resident abuse in long-
 17 term care.

18 “(b) USE OF FUNDS.—An entity that receives a
 19 grant under this section shall—

20 “(1) establish a multidisciplinary panel to ad-
 21 dress a specific subject; and

22 “(2) ensure that the panel uses the funds made
 23 available through the grant to establish a goal with
 24 respect to the subject, examine relevant research and
 25 data, identify best practices with respect to the sub-

1 ject, determine the best way to carry out those best
 2 practices in a practical and feasible manner, and de-
 3 termine an effective manner of distributing informa-
 4 tion on the subject.

5 “(e) APPLICATION.—To be eligible to receive a grant
 6 under this section, an entity shall submit an application
 7 to the Director at such time, in such manner, and con-
 8 taining such information as the Director may require.

9 **“CHAPTER 3—INCREASING CONSUMER**
 10 **INFORMATION ABOUT LONG-TERM CARE**

11 **“SEC. 2251. LONG-TERM CARE CONSUMER CLEARING-**
 12 **HOUSE.**

13 “(a) IN GENERAL.—The Director of the Office of
 14 Elder Justice in the Department of Health and Human
 15 Services, in coordination with the Director of the Agency
 16 for Healthcare Research and Quality and the Adminis-
 17 trator of the Centers for Medicare & Medicaid Services,
 18 shall establish a long-term care consumer clearinghouse in
 19 the Department of Health and Human Services.

20 “(b) INFORMATION.—The clearinghouse shall be es-
 21 tablished as part of the Elder Justice Resource Center (es-
 22 tablished under section 2221) and shall provide com-
 23 prehensive detailed information, in a consumer-friendly
 24 form, to consumers about choices relating to long-term
 25 care providers, such as information (including links to

1 websites and other resources that provide information)
2 about—

3 ~~“(1) obtaining the services of, and employing,~~
4 ~~caregivers who provide long-term care at an individ-~~
5 ~~ual’s home; and~~

6 ~~“(2) options for residential long-term care; such~~
7 ~~as—~~

8 ~~“(A)(i) the type of care provided by nurs-~~
9 ~~ing facilities; and~~

10 ~~“(ii) the type of care provided by group~~
11 ~~homes and other residential long-term care fa-~~
12 ~~ilities that are not nursing facilities;~~

13 ~~“(B) the benefits available through the~~
14 ~~programs carried out under titles XVIII and~~
15 ~~XIX of the Social Security Act (42 U.S.C. 1395~~
16 ~~et seq. and 1396 et seq.); and~~

17 ~~“(C) the care available through specific~~
18 ~~long-term care facilities, including data on the~~
19 ~~satisfaction level of residents of, and families of~~
20 ~~residents of, the facilities.~~

21 ~~“(e) PROVIDERS.—In providing information on long-~~
22 ~~term care providers under this section, the clearinghouse~~
23 ~~shall provide information (from States and other sources)~~
24 ~~on assisted living facilities, board and care facilities, con-~~

1 gregate care facilities, home health care providers, and
 2 other long-term care providers.

3 **“SEC. 2252. CONSUMER INFORMATION ABOUT THE CON-**
 4 **TINUUM OF RESIDENTIAL LONG-TERM CARE**
 5 **FACILITIES.**

6 “(a) STUDY.—

7 “(1) IN GENERAL.—The Director of the Agency
 8 for Healthcare Research and Quality, after consulta-
 9 tion with the Director of the Office of Elder Justice
 10 in the Department of Health and Human Services
 11 and the Director of the Office of Elder Justice in
 12 the Department of Justice shall, directly or through
 13 a grant, conduct a study on consumer concerns re-
 14 lating to residential long-term care facilities, other
 15 than nursing facilities.

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

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

21 “(B) collect information on the prices of,
 22 level of services provided by, oversight and en-
 23 forcement provisions of, and admission and dis-
 24 charge criteria of, the facilities.

1 “(b) REPORT.—The Director of the Agency for
 2 Healthcare Research and Quality shall prepare a report
 3 containing the results of the study, and submit the report
 4 to the Elder Justice Coordinating Council established
 5 under section 2213, the Committee on Ways and Means
 6 of the House of Representatives, and the Special Com-
 7 mittee on Aging of the Senate.

8 **“Subtitle D—Administration**

9 **“SEC. 2261. EVALUATIONS.**

10 “(a) GRANTS.—

11 “(1) IN GENERAL.—In making a grant under a
 12 provision of this title (other than this section), the
 13 granting authority shall—

14 “(A) require the recipient of the grant
 15 to—

16 “(i) reserve a portion of the funds
 17 made available through the grant; and

18 “(ii) use the reserved funds to conduct
 19 an evaluation of the other activities carried
 20 out through the grant; or

21 “(B)(i) reserve a portion of the funds
 22 available for the grant; and

23 “(ii) use the reserved funds to provide as-
 24 sistance to an eligible entity to conduct an eval-

1 uation of the activities carried out through the
2 grant.

3 “(2) USE OF FUNDS.—A recipient of a grant
4 described in paragraph (1)(A), or assistance de-
5 scribed in paragraph (1)(B)(ii), shall use the funds
6 made available through the grant, or the assistance,
7 respectively, to conduct a validated evaluation of the
8 effectiveness of the activities described in subpara-
9 graph (A) or (B), respectively, of paragraph (1).

10 “(3) APPLICATIONS.—

11 “(A) SUBMISSION.—

12 “(i) GRANTS FOR PROJECTS CON-
13 TAINING EVALUATIONS.—To be eligible to
14 receive a grant for which the granting au-
15 thority requires the reservation described
16 in paragraph (1)(A)(i), an entity shall in-
17 clude a proposal for the evaluation in the
18 application submitted for the grant.

19 “(ii) ASSISTANCE FOR EVALUA-
20 TIONS.—To be eligible to receive assistance
21 under paragraph (1)(B)(ii), an entity shall
22 submit an application to the granting au-
23 thority at such time, in such manner, and
24 containing such information as the grant-

1 ing authority may require, including a pro-
2 posal for the evaluation.

3 “(B) REVIEW AND ASSISTANCE.—An em-
4 ployee of the National Institute on Aging, and
5 a private expert, with expertise in evaluation
6 methodology shall review each proposal de-
7 scribed in clause (i) or (ii) of subparagraph (A),
8 and determine whether the methodology de-
9 scribed in the proposal is adequate to gather
10 meaningful information. If the employee and
11 expert determine that the methodology is inad-
12 equate, the employee and expert shall rec-
13 ommend that the granting authority deny the
14 application for the grant described in subpara-
15 graph (A)(i), or the assistance described in sub-
16 paragraph (B)(ii), as appropriate, or make rec-
17 ommendations for how the application should
18 be amended. If the granting authority denies
19 the application on the basis of the proposal, the
20 granting authority shall inform the applicant
21 why the application was denied, and offer as-
22 sistance to the applicant in modifying the pro-
23 posal.

24 “(b) OTHER GRANTS.—The granting authority shall
25 make grants to appropriate entities to conduct validated

1 evaluations of activities, to reduce elder abuse, neglect,
2 and exploitation, that are not funded under this title.

3 “(c) **CONDITION OF PARTICIPATION.**—As a condition
4 of participation in any grant under this title, individuals,
5 facilities, and other entities shall agree to be subject to
6 sections 3729 through 3733 of title 31, United States
7 Code and other applicable laws.

8 **“SEC. 2262. HUMAN SUBJECT RESEARCH.**

9 “(a) **IN GENERAL.**—For purposes of the application
10 of subpart A of part 46 of title 45, Code of Federal Regu-
11 lations to research conducted under this title, the term ‘le-
12 gally authorized representative’ means, unless otherwise
13 provided by law, the individual, or judicial or other body
14 authorized under the applicable law to consent to medical
15 treatment on behalf of another person.

16 “(b) **GUIDELINES.**—The Secretary of Health and
17 Human Services, through the Director of the National In-
18 stitute on Aging, after consultation with the Director of
19 the Office for Human Research Protections and the Excel-
20 lence Advisory Committee established under section
21 2222(b)(5), shall promulgate guidelines to assist research-
22 ers working in the area of elder abuse, neglect, and exploi-
23 tation, with issues relating to human subject protections.

1 **“SEC. 2263. REGULATIONS.**

2 “*The Secretary may issue such regulations as may*
3 *be necessary to carry out this title.*”

4 **“SEC. 2264. AUTHORIZATION OF APPROPRIATIONS.**

5 “*There are authorized to be appropriated to carry out*
6 *this title such sums as may be necessary for each of fiscal*
7 *years 2004 through 2010.*”

8 **SEC. 102. PATIENT ABUSE PREVENTION.**

9 (a) **ESTABLISHMENT OF PROGRAM TO PREVENT**
10 **ABUSE OF NURSING FACILITY RESIDENTS.—**

11 (1) **SCREENING OF SKILLED NURSING FACIL-**
12 **ITY AND NURSING FACILITY EMPLOYEE APPLI-**
13 **CANTS.—**

14 (A) **MEDICARE PROGRAM.—**Section
15 1819(b) of the Social Security Act (42 U.S.C.
16 1395i-3(b)) is amended by adding at the end
17 the following:

18 “(8) **SCREENING OF SKILLED NURSING FACIL-**
19 **ITY WORKERS.—**

20 “(A) **BACKGROUND CHECKS ON APPLI-**
21 **CANTS.—**Subject to subparagraph (B)(ii), be-
22 fore hiring a skilled nursing facility worker, a
23 skilled nursing facility shall—

24 “(i) give the worker written notice
25 that the facility is required to perform

1 background checks with respect to appli-
2 eants;

3 “(ii) require, as a condition of employ-
4 ment, that such worker—

5 “(I) provide a written statement
6 disclosing any conviction for a rel-
7 evant crime;

8 “(II) provide a statement signed
9 by the worker authorizing the facility
10 to request the search and exchange of
11 criminal records;

12 “(III) provide in person to the
13 facility a copy of the worker’s finger-
14 prints or thumb print, depending
15 upon available technology; and

16 “(IV) provide any other identi-
17 fication information the Secretary
18 may specify in regulation; and

19 “(iii) request through the appropriate
20 State agency that the State initiate a State
21 and national criminal background check on
22 such worker in accordance with the provi-
23 sions of subsection (e)(6) and submit to
24 such State agency the information de-

1 scribed in subclauses (II) through (IV) of
2 clause (ii).

3 “(B) PROHIBITION ON HIRING OF ABUSIVE
4 WORKERS.—

5 “(i) IN GENERAL.—A skilled nursing
6 facility may not knowingly employ any
7 skilled nursing facility worker who has any
8 conviction for a relevant crime.

9 “(ii) PROVISIONAL EMPLOYMENT.—
10 After complying with the requirements of
11 clauses (i) and (ii) of subparagraph (A), a
12 skilled nursing facility may provide for a
13 provisional period of employment for a
14 skilled nursing facility worker pending
15 completion of the check against the back-
16 ground check described under subpara-
17 graph (A)(iii). Subject to clause (iii), such
18 facility shall maintain direct supervision of
19 the covered individual during the worker’s
20 provisional period of employment.

21 “(iii) EXCEPTION FOR SMALL RURAL
22 SKILLED NURSING FACILITIES.—In the
23 case of a small rural skilled nursing facility
24 (as defined by the Secretary), the Sec-
25 retary shall provide, by regulation after

1 consultation with providers of skilled nurs-
2 ing facility services and entities rep-
3 resenting beneficiaries of such services, for
4 an appropriate level of supervision with re-
5 spect to any provisional employees em-
6 ployed by the facility in accordance with
7 clause (ii). Such regulation should encour-
8 age the provision of direct supervision of
9 such employees whenever practicable with
10 respect to such a facility and if such super-
11 vision would not impose an unreasonable
12 cost or other burden on the facility.

13 “(C) REPORTING REQUIREMENTS.—A
14 skilled nursing facility shall report to the State
15 any instance in which the facility determines
16 that a skilled nursing facility worker has com-
17 mitted an act of resident neglect or abuse or
18 misappropriation of resident property in the
19 course of employment by the facility.

20 “(D) USE OF INFORMATION.—

21 “(i) IN GENERAL.—A skilled nursing
22 facility that obtains information about a
23 skilled nursing facility worker pursuant to
24 subparagraph (A)(iii) may use such infor-
25 mation only for the purpose of determining

1 the suitability of the worker for employ-
2 ment.

3 “(ii) IMMUNITY FROM LIABILITY.—A
4 skilled nursing facility that, in denying em-
5 ployment for an applicant (including dur-
6 ing the period described in subparagraph
7 (B)(ii)), reasonably relies upon information
8 about such applicant provided by the State
9 pursuant to subsection (c)(6) shall not be
10 liable in any action brought by such appli-
11 cant based on the employment determina-
12 tion resulting from the information.

13 “(iii) CRIMINAL PENALTY.—Whoever
14 knowingly violates the provisions of clause
15 (i) shall be fined in accordance with title
16 18, United States Code, imprisoned for not
17 more than 2 years, or both.

18 “(E) CIVIL PENALTY.—

19 “(i) IN GENERAL.—A skilled nursing
20 facility that violates the provisions of this
21 paragraph shall be subject to a civil pen-
22 alty in an amount not to exceed—

23 “(I) for the first such violation,

24 \$2,000; and

1 “(H) for the second and each
2 subsequent violation within any 5-year
3 period, \$5,000.

4 “(ii) KNOWING RETENTION OF WORK-
5 ER.—In addition to any civil penalty under
6 clause (i), a skilled nursing facility that—

7 “(I) knowingly continues to em-
8 ploy a skilled nursing facility worker
9 in violation of subparagraph (A) or
10 (B); or

11 “(II) knowingly fails to report a
12 skilled nursing facility worker under
13 subparagraph (C);

14 shall be subject to a civil penalty in an
15 amount not to exceed \$5,000 for the first
16 such violation; and \$10,000 for the second
17 and each subsequent violation within any
18 5-year period.

19 “(F) DEFINITIONS.—In this paragraph:

20 “(i) CONVICTION FOR A RELEVANT
21 CRIME.—The term ‘conviction for a rel-
22 evant crime’ means any Federal or State
23 criminal conviction for—

1 “(I) any offense described in
2 paragraphs (1) through (4) of section
3 1128(a); and

4 “(II) such other types of offenses
5 as the Secretary may specify in regu-
6 lations, taking into account the sever-
7 ity and relevance of such offenses, and
8 after consultation with representatives
9 of long-term care providers, represent-
10 atives of long-term care employees,
11 consumer advocates, and appropriate
12 Federal and State officials.

13 “(ii) DISQUALIFYING INFORMATION.—
14 The term ‘disqualifying information’ means
15 information about a conviction for a rel-
16 evant crime.

17 “(iii) SKILLED NURSING FACILITY
18 WORKER.—The term ‘skilled nursing facil-
19 ity worker’ means any individual (other
20 than a volunteer) that has access to a pa-
21 tient of a skilled nursing facility under an
22 employment or other contract, or both,
23 with such facility. Such term includes indi-
24 viduals who are licensed or certified by the
25 State to provide such services, and non-

1 licensed individuals providing such services,
 2 as defined by the Secretary, including
 3 nurse assistants, nurse aides, home health
 4 aides, and personal care workers and at-
 5 tendants.”.

6 (B) MEDICAID PROGRAM.—Section
 7 1919(b) of the Social Security Act (42 U.S.C.
 8 1396r(b)) is amended by adding at the end the
 9 following new paragraph:

10 “(8) SCREENING OF NURSING FACILITY WORK-
 11 ERS.—

12 “(A) BACKGROUND CHECKS ON APPLI-
 13 CANTS.—Subject to subparagraph (B)(ii), be-
 14 fore hiring a nursing facility worker, a nursing
 15 facility shall—

16 “(i) give the worker written notice
 17 that the facility is required to perform
 18 background checks with respect to appli-
 19 cants;

20 “(ii) require, as a condition of employ-
 21 ment, that such worker—

22 “(I) provide a written statement
 23 disclosing any conviction for a rel-
 24 evant crime;

1 ~~“(II) provide a statement signed~~
2 ~~by the worker authorizing the facility~~
3 ~~to request the search and exchange of~~
4 ~~criminal records;~~

5 ~~“(III) provide in person to the~~
6 ~~facility a copy of the worker’s finger-~~
7 ~~prints or thumb print, depending~~
8 ~~upon available technology; and~~

9 ~~“(IV) provide any other identi-~~
10 ~~fication information the Secretary~~
11 ~~may specify in regulation; and~~

12 ~~“(iii) request through the appropriate~~
13 ~~State agency that the State initiate a State~~
14 ~~and national criminal background check on~~
15 ~~such worker in accordance with the provi-~~
16 ~~sions of subsection (c)(8) and submit to~~
17 ~~such State agency the information de-~~
18 ~~scribed in subclauses (II) through (IV) of~~
19 ~~clause (ii).~~

20 ~~“(B) PROHIBITION ON HIRING.—~~

21 ~~“(i) IN GENERAL.—A nursing facility~~
22 ~~may not knowingly employ any nursing fa-~~
23 ~~cility worker who has any conviction for a~~
24 ~~relevant crime.~~

1 “(ii) PROVISIONAL EMPLOYMENT.—

2 After complying with the requirements of
3 clauses (i) and (ii) of subparagraph (A), a
4 nursing facility may provide for a provi-
5 sional period of employment for a nursing
6 facility worker pending completion of the
7 check against the background check de-
8 scribed under subparagraph (A)(iii). Sub-
9 ject to clause (iii), such facility shall main-
10 tain direct supervision of the worker dur-
11 ing the worker’s provisional period of em-
12 ployment.

13 “(iii) EXCEPTION FOR SMALL RURAL

14 NURSING FACILITIES.—In the case of a
15 small rural nursing facility (as defined by
16 the Secretary), the Secretary shall provide,
17 by regulation after consultation with pro-
18 viders of nursing facility services and enti-
19 ties representing beneficiaries of such serv-
20 ices, for an appropriate level of supervision
21 with respect to any provisional employees
22 employed by the facility in accordance with
23 clause (ii). Such regulation should encour-
24 age the provision of direct supervision of
25 such employees whenever practicable with

1 respect to such a facility and if such super-
2 vision would not impose an unreasonable
3 cost or other burden on the facility.

4 “(C) REPORTING REQUIREMENTS.—A
5 nursing facility shall report to the State any in-
6 stance in which the facility determines that a
7 nursing facility worker has committed an act of
8 resident neglect or abuse or misappropriation of
9 resident property in the course of employment
10 by the facility.

