

114TH CONGRESS
2D SESSION

S. 3270

To prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. GRASSLEY (for himself, Mr. BLUMENTHAL, Mr. CORNYN, Ms. KLOBUCHAR, Mr. RUBIO, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Elder Abuse Prevention and Prosecution Act”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE

Sec. 101. Supporting Federal cases involving elder justice.

TITLE II—IMPROVED DATA COLLECTION AND FEDERAL COORDINATION

Sec. 201. Establishment of best practices for local, State, and Federal data collection.

Sec. 202. Effective interagency coordination and Federal data collection.

TITLE III—ENHANCED VICTIM ASSISTANCE TO ELDER ABUSE SURVIVORS

Sec. 301. Sense of the Senate.

Sec. 302. Report.

TITLE IV—ROBERT MATAVA ELDER ABUSE PROSECUTION ACT OF 2016

Sec. 401. Short title.

Sec. 402. Enhanced penalty for telemarketing and email marketing fraud directed at elders.

Sec. 403. Training and technical assistance for States.

Sec. 404. Interstate initiatives.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the terms “abuse”, “elder justice”, “exploit-
4 tation”, “law enforcement”, and “neglect” have the
5 meanings given those terms in section 2011 of the
6 Social Security Act (42 U.S.C. 1397j);

7 (2) the term “adult protective services”—

8 (A) means such services provided to adults
9 as specified by the Secretary of Health and
10 Human Services; and

11 (B) includes services such as—

12 (i) receiving reports of elder abuse,
13 neglect, or exploitation;

1 (ii) investigating the reports described
2 in clause (i);

3 (iii) case planning, monitoring, evalua-
4 tion, and other case work and services; and

5 (iv) providing, arranging for, or facili-
6 tating the provision of medical, social serv-
7 ice, economic, legal, housing, law enforce-
8 ment, or other protective emergency, or
9 support services;

10 (3) the term “elder” means an individual who
11 is 60 years of age or older;

12 (4) the term “elder abuse” includes abuse, ne-
13 glect, and exploitation of an elder; and

14 (5) the term “State” means each of the several
15 States of the United States, the District of Colum-
16 bia, the Commonwealth of Puerto Rico, and any
17 other territory or possession of the United States.

18 **TITLE I—SUPPORTING FEDERAL**
19 **CASES INVOLVING ELDER**
20 **JUSTICE**

21 **SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER**
22 **JUSTICE.**

23 (a) SUPPORT AND ASSISTANCE.—

24 (1) ELDER JUSTICE COORDINATORS.—The At-
25 torney General shall designate in each Federal judi-

1 cial district not less than one Assistant United
2 States Attorney to serve as the Elder Justice Coord-
3 inator for the district, who, in addition to any other
4 responsibilities, shall be responsible for—

5 (A) serving as the legal counsel for the
6 Federal judicial district on matters relating to
7 elder abuse;

8 (B) prosecuting, or assisting in the prosecu-
9 tion of, elder abuse cases;

10 (C) conducting public outreach and aware-
11 ness activities relating to elder abuse; and

12 (D) ensuring the collection of data re-
13 quired to be collected under section 202.

14 (2) INVESTIGATIVE SUPPORT.—The Attorney
15 General, in consultation with the Director of the
16 Federal Bureau of Investigation, shall, with respect
17 to crimes relating to elder abuse, ensure the imple-
18 mentation of a regular and comprehensive training
19 program to train agents of the Federal Bureau of
20 Investigation in the investigation and prosecution of
21 such crimes and the enforcement of laws related to
22 elder abuse, which shall include—

23 (A) specialized strategies for commu-
24 nicating with and assisting elder abuse victims;
25 and

1 (B) relevant forensic training relating to
2 elder abuse.

