

112TH CONGRESS  
2D SESSION

# S. 2077

To amend the Older Americans Act of 1965 to authorize Federal assistance to State adult protective services programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2012

Mr. BLUMENTHAL (for himself, Mr. FRANKEN, Mr. WHITEHOUSE, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Older Americans Act of 1965 to authorize Federal assistance to State adult protective services programs, and for other purposes.

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

3       **SECTION 1. SHORT TITLE; FINDINGS.**

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

6       (b) FINDINGS.—Congress finds the following:

7               (1) In 2009, the Department of Justice esti-  
8       mated that 14.1 percent of non-institutionalized

1 older adults in the United States had experienced  
2 some form of elder abuse in the past year.

3 (2) Only 1 in 23.5 cases of elder abuse is ever  
4 reported due to a lack of screening, awareness, and  
5 prevention efforts.

6 (3) The mortality rate of older adults who are  
7 victims of abuse is 3 times higher than older adults  
8 that are not victims of abuse.

9 (4) The annual financial loss by victims of elder  
10 financial abuse is estimated to be at least  
11 \$2,900,000,000, and steadily increasing.

12 **SEC. 2. ADULT PROTECTIVE SERVICES; DEFINITIONS.**

13 Section 102 of the Older Americans Act of 1965 (42  
14 U.S.C. 3002) is amended—

15 (1) by amending paragraph (1) to read as fol-  
16 lows:

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

22 (2) by redesignating paragraphs (4) through  
23 (54) as paragraphs (5) through (55);

24 (3) by inserting after paragraph (3), the fol-  
25 lowing:

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

5 “(A) receiving reports of adult abuse, ne-  
 6 glect, or exploitation;

7 “(B) investigating the reports described in  
 8 subparagraph (A);

9 “(C) case planning, monitoring, evaluation,  
 10 and other case work and services; and

11 “(D) providing, arranging for, or facili-  
 12 tating the provision of medical, social service,  
 13 economic, legal, housing, law enforcement, or  
 14 other protective, emergency, or support serv-  
 15 ices.”;

16 (4) by amending paragraph (18), as so redesign-  
 17 nated, to read as follows:

18 “(18) ELDER JUSTICE.—The term ‘elder jus-  
 19 tice’ means—

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

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

1 “(ii) protect older individuals with di-  
 2 minished capacity while maximizing their  
 3 autonomy; and

4 “(B) from an individual perspective, the  
 5 recognition of an older individual’s rights, in-  
 6 cluding the right to be free of abuse, neglect,  
 7 and exploitation.”;

8 (5) in paragraph (19), as so redesignated, by  
 9 striking “The term ‘exploitation’ means” and insert-  
 10 ing “The terms ‘exploitation’ and ‘financial exploi-  
 11 tation’ mean”;

12 (6) in paragraph (25), as so redesignated—

13 (A) in subparagraph (B), by striking  
 14 “and”;

15 (B) in subparagraph (C), by striking the  
 16 period at the end and inserting “; and”; and

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

18 “(D) abuse, neglect (including self-ne-  
 19 glect), financial exploitation, including factors  
 20 that are the basis of a referral to adult protec-  
 21 tive services.”;

22 (7) in paragraph (29)(C), as so redesignated,  
 23 by inserting “, including opportunities for work and  
 24 volunteer service in the community” after “avail-  
 25 able”;

1           (8) in paragraph (30), as so redesignated, by  
 2           striking “information and referral” and inserting  
 3           “information and referral assistance”; and

4           (9) in paragraph (37), as so redesignated, by  
 5           inserting “(including elder abuse and neglect screen-  
 6           ing)” after “educational services”.

7   **SEC. 3. COORDINATION OF ELDER JUSTICE ACTIVITIES.**

8           (a) **USE OF FUNDS.**—Section 201 of the Older Amer-  
 9           icans Act of 1965 (42 U.S.C. 3011) is amended by adding  
 10          at the end the following:

11          “(g) The Assistant Secretary is authorized to use  
 12          funds appropriated to carry out this Act to implement ac-  
 13          tivities authorized under part I of subtitle B of title XX  
 14          of the Social Security Act (42 U.S.C. 1397k et seq.), in-  
 15          cluding the establishment of the Advisory Board on Elder  
 16          Abuse, Neglect, and Exploitation, and to convene the  
 17          Elder Justice Coordinating Council.”.