11 “(D) USE OF INFORMATION.—

12 “(i) IN GENERAL.—A nursing facility
13 that obtains information about a nursing
14 facility worker pursuant to subparagraph
15 (A)(iii) may use such information only for
16 the purpose of determining the suitability
17 of the worker for employment.

18 “(ii) IMMUNITY FROM LIABILITY.—A
19 nursing facility that, in denying employ-
20 ment for an applicant (including during
21 the period described in subparagraph
22 (B)(ii)), reasonably relies upon information
23 about such applicant provided by the State
24 pursuant to subsection (c)(8) shall not be
25 liable in any action brought by such appli-

1 cant based on the employment determina-
 2 tion resulting from the information.

3 “(iii) ~~CRIMINAL PENALTY.~~—Whoever
 4 knowingly violates the provisions of clause
 5 (i) shall be fined in accordance with title
 6 18, United States Code, imprisoned for not
 7 more than 2 years, or both.

8 “(E) ~~CIVIL PENALTY.~~—

9 “(i) ~~IN GENERAL.~~—A nursing facility
 10 that violates the provisions of this para-
 11 graph shall be subject to a civil penalty in
 12 an amount not to exceed—

13 “(I) for the first such violation,
 14 \$2,000; and

15 “(II) for the second and each
 16 subsequent violation within any 5-year
 17 period, \$5,000.

18 “(ii) ~~KNOWING RETENTION OF WORK-~~
 19 ~~ER.~~—In addition to any civil penalty under
 20 clause (i), a nursing facility that—

21 “(I) knowingly continues to em-
 22 ploy a nursing facility worker in viola-
 23 tion of subparagraph (A) or (B); or

1 “(H) knowingly fails to report a
2 nursing facility worker under subpara-
3 graph (C);

4 shall be subject to a civil penalty in an
5 amount not to exceed \$5,000 for the first
6 such violation, and \$10,000 for the second
7 and each subsequent violation within any
8 5-year period.

9 “(F) DEFINITIONS.—In this paragraph:

10 “(i) CONVICTION FOR A RELEVANT
11 CRIME.—The term ‘conviction for a rel-
12 evant crime’ means any Federal or State
13 criminal conviction for—

14 “(I) any offense described in
15 paragraphs (1) through (4) of section
16 1128(a); and

17 “(II) such other types of offenses
18 as the Secretary may specify in regu-
19 lations, taking into account the sever-
20 ity and relevance of such offenses, and
21 after consultation with representatives
22 of long-term care providers, represent-
23 atives of long-term care employees,
24 consumer advocates, and appropriate
25 Federal and State officials.

1 “(ii) DISQUALIFYING INFORMATION.—

2 The term ‘disqualifying information’ means
3 information about a conviction for a rel-
4 evant crime.

5 “(iii) NURSING FACILITY WORKER.—

6 The term ‘nursing facility worker’ means
7 any individual (other than a volunteer)
8 that has access to a patient of a nursing
9 facility under an employment or other con-
10 tract, or both, with such facility. Such
11 term includes individuals who are licensed
12 or certified by the State to provide such
13 services, and nonlicensed individuals pro-
14 viding such services, as defined by the Sec-
15 retary, including nurse assistants, nurse
16 aides, home health aides, and personal care
17 workers and attendants.”.

18 (C) FEDERAL RESPONSIBILITIES.—

19 (i) DEVELOPMENT OF STANDARD
20 FEDERAL AND STATE BACKGROUND CHECK
21 FORM.—The Secretary of Health and
22 Human Services, after consultation with
23 the Attorney General and representatives
24 of appropriate State agencies, shall develop
25 a model form that an applicant for employ-

1 ment at a nursing facility may complete
2 and Federal and State agencies may use to
3 conduct the criminal background checks
4 required under sections 1819(b)(8) and
5 1919(b)(8) of the Social Security Act (42
6 U.S.C. ~~1395i-3(b), 1396r(b)~~) (as added by
7 this section).

8 (ii) PERIODIC EVALUATION.—The
9 Secretary of Health and Human Services,
10 after consultation with the Attorney Gen-
11 eral, periodically shall evaluate the back-
12 ground check system imposed under sec-
13 tions 1819(b)(8) and 1919(b)(8) of the So-
14 cial Security Act (~~42 U.S.C. 1395i-3(b),~~
15 ~~1396r(b)~~) (as added by this section) and
16 shall implement changes, as necessary,
17 based on available technology, to make the
18 background check system more efficient
19 and able to provide a more immediate re-
20 sponse to long-term care providers using
21 the system.

22 (D) NO PREEMPTION OF STRICTER STATE
23 LAWS.—Nothing in section 1819(b)(8) or
24 1919(b)(8) of the Social Security Act (42
25 U.S.C. ~~1395i-3(b)(8), 1396r(b)(8)~~) (as so

1 added) shall be construed to supersede any pro-
2 vision of State law that—

3 (i) specifies a relevant crime for pur-
4 poses of prohibiting the employment of an
5 individual at a long-term care facility that
6 is not included in the list of such crimes
7 specified in such sections or in regulations
8 promulgated by the Secretary of Health
9 and Human Services to carry out such sec-
10 tions; or

11 (ii) requires a long-term care facility
12 (as so defined) to conduct a background
13 check prior to employing an individual in
14 an employment position that is not in-
15 cluded in the positions for which a back-
16 ground check is required under such sec-
17 tions.

18 ~~(E) TECHNICAL AMENDMENTS.~~—Effective
19 as if included in the enactment of section 941
20 of the Medicare, Medicaid, and SCHIP Benefits
21 Improvement and Protection Act of 2000 (114
22 Stat. 2763A–585), as enacted into law by sec-
23 tion 1(a)(6) of Public Law 106–554, sections
24 1819(b) and 1919(b) of the Social Security Act
25 (42 U.S.C. 1395i–3(b), 1396r(b)), as amended

1 by such section 941 (as so enacted into law) are
 2 each amended by redesignating the paragraph
 3 (8) added by such section as paragraph (9).

4 (2) FEDERAL AND STATE REQUIREMENTS CON-
 5 CERNING BACKGROUND CHECKS.—

6 (A) MEDICARE.—Section 1819(e) of the
 7 Social Security Act (42 U.S.C. 1395i-3(e)) is
 8 amended by adding at the end the following:

9 “(6) FEDERAL AND STATE REQUIREMENTS
 10 CONCERNING CRIMINAL BACKGROUND CHECKS ON
 11 SKILLED NURSING FACILITY EMPLOYEES.—

12 “(A) IN GENERAL.—Upon receipt of a re-
 13 quest by a skilled nursing facility pursuant to
 14 subsection (b)(8) that is accompanied by the in-
 15 formation described in subclauses (II) through
 16 (IV) of subsection (b)(8)(A)(ii), a State, after
 17 checking appropriate State records and finding
 18 no disqualifying information (as defined in sub-
 19 section (b)(8)(F)(ii)), shall immediately submit
 20 such request and information to the Attorney
 21 General and shall request the Attorney General
 22 to conduct a search and exchange of records
 23 with respect to the individual as described in
 24 subparagraph (B).

1 “(B) SEARCH AND EXCHANGE OF
2 RECORDS BY ATTORNEY GENERAL.—Upon re-
3 ceipt of a submission pursuant to subparagraph
4 (A), the Attorney General shall direct a search
5 of the records of the Federal Bureau of Inves-
6 tigation for any criminal history records cor-
7 responding to the fingerprints and other posi-
8 tive identification information submitted. The
9 Attorney General shall provide any cor-
10 responding information resulting from the
11 search to the State.

12 “(C) STATE REPORTING OF INFORMATION
13 TO SKILLED NURSING FACILITY.—Upon receipt
14 of the information provided by the Attorney
15 General pursuant to subparagraph (B), the
16 State shall—

17 “(i) review the information to deter-
18 mine whether the individual has any con-
19 viction for a relevant crime (as defined in
20 subsection (b)(8)(F)(i)); and

21 “(ii) immediately report to the skilled
22 nursing facility in writing the results of
23 such review.

24 “(D) FEES FOR PERFORMANCE OF CRIMI-
25 NAL BACKGROUND CHECKS.—

1 “(i) ~~AUTHORITY TO CHARGE FEES.—~~

2 “(I) ~~ATTORNEY GENERAL.—~~The
3 Attorney General may charge a fee to
4 any State requesting a search and ex-
5 change of records pursuant to this
6 paragraph and subsection (b)(8) for
7 conducting the search and providing
8 the records. The amount of such fee
9 shall not exceed the lesser of the ac-
10 tual cost of such activities or \$50.
11 Such fees shall be available to the At-
12 torney General, or, in the Attorney
13 General’s discretion, to the Federal
14 Bureau of Investigation until ex-
15 pended.

16 “(II) ~~STATE.—~~A State may
17 charge a skilled nursing facility a fee
18 for initiating the criminal background
19 check under this paragraph and sub-
20 section (b)(8), including fees charged
21 by the Attorney General, and for per-
22 forming the review and report re-
23 quired by subparagraph (C). The
24 amount of such fee shall not exceed
25 the actual cost of such activities.

1 “(ii) PROHIBITION ON CHARGING AP-
2 PLICANTS OR EMPLOYEES.—An entity may
3 not impose on an applicant for employment
4 or an employee any charges relating to the
5 performance of a background check under
6 this paragraph.

7 “(E) REGULATIONS.—

8 “(i) IN GENERAL.—In addition to the
9 Secretary’s authority to promulgate regula-
10 tions under this title, the Attorney Gen-
11 eral, after consultation with the Secretary,
12 may promulgate such regulations as are
13 necessary to carry out the Attorney Gen-
14 eral’s responsibilities under this paragraph
15 and subsection (b)(9), including regula-
16 tions regarding the security confidentiality,
17 accuracy, use, destruction, and dissemina-
18 tion of information, audits and record-
19 keeping, and the imposition of fees.

20 “(ii) APPEAL PROCEDURES.—The At-
21 torney General, after consultation with the
22 Secretary, shall promulgate such regula-
23 tions as are necessary to establish proce-
24 dures by which an applicant or employee
25 may appeal or dispute the accuracy of the

1 information obtained in a background
2 check conducted under this paragraph. Ap-
3 peals shall be limited to instances in which
4 an applicant or employee is incorrectly
5 identified as the subject of the background
6 check, or when information about the ap-
7 plicant or employee has not been updated
8 to reflect changes in the applicant's or em-
9 ployee's criminal record.

10 “(F) REPORT.—Not later than 2 years
11 after the date of enactment of this paragraph,
12 the Attorney General shall submit a report to
13 Congress on—

14 “(i) the number of requests for
15 searches and exchanges of records made
16 under this section;

17 “(ii) the disposition of such requests;
18 and

19 “(iii) the cost of responding to such
20 requests.”.

21 (B) MEDICAID.—Section 1919(e) of the
22 Social Security Act (42 U.S.C. 1396r(e)) is
23 amended by adding at the end the following:

1 “(8) FEDERAL AND STATE REQUIREMENTS
2 CONCERNING CRIMINAL BACKGROUND CHECKS ON
3 NURSING FACILITY EMPLOYEES.—

4 “(A) IN GENERAL.—Upon receipt of a re-
5 quest by a nursing facility pursuant to sub-
6 section (b)(8) that is accompanied by the infor-
7 mation described in subclauses (II) through
8 (IV) of subsection (b)(8)(A)(ii), a State, after
9 checking appropriate State records and finding
10 no disqualifying information (as defined in sub-
11 section (b)(8)(F)(ii)), shall immediately submit
12 such request and information to the Attorney
13 General and shall request the Attorney General
14 to conduct a search and exchange of records
15 with respect to the individual as described in
16 subparagraph (B).

17 “(B) SEARCH AND EXCHANGE OF
18 RECORDS BY ATTORNEY GENERAL.—Upon re-
19 ceipt of a submission pursuant to subparagraph
20 (A), the Attorney General shall direct a search
21 of the records of the Federal Bureau of Inves-
22 tigation for any criminal history records cor-
23 responding to the fingerprints and other posi-
24 tive identification information submitted. The
25 Attorney General shall provide any cor-

1 responding information resulting from the
2 search to the State.

3 ~~“(C) STATE REPORTING OF INFORMATION~~
4 ~~TO NURSING FACILITY.—~~Upon receipt of the in-
5 formation provided by the Attorney General
6 pursuant to subparagraph (B), the State
7 shall—

8 “(i) review the information to deter-
9 mine whether the individual has any con-
10 viction for a relevant crime (as defined in
11 subsection (b)(8)(F)(i)); and

12 “(ii) immediately report to the nurs-
13 ing facility in writing the results of such
14 review.

15 ~~“(D) FEES FOR PERFORMANCE OF CRIMI-~~
16 ~~NAL BACKGROUND CHECKS.—~~

17 ~~“(i) AUTHORITY TO CHARGE FEES.—~~

18 ~~“(I) ATTORNEY GENERAL.—~~The
19 Attorney General may charge a fee to
20 any State requesting a search and ex-
21 change of records pursuant to this
22 paragraph and subsection (b)(8) for
23 conducting the search and providing
24 the records. The amount of such fee
25 shall not exceed the lesser of the ac-

1 tual cost of such activities or \$50.
2 Such fees shall be available to the At-
3 torney General, or, in the Attorney
4 General's discretion, to the Federal
5 Bureau of Investigation, until ex-
6 pended.

7 “(H) STATE.—A State may
8 charge a nursing facility a fee for ini-
9 tiating the criminal background check
10 under this paragraph and subsection
11 (b)(8), including fees charged by the
12 Attorney General, and for performing
13 the review and report required by sub-
14 paragraph (C). The amount of such
15 fee shall not exceed the actual cost of
16 such activities.

17 “(ii) PROHIBITION ON CHARGING AP-
18 PLICANTS OR EMPLOYEES.—An entity may
19 not impose on an applicant for employment
20 or an employee any charges relating to the
21 performance of a background check under
22 this paragraph.

23 “(E) REGULATIONS.—

24 “(i) IN GENERAL.—In addition to the
25 Secretary's authority to promulgate regula-

1 tions under this title, the Attorney Gen-
2 eral, after consultation with the Secretary,
3 may promulgate such regulations as are
4 necessary to carry out the Attorney Gen-
5 eral's responsibilities under this paragraph
6 and subsection (b)(8), including regula-
7 tions regarding the security, confiden-
8 tiality, accuracy, use, destruction, and dis-
9 semination of information, audits and rec-
10 ordkeeping, and the imposition of fees.

11 “(ii) APPEAL PROCEDURES.—The At-
12 torney General, after consultation with the
13 Secretary, shall promulgate such regula-
14 tions as are necessary to establish proce-
15 dures by which an applicant or employee
16 may appeal or dispute the accuracy of the
17 information obtained in a background
18 check conducted under this paragraph. Ap-
19 peals shall be limited to instances in which
20 an applicant or employee is incorrectly
21 identified as the subject of the background
22 check, or when information about the ap-
23 plicant or employee has not been updated
24 to reflect changes in the applicant's or em-
25 ployee's criminal record.

1 “(F) REPORT.—Not later than 2 years
2 after the date of enactment of this paragraph,
3 the Attorney General shall submit a report to
4 Congress on—

5 “(i) the number of requests for
6 searches and exchanges of records made
7 under this section;

8 “(ii) the disposition of such requests;
9 and

10 “(iii) the cost of responding to such
11 requests.”.

12 ~~(3) APPLICATION TO OTHER ENTITIES PRO-~~
13 ~~VIDING HOME HEALTH OR LONG-TERM CARE SERV-~~
14 ~~ICES.—~~

15 ~~(A) MEDICARE.—Part D of title XVIII of~~
16 ~~the Social Security Act (42 U.S.C. 1395x et~~
17 ~~seq.) is amended by adding at the end the fol-~~
18 ~~lowing:~~

19 ~~“APPLICATION OF SKILLED NURSING FACILITY PREVEN-~~
20 ~~TIVE ABUSE PROVISIONS TO ANY PROVIDER OF~~
21 ~~SERVICES OR OTHER ENTITY PROVIDING HOME~~
22 ~~HEALTH OR LONG-TERM CARE SERVICES~~

23 ~~“SEC. 1897. (a) IN GENERAL.—The requirements of~~
24 ~~subsections (b)(8) and (c)(6) of section 1819 shall apply~~
25 ~~to any provider of services or any other entity that is eligi-~~
26 ~~ble to be paid under this title for providing home health~~

1 services, hospice care (including routine home care and
 2 other services included in hospice care under this title),
 3 or long-term care services to an individual entitled to bene-
 4 fits under part A or enrolled under part B, including an
 5 individual provided with a Medicare+Choice plan offered
 6 by a Medicare+Choice organization under part C (in this
 7 section referred to as a ‘medicare beneficiary’).

8 “(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

9 “(1) IN GENERAL.—With respect to an entity
 10 that provides home health services, such entity shall
 11 be considered to have satisfied the requirements of
 12 section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the
 13 entity meets such requirements for supervision of
 14 provisional employees of the entity as the Secretary
 15 shall, by regulation, specify in accordance with para-
 16 graph (2).

17 “(2) REQUIREMENTS.—The regulations re-
 18 quired under paragraph (1) shall provide the fol-
 19 lowing:

20 “(A) Supervision of a provisional employee
 21 shall consist of ongoing, good faith, verifiable
 22 efforts by the supervisor of the provisional em-
 23 ployee to conduct monitoring and oversight ac-
 24 tivities to ensure the safety of a medicare bene-
 25 ficiary.

1 “(B) For purposes of subparagraph (A),
2 monitoring and oversight activities may include
3 (but are not limited to) the following:

4 “(i) Follow-up telephone calls to the
5 medicare beneficiary.

6 “(ii) Unannounced visits to the medi-
7 care beneficiary’s home while the provi-
8 sional employee is serving the medicare
9 beneficiary.

10 “(iii) To the extent practicable, lim-
11 iting the provisional employee’s duties to
12 serving only those medicare beneficiaries in
13 a home or setting where another family
14 member or resident of the home or setting
15 of the medicare beneficiary is present.

16 “(C) In promulgating such regulations, the
17 Secretary shall take into account the staffing
18 and geographic issues faced by small rural enti-
19 ties (as defined by the Secretary) that provide
20 home health services, hospice care (including
21 routine home care and other services included
22 in hospice care under this title), or other long-
23 term care services. Such regulations should en-
24 courage the provision of monitoring and over-
25 sight activities whenever practicable with re-

1 spect to such an entity, and if such activities
 2 would not impose an unreasonable cost or other
 3 burden on the entity.”.