3 (3) RESOURCE GROUP.—The Attorney General,
4 through the Executive Office for United States At-
5 torneys, shall ensure the operation of a resource
6 group to facilitate the sharing of knowledge, experi-
7 ence, sample pleadings and other case documents,
8 training materials, and any other resources to assist
9 prosecutors throughout the United States in pur-
10 suing cases relating to elder abuse.

11 (4) DESIGNATED ELDER JUSTICE WORKING
12 GROUP OR SUBCOMMITTEE TO THE ATTORNEY GEN-
13 ERAL'S ADVISORY COMMITTEE OF UNITED STATES
14 ATTORNEYS.—Not later than 60 days after enact-
15 ment of this Act, the Attorney General, in consulta-
16 tion with the Director of the Executive Office for
17 United States Attorneys, shall establish a sub-
18 committee or working group to the Attorney Gen-
19 eral's Advisory Committee of United States Attor-
20 neys, as established under section 0.10 of title 28,
21 Code of Federal Regulations, or any successor there-
22 to, for the purposes of advising the Attorney General
23 on policies of the Department of Justice relating to
24 elder abuse.

1 (b) DEPARTMENT OF JUSTICE ELDER JUSTICE CO-
2 ORDINATOR.—Not later than 60 days after the date of en-
3 actment of this Act, the Attorney General shall designate
4 an Elder Justice Coordinator within the Department of
5 Justice who, in addition to any other responsibilities, shall
6 be responsible for—

7 (1) coordinating and supporting the law en-
8 forcement efforts and policy activities for the De-
9 partment of Justice on elder justice issues;

10 (2) evaluating training models to determine
11 best practices and creating or compiling and making
12 publicly available replication guides and training ma-
13 terials for law enforcement officers, prosecutors,
14 judges, emergency responders, individuals working in
15 victim services, adult protective services, social serv-
16 ices, and public safety, medical personnel, mental
17 health personnel, financial services personnel, and
18 any other individuals whose work may bring them in
19 contact with elder abuse regarding how to—

20 (A) conduct investigations in elder abuse
21 cases;

22 (B) address evidentiary issues and other
23 legal issues; and

24 (C) appropriately assess, respond to, and
25 interact with victims and witnesses in elder

1 abuse cases, including in administrative, civil,
2 and criminal judicial proceedings; and

3 (3) carrying out such other duties as the Attor-
4 ney General determines necessary in connection with
5 enhancing the understanding, prevention, and detec-
6 tion of, and response to, elder abuse.

7 (c) FEDERAL TRADE COMMISSION.—

8 (1) FEDERAL TRADE COMMISSION ELDER JUS-
9 TICE COORDINATOR.—Not later than 60 days after
10 the date of enactment of this Act, the Chairman of
11 the Federal Trade Commission shall designate with-
12 in the Bureau of Consumer Protection of the Fed-
13 eral Trade Commission an Elder Justice Coordi-
14 nator who, in addition to any other responsibilities,
15 shall be responsible for—

16 (A) coordinating and supporting the en-
17 forcement and consumer education efforts and
18 policy activities of the Federal Trade Commis-
19 sion on elder justice issues; and

20 (B) serving as, or ensuring the availability
21 of, a central point of contact for individuals,
22 units of local government, States, and other
23 Federal agencies on matters relating to the en-
24 forcement and consumer education efforts and

1 policy activities of the Federal Trade Commis-
2 sion on elder justice issues.

3 (2) REPORT TO CONGRESS.—Not later than 1
4 year after the date of enactment of this Act, and
5 once every year thereafter, the Chairman of the Fed-
6 eral Trade Commission shall submit to the Com-
7 mittee on the Judiciary of the Senate and the Com-
8 mittee on the Judiciary of the House of Representa-
9 tives a report detailing the enforcement actions
10 taken by the Federal Trade Commission over the
11 preceding year in each case in which not less than
12 one victim was an elder or that involved a financial
13 scheme or scam that was either targeted directly to-
14 ward or largely affected elders, including—

15 (A) the name of the district where the case
16 originated;

17 (B) the style of the case, including the case
18 name and number;

19 (C) a description of the scheme or scam;
20 and

21 (D) the outcome of the case.