18          (b) **ASSURANCE OF APPROPRIATE TRAINING FOR**  
 19          **STAFF.**—Section 202 of the Older Americans Act of 1965  
 20          (42 U.S.C. 3012) is amended by adding at the end the  
 21          following:

22          “(g) The Assistant Secretary shall—

23                  “(1) ensure, where appropriate, that all pro-  
 24          grams funded under this Act include appropriate

1 training in prevention and provision of services that  
 2 address elder justice and exploitation; and

3 “(2) periodically update the need for and ben-  
 4 efit of such training related to prevention of abuse,  
 5 neglect, and exploitation of older adults.”.

6 (c) INFORMATION AND ASSISTANCE SERVICES.—Sec-  
 7 tion 202(a)(21) of the Older Americans Act of 1965 (42  
 8 U.S.C. 3012(a)(21)) is amended to read as follows:

9 “(21)(A) establish information and assistance serv-  
 10 ices as priority services for older individuals, and ensure  
 11 that quality information and assistance services are con-  
 12 sistently provided to older individuals;

13 “(B) ensure that there is full collaboration between  
 14 all governmental information and assistance systems that  
 15 serve older individuals, whether specialized, crisis interven-  
 16 tion, disaster assistance, or others; and

17 “(C) develop and operate, either directly or through  
 18 contracts, grants, or cooperative agreements, a National  
 19 Eldercare Locator Service, providing information and as-  
 20 sistance services through a nationwide toll free number to  
 21 identify community resources for older individuals;”.

22 (d) INTEGRATION OF TITLES.—Section 701 of the  
 23 Older Americans Act of 1965 (42 U.S.C. 3058) is amend-  
 24 ed by adding at the end the following: “The Assistant Sec-  
 25 retary, to the maximum extent practicable, shall ensure

1 there be full integration of education and public awareness  
 2 activities under this title with all service programs under  
 3 title III with special emphasis on the nutrition programs,  
 4 legal services, information and referral assistance activi-  
 5 ties, the work of aging and disability resource centers, and  
 6 the long-term care ombudsman programs, including pro-  
 7 grams carried out under title VI.”.

8 **SEC. 4. COORDINATION OF NATIONAL ADULT PROTECTIVE**  
 9 **SERVICES RESOURCE CENTER WITH ELDER**  
 10 **ABUSE AND EXPLOITATION PREVENTION.**

11 Subsection (e)(2) of section 201 of the Older Ameri-  
 12 cans Act of 1965 (42 U.S.C. 3011) is amended in the mat-  
 13 ter preceding subparagraph (A) by inserting “, and in co-  
 14 ordination with State Directors of the Adult Protective  
 15 Services Programs and State Directors of the Office of  
 16 Long-Term Care Ombudsman Programs” after “and serv-  
 17 ices”.

18 **SEC. 5. NATIONAL ADULT PROTECTIVE SERVICES RE-**  
 19 **SOURCE CENTER.**

20 (a) IN GENERAL.—Section 201 of the Older Ameri-  
 21 cans Act of 1965 (42 U.S.C. 3011) is amended by adding  
 22 at the end the following:

23 “(g)(1) The Assistant Secretary shall, by grant or  
 24 contract with a national nonprofit entity, establish a Na-  
 25 tional Adult Protective Services Resource Center (referred

1 to in this subsection as the ‘Center’). The purposes of the  
2 Center are to improve the capacity of State and local adult  
3 protective services programs to respond effectively to  
4 abuse, neglect, and exploitation of vulnerable adults, in-  
5 cluding home care consumers and residents of long-term  
6 care facilities, and to coordinate with the Long-Term Care  
7 Ombudsman Program to protect home care consumers  
8 and residents most effectively.

9 “(2) The nonprofit entity awarded a grant or con-  
10 tract under this subsection shall have expertise in, and  
11 representation by, State and local adult protective services  
12 programs.