4 (B) MEDICAID.—Section 1902(a) of the
 5 Social Security Act (42 U.S.C. 1396a) is
 6 amended—

7 (i) in paragraph (64), by striking
 8 “and” at the end;

9 (ii) in paragraph (65), by striking the
 10 period and inserting “; and”; and

11 (iii) by inserting after paragraph (65)
 12 the following:

13 “(66) provide that any entity that is eligible to
 14 be paid under the State plan for providing home
 15 health services, hospice care (including routine home
 16 care and other services included in hospice care
 17 under title XVIII), or long-term care services for
 18 which medical assistance is available under the State
 19 plan to individuals requiring long-term care complies
 20 with the requirements of subsections (b)(8) and
 21 (c)(8) of section 1919 and section 1897(b) (in the
 22 same manner as such section applies to a medicare
 23 beneficiary).”.

24 (b) PREVENTION AND TRAINING DEMONSTRATION
 25 PROJECT.—

1 (1) ESTABLISHMENT.—The Secretary of Health
2 and Human Services shall establish a demonstration
3 program to provide grants to develop information on
4 best practices in patient abuse prevention training
5 (including behavior training and interventions) for
6 managers and staff of hospital and health care fa-
7 cilities.

8 (2) ELIGIBILITY.—To be eligible to receive a
9 grant under paragraph (1), an entity shall be a pub-
10 lic or private nonprofit entity and prepare and sub-
11 mit to the Secretary of Health and Human Services
12 an application at such time, in such manner, and
13 containing such information as the Secretary may
14 require.

15 (3) USE OF FUNDS.—Amounts received under a
16 grant under this subsection shall be used to—

17 (A) examine ways to improve collaboration
18 between State health care survey and provider
19 certification agencies, long-term care ombuds-
20 man programs, the long-term care industry,
21 and local community members;

22 (B) examine patient care issues relating to
23 regulatory oversight, community involvement,
24 and facility staffing and management with a

1 focus on staff training, staff stress manage-
2 ment, and staff supervision;

3 (C) examine the use of patient abuse pre-
4 vention training programs by long-term care en-
5 tities, including the training program developed
6 by the National Association of Attorneys Gen-
7 eral, and the extent to which such programs are
8 used; and

9 (D) identify and disseminate best practices
10 for preventing and reducing patient abuse.

11 (4) AUTHORIZATION OF APPROPRIATIONS.—

12 There are authorized to be appropriated to carry out
13 this subsection such sums as may be necessary.

14 (e) SENSE OF THE SENATE REGARDING THE ESTAB-
15 LISHMENT OF A NATIONAL BACKGROUND CHECK SYSTEM
16 FOR LONG-TERM CARE EMPLOYEES.—

17 (1) FINDINGS.—The Senate makes the fol-
18 lowing findings:

19 (A) Nearly 1,500,000 Americans reside in
20 17,000 nursing homes throughout the Nation,
21 and the vast majority of nursing homes partici-
22 pate in the medicare and medicaid programs.

23 (B) The Federal Government spent
24 \$82,100,000,000 through the medicare and

1 medicaid programs in fiscal year 2000 for long-
2 term care services.

3 (C) The impending retirement of the baby
4 boom generation will greatly increase the de-
5 mand and need for quality long-term care, and
6 it is incumbent on Congress and the President
7 to ensure that medicare and medicaid bene-
8 ficiaries are protected from abuse, neglect, and
9 mistreatment.

10 (D) On July 30, 2001, the minority staff
11 of the special investigations division of the
12 Committee on Government Reform of the
13 House of Representatives issued a report which
14 found that in the past 2 years, over 30 percent
15 of nursing homes in the United States were
16 cited for a physical, sexual, or verbal abuse vio-
17 lation that had the potential to harm residents,
18 and nearly 10 percent of nursing homes had
19 violations that caused actual harm to residents.

20 (E) Although the majority of long-term
21 care facilities do an excellent job in caring for
22 elderly and disabled patients, incidents of abuse
23 and neglect and mistreatment do occur at an
24 unacceptable rate and are not limited to nurs-
25 ing homes alone.

1 (F) Without a national background check
2 system to screen applicants for employment, all
3 long-term care providers, including nursing fa-
4 cilities, home health, home care, and hospice
5 providers, are at risk for hiring workers with a
6 history of abuse and violence.

7 (G) A March 2002 report by the General
8 Accounting Office found that few prosecutions
9 and criminal convictions result from allegations
10 of abuse in nursing homes.

11 (H) Federal law requires all States to
12 maintain a nurse aide registry which includes
13 any substantiated findings of abuse committed
14 by nurse aides in nursing homes.

15 (I) In March 2002, the General Account-
16 ing Office testified before the Special Com-
17 mittee on Aging of the Senate that the existing
18 State registries contained significant gaps be-
19 cause many nursing home employees are not in-
20 cluded in the registries and the registries do not
21 track abuses committed in other States.

22 (J) A 1998 report from the Office of the
23 Inspector General of the Department of Health
24 and Human Services entitled "Safeguarding
25 Long-Term Care Residents" recommended es-

1 tablishing a national registry of abusive long-
2 term care workers to be checked by all long-
3 term care facilities before hiring an employee.

4 (2) SENSE OF THE SENATE.—It is the Sense of
5 the Senate that Congress should pass legislation
6 that will—

7 (A) require the Secretary of Health and
8 Human Services to establish a national registry
9 of abusive long-term care workers that will in-
10 corporate abuse information from all existing
11 State nurse aide registries, and expand infor-
12 mation included in the State registries and the
13 national registry to include abuse information
14 about all employees of all long-term care pro-
15 viders that receive funding through the medi-
16 care or medicaid programs (42 U.S.C. 1395 et
17 seq.; 1396 et seq.);

18 (B) require all long-term care providers,
19 before hiring a potential employee, to conduct
20 checks of both the national registry and crimi-
21 nal conviction records maintained by the Fed-
22 eral Bureau of Investigation, and prohibit long-
23 term care providers from hiring potential em-
24 ployees with relevant abuse and criminal his-
25 tories;

1 (C) require the Secretary of Health and
2 Human Services and the Attorney General to
3 develop an efficient system for long-term care
4 providers to use to check both the national reg-
5 istry and the criminal conviction records main-
6 tained by the Federal Bureau of Investigation
7 before hiring an employee; and

8 (D) ensure adequate safeguards to protect
9 the privacy and accuracy of information regard-
10 ing applicants for employment being checked
11 through the national registry and the criminal
12 conviction records maintained by the Federal
13 Bureau of Investigation.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), this section and the amendments made by
17 this section shall take effect on the date that is 6
18 months after the effective date of final regulations
19 promulgated to carry out this section and such
20 amendments.

21 (2) SENSE OF THE SENATE.—Subsection (c)
22 shall take effect on the date of enactment of this
23 section.

1 **SEC. 103. INCREASING THE NUMBER OF HEALTH CARE**
 2 **PROFESSIONALS WITH GERIATRIC TRAINING.**

3 Section 338C of the Public Health Service Act (42
 4 U.S.C. 254m) is amended by adding at the end the fol-
 5 lowing:

6 “(f) For purposes of this section and section 338B,
 7 the term ‘obligated service’, with respect to an individual
 8 who has entered into a written contract with the Secretary
 9 under section 338B, includes any period in which the indi-
 10 vidual is enrolled and participating in an accredited (as
 11 determined by the Secretary) educational program that
 12 provides geriatric training. Upon the completion of such
 13 training, such individual, after consultation with the Sec-
 14 retary, shall provide geriatric services as appropriate dur-
 15 ing the remainder of such individual’s period of obligated
 16 service.”.

17 **SEC. 104. SUPPORTING THE LONG-TERM CARE OMBUDS-**
 18 **MAN PROGRAM.**

19 Section 712(h) of the Older Americans Act of 1965
 20 (42 U.S.C. 3058g(h)) is amended—

21 (1) in paragraph (8), by striking “; and” and
 22 inserting a semicolon;

23 (2) in paragraph (9), by striking the period and
 24 inserting “; and”; and

25 (3) by adding at the end the following:

1 “(10) make grants, in consultation with the Di-
 2 rector of the Office of Elder Justice in the Depart-
 3 ment of Health and Human Services and the Direc-
 4 tor of the Office of Elder Justice in the Department
 5 of Justice, to eligible entities with relevant expertise
 6 and experience to conduct evaluations and pilot
 7 studies relating to various programs and methods
 8 carried out by the Office of the State Long-Term
 9 Care Ombudsman or a local Ombudsman entity
 10 under section 307(a)(9) or this chapter, or to pro-
 11 vide support (such as an ombudsman resource cen-
 12 ter).”.

13 **SEC. 105. ESTABLISHMENT OF OFFICE OF ADULT PROTEC-**
 14 **TIVE SERVICES.**

15 (a) **IN GENERAL.**—Part A of title XI of the Social
 16 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 17 ing at the end the following:

18 “OFFICE OF ADULT PROTECTIVE SERVICES

19 “SEC. 1150A. (a) **IN GENERAL.**—There is estab-
 20 lished within the Department of Health and Human Serv-
 21 ices, within the Administration on Children and Families,
 22 the Office of Adult Protective Services (in this section re-
 23 ferred to as the ‘Office’). The Office shall be headed by
 24 a Director, who shall be appointed by the Secretary.

25 “(b) **DUTIES.**—The Office shall—

1 “(1) provide necessary funding and support to
2 State and local adult protective services offices that
3 investigate reports of abuse, neglect, and exploi-
4 tation of elders;

5 “(2) annually collect and disseminate data re-
6 lating to the abuse, exploitation, and neglect of el-
7 derly individuals in coordination with the Centers for
8 Disease Control and Prevention efforts to collect na-
9 tional data under section 2221(b);

10 “(3) develop and disseminate best practices re-
11 garding, and provide training on, carrying out pro-
12 tective services for elders;

13 “(4) in conjunction with the necessary experts,
14 conduct research related to the provision of such
15 protective services;

16 “(5) provide technical assistance to States and
17 other entities that provide or fund the provision of
18 such protective services, including through grants
19 made under title XX;

20 “(6) participate in the Intra-Agency Elder Jus-
21 tice Steering Committee established under section
22 2212; and

23 “(7) coordinate activities with the Office of
24 Elder Justice established under section 2211 and

1 with other Federal and State agencies that have re-
 2 sponsibility for issues related to elder justice.

3 “(c) APPROPRIATIONS.—There are appropriated such
 4 sums as may be necessary to carry out this section.”

5 (b) EFFECTIVE DATE.—The amendments made by
 6 this section take effect 90 days after the date of enactment
 7 of the Elder Justice Act.

8 **SEC. 106. ASSURING SAFETY OF RESIDENTS WHEN NURS-**
 9 **ING FACILITIES CLOSE.**

10 (a) MEDICARE.—Section 1819(c)(2) of the Social Se-
 11 curity Act (42 U.S.C. 1395i-3(c)(2)) is amended by add-
 12 ing at the end the following:

13 “(D) NOTIFICATION OF FACILITY CLO-
 14 SURE.—

15 “(i) IN GENERAL.—A skilled nursing
 16 facility shall—

17 “(I) submit to the Secretary and
 18 the appropriate State regulatory agen-
 19 cy written notification of an impend-
 20 ing closure not later than the date
 21 that is 60 days prior to the date of
 22 such closure;

23 “(II) include in the notice a plan
 24 for the transfer and adequate reloca-
 25 tion of the residents prior to closure;

1 including assurances that residents
2 will not be transferred to facilities
3 providing substandard care for which
4 administrative or law enforcement ac-
5 tion is pending; and

6 “(III) not later than 10 days
7 after the facility closure, submit to the
8 Secretary and the appropriate State
9 agency information identifying where
10 residents of the closed facility were
11 transferred and on what date.

12 “(ii) SANCTIONS.—Any person owning
13 a skilled nursing facility that fails to com-
14 ply with the requirements of clause (i)
15 shall be subject to—

16 “(I) a civil monetary penalty of
17 up to \$1,000,000;

18 “(II) exclusion from participation
19 in the programs under this Act (in ac-
20 cordance with the procedures of sec-
21 tion 1128); and

22 “(III) any other applicable civil
23 monetary penalties and assessments.

24 “(iii) PROCEDURE.—A civil monetary
25 penalty or assessment authorized under

1 clause (ii) shall be imposed against a per-
2 son in the same manner as a civil mone-
3 tary penalty, assessment, or exclusion is
4 imposed under section 1128A.”.

5 (b) MEDICAID.—Section 1919(e)(2) of the Social Se-
6 curity Act (42 U.S.C. 1396r(e)(2)) is amended by adding
7 at the end the following:

8 “(G) NOTIFICATION OF FACILITY CLO-
9 SURE.—

10 “(i) IN GENERAL.—A nursing facility
11 shall—

12 “(I) submit to the Secretary and
13 the appropriate State regulatory agen-
14 cy written notification of an impend-
15 ing closure not later than the date
16 that is 60 days prior to the date of
17 such closure;

18 “(II) include in the notice a plan
19 for the transfer and adequate reloca-
20 tion of the residents prior to closure,
21 including assurances that residents
22 will not be transferred to facilities
23 providing substandard care for which
24 administrative or law enforcement ac-
25 tion is pending; and

1 “(III) not later than 10 days
2 after the facility closure submit to the
3 Secretary and the appropriate State
4 agency information identifying where
5 residents of the closed facility were
6 transferred and on what date.

7 “(ii) SANCTIONS.—Any person owning
8 a nursing facility that fails to comply with
9 the requirements of clause (i) shall be sub-
10 ject to—

11 “(I) a civil monetary penalty of
12 up to \$1,000,000;

13 “(II) exclusion from participation
14 in the programs under this Act (in ac-
15 cordance with the procedures of sec-
16 tion 1128); and

17 “(III) any other applicable civil
18 monetary penalties and assessments.

19 “(iii) PROCEDURE.—A civil monetary
20 penalty or assessment authorized under
21 clause (ii) shall be imposed against a per-
22 son in the same manner as a civil mone-
23 etary penalty, assessment, or exclusion is
24 imposed under section 1128A.”.

1 (c) REGULATIONS.—The Secretary, after consulting
 2 with the Attorney General, shall issue regulations to carry
 3 out this section.

4 **TITLE II—DEPARTMENT OF**
 5 **JUSTICE**

6 **SEC. 201. DEFINITIONS; RULE.**

7 (a) DEFINITIONS.—In this title the terms “abuse”,
 8 “elder”, “elder justice”, “exploitation”, “fiduciary”,
 9 “grant”, “granting authority”, “guardianship”, “know-
 10 ingly”, “law enforcement”, “neglect”, “serious bodily in-
 11 jury”, “social”, “State”, and “vulnerable adult” have the
 12 meanings given such terms in title XXII of the Social Se-
 13 curity Act.

14 (b) RULE.—The Attorney General may determine, in
 15 an appropriate case, that a provision of this title that ap-
 16 plies to elders also applies to vulnerable adults.

17 **SEC. 202. MODEL STATE LAWS AND PRACTICES.**

18 (a) IN GENERAL.—The Attorney General, after con-
 19 sultation with the Secretary of Health and Human Serv-
 20 ices, shall—

21 (1) conduct a study and prepare a report of the
 22 findings of that study of State laws and practices re-
 23 lating to elder abuse, neglect, and exploitation and
 24 provide such report or periodic reports to the Elder
 25 Justice Resource Center established under section

1 ~~2221~~ of the Social Security Act, to be made avail-
2 able to the public; and

3 ~~(2)~~ not later than 2 years after the date of en-
4 actment of this Act, submit to the Chairman and
5 Ranking Member of the Special Committee on Aging
6 of the Senate, and the Speaker and Minority leader
7 of the House of Representatives a report that—

8 (A) provides recommendations on a com-
9 prehensive description and comparative analysis
10 of the State laws and practices; and

11 (B) provides recommended models for
12 State laws and practices based on an analysis
13 of the most effective State laws and practices,
14 including recommendations with respect to the
15 definitions referred to in subsection (b)(1).

16 (b) STATE LAWS AND PRACTICES.—The Attorney
17 General shall examine State laws and practices under sub-
18 section (a) on issues including—

19 (1) definitions of “elder”, “abuse”, “neglect”,
20 and “exploitation”, and related terms;

21 ~~(2)~~ mandatory reporting laws, with respect to—

22 (A) who is a mandated reporter;

23 (B) to whom must they report and within
24 what timeframe; and

25 (C) any consequences for nonreporting;

1 (3) evidentiary, procedural, sentencing, choice
2 of remedies, and data retention issues relating to
3 pursuing cases relating to elder abuse, neglect, and
4 exploitation;

5 (4) laws requiring immediate reporting of all
6 nursing home deaths to the county coroner or to
7 some other individual or entity;

8 (5) fiduciary laws, including guardianship and
9 power of attorney laws;

10 (6) laws that permit or encourage banks and
11 bank employees to prevent and report suspected
12 elder abuse, neglect, and exploitation;

13 (7) laws that may impede research on elder
14 abuse, neglect, and exploitation;

15 (8) practices relating to the enforcement of laws
16 relating to elder abuse, neglect, and exploitation; and

17 (9) practices relating to other aspects of elder
18 justice.

19 **SEC. 203. OFFICE OF ELDER JUSTICE OF THE DEPARTMENT**
20 **OF JUSTICE.**

21 (a) **ESTABLISHMENT.**—There is established within
22 the Department of Justice under the Assistant Attorney
23 General, Office of Justice Programs, an Office of Elder
24 Justice.

25 (b) **DIRECTOR.**—

1 (1) APPOINTMENT.—The President, with the
2 advice and consent of the Senate, shall appoint a Di-
3 rector of the Office of Elder Justice, from among in-
4 dividuals with experience and expertise in elder jus-
5 tice issues, to manage the Office of Elder Justice es-
6 tablished under this section.

7 (2) DUTIES.—The Director of the Office of
8 Elder Justice shall—

9 (A)(i) develop objectives, priorities, policy,
10 and a long-term plan for elder justice programs
11 and activities relating to prevention, detection,
12 training, treatment, evaluation, intervention, re-
13 search, and improvement of the elder justice
14 system in the United States;

15 (ii) implement the overall policy and a
16 strategy to carry out the plan described in
17 clause (i); and

18 (iii) hire personnel to assist the director in
19 carrying out the policy, program, and adminis-
20 trative activities related to the duties under
21 clauses (i) and (ii);

22 (B) provide advice to the Attorney General
23 on elder justice issues; and

24 (C) coordinate activities with the Senior
25 Counsel on Elder Justice.