22 (d) USE OF APPROPRIATED FUNDS.—No additional
23 funds are authorized to be appropriated to carry out this
24 section.

1 **TITLE II—IMPROVED DATA COL-**
2 **LECTION AND FEDERAL CO-**
3 **ORDINATION**

4 **SEC. 201. ESTABLISHMENT OF BEST PRACTICES FOR**
5 **LOCAL, STATE, AND FEDERAL DATA COLLEC-**
6 **TION.**

7 (a) IN GENERAL.—The Attorney General, in con-
8 sultation with Federal, State, and local law enforcement
9 agencies, shall—

10 (1) establish best practices for data collection to
11 focus on elder abuse; and

12 (2) provide technical assistance to State, local,
13 and tribal governments in adopting the best prac-
14 tices established under paragraph (1).

15 (b) DEADLINE.—Not later than 1 year after the date
16 of enactment of this Act, the Attorney General shall pub-
17 lish the best practices established under subsection (a)(1)
18 on the website of the Department of Justice in a publicly
19 accessible manner.

20 (c) LIMITATION.—Nothing in this section shall be
21 construed to require or obligate compliance with the best
22 practices established under subsection (a)(1).

1 **SEC. 202. EFFECTIVE INTERAGENCY COORDINATION AND**
2 **FEDERAL DATA COLLECTION.**

3 (a) **IN GENERAL.**—The Attorney General, in con-
4 sultation with the Secretary of Health and Human Serv-
5 ices, shall, on an annual basis—

6 (1) collect from Federal law enforcement agen-
7 cies and Federal prosecutor offices statistical data
8 related to elder abuse cases, including cases or inves-
9 tigation where one or more victims were elders, or
10 the case or investigation involved a financial scheme
11 or scam that was either targeted directly toward or
12 largely affected elders; and

13 (2) publish on the website of the Department of
14 Justice in a publicly accessible manner—

15 (A) a summary of the data collected under
16 paragraph (1); and

17 (B) recommendations for collecting addi-
18 tional data relating to elder abuse, including
19 recommendations for ways to improve data re-
20 porting across Federal, State, and local agen-
21 cies.

22 (b) **REQUIREMENT.**—The data collected under sub-
23 section (a)(1) shall include—

24 (1) the total number of investigations initiated
25 by Federal law enforcement agencies and Federal
26 prosecutor offices related to elder abuse;

1 (2) the total number and types of elder abuse
2 cases filed in Federal courts; and

3 (3) for each case described in paragraph (2)—

4 (A) the name of the district where the case
5 originated;

6 (B) the style of the case, including the case
7 name and number;

8 (C) a description of the act or acts giving
9 rise to the elder abuse;

10 (D) in the case of a scheme or scam, a de-
11 scription of such scheme or scam giving rise to
12 the elder abuse;

13 (E) information about each alleged pepe-
14 trator of the elder abuse; and

15 (F) the outcome of the case.

16 (c) HHS REQUIREMENT.—The Secretary of Health
17 and Human Services shall, on an annual basis, provide
18 to the Attorney General statistical data collected by the
19 Secretary relating to elder abuse cases investigated by
20 adult protective services, which shall be included in the
21 summary published under subsection (a)(2).

22 (d) PROHIBITION ON INDIVIDUAL DATA.—None of
23 the information reported under this section shall include
24 specific individual identifiable data.

1 **TITLE III—ENHANCED VICTIM**
2 **ASSISTANCE TO ELDER**
3 **ABUSE SURVIVORS**

4 **SEC. 301. SENSE OF THE SENATE.**

5 (a) FINDINGS.—The Senate finds the following:

6 (1) The vast majority of cases of abuse, neglect,
7 and exploitation of older adults in the United States
8 go unidentified and unreported.