13 “(3) The Center shall—

14 “(A) collect and disseminate information re-  
15 garding, and increase public awareness of, the role  
16 of adult protective services programs in investigating  
17 the abuse, neglect (including self-neglect), and ex-  
18 ploitation of vulnerable adults, including home care  
19 consumers and residents of long-term care facilities,  
20 and in intervening to protect the consumers and  
21 residents from abuse;

22 “(B) develop, distribute, and provide training  
23 and technical assistance for adult protective services  
24 program investigators and supervisors investigating  
25 the abuse, neglect (including self-neglect), and ex-



1       exploitation of vulnerable adults, including home care  
2       consumers and residents of long-term care facilities,  
3       and intervening to protect the consumers and resi-  
4       dents from further abuse;

5           “(C) develop, distribute, and provide training to  
6       home care and long-term care professionals and oth-  
7       ers on recognizing, reporting (including regarding  
8       mandatory reporting requirements), and responding  
9       to the abuse, neglect (including self-neglect), and fi-  
10      nancial exploitation of vulnerable adults, including  
11      home care consumers and residents of long-term  
12      care facilities;

13          “(D) compile and disseminate reports on re-  
14      search and best practices for adult protective serv-  
15      ices programs and other programs on effective re-  
16      sponses to the abuse, neglect (including self-neglect),  
17      and exploitation of vulnerable adults, including home  
18      care consumers and residents of long-term care fa-  
19      cilities;

20          “(E) work with the National Ombudsman Re-  
21      source Center and long-term care ombudsman pro-  
22      grams to develop and disseminate training, practice  
23      standards, and policies regarding—

24           “(i) the roles and responsibilities of adult  
25      protective services and ombudsman programs;

1           “(ii) confidentiality and abuse reporting  
2           issues and protocols; and

3           “(iii) effective ways to maximize the re-  
4           sources of adult protective services programs  
5           for the benefit of home care consumers and  
6           residents of long-term care facilities; and

7           “(F) establish a data system to collect informa-  
8           tion on the abuse, neglect (including self-neglect),  
9           and exploitation of home care consumers and resi-  
10          dents of long-term care facilities and to measure the  
11          effectiveness of the activities carried out by the Cen-  
12          ter.

13          “(4) Not later than 18 months after the date of en-  
14          actment of the Elder Protection and Abuse Prevention  
15          Act, the Director shall—

16               “(A) collect and analyze, from leading national  
17               and State experts, the best practices related to  
18               screening for elder abuse;

19               “(B) publish a report that describes rec-  
20               ommendations regarding such best practices and dis-  
21               seminate such report to all grantees under programs  
22               established under this Act and described under this  
23               section; and

1           “(C) submit to Congress such report and a de-  
2           scription of the dissemination activities under sub-  
3           paragraph (B).

4           “(5) In this subsection, the term ‘home care con-  
5           sumer’ means a person who receives services in the per-  
6           son’s home or community to promote independence and  
7           reduce the necessity for residence in a long-term care facil-  
8           ity, which may include home care services provided  
9           through this Act, the Medicare program under title XVIII  
10          of the Social Security Act (42 U.S.C. 1395 et seq.), the  
11          Medicaid program under title XIX of the Social Security  
12          Act (42 U.S.C. 1396 et seq.), or another public or private  
13          funding source.”.

14          (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
15          216 of the Older Americans Act is amended by adding  
16          at the end the following:

17          “(d) NATIONAL ADULT PROTECTIVE SERVICES RE-  
18          SOURCE CENTER.—There are authorized to be appro-  
19          priated to carry out section 201(g) (relating to the Na-  
20          tional Adult Protective Services Resource Center), such  
21          sums as may be necessary for fiscal years 2012, 2013,  
22          2014, 2015, and 2016.”.

1 **SEC. 6. INCLUSION OF ADULT PROTECTIVE SERVICES PRO-**  
 2 **GRAMS IN CONGRESSIONAL REPORTS.**

3 Section 207(b)(1)(C) of the Older Americans Act of  
 4 1965 (42 U.S.C. 3018(b)(1)(C)) is amended by inserting  
 5 “and the adult protective services programs of the States”  
 6 after “of the States”.

7 **SEC. 7. PREVENTION, ASSESSMENT, AND RESPONSE TO**  
 8 **ELDER ABUSE.**

9 (a) PREFERENCES.—Section 305(a)(2)(E) of the  
 10 Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)(E))  
 11 is amended by inserting “older individuals who are or are  
 12 alleged victims of elder abuse, neglect, or exploitation,”  
 13 after “proficiency,”.