1 (3) REPORTING RELATIONSHIP.—The Director
 2 of the Office of Elder Justice shall have the same
 3 reporting relationship with the Attorney General and
 4 the Assistant Attorney General, Office of Justice
 5 Programs, as the directors of the other offices head-
 6 ed by presidential appointees within the Office of
 7 Justice Programs.

8 (4) COMPENSATION.—The Director shall be
 9 compensated at a rate that shall not exceed the rate
 10 established for level I of the Executive Schedule
 11 under section 5312 of title 5, United States Code.

12 (c) SENIOR COUNSEL.—

13 (1) APPOINTMENT.—The Attorney General
 14 shall appoint a Senior Counsel on Elder Justice,
 15 from among individuals with experience and exper-
 16 tise in elder justice issues.

17 (2) DUTIES.—The Senior Counsel on Elder
 18 Justice shall—

19 (A) coordinate elder justice activities
 20 among—

21 (i) the Office of Elder Justice;

22 (ii) other offices (including bureaus)

23 within the Office of Justice Programs that
 24 are involved with elder justice issues;

1 (iii) litigating divisions with cases re-
2 relating to elder justice matters;

3 (iv) the Executive Office of United
4 States Attorneys and the United States
5 Attorneys' offices; and

6 (v) any other office or division of the
7 Department of Justice that the Attorney
8 General considers appropriate for such co-
9 ordination; and

10 (B) provide advice to the Attorney General
11 on elder justice issues.

12 (3) LOCATION.—The Senior Counsel on Elder
13 Justice shall be located in—

14 (A) the Office of the Attorney General;

15 (B) the Office of the Deputy Attorney
16 General; or

17 (C) the Office of the Associate Attorney
18 General.

19 (4) POSITION.—The position of the Senior
20 Counsel on Elder Justice shall be a Senior Executive
21 Service position, as defined in section 3132 of title
22 5, United States Code.

23 (5) STAFF.—The Senior Counsel on Elder Jus-
24 tice may appoint and terminate 1 full-time employee
25 to enable the Senior Counsel to perform the duties

1 described in paragraph (2). The Senior Counsel on
 2 Elder Justice may fix the compensation of the em-
 3 ployee in accord with chapter 51 and subchapter III
 4 of chapter 53 of title 5, United States Code, relating
 5 to classification of positions and General Schedule
 6 pay rates.

7 (6) **RELATION TO OTHER LAW.**—The positions
 8 described in paragraphs (4) and (5), and the salary
 9 for the positions, shall be in addition to the total
 10 number of positions and the total amount of salary
 11 provided for in Public Law 107–77.

12 **SEC. 204. GRANTS UNDER THE SOCIAL SECURITY ACT.**

13 The Attorney General is authorized to award grants
 14 under subsections (a), (e)(1), (e)(2), (d), (e)(1), (f), (h),
 15 and (i) of section 2222 and under section 2224 of the So-
 16 cial Security Act in accordance with such subsections.

17 **SEC. 205. VICTIM ADVOCACY GRANTS.**

18 (a) **GRANTS AUTHORIZED.**—The Attorney General,
 19 after consultation with the Secretary of Health and
 20 Human Services, may award grants to eligible entities to
 21 study the special needs of victims of elder abuse, neglect,
 22 and exploitation.

23 (b) **AUTHORIZED ACTIVITIES.**—Funds awarded pur-
 24 suant to subsection (a) shall be used for pilot programs
 25 that develop programs, provide training to health care, so-

1 cial and protective services providers, law enforcement, fi-
 2 duciaries including guardians, judges and court personnel,
 3 and victim advocates, and examine special approaches de-
 4 signed to meet the needs of victims of elder abuse, neglect,
 5 and exploitation.

6 **SEC. 206. SUPPORTING LOCAL PROSECUTORS IN ELDER**
 7 **JUSTICE MATTERS.**

8 (a) GRANT AUTHORIZED.—The Attorney General,
 9 after consultation with the Director of Office of Elder Jus-
 10 tice in the Department of Health and Human Services,
 11 shall award grants to provide training, technical assist-
 12 ance, policy development, multidisciplinary coordination,
 13 and other types of support to local prosecutors, handling
 14 elder justice-related cases, including the funding of spe-
 15 cially designated elder justice positions or units, or fund-
 16 ing the creation of a Center for the Prosecution of Elder
 17 Abuse, Neglect, and Exploitation by the American Pros-
 18 ecutor Research Institute of the National District Attor-
 19 neys Association, or other similarly situated entity to ad-
 20 vise and support local prosecutors nationwide in their pur-
 21 suit of cases involving elder abuse, neglect, and exploi-
 22 tation.

23 (b) DUTIES.—The Center created under subsection
 24 (a) shall, among other things—

1 (2) the creation of a position to coordinate elder
2 justice-related cases, training, technical assistance,
3 and policy development for State prosecutors, by the
4 National Association of Attorneys General (NAAG)
5 or other similarly situated entity.

6 **SEC. 208. SUPPORTING FEDERAL CASES INVOLVING ELDER**
7 **JUSTICE.**

8 (a) **SUPPORT AND ASSISTANCE.—**

9 (1) **IN GENERAL.—**The Attorney General shall
10 support cases relating to elder justice.

11 (2) **ADDITIONAL STAFF.—**The Attorney General
12 shall have additional Federal prosecutors and make
13 funding available to Federal prosecutors to hire
14 nurse-investigators or other experts needed to iden-
15 tify, assist with, or pursue cases relating to elder
16 justice.

17 (3) **RESOURCE GROUP.—**The Attorney General
18 may fund through the Executive Office of United
19 States Attorneys for a Resource Group to assist
20 prosecutors throughout the Nation in pursuing fail-
21 ure of care and other cases relating to elder justice
22 matters.

23 (b) **OFFICE OF INSPECTOR GENERAL.—**The Office of
24 Inspector General of the Department of Health and
25 Human Services shall hire nurse investigators and other

1 experts to investigate and pursue failure of care allega-
2 tions.

3 **SEC. 209. COMMUNITY POLICING.**

4 (a) GRANT AUTHORIZED.—The Attorney General,
5 after consultation with the Secretary of the Department
6 of Health and Human Services, shall establish a grant
7 program to develop community policing and other law en-
8 forcement efforts to make communities safer for elders liv-
9 ing in all settings.

10 (b) SPECIAL ELDER UNITS.—The Attorney General,
11 after consultation with the Secretary of Health and
12 Human Services, shall establish a grant program to sup-
13 port—

14 (1) special elder units and officers;

15 (2) in rural areas with fewer law enforcement
16 personnel, a specially trained elder officer;

17 (3) programs, including the Alzheimer Associa-
18 tion's "Safe Return Program" or other similar pro-
19 gram; and

20 (4) training, technical assistance, policy devel-
21 opment, multidisciplinary coordination, and other
22 support and programs relating to elder justice.

1 **SEC. 210. SUPPORTING LAW ENFORCEMENT IN ELDER JUSTICE MATTERS.**
 2

3 The Attorney General shall, after consultation with
 4 the Secretary of Health and Human Services, award
 5 grants to provide training, technical assistance, multidisci-
 6 plinary coordination, policy development, and other types
 7 of support to police, sheriffs, detectives, public safety offi-
 8 cers, corrections personnel, and other front line law en-
 9 forcement responders who handle elder justice-related
 10 matters, to fund specially designated elder justice posi-
 11 tions or units, designed to support front line law enforce-
 12 ment in elder justice matters.

13 **SEC. 211. EVALUATIONS.**

14 (a) GRANTS.—

15 (1) IN GENERAL.—In making a grant under a
 16 provision of this title (other than this section), the
 17 granting authority shall—

18 (A) require the recipient of the grant to—

19 (i) reserve a portion of the funds
 20 made available through the grant; and

21 (ii) use the reserved funds to conduct
 22 an evaluation of the other activities carried
 23 out through the grant; or

24 (B)(i) reserve a portion of the funds avail-
 25 able for the grant; and

1 (ii) use the reserved funds to provide as-
2 sistance to an eligible entity to conduct an eval-
3 uation of the activities carried out through the
4 grant.

5 (2) USE OF FUNDS.—A recipient of a grant de-
6 scribed in paragraph (1)(A), or assistance described
7 in paragraph (1)(B)(ii), shall use the funds made
8 available through the grant, or the assistance, re-
9 spectively, to conduct a validated evaluation of the
10 effectiveness of the activities described in subpara-
11 graph (A) or (B), respectively, of paragraph (1).

12 (3) APPLICATIONS.—

13 (A) SUBMISSION.—

14 (i) GRANTS FOR PROJECTS CON-
15 TAINING EVALUATIONS.—To be eligible to
16 receive a grant for which the granting au-
17 thority requires the reservation described
18 in paragraph (1)(A)(i), an entity shall in-
19 clude a proposal for the evaluation in the
20 application submitted for the grant.

21 (ii) ASSISTANCE FOR EVALUATIONS.—

22 To be eligible to receive assistance under
23 paragraph (1)(B)(ii), an entity shall sub-
24 mit an application to the granting author-
25 ity at such time, in such manner, and con-

1 taining such information as the granting
2 authority may require, including a proposal
3 for the evaluation.

4 (B) REVIEW AND ASSISTANCE.—An em-
5 ployee of the Department of Justice, after con-
6 sultation with an employee of the Department
7 of Health and Human Services and a non-
8 governmental member of the advisory board es-
9 tablished under section 2214 of the Social Secu-
10 rity Act, with expertise in evaluation method-
11 ology shall review each proposal described in
12 clause (i) or (ii) of subparagraph (A), and de-
13 termine whether the methodology described in
14 the proposal is adequate to gather meaningful
15 information. If the reviewers determine that the
16 methodology is inadequate, they shall rec-
17 ommend that the granting authority deny the
18 application for the grant described in subpara-
19 graph (A)(i), or the assistance described in sub-
20 paragraph (B)(ii), as appropriate, or make rec-
21 ommendations for how the application should
22 be amended. If the granting authority denies
23 the application on the basis of the proposal, the
24 granting authority shall inform the applicant
25 why the application was denied, and offer as-

1 “(1) ENTITY.—The term ‘entity’ means—

2 “(A) any nursing facility (including facili-
3 ties that do not exclusively provide nursing
4 care);

5 “(B) any entity that manages a nursing
6 facility; or

7 “(C) any entity that owns, directly or indi-
8 rectly, a controlling interest or a 50 percent or
9 greater interest in 1 or more nursing facilities.

10 “(2) NEGLECT.—The term ‘neglect’ means the
11 failure of a caregiver (as defined in section 2201 of
12 the Social Security Act) to provide the goods or
13 services that are necessary to avoid physical harm,
14 disability, mental anguish, or mental illness.

15 “(3) NURSING FACILITY.—The term ‘nursing
16 facility’ means both a nursing facility (as defined in
17 section 1919(a) of the Social Security Act) and a
18 skilled nursing facility as defined in section 1819(a)
19 of the Social Security Act (42 U.S.C. 1395i-3(a)).

20 “(4) PERSON.—The term ‘person’ has the same
21 meaning as in section 921(a)(1) of this title.

22 “(b) OFFENSE.—

23 “(1) IN GENERAL.—It shall be unlawful for any
24 person or entity to, with the intent to cause injury
25 or with reckless disregard for the safety of human

1 life, act or fail to act, if such act or omission results
2 in—

3 “(A) serious bodily injury to 1 or more
4 residents of a nursing facility; and

5 “(B) abuse or neglect of an additional 2 or
6 more residents of the same nursing facility.

7 “(2) PENALTY FOR INDIVIDUAL.—Any indi-
8 vidual who violates paragraph (1) shall be—

9 “(A) imprisoned for not more than 20
10 years and, if death results, shall be imprisoned
11 for any term of years or for life; and

12 “(B) fined in accordance with section
13 3571.

14 “(3) OTHER PENALTY.—Any entity or person,
15 other than an individual, that violates paragraph (1)
16 shall be fined not more than \$3,000,000 per nursing
17 facility involved.”.

18 (b) HEALTH CARE OFFENSE.—Section 24(a)(1) of
19 title 18, United States Code, is amended by inserting
20 “571,” before “669.”.

21 (c) TECHNICAL AND CONFORMING AMENDMENT.—
22 The table of chapters for part I of title 18, United States
23 Code, is amended by inserting after the item relating to
24 chapter 27 the following:

“28. Elder Abuse and Neglect 571”.

1 **SEC. 214. CIVIL ACTIONS FOR ELDER ABUSE AND NEGLECT.**

2 (a) **DEFINITIONS.**—In this section:

3 (1) **ENTITY.**—

4 (A) **IN GENERAL.**—The term “entity”
5 means—

6 (i) any nursing facility (including fa-
7 cilities that do not exclusively provide nurs-
8 ing care);

9 (ii) any entity that manages a nursing
10 facility; or

11 (iii) any entity that owns, directly or
12 indirectly, a controlling interest or a 50
13 percent or greater interest in 1 or more
14 nursing facilities.

15 (B) **ADDITIONAL ENTITIES.**—The term
16 shall include States, localities, and political sub-
17 divisions thereof.

18 (2) **NEGLECT.**—The term “neglect” means the
19 failure of a caregiver (as defined in section 2201 of
20 the Social Security Act, as added by this Act) to
21 provide the goods or services that are necessary to
22 avoid physical harm, disability, mental anguish, or
23 mental illness.

24 (3) **NURSING FACILITY.**—The term “nursing
25 facility” means both a nursing facility (as defined in
26 section 1919(a) of the Social Security Act (42

1 U.S.C. 1396r(a))) and a skilled nursing facility as
2 defined in section 1819(a) of the Social Security
3 Act.

4 (4) PERSON.—The term “person” has the same
5 meaning as in section 921(a)(1) of title 18, United
6 States Code.

7 (5) OTHER TERMS.—The terms “abuse”,
8 “State”, and “serious bodily injury” shall have the
9 meanings given those terms in section 2201 of the
10 Social Security Act.

11 (b) CIVIL ACTIONS BROUGHT BY THE ATTORNEY
12 GENERAL.—

13 (1) IN GENERAL.—The Attorney General may
14 bring an action under this subsection against any
15 person or entity that knowingly, or in reckless dis-
16 regard for the safety of human life, acts or fails to
17 act, if such act or omission results in serious bodily
18 injury to 1 or more residents of a nursing facility
19 and in abuse or neglect of an additional 2 or more
20 residents of the same nursing facility.

21 (2) CIVIL PENALTY.—A person or entity that
22 acts or fails to act as described in paragraph (1)
23 shall be liable to the United States for a civil penalty
24 of—

1 (A) in the case of an individual (other than
2 an owner, operator, officer, or manager of such
3 a nursing facility, such as a nurse or a certified
4 nurse's aide) up to \$50,000 for each violation
5 of this subsection;

6 (B) in the case of an individual who is an
7 owner, operator, officer, or manager of such a
8 nursing facility, up to \$500,000 for each viola-
9 tion of this subsection;

10 (C) in the case of a violation of this sub-
11 section involving a single nursing facility, that
12 facility, or its management company, up to
13 \$3,000,000 for that facility for such violation;
14 and

15 (D) in the case of a violation of this sub-
16 section at 2 or more nursing facilities with com-
17 mon ownership or under common management,
18 up to \$6,000,000 for each entity that owns
19 such facilities where there were such violations.

20 The amount shall be set by the district court, de-
21 pending on the number of residents who suffered
22 abuse or neglect, the severity of the injury to resi-
23 dents relating to abuse or neglect, and the number
24 of resident deaths relating to abuse or neglect at the
25 facilities in violation of this subsection.

1 (3) OTHER APPROPRIATE RELIEF.—If the At-
2 torney General has reason to believe that a person
3 or entity is engaging in or is about to engage in an
4 act or omission that results in or has the potential
5 for resulting in serious bodily injury to 1 or more
6 residents of a nursing facility and in abuse or ne-
7 glect of an additional 2 or more residents of the
8 same nursing facility, the Attorney General may pe-
9 tition an appropriate United States district court for
10 appropriate equitable and declaratory relief to elimi-
11 nate the circumstances giving rise to the actual or
12 potential harm.

13 (3) PROCEDURES.—

14 (A) IN GENERAL.—A subpoena requiring
15 the attendance of a witness at a trial or hearing
16 conducted under this subsection may be served
17 at any place in the United States.

18 (B) LIMITATION.—An action brought
19 under paragraph (1) may not be brought more
20 than 6 years after the date on which the viola-
21 tion of this subsection occurred, except that the
22 time for filing is tolled during the period when
23 the right of action was not known and reason-
24 ably could not have been known by an official

1 of the United States charged with responsibility
2 to act in the circumstances.

3 (C) STANDARD OF PROOF.—The United
4 States shall be required to prove all actions
5 under this subsection by a preponderance of the
6 evidence.

7 (D) CIVIL INVESTIGATIVE DEMAND PROCE-
8 DURES.—The civil investigative demand proce-
9 dures set forth in The Antitrust Civil Process
10 Act (~~15 U.S.C. 1511~~ et seq.) may be used in
11 investigations and actions pursued under this
12 subsection.

13 (d) RELATIONSHIP TO OTHER LAWS.—This section
14 is not intended to supplant or otherwise bar any existing
15 equitable, common law, or criminal or civil statutory rem-
16 edies possessed by the United States, including under the
17 False Claims Act (~~31 U.S.C. 33729–3733~~). The Federal
18 Rules of Civil Procedure shall apply to actions brought
19 under subsection (b).

20 (e) NO PRIVATE CAUSE OF ACTION.—Nothing in this
21 title creates a private cause of action or in any other way
22 increases the liability of any person under any other law.

1 **TITLE III—TAX PROVISIONS**

2 **SEC. 301. LONG-TERM CARE FACILITY WORKER EMPLOY-**
 3 **MENT TAX CREDIT.**

4 (a) **WORK OPPORTUNITY TAX CREDIT.**—

5 (1) **IN GENERAL.**—Section 51(d)(1) of the In-
 6 ternal Revenue Code of 1986 (relating to members
 7 of targeted groups) is amended by striking “or” at
 8 the end of subparagraph (G), by striking the period
 9 at the end of subparagraph (H) and inserting “, or”,
 10 and by adding at the end the following:

11 “(I) a qualified long-term care facility
 12 worker.”.