9 (2) Not less than \$2,900,000,000 is taken from
10 older adults each year due to financial abuse and ex-
11 ploitation.

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

15 (4) Older adults who are abused are 3 times
16 more likely to die earlier than older adults of the
17 same age who are not abused.

18 (5) Up to half of all older adults with dementia
19 will experience abuse.

20 (b) SENSE OF THE SENATE.—It is the sense of the
21 Senate that —

22 (1) elder abuse involves the exploitation of po-
23 tentially vulnerable individuals with devastating
24 physical, mental, emotional, and financial con-
25 sequences to the victims and their loved ones;

1 (2) to combat this affront to America's seniors,
2 we must do everything possible to both support vic-
3 tims of elder abuse and prevent the abuse from oc-
4 ccurring in the first place; and

5 (3) the Senate supports a multipronged ap-
6 proach to prevent elder abuse and exploitation, pro-
7 tect the victims of elder abuse and exploitation from
8 further harm, and bring the perpetrators of such
9 crimes to justice.

10 **SEC. 302. REPORT.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of this Act, the Director of the Office
13 for Victims of Crime shall submit a report to the Com-
14 mittee on the Judiciary of the Senate and the Committee
15 on the Judiciary of the House of Representatives that ad-
16 dresses, to the extent data is available, the nature, extent,
17 and amount of funding under the Victims of Crime Act
18 of 1984 (42 U.S.C. 10601 et seq.) for victims of crime
19 who are elders.

20 (b) CONTENTS.—The report required under sub-
21 section (a) shall include—

22 (1) an analysis of victims' assistance, victims'
23 compensation, and discretionary grants under which
24 elder abuse victims (including elder victims of finan-

1 cial abuse, financial exploitation, and fraud) received
2 assistance; and

3 (2) recommendations for improving services for
4 victims of elder abuse.

5 **TITLE IV—ROBERT MATAVA**
6 **ELDER ABUSE PROSECUTION**
7 **ACT OF 2016**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Robert Matava Elder
10 Abuse Prosecution Act of 2016”.

11 **SEC. 402. ENHANCED PENALTY FOR TELEMARKETING AND**
12 **EMAIL MARKETING FRAUD DIRECTED AT EL-**
13 **DERS.**

14 (a) IN GENERAL.—Chapter 113A of title 18, United
15 States Code, is amended—

16 (1) in the chapter heading, by inserting “**AND**
17 **EMAIL MARKETING**” after “**TELE-**
18 **MARKETING**”;

19 (2) by striking section 2325 and inserting the
20 following:

21 **“§ 2325. Definition**

22 “In this chapter, the term ‘telemarketing or email
23 marketing’—

24 “(1) means a plan, program, promotion, or
25 campaign that is conducted to induce—

1 “(A) purchases of goods or services;

2 “(B) participation in a contest or sweep-
3 stakes;

4 “(C) a charitable contribution, donation, or
5 gift of money or any other thing of value;

6 “(D) investment for financial profit;

7 “(E) participation in a business oppor-
8 tunity;

9 “(F) commitment to a loan; or

10 “(G) participation in a fraudulent medical
11 study, research study, or pilot study, by use of
12 one or more interstate telephone calls, emails,
13 text messages, or electronic instant messages
14 initiated either by a person who is conducting
15 the plan, program, promotion, or campaign or
16 by a prospective purchaser or contest or sweep-
17 stakes participant or charitable contributor,
18 donor, or investor; and

19 “(2) does not include the solicitation through
20 the posting, publication, or mailing of a catalog or
21 brochure that—

22 “(A) contains a written description or il-
23 lustration of the goods, services, or other oppor-
24 tunities being offered;

1 “(B) includes the business address of the
2 solicitor;