13 (2) **QUALIFIED LONG-TERM CARE FACILITY**
 14 **WORKER.**—Section 51(d) of such Code is amended
 15 by redesignating paragraphs (10) through (12) as
 16 paragraphs (11) through (13), respectively, and by
 17 inserting after paragraph (9) the following:

18 “(10) **QUALIFIED LONG-TERM CARE FACILITY**
 19 **WORKER.**—The term ‘qualified long-term care facil-
 20 ity worker’ means any individual who—

21 “(A) is hired by a long-term care facility
 22 (as defined in section 2201 of the Social Secu-
 23 rity Act, and

24 “(B) is certified by the designated local
 25 agency as being qualified to provide long-term

1 care (as defined in section 2201 of such Act) at
2 such facility.”.

3 (b) ~~EFFECTIVE DATE.~~—The amendments made by
4 this section shall apply to individuals who begin work for
5 the employer after the date of enactment of this Act.

6 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINI-**
7 **TIONS.**

8 (a) *SHORT TITLE.*—*This Act may be cited as the*
9 *“John Breaux Elder Justice Act”.*

10 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
11 *Act is as follows:*

Sec. 1. Short title; table of contents; definitions.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. Definitions.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 101. Amendments to the Social Security Act.

“TITLE XXII—ELDER JUSTICE

“Sec. 2200. Definitions.

“Subtitle A—Federal Elder Justice System

“Sec. 2201. Elder Justice Coordinating Council.

“Sec. 2202. Advisory Board on Elder Abuse, Neglect, and Exploitation.

“Sec. 2203. Human subject research.

“Sec. 2204. Regulations.

“Sec. 2205. Authorization of appropriations.

“Subtitle B—Elder Justice Programs

“Sec. 2211. Enhancement of long-term care.

*“Sec. 2212. Collaborative efforts to enhance communication on promoting
quality of and preventing abuse and neglect in long-term
care.*

*“Sec. 2213. Collaborative efforts to develop consensus around the manage-
ment of certain quality-related factors.*

“Sec. 2214. Adult protective services functions and grant programs.

*“Subtitle C—Collection of Data, Dissemination of Information, and Studies**“Sec. 2221. Collection of uniform national data on elder abuse, neglect, and exploitation.**“Sec. 2222. Long-term care consumer clearinghouse.**“Sec. 2223. Consumer information about the continuum of residential long-term care facilities.**“Sec. 2224. Provision of information regarding, and evaluations of, elder justice programs.”.**TITLE II—DEPARTMENT OF JUSTICE**Sec. 201. Victim advocacy grants.**Sec. 202. Supporting State and local prosecutors in elder justice matters.**Sec. 203. Supporting Federal cases involving elder justice.**Sec. 204. Supporting law enforcement in elder justice matters.**Sec. 205. Establishment and support of elder abuse, neglect, and exploitation forensic centers.**Sec. 206. Model State laws and practices.**Sec. 207. Provision of information regarding, and evaluations of, Department of Justice elder justice programs.***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 77,000,000 baby boomers ap-
6 proach retirement and old age.**7 (2) Each year, anywhere between 500,000 and**
8 5,000,000 elders in the United States are abused, ne-
9 glected, or exploited.**10 (3) Elder abuse, neglect, and exploitation have**
11 no boundaries, and cross all racial, social class, gen-
12 der, and geographic lines.**13 (4) Victims of elder abuse, neglect, and exploi-**
14 tation are not only subject to injury from mistreat-
15 ment and neglect, they are also 3.1 times more likely
16 than elders who were not victims of elder abuse, ne-

1 *glect, and exploitation to die at an earlier age than*
2 *expected.*

3 (5) *There is a general dearth of data as to the*
4 *nature and scope of elder abuse, neglect, and exploi-*
5 *tation.*

6 (6) *Despite the dearth of data in the field, ex-*
7 *perts agree that most cases of elder abuse, neglect, and*
8 *exploitation are never reported and that abuse, ne-*
9 *glect, and exploitation shorten a victim's life, often*
10 *triggering a downward spiral of an otherwise produc-*
11 *tive, self-sufficient elder's life. Programs addressing*
12 *other difficult issues such as domestic violence and*
13 *child abuse and neglect have demonstrated the need*
14 *for a multi-faceted law, combining public health, so-*
15 *cial service, and law enforcement approaches.*

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

20 (8) *The Federal Government has been slow to re-*
21 *spond to the needs of victims of elder abuse, neglect,*
22 *and exploitation or to undertake prevention efforts.*

23 (9) *No Federal law has been enacted that ade-*
24 *quately and comprehensively addresses the issues of*
25 *elder abuse, neglect, and exploitation and there are*

1 *very limited resources available to those in the field*
2 *that directly deal with the issues.*

3 (10) *Differences in State laws and practices in*
4 *the areas of elder abuse, neglect, and exploitation lead*
5 *to significant disparities in prevention, protective*
6 *and social services, treatment systems, and law en-*
7 *forcement, and lead to other inequities.*

8 (11) *The Federal Government has played an im-*
9 *portant role in promoting research, training, public*
10 *safety, data collection, the identification, development,*
11 *and dissemination of promising health care, social,*
12 *and protective services, and law enforcement prac-*
13 *tices, relating to child abuse and neglect, domestic vi-*
14 *olence, and violence against women. The Federal Gov-*
15 *ernment should promote similar efforts and protec-*
16 *tions relating to elder abuse, neglect, and exploitation.*

17 (12) *The Federal Government should provide*
18 *leadership and assist States and communities in their*
19 *efforts to protect elders in the United States by—*

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

22 (B) *generating and sharing knowledge rel-*
23 *evant to protecting elders;*

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

4 (D) providing resources to States and com-
5 munities to promote elder justice.

6 (13) The problem of elder abuse, neglect, and ex-
7 ploitation requires a comprehensive approach that—

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

10 (B) emphasizes the need for prevention, re-
11 porting, investigation, assessment, treatment,
12 and prosecution of elder abuse, neglect, and ex-
13 ploitation at all levels of government;

14 (C) ensures that sufficient numbers of prop-
15 erly trained personnel with specialized knowledge
16 are in place to treat, assess, and provide services
17 relating to elder abuse, neglect, and exploitation,
18 and carry out elder protection duties;

19 (D) is sensitive to ethnic and cultural diver-
20 sity;

21 (E) recognizes the role of mental health, dis-
22 ability, dementia, substance abuse, medication
23 mismanagement, and family dysfunction prob-
24 lems in increasing and exacerbating elder abuse,
25 neglect, and exploitation; and

1 (F) balances elders' right to self-determina-
2 tion with society's responsibility to protect el-
3 ders.

4 (14) The human, social, and economic cost of
5 elder abuse, neglect, and exploitation is high and in-
6 cludes unnecessary expenditures of funds from many
7 public programs.

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

13 (16) All elements of society in the United States
14 have a shared responsibility in responding to a na-
15 tional problem of elder abuse, neglect, and exploi-
16 tation.

17 **SEC. 3. PURPOSES.**

18 *The purposes of this Act are as follows:*

19 (1) *To enhance the social security of the Nation*
20 *by ensuring adequate public-private infrastructure*
21 *and resolve to prevent, detect, treat, understand, and*
22 *intervene in, and where appropriate, aid in the pros-*
23 *ecution of, elder abuse, neglect, and exploitation.*

24 (2) *To bring a comprehensive approach to pre-*
25 *venting and combating elder abuse, neglect, and ex-*

1 *ploitation, a long invisible problem that afflicts the*
2 *most vulnerable among the aging population of the*
3 *United States.*

4 *(3) To raise the issue of elder abuse, neglect, and*
5 *exploitation to national attention, and to create the*
6 *infrastructure at the Federal, State, and local levels,*
7 *to ensure that individuals and organizations on the*
8 *front lines, who are fighting elder abuse, neglect, and*
9 *exploitation with scarce resources and fragmented sys-*
10 *tems, have the resources and information needed to*
11 *carry out their fight.*

12 *(4) To bring a comprehensive multidisciplinary*
13 *approach to elder justice.*

14 *(5) To set in motion research and data collection*
15 *to fill gaps in knowledge about elder abuse, neglect,*
16 *and exploitation.*

17 *(6) To supplement the activities of service pro-*
18 *viders and programs, to enhance training, and to le-*
19 *verage scarce resources efficiently to ensure that elder*
20 *justice receives the attention it deserves as the Na-*
21 *tion's population ages.*

22 *(7) To examine the many different laws and*
23 *practices relating to elder justice in different States*
24 *and jurisdictions to ascertain which among those laws*
25 *and practices are the most effective.*

1 (8) *To promote the development of an effective*
2 *adult fiduciary system, including an adult guardian-*
3 *ship system, that—*

4 (A) *maximizes the autonomy, self-deter-*
5 *mination, and dignity of choice of individuals*
6 *with diminished capacity and that fully protects*
7 *the due process rights of elders that are the sub-*
8 *jects of contested or uncontested guardianship*
9 *hearings; and*

10 (B) *honors properly executed advance direc-*
11 *tives of persons with diminished capacity, unless*
12 *there is evidence of a breach in a designated*
13 *agent’s fiduciary responsibility or the advance*
14 *directive does not give sufficient authority to*
15 *meet the needs of the elder.*

16 (9) *To recognize and address the role of mental*
17 *health, disability, dementia, substance abuse, medica-*
18 *tion mismanagement, and family dysfunction prob-*
19 *lems in increasing and exacerbating elder abuse, ne-*
20 *glect, and exploitation.*

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

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

4 (12) *To honor and respect the right of all persons*
 5 *with diminished capacity to decisionmaking auton-*
 6 *omy, self-determination, and dignity of choice.*

7 (13) *To respect the wishes of persons with dimin-*
 8 *ished capacity and their family members in pro-*
 9 *viding supportive services and care plans intended to*
 10 *protect elders from abuse, neglect (including self-ne-*
 11 *glect), and exploitation.*

12 **SEC. 4. DEFINITIONS.**

13 *Except as otherwise specifically provided, any term*
 14 *that is defined in section 2200 of the Social Security Act*
 15 *(as added by section 101) and that is used in this Act has*
 16 *the meaning given such term by such title.*

17 **TITLE I—DEPARTMENT OF**
 18 **HEALTH AND HUMAN SERVICES**

19 **SEC. 101. AMENDMENTS TO THE SOCIAL SECURITY ACT.**

20 (a) *IN GENERAL.*—*The Social Security Act (42 U.S.C.*
 21 *301 et seq.) is amended by adding at the end the following:*

22 **“TITLE XXII—ELDER JUSTICE**

23 **“SEC. 2200. DEFINITIONS.**

24 *“In this title:*

1 “(1) *ABUSE*.—The term ‘abuse’ means the know-
2 ing infliction of physical or psychological harm or the
3 knowing deprivation of goods or services that are nec-
4 essary to meet essential needs or to avoid physical or
5 psychological harm.

6 “(2) *ADULT PROTECTIVE SERVICES*.—The term
7 ‘adult protective services’ means such services pro-
8 vided to adults as the Secretary may specify and in-
9 cludes services such as—

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

12 “(B) investigating the reports described in
13 subparagraph (A);

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

16 “(D) providing, arranging for, or facili-
17 tating the provision of medical, social service,
18 economic, legal, housing, law enforcement, or
19 other protective, emergency, or support services.

20 “(3) *CAREGIVER*.—The term ‘caregiver’ means
21 an individual who has the responsibility for the care
22 of an elder, either voluntarily, by contract, by receipt
23 of payment for care, or as a result of the operation
24 of law and means a family member or other indi-
25 vidual who provides (on behalf of such individual or

1 of a public or private agency, organization, or insti-
 2 tution) compensated or uncompensated care to an
 3 elder who needs supportive services in any setting.

4 “(4) *DIRECT CARE*.—The term ‘direct care’
 5 means care by an employee or contractor who pro-
 6 vides assistance or long-term care services to a recipi-
 7 ent.

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

10 “(6) *ELDER JUSTICE*.—The term ‘elder justice’
 11 means—

12 “(A) from a societal perspective, efforts to
 13 prevent, detect, treat, intervene in, and prosecute
 14 elder abuse, neglect, and exploitation and to pro-
 15 tect elders with diminished capacity while maxi-
 16 mizing their autonomy; and

17 “(B) from an individual perspective, the
 18 recognition of an elder’s rights, including the
 19 right to be free of abuse, neglect, and exploi-
 20 tation.

21 “(7) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
 22 ty’ means a State or local government agency, Indian
 23 tribe, or any other public or private entity that is en-
 24 gaged in and has expertise in issues relating to elder

1 *justice or in a field necessary to promote elder justice*
2 *efforts.*

3 “(8) *EXPLOITATION.*—*The term ‘exploitation’*
4 *means the fraudulent or otherwise illegal, unauthor-*
5 *ized, or improper act or process of an individual, in-*
6 *cluding a caregiver or fiduciary, that uses the re-*
7 *sources of an elder for monetary or personal benefit,*
8 *profit, or gain, or that results in depriving an elder*
9 *of rightful access to, or use of, benefits, resources, be-*
10 *longings, or assets.*

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

12 “(A) *means a person or entity with the*
13 *legal responsibility—*

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

16 “(ii) *to act in good faith and with*
17 *fairness; and*

18 “(B) *includes a trustee, a guardian, a con-*
19 *servator, an executor, an agent under a financial*
20 *power of attorney or health care power of attor-*
21 *ney, or a representative payee.*

22 “(10) *GRANT.*—*The term ‘grant’ includes a con-*
23 *tract, cooperative agreement, or other mechanism for*
24 *providing financial assistance.*

1 “(11) *GUARDIANSHIP*.—The term ‘guardianship’
2 *means—*

3 “(A) *the process by which a State court de-*
4 *termines that an adult individual lacks capacity*
5 *to make decisions about self-care and property,*
6 *and appoints another individual or entity*
7 *known as a guardian, as a conservator, or by a*
8 *similar term, as a surrogate decisionmaker;*

9 “(B) *the manner in which the court-ap-*
10 *pointed surrogate decisionmaker carries out du-*
11 *ties to the individual and the court; or*

12 “(C) *the manner in which the court exer-*
13 *cises oversight of the surrogate decisionmaker.*

14 “(12) *INDIAN TRIBE*.—The term ‘Indian tribe’
15 *means any tribe, band, nation, or other organized*
16 *group or community of Indians, including any Na-*
17 *tive village, Regional Corporation, or Village Cor-*
18 *poration as defined in or established pursuant to the*
19 *Alaska Native Claims Settlement Act (43 U.S.C. 1601*
20 *et seq.), that is recognized as eligible for the special*
21 *programs and services provided by the United States*
22 *to Indians because of their status as Indians.*

23 “(13) *LAW ENFORCEMENT*.—The term ‘law en-

24 *forcement’ means the full range of potential respond-*

1 *ers to elder abuse, neglect, and exploitation includ-*
 2 *ing—*

3 *“(A) police, sheriffs, detectives, public safety*
 4 *officers, and corrections personnel;*

5 *“(B) prosecutors;*

6 *“(C) medical examiners;*

7 *“(D) investigators; and*

8 *“(E) coroners.*

9 *“(14) LONG-TERM CARE.—*

10 *“(A) IN GENERAL.—The term ‘long-term*
 11 *care’ means supportive and health services speci-*
 12 *fied by the Secretary for individuals who need*
 13 *assistance because the individuals have a loss of*
 14 *capacity for self-care due to illness, disability, or*
 15 *vulnerability.*

16 *“(B) LOSS OF CAPACITY FOR SELF-CARE.—*

17 *For purposes of subparagraph (A), the term ‘loss*
 18 *of capacity for self-care’ means an inability to*
 19 *engage in activities of daily living, including*
 20 *eating, dressing, bathing, and management of*
 21 *one’s financial affairs.*

22 *“(15) LONG-TERM CARE FACILITY.—The term*
 23 *‘long-term care facility’ means a residential care pro-*
 24 *vider that arranges for, or directly provides, long-*
 25 *term care.*

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

2 “(A) the failure of a caregiver or fiduciary
3 to provide the goods or services that are nec-
4 essary to maintain the health or safety of an
5 elder; or

6 “(B) self-neglect.

7 “(17) *NURSING FACILITY*.—The term ‘nursing
8 facility’ has the meaning given such term under sec-
9 tion 1919(a).

10 “(18) *SECRETARY*.—The term ‘Secretary’ means
11 the Secretary of Health and Human Services.

12 “(19) *SELF-NEGLECT*.—The term ‘self-neglect’
13 means an adult’s inability, due to physical or mental
14 impairment or diminished capacity, to perform essen-
15 tial self-care tasks including—

16 “(A) obtaining essential food, clothing, shel-
17 ter, and medical care;

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

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

22 “(20) *SERIOUS BODILY INJURY*.—

23 “(A) *IN GENERAL*.—The term ‘serious bod-
24 ily injury’ means an injury—

25 “(i) involving extreme physical pain;

1 “(ii) involving substantial risk of
2 death;

3 “(iii) involving protracted loss or im-
4 pairment of the function of a bodily mem-
5 ber, organ, or mental faculty; or

6 “(iv) requiring medical intervention
7 such as surgery, hospitalization, or physical
8 rehabilitation.

9 “(B) *CRIMINAL SEXUAL ABUSE.*—*Serious*
10 *bodily injury shall be considered to have oc-*
11 *curred if the conduct causing the injury is con-*
12 *duct described in section 2241 (relating to aggra-*
13 *vated sexual abuse) or 2242 (relating to sexual*
14 *abuse) of title 18, United States Code or any*
15 *similar offense under State law.*

16 “(21) *SOCIAL.*—*The term ‘social’, when used*
17 *with respect to a service, includes adult protective*
18 *services.*

19 “(22) *STATE.*—*The term ‘State’ means any of*
20 *the 50 States, the District of Columbia, the Common-*
21 *wealth of Puerto Rico, the United States Virgin Is-*
22 *lands, Guam, American Samoa, and the Common-*
23 *wealth of the Northern Mariana Islands.*

24 “(23) *STATE LEGAL ASSISTANCE DEVELOPER.*—
25 *The term ‘State legal assistance developer’ means an*

1 *individual described in section 731 of the Older*
 2 *Americans Act of 1965.*

3 “(24) *STATE LONG-TERM CARE OMBUDSMAN.*—
 4 *The term ‘State Long-Term Care Ombudsman’ means*
 5 *the State Long-Term Care Ombudsman described in*
 6 *section 712(a)(2) of the Older Americans Act of 1965.*

7 **“Subtitle A—Federal Elder Justice**
 8 **System**

9 **“SEC. 2201. ELDER JUSTICE COORDINATING COUNCIL.**

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

13 “(b) *MEMBERSHIP.*—

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

16 “(A) *The Secretary (or the Secretary’s des-*
 17 *ignee).*

18 “(B) *The Attorney General (or the Attorney*
 19 *General’s designee).*

20 “(C) *The head of each Federal department*
 21 *or agency or other governmental entity identified*
 22 *by the Co-Chairs referred to in subsection (d) as*
 23 *having responsibilities or administering pro-*
 24 *grams relating to elder abuse, neglect, and ex-*
 25 *ploitation.*

1 “(2) *REQUIREMENT.*—*Each member of the Coun-*
2 *cil shall be an officer or employee of the Federal Gov-*
3 *ernment.*

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

7 “(d) *CO-CHAIRS.*—*The members described in subpara-*
8 *graphs (A) and (B) of subsection (b)(1) shall be Co-Chairs*
9 *of the Council.*

10 “(e) *MEETINGS.*—*The Council shall meet at least 2*
11 *times per year, as determined by the Co-Chairs.*

12 “(f) *DUTIES.*—

13 “(1) *IN GENERAL.*—*The Council shall make rec-*
14 *ommendations to the Secretary and the Attorney Gen-*
15 *eral for the coordination of activities of the Depart-*
16 *ment of Health and Human Services, the Department*
17 *of Justice, and other relevant Federal, State, local,*
18 *and private agencies and entities, relating to elder*
19 *abuse, neglect, and exploitation and other crimes*
20 *against elders.*

21 “(2) *REPORT.*—*Not later than the date that is 2*
22 *years after the date of enactment of the John Breaux*
23 *Elder Justice Act and every 2 years thereafter, the*
24 *Council shall submit to Congress a report that—*

1 “(A) describes the activities of, accomplish-
2 ments of, and challenges faced by—

3 “(i) the Council; and

4 “(ii) the entities represented on the
5 Council; and

6 “(B) makes such recommendations for legis-
7 lation, model laws, or other action as the Council
8 determines to be appropriate.

9 “(g) *POWERS OF THE COUNCIL.*—

10 “(1) *INFORMATION FROM FEDERAL AGENCIES.*—

11 “(A) *IN GENERAL.*—Subject to subpara-
12 graph (B), the Council may secure directly from
13 any Federal department or agency such informa-
14 tion as the Council considers necessary to carry
15 out this section. Upon request of the Co-Chairs of
16 the Council, the head of such department or
17 agency shall furnish such information to the
18 Council.

19 “(B) *PROTECTION OF PRIVACY.*—The Sec-
20 retary shall oversee the activities of the Council
21 under this paragraph in order to ensure the pro-
22 tection of individual health privacy consistent
23 with the regulations promulgated under section
24 264(c) of the Health Insurance Portability and

1 *Accountability Act of 1996 and State and local*
 2 *privacy regulations (as applicable).*

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

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

18 “(i) *DETAIL OF GOVERNMENT EMPLOYEES.*—*Any*
 19 *Federal Government employee may be detailed to the Coun-*
 20 *cil without reimbursement, and such detail shall be without*
 21 *interruption or loss of civil service status or privilege.*

22 **“SEC. 2202. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
 23 **AND EXPLOITATION.**

24 “(a) *ESTABLISHMENT.*—*There is established a board*
 25 *to be known as the ‘Advisory Board on Elder Abuse, Neglect,*

1 *and Exploitation’ (in this section referred to as the ‘Advi-*
2 *sory Board’) to create short-term and long-term multidisci-*
3 *plinary strategic plans for the development of the field of*
4 *elder justice and to make recommendations to the Elder*
5 *Justice Coordinating Council established under section*
6 *2201.*

7 “(b) *SOLICITATION OF NOMINATIONS.—The Secretary*
8 *shall publish a notice in the Federal Register soliciting*
9 *nominations for the appointment of members of the Advi-*
10 *sory Board under subsection (c).*

11 “(c) *COMPOSITION.—The Advisory Board shall be com-*
12 *posed of 27 members appointed by the Secretary from*
13 *among members of the general public who are individuals*
14 *with experience and expertise in elder abuse, neglect, and*
15 *exploitation prevention, detection, treatment, intervention,*
16 *or prosecution.*

17 “(d) *TERMS.—*

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

21 “(A) *9 shall be appointed for a term of 3*
22 *years;*

23 “(B) *9 shall be appointed for a term of 2*
24 *years; and*

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

3 “(2) VACANCIES.—

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

8 “(B) FILLING UNEXPIRED TERM.—An indi-
9 vidual chosen to fill a vacancy shall be ap-
10 pointed for the unexpired term of the member re-
11 placed.

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

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

19 “(f) DUTIES.—Not later than the date that is 18
20 months after the date of enactment of the John Breaux
21 Elder Justice Act, and annually thereafter, the Advisory
22 Board shall prepare and submit to the Elder Justice Co-
23 ordinating Council and the appropriate committees of Con-
24 gress a report containing—

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

3 “(2) recommendations (including recommended
4 priorities) regarding—

5 “(A) elder justice programs, research, train-
6 ing, services, practice, enforcement, and coordi-
7 nation;

8 “(B) coordination between entities pursuing
9 elder justice efforts and those involved in related
10 areas that may inform or overlap with elder jus-
11 tice efforts, such as activities to combat violence
12 against women and child abuse and neglect; and

13 “(C) activities relating to adult fiduciary
14 systems, including guardianship and other fidu-
15 ciary arrangements;

16 “(3) recommendations for specific modifications
17 needed in Federal and State laws (including regula-
18 tions) or for programs, research, and training to en-
19 hance prevention, detection, and treatment (including
20 diagnosis) of, intervention in (including investigation
21 of), and prosecution of elder abuse, neglect, and ex-
22 ploitation;

23 “(4) recommendations on methods for the most
24 effective coordinated national data collection with re-

1 *spect to elder justice, and elder abuse, neglect, and ex-*
2 *ploitation; and*

3 *“(5) recommendations for a multidisciplinary*
4 *strategic plan to guide the effective and efficient devel-*
5 *opment of the field of elder justice.*

6 *“(g) POWERS OF THE ADVISORY BOARD.—*

7 *“(1) INFORMATION FROM FEDERAL AGENCIES.—*

8 *“(A) IN GENERAL.—Subject to subpara-*
9 *graph (B), the Advisory Board may secure di-*
10 *rectly from any Federal department or agency*
11 *such information as the Advisory Board con-*
12 *siders necessary to carry out this section. Upon*
13 *request of the Chair, the head of such department*
14 *or agency shall furnish such information to the*
15 *Advisory Board.*

16 *“(B) PROTECTION OF PRIVACY.—The Sec-*
17 *retary shall oversee the activities of the Advisory*
18 *Board under this paragraph in order to ensure*
19 *the protection of individual health privacy con-*
20 *sistent with the regulations promulgated under*
21 *section 264(c) of the Health Insurance Port-*
22 *ability and Accountability Act of 1996 and State*
23 *and local privacy regulations (as applicable).*

24 *“(2) SHARING OF DATA AND REPORTS.—The Ad-*
25 *visory Board may request from any entity pursuing*

1 *elder justice activities under the John Breaux Elder*
2 *Justice Act or an amendment made by that Act, any*
3 *data, reports, or recommendations generated in con-*
4 *nection with such activities.*

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

9 *“(4) GIFTS.—The Advisory Board may accept,*
10 *use, and dispose of gifts or donations of services or*
11 *property.*

12 *“(h) TRAVEL EXPENSES.—The members of the Advi-*
13 *sory Board shall not receive compensation for the perform-*
14 *ance of services for the Advisory Board. The members shall*
15 *be allowed travel expenses for up to 4 meetings per year,*
16 *including per diem in lieu of subsistence, at rates author-*
17 *ized for employees of agencies under subchapter I of chapter*
18 *57 of title 5, United States Code, while away from their*
19 *homes or regular places of business in the performance of*
20 *services for the Advisory Board. Notwithstanding section*
21 *1342 of title 31, United States Code, the Secretary may ac-*
22 *cept the voluntary and uncompensated services of the mem-*
23 *bers of the Advisory Board.*

24 *“(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any*
25 *Federal Government employee may be detailed to the Advi-*

1 sory Board without reimbursement, and such detail shall
2 be without interruption or loss of civil service status or
3 privilege.

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

7 **“SEC. 2203. HUMAN SUBJECT RESEARCH.**

8 “(a) *IN GENERAL.*—For purposes of the application
9 of subpart A of part 46 of title 45, Code of Federal Regula-
10 tions to research conducted under this title, the term ‘legally
11 authorized representative’ means, unless otherwise provided
12 by law, the individual or judicial or other body authorized
13 under the applicable law to consent to medical treatment
14 on behalf of another person.

15 “(b) *GUIDELINES.*—The Secretary, acting through the
16 Director of the National Institute on Aging, shall promul-
17 gate guidelines to assist researchers working in the area of
18 elder abuse, neglect, and exploitation, with issues relating
19 to human subject protections.

20 **“SEC. 2204. REGULATIONS.**

21 “The Secretary may issue such regulations as may be
22 necessary to carry out this title.

23 **“SEC. 2205. AUTHORIZATION OF APPROPRIATIONS.**

24 “There are authorized to be appropriated to carry out
25 this subtitle—

1 “(1) for fiscal year 2006, \$3,000,000; and
 2 “(2) for each of fiscal years 2007 through 2009,
 3 \$3,500,000.

4 **“Subtitle B—Elder Justice**
 5 **Programs**

6 **“SEC. 2211. ENHANCEMENT OF LONG-TERM CARE.**

7 “(a) *GRANTS AND INCENTIVES FOR LONG-TERM CARE*
 8 *STAFFING.*—

9 “(1) *GENERAL AUTHORITY.*—*The Secretary shall*
 10 *carry out activities, including activities described in*
 11 *paragraphs (2) and (3), to provide incentives for in-*
 12 *dividuals to train for, seek, and maintain employ-*
 13 *ment providing direct care in a long-term care facil-*
 14 *ity.*

15 “(2) *SPECIFIC PROGRAMS TO ENHANCE TRAIN-*
 16 *ING, RECRUITMENT, AND RETENTION OF STAFF.*—

17 “(A) *COORDINATION WITH OTHER PRO-*
 18 *GRAMS TO RECRUIT AND TRAIN LONG-TERM CARE*
 19 *STAFF.*—*The Secretary shall coordinate activities*
 20 *under this subsection with the Secretary of Labor*
 21 *and the Assistant Secretary for the Administra-*
 22 *tion for Children and Families in order to pro-*
 23 *vide incentives to participants in programs car-*
 24 *ried out under section 403(a)(5) or under part*
 25 *A of title IV to train for and seek employment*

1 *providing direct care in a long-term care facil-*
2 *ity.*

3 “(B) *CAREER LADDERS AND WAGE OR BEN-*
4 *EFIT INCREASES TO INCREASE STAFFING IN*
5 *LONG-TERM CARE FACILITIES.—*

6 “(i) *GRANTS AUTHORIZED.—The Sec-*
7 *retary shall make grants to long-term care*
8 *facilities to carry out programs through*
9 *which the facilities—*

10 “(I) *offer, to employees who pro-*
11 *vide direct care to residents of a long-*
12 *term care facility, continuing training*
13 *and varying levels of certification,*
14 *based on observed clinical care prac-*
15 *tices and the amount of time the em-*
16 *ployees spend providing direct care;*
17 *and*

18 “(II) *provide, or make arrange-*
19 *ments to provide, bonuses or other in-*
20 *creased compensation or benefits to em-*
21 *ployees who achieve certification under*
22 *such a program.*

23 “(ii) *APPLICATION.—To be eligible to*
24 *receive a grant under this subparagraph, a*
25 *long-term care facility shall submit an ap-*

1 *plication to the Secretary at such time, in*
2 *such manner, and containing such informa-*
3 *tion as the Secretary may require.*

4 “(3) *SPECIFIC PROGRAMS TO IMPROVE MANAGE-*
5 *MENT PRACTICES.—*

6 “(A) *GRANTS AUTHORIZED.—The Secretary*
7 *shall make grants to long-term care facilities to*
8 *enable the facilities to provide training and tech-*
9 *nical assistance to eligible employees.*

10 “(B) *AUTHORIZED ACTIVITIES.—A long-*
11 *term care facility that receives a grant under*
12 *subparagraph (A) shall use funds made available*
13 *through the grant to provide training and tech-*
14 *nical assistance to eligible employees regarding*
15 *management practices using methods that are*
16 *demonstrated to promote retention of individuals*
17 *who provide direct care to residents of the long-*
18 *term care facility, such as—*

19 “(i) *the establishment of basic human*
20 *resource policies that reward high perform-*
21 *ance, including policies that provide for im-*
22 *proved wages and benefits on the basis of*
23 *job reviews;*

24 “(ii) *the establishment of motivational*
25 *and thoughtful work organization practices;*

1 “(iii) *the creation of a workplace cul-*
2 *ture that respects and values caregivers and*
3 *their needs;*

4 “(iv) *the promotion of a workplace cul-*
5 *ture that respects the rights of residents of*
6 *a long-term care facility and results in im-*
7 *proved care for the residents; and*

8 “(v) *the establishment of other pro-*
9 *grams that promote the provision of high*
10 *quality care, such as a continuing edu-*
11 *cation program that provides additional*
12 *hours of training, including on-the-job*
13 *training, for employees who are certified*
14 *nurse aides.*

15 “(C) *APPLICATION.—To be eligible to re-*
16 *ceive a grant under this paragraph, a long-term*
17 *care facility shall submit an application to the*
18 *Secretary at such time, in such manner, and*
19 *containing such information as the Secretary*
20 *may require.*

21 “(D) *ELIGIBLE EMPLOYEE DEFINED.—In*
22 *this paragraph, the term ‘eligible employee’*
23 *means an individual who establishes or imple-*
24 *ments management practices applicable with re-*
25 *spect to individuals who provide direct care to*

1 *residents of a long-term care facility and in-*
2 *cludes administrators, directors of nursing, staff*
3 *developers, and charge nurses.*

4 “(4) *ACCOUNTABILITY MEASURES.*—*The Sec-*
5 *retary shall develop accountability measures to ensure*
6 *that the activities conducted using funds made avail-*
7 *able under this subsection benefit eligible employees*
8 *and increase the stability of the long-term care work-*
9 *force.*

10 “(b) *INFORMATICS SYSTEMS GRANT PROGRAM.*—

11 “(1) *GRANTS AUTHORIZED.*—*The Secretary is*
12 *authorized to make grants to long-term care facilities*
13 *for the purpose of assisting such entities in offsetting*
14 *the costs related to purchasing, leasing, developing,*
15 *and implementing standardized clinical health care*
16 *informatics systems designed to improve patient safe-*
17 *ty and reduce adverse events and health care com-*
18 *plications resulting from medication errors.*

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

22 “(A) *Purchasing, leasing, and installing*
23 *computer software and hardware, including*
24 *handheld computer technologies.*

1 “(B) *Making improvements to existing com-*
2 *puter software and hardware.*

3 “(C) *Making upgrades and other improve-*
4 *ments to existing computer software and hard-*
5 *ware to enable e-prescribing.*

6 “(D) *Providing education and training to*
7 *eligible long-term care facility staff on the use of*
8 *technology to implement the electronic trans-*
9 *mission of prescription and patient information.*

10 “(3) *APPLICATION.—To be eligible to receive a*
11 *grant under this subsection, a long-term care facility*
12 *shall submit an application to the Secretary at such*
13 *time, in such manner, and containing such informa-*
14 *tion as the Secretary may require.*

15 “(4) *ACCOUNTABILITY MEASURES.—The Sec-*
16 *retary shall develop accountability measures to ensure*
17 *that the activities conducted using funds made avail-*
18 *able under this subsection help improve patient safety*
19 *and reduce adverse events and health care complica-*
20 *tions resulting from medication errors.*

21 “(c) *DEVELOPMENT AND ADOPTION OF STANDARDS*
22 *FOR TRANSACTIONS INVOLVING CLINICAL DATA BY LONG-*
23 *TERM CARE FACILITIES.—*

24 “(1) *STANDARDS.—The Secretary shall develop*
25 *and adopt uniform open electronic standards for*

1 *transactions involving clinical data by long-term care*
2 *facilities. Such standards shall include messaging and*
3 *nomenclature standards.*

4 “(2) *COMPATIBILITY WITH OTHER STANDARDS.—*
5 *The standards developed and adopted under para-*
6 *graph (1) shall be compatible with standards estab-*
7 *lished under part C of title XI, standards established*
8 *under subsections (b)(2)(B)(i) and (e)(4) of section*
9 *1860D–4, and with general health information tech-*
10 *nology standards.*

11 “(3) *ELECTRONIC SUBMISSION OF DATA TO THE*
12 *SECRETARY.—*

13 “(A) *IN GENERAL.—Not later than 10 years*
14 *after the date of enactment of the John Breaux*
15 *Elder Justice Act, the Secretary shall have proce-*
16 *dures in place to accept the optional electronic*
17 *submission of clinical data by long-term care fa-*
18 *cilities pursuant to the standards developed and*
19 *adopted under paragraph (1).*

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

1 “(d) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 2 *authorized to be appropriated to carry out this section, for*
 3 *each of fiscal years 2006 through 2009, \$25,000,000.*

4 “**SEC. 2212. COLLABORATIVE EFFORTS TO ENHANCE COM-**
 5 **MUNICATION ON PROMOTING QUALITY OF**
 6 **AND PREVENTING ABUSE AND NEGLECT IN**
 7 **LONG-TERM CARE.**

8 “(a) *PILOT PROJECTS AUTHORIZED.—The Secretary,*
 9 *after consultation with the Attorney General, may establish*
 10 *pilot projects to improve long-term care. In carrying out*
 11 *the pilot projects, the Secretary shall make grants to eligible*
 12 *partnerships (as defined in subsection (b)) to develop col-*
 13 *laborative and innovative approaches to improve the qual-*
 14 *ity of, including preventing abuse and neglect in, long-term*
 15 *care.*

16 “(b) *ELIGIBLE PARTNERSHIPS.—In this section, the*
 17 *term ‘eligible partnership’ means a multidisciplinary com-*
 18 *munity partnership consisting of eligible entities or appro-*
 19 *priate individuals, such as a partnership consisting of rep-*
 20 *resentatives in a community of nursing facility providers,*
 21 *State legal assistance developers, advocates for residents of*
 22 *long-term care facilities, State Long-Term Care Ombuds-*
 23 *men, surveyors, the State agency with responsibility for*
 24 *adult protective services, the State agency with responsi-*
 25 *bility for licensing long-term care facilities, law enforce-*

1 *ment agencies, courts, family councils, residents, certified*
 2 *nurse aides, registered nurses, physicians, and other eligible*
 3 *entities and appropriate individuals.*