3 “(C) includes multiple pages of written
4 material or illustration; and

5 “(D) has been issued not less frequently
6 than once a year, if the person making the so-
7 licitation does not solicit customers by tele-
8 phone, email, text message, or electronic instant
9 message, but only receives interstate telephone
10 calls, emails, text messages, or electronic in-
11 stant messages initiated by customers in re-
12 sponse to the written materials, whether in
13 hard copy or digital format, and in response to
14 those interstate telephone calls, emails, text
15 messages, or electronic instant messages does
16 not conduct further solicitation.”;

17 (3) in section 2326, in the matter preceding
18 paragraph (1)—

19 (A) by striking “or 1344” and inserting
20 “1344, or 1347 or section 1128B of the Social
21 Security Act (42 U.S.C. 1320a–7b)”;

22 (B) by inserting “or email marketing”
23 after “telemarketing”; and

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

1 **“§ 2328. Mandatory forfeiture**

2 “(a) IN GENERAL.—The court, in imposing sentence
3 on a person who is convicted of any offense for which an
4 enhanced penalty is provided under section 2326, shall
5 order that the defendant forfeit to the United States—

6 “(1) any property, real or personal, constituting
7 or traceable to gross proceeds obtained from such of-
8 fense; and

9 “(2) any equipment, software, or other tech-
10 nology used or intended to be used to commit or to
11 facilitate the commission of such offense.

12 “(b) PROCEDURES.—The procedures set forth in sec-
13 tion 413 of the Controlled Substances Act (21 U.S.C.
14 853), other than subsection (d) of that section, and in
15 Rule 32.2 of the Federal Rules of Criminal Procedure,
16 shall apply to all stages of a criminal forfeiture proceeding
17 under this section.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) The table of chapters at the beginning of
20 part I of title 18, United States Code, is amended
21 by striking the item relating to chapter 113A and
22 inserting the following:

“113A. Telemarketing and email marketing fraud 2325”.

23 (2) The table of sections for chapter 113A of
24 title 18, United States Code, is amended by insert-

1 ing after the item relating to section 2327 the fol-
2 lowing:

“2328. Mandatory forfeiture.”.

3 **SEC. 403. TRAINING AND TECHNICAL ASSISTANCE FOR**
4 **STATES.**

5 The Attorney General, in consultation with the Sec-
6 retary of Health and Human Services and in coordination
7 with the Elder Justice Coordinating Council (established
8 under section 2021 of the Social Security Act (42 U.S.C.
9 1397k)), shall create, compile, evaluate, and disseminate
10 materials and information, and provide the necessary
11 training and technical assistance, to assist States and
12 units of local government in—

13 (1) investigating, prosecuting, pursuing, pre-
14 venting, understanding, and mitigating the impact
15 of—

16 (A) physical, sexual, and psychological
17 abuse of elders;

18 (B) exploitation of elders, including finan-
19 cial abuse and scams targeting elders; and

20 (C) neglect of elders; and

21 (2) assessing, addressing, and mitigating the
22 physical and psychological trauma to victims of elder
23 abuse.

1 **SEC. 404. INTERSTATE INITIATIVES.**

2 (a) INTERSTATE AGREEMENTS AND COMPACTS.—

3 The consent of Congress is given to any two or more
4 States (acting through State agencies with jurisdiction
5 over adult protective services) to enter into agreements or
6 compacts for cooperative effort and mutual assistance—

7 (1) in promoting the safety and well-being of el-
8 ders; and

9 (2) in enforcing their respective laws and poli-
10 cies to promote such safety and well-being.

11 (b) RECOMMENDATIONS ON INTERSTATE COMMU-

12 NICATION.—The Executive Director of the State Justice
13 Institute, in consultation with State or local aging, social,
14 and human services and law enforcement agencies, nation-
15 ally recognized nonprofit associations with expertise in
16 data sharing among criminal justice agencies and famili-
17 arity with the issues raised in elder abuse cases, and the
18 Secretary of Health and Human Services, shall submit to
19 Congress legislative proposals relating to the facilitation
20 of interstate agreements and compacts.

○