4 “(c) *APPLICATION.*—*To be eligible to receive a grant*
 5 *under this section, a partnership shall submit an applica-*
 6 *tion to the Secretary at such time, in such manner, and*
 7 *containing such information as the Secretary may require.*

8 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
 9 *authorized to be appropriated to carry out this section, for*
 10 *each of fiscal years 2006 through 2009, \$2,500,000.*

11 **“SEC. 2213. COLLABORATIVE EFFORTS TO DEVELOP CON-**
 12 **SENSUS AROUND THE MANAGEMENT OF CER-**
 13 **TAIN QUALITY-RELATED FACTORS.**

14 “(a) *GRANTS AUTHORIZED.*—*The Secretary, after con-*
 15 *sultation with the Attorney General, may make grants to*
 16 *eligible entities to establish multidisciplinary panels to ad-*
 17 *dress, and develop consensus on, subjects relating to improv-*
 18 *ing the quality of long-term care. The Secretary shall make*
 19 *a limited number of such grants, including at least 1 grant*
 20 *for the establishment of such a panel to address, and develop*
 21 *consensus on, methods of managing resident-to-resident*
 22 *abuse in long-term care.*

23 “(b) *AUTHORIZED ACTIVITIES.*—*An eligible entity*
 24 *that receives a grant under this section shall—*

1 “(1) *establish a multidisciplinary panel to ad-*
2 *dress a specific subject; and*

3 “(2) *ensure that the panel uses the funds made*
4 *available through the grant to establish a goal with*
5 *respect to the subject, examine relevant research and*
6 *data, identify best practices with respect to the sub-*
7 *ject, determine the best way to carry out those best*
8 *practices in a practical and feasible manner, and de-*
9 *termine an effective manner of distributing informa-*
10 *tion on the subject.*

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

15 “(d) *AUTHORIZATION OF APPROPRIATIONS.—There is*
16 *authorized to be appropriated to carry out this section, for*
17 *each of fiscal years 2006 through 2009, \$2,000,000.*

18 **“SEC. 2214. ADULT PROTECTIVE SERVICES FUNCTIONS AND**
19 **GRANT PROGRAMS.**

20 “(a) *FUNCTIONS.—*

21 “(1) *IN GENERAL.—The Secretary shall ensure*
22 *that the Department of Health and Human Serv-*
23 *ices—*

24 “(A) *provides funding authorized by this*
25 *title to State and local adult protective services*

1 *offices that investigate reports of the abuse, ne-*
2 *glect, and exploitation of elders;*

3 *“(B) collects and disseminates data annu-*
4 *ally relating to the abuse, exploitation, and ne-*
5 *glect of elders in coordination with the Bureau*
6 *of Justice Statistics of the Office of Justice Pro-*
7 *grams of the Department of Justice efforts to col-*
8 *lect national data under section 2221;*

9 *“(C) develops and disseminates information*
10 *on best practices regarding, and provides train-*
11 *ing on, carrying out adult protective services;*

12 *“(D) in conjunction with the necessary ex-*
13 *perts, conducts research related to the provision*
14 *of adult protective services; and*

15 *“(E) provides technical assistance to States*
16 *and other entities that provide or fund the provi-*
17 *sion of adult protective services, including*
18 *through grants made under subsections (b) and*
19 *(c).*

20 *“(2) AUTHORIZATION OF APPROPRIATIONS.—*
21 *There are authorized to be appropriated to carry out*
22 *this subsection, \$3,000,000 for fiscal year 2006 and*
23 *\$4,000,000 for each of fiscal years 2007 through 2009.*

24 *“(b) GRANT PROGRAM.—*

1 “(1) *ESTABLISHMENT.*—*There is established an*
2 *adult protective services grant program under which*
3 *the Secretary shall annually award grants to States*
4 *in the amounts calculated under paragraph (2) for*
5 *the purposes of enhancing adult protective services*
6 *provided to elders by States and local units of govern-*
7 *ment by employing workers who carry caseloads con-*
8 *sisting only of elders and identifying the number of*
9 *cases that should comprise a reasonable caseload con-*
10 *sisting only of elders.*

11 “(2) *AMOUNT OF PAYMENT.*—

12 “(A) *IN GENERAL.*—*Subject to subpara-*
13 *graphs (B) and (C), the amount paid to a State*
14 *for a year under the program under this sub-*
15 *section shall equal the amount appropriated for*
16 *the year under paragraph (5) multiplied by, of*
17 *the total number of elders who reside in the*
18 *United States, the percentage who reside in the*
19 *State.*

20 “(B) *GUARANTEED MINIMUM PAYMENT*
21 *AMOUNT.*—

22 “(i) *50 STATES.*—*Subject to clause (ii),*
23 *if the amount determined under subpara-*
24 *graph (A) for a State for a year is less than*
25 *0.75 percent of the amount appropriated*

1 *under paragraph (5), the Secretary shall in-*
2 *crease such determined amount so that the*
3 *total amount paid under this subsection to*
4 *the State for the year is equal to 0.75 per-*
5 *cent of the amount so appropriated.*

6 “(ii) *TERRITORIES.*—*In the case of a*
7 *State other than 1 of the 50 States, clause*
8 *(i) shall be applied as if each reference to*
9 *‘0.75’ were a reference to ‘0.1’.*

10 “(C) *PRO RATA REDUCTIONS.*—*The Sec-*
11 *retary shall make such pro rata reductions to the*
12 *amounts described in subparagraph (A) as are*
13 *necessary to comply with the requirements of*
14 *subparagraph (B).*

15 “(3) *AUTHORIZED ACTIVITIES.*—

16 “(A) *ADULT PROTECTIVE SERVICES.*—
17 *Funds made available pursuant to this sub-*
18 *section may only be used by States and local*
19 *units of government to provide adult protective*
20 *services for elders and may not be used for any*
21 *other purpose.*

22 “(B) *USE BY AGENCY.*—*Each State receiv-*
23 *ing funds pursuant to this subsection shall pro-*
24 *vide such funds to the agency or unit of State*

1 *government having legal responsibility for pro-*
2 *viding adult protective services within the State.*

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

9 “(4) *REPORTS.—*

10 “(A) *STATE REPORTS.—Each State receiv-*
11 *ing funds under this subsection shall submit to*
12 *the Secretary, at such time and in such manner*
13 *as the Secretary may require, a report—*

14 “(i) *containing a comparison of the*
15 *outcomes of workers who carry caseloads*
16 *consisting only of elders with outcomes of*
17 *workers carrying caseloads that include*
18 *other individuals; and*

19 “(ii) *identifying a number of cases*
20 *that should comprise a reasonable caseload*
21 *consisting only of elders.*

22 “(B) *REPORT BY THE SECRETARY.—Not*
23 *later than October 1, 2010, the Secretary shall*
24 *submit to the appropriate committees of Congress*
25 *a report compiling, summarizing, and analyzing*

1 *the information contained in the reports sub-*
 2 *mitted under subparagraph (A) together with*
 3 *such recommendations for legislative or adminis-*
 4 *trative action as the Secretary determines to be*
 5 *appropriate.*

6 “(5) *AUTHORIZATION OF APPROPRIATIONS.—*
 7 *There is authorized to be appropriated to carry out*
 8 *this subsection, for each of fiscal years 2006 through*
 9 *2009, \$100,000,000.*

10 “(c) *STATE DEMONSTRATION PROGRAMS.—*

11 “(1) *ESTABLISHMENT.—There is established a*
 12 *program under which the Secretary shall award*
 13 *grants to States for the purposes of conducting dem-*
 14 *onstration programs in accordance with paragraph*
 15 *(2).*

16 “(2) *DEMONSTRATION PROGRAMS.—Funds made*
 17 *available pursuant to this subsection may be used by*
 18 *States and local units of government to conduct dem-*
 19 *onstration programs that test—*

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

22 “(B) *methods to detect or prevent financial*
 23 *exploitation of elders;*

24 “(C) *methods to detect elder abuse;*

1 “(D) *whether training on elder abuse*
2 *forensics enhances the detection of elder abuse by*
3 *employees of the State or local unit of govern-*
4 *ment; or*

5 “(E) *other matters relating to the detection*
6 *or prevention of elder abuse.*

7 “(3) *APPLICATION.—To be eligible to receive a*
8 *grant under this subsection, a State shall submit an*
9 *application to the Secretary at such time, in such*
10 *manner, and containing such information as the Sec-*
11 *retary may require.*

12 “(4) *REPORTS.—*

13 “(A) *STATE REPORTS.—Each State that re-*
14 *ceives funds under this subsection shall submit a*
15 *report to the Secretary at such time, in such*
16 *manner, and containing such information as the*
17 *Secretary may require on the results of the dem-*
18 *onstration program conducted by the State using*
19 *funds made available under this subsection.*

20 “(B) *REPORT BY THE SECRETARY.—Not*
21 *later than October 1, 2010, the Secretary shall*
22 *submit to the appropriate committees of Congress*
23 *a report compiling, summarizing, and analyzing*
24 *the information contained in the reports sub-*
25 *mitted under subparagraph (A) together with*

1 *such recommendations for legislative or adminis-*
 2 *trative action as the Secretary determines to be*
 3 *appropriate.*

4 “(5) *AUTHORIZATION OF APPROPRIATIONS.—*
 5 *There is authorized to be appropriated to carry out*
 6 *this subsection, for the period of fiscal years 2006*
 7 *through 2009, \$25,000,000.*

8 **“Subtitle C—Collection of Data,**
 9 **Dissemination of Information,**
 10 **and Studies**

11 **“SEC. 2221. COLLECTION OF UNIFORM NATIONAL DATA ON**
 12 **ELDER ABUSE, NEGLECT, AND EXPLOI-**
 13 **TATION.**

14 “(a) *PURPOSE.—The purpose of this section is to im-*
 15 *prove, streamline, and promote uniform collection, mainte-*
 16 *nance, and dissemination of national data relating to the*
 17 *various types of elder abuse, neglect, and exploitation.*

18 “(b) *PHASE I.—*

19 “(1) *IN GENERAL.—Not later than the date that*
 20 *is 1 year after the date of enactment of the John*
 21 *Breaux Elder Justice Act, the Secretary, after con-*
 22 *sultation with the Attorney General and working with*
 23 *experts in relevant disciplines from the Bureau of*
 24 *Justice Statistics of the Office of Justice Programs,*
 25 *shall—*

1 “(A) develop a method for collecting na-
2 tional data regarding elder abuse, neglect, and
3 exploitation; and

4 “(B) develop uniform national data report-
5 ing forms adapted to each relevant entity or dis-
6 cipline (such as health, public safety, social and
7 protective services, and law enforcement) reflect-
8 ing—

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

12 “(ii) the sequence and history of re-
13 ports to or involvement of different entities
14 or disciplines, independently, or the se-
15 quence and history of reports from 1 entity
16 or discipline to another over time.

17 “(2) FORMS.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (B), the national data reporting forms de-
20 scribed in paragraph (1)(B) shall incorporate
21 the definitions of this title, for use in deter-
22 mining whether an event is reportable.

23 “(B) PROTECTION OF PRIVACY.—In pur-
24 suing activities under this paragraph, the Sec-
25 retary shall ensure the protection of individual

1 *health privacy consistent with the regulations*
2 *promulgated under section 264(c) of the Health*
3 *Insurance Portability and Accountability Act of*
4 *1996 and State and local privacy regulations (as*
5 *applicable).*

6 “(c) *PHASE II.*—

7 “(1) *IN GENERAL.*—*Not later than the date that*
8 *is 1 year after the date on which the activities de-*
9 *scribed in subsection (b)(1) are completed, the Sec-*
10 *retary (or the Secretary’s designee) shall ensure that*
11 *the national data reporting forms and data collection*
12 *methods developed in accordance with such subsection*
13 *are pilot tested in 6 States selected by the Secretary.*

14 “(2) *ADJUSTMENTS TO THE FORM AND METH-*
15 *ODS.*—*The Secretary, after considering the results of*
16 *the pilot testing described in paragraph (1) and con-*
17 *sultation with the Attorney General and relevant ex-*
18 *perts, shall adjust the national data reporting forms*
19 *and data collection methods as necessary.*

20 “(d) *PHASE III.*—

21 “(1) *DISTRIBUTION OF NATIONAL DATA REPORT-*
22 *ING FORMS.*—*After completion of the adjustment to*
23 *the national data reporting forms under subsection*
24 *(c)(2), the Secretary shall submit the national data*
25 *reporting forms along with instructions to—*

1 “(A) *the heads of the relevant components of*
2 *the Department of Health and Human Services,*
3 *the Department of Justice, and the Department*
4 *of the Treasury, and such other Federal entities*
5 *as may be appropriate; and*

6 “(B) *the Governor’s office of each State for*
7 *collection from all relevant State entities of data,*
8 *including health care, social services, and law*
9 *enforcement data.*

10 “(2) *DATA COLLECTION GRANTS.—*

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

15 “(B) *APPLICATION.—To be eligible to re-*
16 *ceive a grant under this paragraph, a State shall*
17 *submit an application to the Secretary at such*
18 *time, in such manner, and containing such in-*
19 *formation as the Secretary may require.*

20 “(C) *REQUIREMENTS.—Each State receiv-*
21 *ing a grant under this paragraph for a fiscal*
22 *year shall report data for the calendar year that*
23 *begins during that fiscal year, using the national*
24 *data reporting forms described in paragraph (1).*

25 “(D) *FUNDING.—*

1 “(i) *FIRST YEAR.*—*For the first fiscal*
2 *year for which a State receives grant funds*
3 *under this subsection the Secretary shall*
4 *initially distribute 50 percent of such funds.*
5 *The Secretary shall distribute the remain-*
6 *ing funds at the end of the calendar year*
7 *that begins during that fiscal year, if the*
8 *Secretary determines that the State has*
9 *properly reported data required under this*
10 *subsection for the calendar year.*

11 “(ii) *SUBSEQUENT YEARS.*—*Except as*
12 *provided in clause (i), the Secretary shall*
13 *distribute grant funds to a State under this*
14 *subsection for a fiscal year if the Secretary*
15 *determines that the State properly reported*
16 *data required under this subsection for the*
17 *calendar year that ends during that fiscal*
18 *year.*

19 “(3) *REQUIRED INFORMATION.*—*Each report*
20 *submitted under this subsection shall—*

21 “(A) *indicate the State and year in which*
22 *each event occurred; and*

23 “(B) *identify the total number of events*
24 *that occurred in each State during the year and*
25 *the type of each event.*

1 “(e) *REPORT.*—Not later than 1 year after the date
 2 of enactment of the John Breaux Elder Justice Act and an-
 3 nually thereafter, the Secretary shall prepare and submit
 4 to the appropriate committees of Congress, including to the
 5 Committee on Finance and the Special Committee on Aging
 6 of the Senate, a report regarding activities conducted under
 7 this section.

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

10 “(1) for fiscal year 2006, \$10,000,000;

11 “(2) for fiscal year 2007, \$30,000,000; and

12 “(3) for each of fiscal years 2008 and 2009,
 13 \$100,000,000.

14 **“SEC. 2222. LONG-TERM CARE CONSUMER CLEARINGHOUSE.**

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

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

21 “(1) obtaining the services of, and employing,
 22 caregivers who provide long-term care at an individ-
 23 ual’s home; and

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

1 “(A)(i) *the type of care provided by nursing*
2 *facilities; and*

3 “(ii) *the type of care provided by group*
4 *homes and other residential long-term care facili-*
5 *ties that are not nursing facilities;*

6 “(B) *the benefits available through the pro-*
7 *grams carried out under titles XVIII and XIX;*
8 *and*

9 “(C) *links to Federal and State websites*
10 *that describe the care available through specific*
11 *long-term care facilities, including data on the*
12 *satisfaction level of residents of, and families of*
13 *residents of, the facilities.*

14 “(c) *PROVIDERS.—In providing information on long-*
15 *term care providers under this section, the clearinghouse*
16 *shall provide information (from States and other sources)*
17 *on assisted living facilities, board and care facilities, con-*
18 *gregate care facilities, home health care providers, and other*
19 *long-term care providers.*

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

23 “(1) *for fiscal year 2006, \$2,000,000;*

24 “(2) *for fiscal year 2007, \$3,000,000; and*

1 “(3) for each of fiscal years 2008 and 2009,
2 \$4,000,000.

3 **“SEC. 2223. CONSUMER INFORMATION ABOUT THE CON-**
4 **TINUUM OF RESIDENTIAL LONG-TERM CARE**
5 **FACILITIES.**

6 “(a) *STUDY.*—

7 “(1) *IN GENERAL.*—*The Secretary, after con-*
8 *sultation with the Attorney General, shall, directly or*
9 *through a grant, conduct a study on consumer con-*
10 *cerns relating to residential long-term care facilities,*
11 *other than nursing facilities.*

12 “(2) *SPECIFIC TOPICS.*—*The entity conducting*
13 *the study shall—*

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

17 “(B) *collect information on the prices of,*
18 *level of services provided by, oversight and en-*
19 *forcement provisions of, and admission and dis-*
20 *charge criteria of, the facilities.*

21 “(b) *REPORT.*—*The Secretary shall prepare a report*
22 *containing the results of the study, and submit the report*
23 *to the Elder Justice Coordinating Council and all the ap-*
24 *propriate committees of Congress, including the Committee*
25 *on Ways and Means of the House of Representatives, and*

1 *the Committee on Finance and the Special Committee on*
 2 *Aging of the Senate.*

3 “(c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 4 *authorized to be appropriated to carry out this section, for*
 5 *each of fiscal years 2006 through 2009, \$3,000,000.*

6 **“SEC. 2224. PROVISION OF INFORMATION REGARDING, AND**
 7 **EVALUATIONS OF, ELDER JUSTICE PRO-**
 8 **GRAMS.**

9 “(a) *PROVISION OF INFORMATION.—To be eligible to*
 10 *receive a grant under this title, an applicant shall agree—*

11 “(1) *except as provided in paragraph (2), to pro-*
 12 *vide the eligible entity conducting an evaluation*
 13 *under subsection (b) of the activities funded through*
 14 *the grant with such information as the eligible entity*
 15 *may require in order to conduct such evaluation; or*

16 “(2) *in the case of an applicant for a grant*
 17 *under section 2211(b), to provide the Secretary with*
 18 *such information as the Secretary may require to*
 19 *conduct an evaluation or audit under subsection (c).*

20 “(b) *USE OF ELIGIBLE ENTITIES TO CONDUCT EVAL-*
 21 *UATIONS.—*

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

1 “(A) reserve a portion of the funds appro-
2 priated with respect to each program carried out
3 under this title; and

4 “(B) use the funds reserved under subpara-
5 graph (A) to provide assistance to eligible enti-
6 ties to conduct evaluations of the activities fund-
7 ed under each program carried out under this
8 title.

9 “(2) *INFORMATICS SYSTEMS GRANT PROGRAM*
10 *NOT INCLUDED.*—The provisions of this subsection
11 shall not apply to the informatics systems grant pro-
12 gram under section 2211(b).

13 “(3) *AUTHORIZED ACTIVITIES.*—A recipient of
14 assistance described in paragraph (1)(B) shall use the
15 funds made available through the assistance to con-
16 duct a validated evaluation of the effectiveness of the
17 activities funded under a program carried out under
18 this title.

19 “(4) *APPLICATIONS.*—To be eligible to receive as-
20 sistance under paragraph (1)(B), an entity shall sub-
21 mit an application to the Secretary at such time, in
22 such manner, and containing such information as the
23 Secretary may require, including a proposal for the
24 evaluation.

1 “(5) *REPORTS.*—Not later than a date specified
2 by the Secretary, an eligible entity receiving assist-
3 ance under paragraph (1)(B) shall submit to the Sec-
4 retary and the appropriate committees of Congress a
5 report containing the results of the evaluation con-
6 ducted using such assistance together with such rec-
7 ommendations as the entity determines to be appro-
8 priate.

9 “(c) *EVALUATIONS AND AUDITS OF INFORMATICS SYS-*
10 *TEMS GRANT PROGRAM BY THE SECRETARY.*—

11 “(1) *EVALUATIONS.*—The Secretary shall con-
12 duct an evaluation of the activities funded under the
13 informatics systems grant program under section
14 2211(b). Such evaluation shall include an evaluation
15 of whether the funding provided under the grant is
16 expended only for the purposes for which it is made.

17 “(2) *AUDITS.*—The Secretary shall conduct ap-
18 propriate audits of grants made under section
19 2211(b).”.

20 “(b) *LONG-TERM CARE FACILITIES.*—Part A of title XI
21 of the Social Security Act (42 U.S.C. 1301 et seq.) is
22 amended by adding at the end the following new sections:

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

4 “SEC. 1150A. (a) DETERMINATION AND NOTIFICA-
5 TION.—

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

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

19 “(3) COVERED INDIVIDUAL DEFINED.—In this
20 section, the term ‘covered individual’ means each in-
21 dividual who is an owner, operator, employee, man-
22 ager, agent, or contractor of a long-term care facility
23 that is the subject of a determination described in
24 paragraph (2).

25 “(b) REPORTING REQUIREMENTS.—

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

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

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

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

17 “(c) *PENALTIES.*—

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

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

23 “(B) *the Secretary shall classify the indi-*
24 *vidual as an excluded individual, for a period of*
25 *not more than 3 years.*

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

5 “(A) the individual shall be subject to a
6 civil money penalty of not more than \$300,000;
7 and

8 “(B) the Secretary shall classify the indi-
9 vidual as an excluded individual, for a period of
10 not more than 3 years.

11 “(3) *EXCLUDED INDIVIDUAL.*—During any pe-
12 riod for which an individual is classified as an ex-
13 cluded individual under paragraph (1)(B) or (2)(B),
14 a long-term care facility that employs the individual
15 shall be ineligible to receive Federal funds.

16 “(4) *EXTENUATING CIRCUMSTANCES.*—

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

21 “(B) *UNDERSERVED POPULATION DE-*
22 *FINED.*—In this paragraph, the term ‘under-
23 served population’ means the population of an
24 area designated by the Secretary as an area with
25 a shortage of elder justice programs or a popu-

1 *lation group designated by the Secretary as hav-*
2 *ing a shortage of such programs. Such areas or*
3 *groups designated by the Secretary may in-*
4 *clude—*

5 *“(i) areas or groups that are geo-*
6 *graphically isolated (such as isolated in a*
7 *rural area);*

8 *“(ii) racial and ethnic minority popu-*
9 *lations; and*

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

13 *“(d) ADDITIONAL PENALTIES FOR RETALIATION.—*

14 *“(1) IN GENERAL.—A long-term care facility*
15 *may not—*

16 *“(A) discharge, demote, suspend, threaten,*
17 *harass, or deny a promotion or other employ-*
18 *ment-related benefit to an employee, or in any*
19 *other manner discriminate against an employee*
20 *in the terms and conditions of employment be-*
21 *cause of lawful acts done by the employee; or*

22 *“(B) file a complaint or a report against a*
23 *nurse with the appropriate State professional*
24 *disciplinary agency because of lawful acts done*
25 *by the nurse,*

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

4 “(2) *PENALTIES FOR RETALIATION.*—*If a long-*
5 *term care facility violates subparagraph (A) or (B) of*
6 *paragraph (1) the facility shall be subject to a civil*
7 *money penalty of not more than \$200,000 or the Sec-*
8 *retary may classify the entity as an excluded entity*
9 *for a period of 2 years pursuant to section 1128(b),*
10 *or both.*

11 “(3) *REQUIREMENT TO POST NOTICE.*—*Each*
12 *long-term care facility shall post conspicuously in an*
13 *appropriate location a sign (in a form specified by*
14 *the Secretary) specifying rights of employees under*
15 *this section. Such sign shall include a statement that*
16 *an employee may file a complaint with the Secretary*
17 *against a long-term care facility that violates the pro-*
18 *visions of this subsection and information with re-*
19 *spect to the manner of filing such a complaint.*

20 “(e) *DEFINITIONS.*—*In this section:*

21 “(1) *ELDER JUSTICE; LONG-TERM CARE FACIL-*
22 *ITY.*—*The terms ‘elder justice’ and ‘long-term care fa-*
23 *cility’ have the meanings given the terms in section*
24 *2200.*

1 “(2) *LAW ENFORCEMENT.*—*The term ‘law en-*
2 *forcement’ means police or sheriffs.*

3 “*ENSURING SAFETY OF RESIDENTS WHEN FEDERALLY*
4 *FUNDED LONG-TERM CARE FACILITIES CLOSE*

5 “*SEC. 1150B. (a) NOTIFICATION OF FACILITY CLO-*
6 *SURE.*—*If the owner or operator determines under section*
7 *1150A(a)(1) that a long-term care facility received at least*
8 *\$10,000 in Federal funds during the preceding year, the*
9 *owner or operator of the facility shall—*

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

14 “(2) *include in the notice a plan for the transfer*
15 *and adequate relocation of the residents prior to clo-*
16 *sure, including assurances that residents will not be*
17 *transferred to facilities providing substandard care*
18 *for which administrative or law enforcement action is*
19 *pending; and*

20 “(3) *not later than 10 days after the facility clo-*
21 *sure, submit to the Secretary and the appropriate*
22 *State agency information identifying where residents*
23 *of the closed facility were transferred and on what*
24 *date.*

1 “(b) *SANCTIONS.*—Any person owning a long-term
2 care facility that fails to comply with the requirements of
3 subsection (a) shall be subject to—

4 “(1) a civil monetary penalty of up to
5 \$1,000,000;

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

9 “(3) any other applicable civil monetary pen-
10 alties and assessments.

11 “(c) *PROCEDURE.*—A civil monetary penalty or as-
12 sessment authorized under subsection (b) shall be imposed
13 against a person in the same manner as a civil monetary
14 penalty or assessment is imposed under section 1128A.

15 “(d) *DEFINITION.*—In this section, the term ‘long-term
16 care facility’ has the meaning given the term in section
17 2200.”.

18 **TITLE II—DEPARTMENT OF**
19 **JUSTICE**

20 **SEC. 201. VICTIM ADVOCACY GRANTS.**

21 (a) *GRANTS AUTHORIZED.*—The Attorney General,
22 after consultation with the Secretary, may award grants
23 to eligible entities to study the special needs of victims of
24 elder abuse, neglect, and exploitation.

1 (b) *AUTHORIZED ACTIVITIES.*—Funds awarded pursu-
2 ant to subsection (a) shall be used for pilot programs
3 through which the eligible entities develop programs, pro-
4 vide training to health care, social and protective services
5 providers, law enforcement, fiduciaries including guard-
6 ians, judges and court personnel, and victim advocates, and
7 examine special approaches, designed to meet the needs of
8 victims of elder abuse, neglect, and exploitation.

9 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There are
10 authorized to be appropriated to carry out this section—

11 (1) for fiscal year 2006, \$2,500,000; and

12 (2) for each of fiscal years 2007 through 2009,
13 \$3,000,000.

14 **SEC. 202. SUPPORTING STATE AND LOCAL PROSECUTORS**
15 **IN ELDER JUSTICE MATTERS.**

16 (a) *GRANTS AUTHORIZED.*—The Attorney General,
17 after consultation with the Secretary, shall award grants
18 to eligible entities to provide training, technical assistance,
19 policy development, multidisciplinary coordination, and
20 other types of support to State and local prosecutors han-
21 dling elder justice-related cases, including funding the cre-
22 ation of a Center for the Prosecution of Elder Abuse, Ne-
23 glect, and Exploitation by the American Prosecutor Re-
24 search Institute of the National District Attorneys Associa-
25 tion, or another similarly situated entity, to advise and

1 *support local prosecutors nationwide in their pursuit of*
2 *cases involving elder abuse, neglect, and exploitation.*

3 (b) *DUTIES.—The Center created under subsection (a)*
4 *shall, among other things—*

5 (1) *coordinate activities with experts in the areas*
6 *of elder abuse, neglect, and exploitation;*

7 (2) *coordinate activities with the Advisory Board*
8 *established by section 2202 of the Social Security Act;*
9 *and*

10 (3) *provide local prosecutors and personnel as-*
11 *sisting such prosecutors with multidisciplinary teams,*
12 *and training, technical assistance, and input, in the*
13 *handling, prevention, and prosecution of, and special*
14 *circumstances surrounding, elder abuse, neglect, and*
15 *exploitation.*

16 (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*
17 *authorized to be appropriated to carry out this section—*

18 (1) *for fiscal year 2006, \$6,000,000; and*

19 (2) *for each of fiscal years 2007 through 2009,*
20 *\$8,000,000.*

21 **SEC. 203. SUPPORTING FEDERAL CASES INVOLVING ELDER**

22 **JUSTICE.**

23 (a) *SUPPORT AND ASSISTANCE.—*

24 (1) *ADDITIONAL STAFF.—The Attorney General*
25 *shall hire additional Federal prosecutors, and make*

1 *other types of support to police, sheriffs, detectives, public*
 2 *safety officers, corrections personnel, and other front line*
 3 *law enforcement responders who handle elder justice-related*
 4 *matters.*

5 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 6 *authorized to be appropriated to carry out this section—*

7 (1) *for fiscal year 2006, \$6,000,000; and*

8 (2) *for each of fiscal years 2007 through 2009,*
 9 *\$8,000,000.*

10 **SEC. 205. ESTABLISHMENT AND SUPPORT OF ELDER ABUSE,**

11 **NEGLECT, AND EXPLOITATION FORENSIC**

12 **CENTERS.**

13 (a) *GRANTS AUTHORIZED.—The Attorney General*
 14 *shall make grants to eligible entities to establish and operate*
 15 *stationary and mobile forensic centers, to develop forensic*
 16 *expertise regarding, and provide services relating to, elder*
 17 *abuse, neglect, and exploitation.*

18 (b) *STATIONARY FORENSIC CENTERS.—The Attorney*
 19 *General 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 treat-*
 22 *ing elder abuse, neglect, or exploitation, to establish and*
 23 *operate stationary forensic centers.*

24 (c) *MOBILE CENTERS.—The Attorney General shall*
 25 *make 6 of the grants described in subsection (a) to appro-*

1 *priate entities to establish and operate mobile forensic cen-*
2 *ters.*

3 *(d) AUTHORIZED ACTIVITIES.—*

4 *(1) DEVELOPMENT OF FORENSIC MARKERS AND*
5 *METHODOLOGIES.—An eligible entity that receives a*
6 *grant under this section shall use funds made avail-*
7 *able through the grant to assist in determining wheth-*
8 *er abuse, neglect, or exploitation occurred and whether*
9 *a crime was committed and to conduct research to de-*
10 *scribe and disseminate information on—*

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

14 *(B) methodologies for determining, in such*
15 *a case, when and how health care, emergency*
16 *service, social and protective services, and legal*
17 *service providers should intervene and when the*
18 *providers should report the case to law enforce-*
19 *ment authorities.*

20 *(2) APPLICATIONS.—An eligible entity that re-*
21 *ceives a grant under this section shall use funds made*
22 *available through the grant to develop forensic exper-*
23 *tise regarding elder abuse, neglect, and exploitation in*
24 *order to provide medical and forensic evaluation,*

1 *therapeutic intervention, victim support and advoca-*
2 *cacy, case review, and case tracking.*

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

11 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
12 *authorized to be appropriated to carry out this section—*

13 (1) *for fiscal year 2006, \$4,000,000;*

14 (2) *for fiscal year 2007, \$6,000,000; and*

15 (3) *for each of fiscal years 2008 and 2009,*
16 *\$8,000,000.*

17 **SEC. 206. MODEL STATE LAWS AND PRACTICES.**

18 (a) *IN GENERAL.—The Attorney General, after con-*
19 *sultation with the Secretary, shall—*

20 (1)(A) *conduct a study of State laws and prac-*
21 *tices relating to elder abuse, neglect, and exploitation;*
22 *and*

23 (B) *prepare and publish a report or periodic re-*
24 *ports containing the findings of the study; and*

1 (2) *not later than 2 years after the date of enact-*
2 *ment of the John Breaux Elder Justice Act, prepare*
3 *and submit to the chairpersons and ranking members*
4 *of all the appropriate committees of Congress, includ-*
5 *ing the chairperson and ranking member of the Spe-*
6 *cial Committee on Aging of the Senate and the chair-*
7 *person and ranking member of the Committee on the*
8 *Judiciary of the Senate, and the Speaker and minor-*
9 *ity leader of the House of Representatives a report*
10 *that provides—*

11 (A) *a comprehensive description and com-*
12 *parative analysis of the State laws and prac-*
13 *tices; and*

14 (B) *recommended models for State laws and*
15 *practices based on an analysis of the most effec-*
16 *tive of the State laws and practices, including*
17 *recommendations with respect to the definitions*
18 *referred to in subsection (b)(1).*

19 (b) *STATE LAWS AND PRACTICES.—Each report pub-*
20 *lished or submitted under subsection (a) shall examine*
21 *State laws and practices described in such subsection and*
22 *address the following issues with respect to such laws and*
23 *practices:*

24 (1) *Definitions of “elder”, “abuse”, “neglect”,*
25 *and “exploitation”, and related terms.*

1 (2) *Issues relating to mandatory reporting laws,*
2 *with respect to—*

3 (A) *who is a mandated reporter;*

4 (B) *to whom must the reporter report and*
5 *within what timeframe; and*

6 (C) *any consequences for nonreporting.*

7 (3) *Evidentiary, procedural, sentencing, choice of*
8 *remedies, and data retention issues relating to pur-*
9 *suing cases relating to elder abuse, neglect, and ex-*
10 *ploitation.*

11 (4) *Issues relating to laws requiring immediate*
12 *reporting of all nursing home deaths to the county*
13 *coroner or to some other individual or entity.*

14 (5) *Issues relating to fiduciary laws, including*
15 *guardianship and power of attorney laws.*

16 (6) *Issues relating to laws that permit or encour-*
17 *age banks and bank employees to prevent and report*
18 *suspected elder abuse, neglect, and exploitation.*

19 (7) *Issues relating to laws that may impede re-*
20 *search on elder abuse, neglect, and exploitation.*

21 (8) *Practices relating to the enforcement of laws*
22 *relating to elder abuse, neglect, and exploitation.*

23 (9) *Practices relating to other aspects of elder*
24 *justice.*

1 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 2 *authorized to be appropriated to carry out this section—*

3 (1) *for fiscal year 2006, \$2,500,000; and*

4 (2) *for each of fiscal years 2007 through 2009,*
 5 *\$3,000,000.*

6 **SEC. 207. PROVISION OF INFORMATION REGARDING, AND**
 7 **EVALUATIONS OF, DEPARTMENT OF JUSTICE**
 8 **ELDER JUSTICE PROGRAMS.**

9 (a) *PROVISION OF INFORMATION.*—*To be eligible to re-*
 10 *ceive assistance under this title, an applicant shall agree*
 11 *to provide the eligible entity conducting an evaluation*
 12 *under subsection (b) of the activities funded through the as-*
 13 *sistance with such information as the eligible entity may*
 14 *require in order to conduct such evaluation.*

15 (b) *USE OF ELIGIBLE ENTITIES TO CONDUCT EVAL-*
 16 *UATIONS.*—

17 (1) *EVALUATIONS REQUIRED.*—*The Attorney*
 18 *General shall—*

19 (A) *reserve a portion of the funds appro-*
 20 *priated with respect to each program carried out*
 21 *under this title; and*

22 (B) *use the funds reserved under subpara-*
 23 *graph (A) to provide assistance to eligible enti-*
 24 *ties to conduct evaluations of the activities fund-*

1 *ed under each program carried out under this*
2 *title.*

3 (2) *AUTHORIZED ACTIVITIES.*—*A recipient of as-*
4 *istance described in paragraph (1)(B) shall use the*
5 *funds made available through the assistance to con-*
6 *duct a validated evaluation of the effectiveness of the*
7 *activities funded under a program carried out under*
8 *this title.*

9 (3) *APPLICATIONS.*—*To be eligible to receive as-*
10 *istance under paragraph (1)(B), an entity shall sub-*
11 *mit an application to the Attorney General at such*
12 *time, in such manner, and containing such informa-*
13 *tion as the Attorney General may require, including*
14 *a proposal for the evaluation.*

15 (4) *REPORTS.*—*Not later than a date specified*
16 *by the Attorney General, an eligible entity receiving*
17 *assistance under paragraph (1)(B) shall submit to the*
18 *Attorney General and the appropriate committees of*
19 *Congress a report containing the results of the evalua-*
20 *tion conducted using such assistance together with*
21 *such recommendations as the entity determines to be*
22 *appropriate.*

The title is amended to read as follows: “A bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and resolve to prevent, detect, treat, inter-

vene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.”.

Calendar No. 740

108TH CONGRESS
2^D SESSION

S. 333

A BILL

To promote elder justice, and for other purposes.

SEPTEMBER 28, 2004

Reported with an amendment