14 (b) AREA PLANS.—Section 306 of the Older Ameri-  
 15 cans Act of 1965 (42 U.S.C. 3026) is amended—

16 (1) in subsection (a)(6), by adding at the end  
 17 the following:

18 “(H)(i) in coordination with the State  
 19 agency and with the State agency responsible  
 20 for elder abuse prevention services, increase  
 21 public awareness of elder abuse and financial  
 22 exploitation, remove barriers to elder abuse edu-  
 23 cation, prevention, investigation, and treatment;

24 “(ii) coordinate elder justice activities (in-  
 25 cluding screenings) provided by the area agency  
 26 on aging, community health centers, other pub-

1           lic agencies, and nonprofit private organiza-  
2           tions;

3               “(iii) develop standardized, coordinated,  
4           and reporting protocols with respect to elder  
5           abuse; and

6               “(iv) report any instances elder abuse in  
7           accordance with State law.”; and

8           (2) in subsection (b)(3)—

9               (A) in subparagraph (J), by striking  
10          “and”;

11              (B) by redesignating subparagraph (K) as  
12          subparagraph (L); and

13              (C) by inserting after subparagraph (J)  
14          the following:

15               “(K) protection from elder abuse, neglect,  
16          and financial exploitation; and”.

17          (c) STATE PLANS.—Section 307(a)(12) is amend-  
18          ed—

19              (1) by redesignating subparagraphs (B) and  
20          (C) as subparagraphs (C) and (D); and

21              (2) by inserting after subparagraph (A) the fol-  
22          lowing:

23               “(B) that the State will develop and imple-  
24          ment standardized protocols for screening and  
25          reporting with respect to elder abuse;”.

1 (d) SUPPORTIVE SERVICES.—Section 321(a) of the  
 2 Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is  
 3 amended—

4 (1) in paragraph (1), by inserting “elder abuse  
 5 and neglect screening,” after “mental health,”;

6 (2) in paragraph (8), by inserting “, elder  
 7 abuse, and neglect” after “mental health”; and

8 (3) in paragraph (23), by inserting “, elder  
 9 abuse, neglect, and financial exploitation” after  
 10 “mental health”.

11 (e) NUTRITION.—Section 339(2) of the Older Ameri-  
 12 cans Act of 1965 (42 U.S.C. 3030g–21(2)) is amended—

13 (1) in subparagraph (J), by striking “, and”  
 14 and inserting a comma;

15 (2) in subparagraph (K), by striking the period  
 16 at the end and inserting “, and”; and

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

18 “(L) encourages individuals who distribute  
 19 nutrition services under subpart 2 to distribute  
 20 information on diabetes, elder abuse, neglect, fi-  
 21 nancial exploitation, and the annual Medicare  
 22 wellness exam.”.

23 **SEC. 8. ABUSE PREVENTION EDUCATION AND TRAINING.**

24 (a) ACTIVITIES FOR HEALTH, INDEPENDENCE, AND  
 25 LONGEVITY.—

1           (1) OLDER INDIVIDUALS’ PROTECTION FROM  
2 VIOLENCE PROJECTS.—Section 413(b) of the Older  
3 Americans Act of 1965 (42 U.S.C. 3032b(b)) is  
4 amended—

5           (A) in paragraph (3), by striking “or”  
6 after the semicolon at the end;

7           (B) in paragraph (4), by striking the pe-  
8 riod at the end and inserting “; or”; and

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

10           “(5) research and replicate successful models of  
11 elder abuse, neglect, and exploitation prevention and  
12 training.”.

13           (2) DEMONSTRATION, SUPPORT, AND RE-  
14 SEARCH PROJECTS.—Section 417(a)(1) of the Older  
15 Americans Act of 1965 (42 U.S.C. 3032f(a)(1)) is  
16 amended—

17           (A) in subparagraph (A), by striking “or”  
18 after the semicolon;

19           (B) in subparagraph (B), by striking  
20 “and” after the semicolon and inserting “or”;  
21 and

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

23           “(C) engage volunteers who are older than  
24 50 years of age in providing support and infor-  
25 mation to older adults (and their families or

1            caretakers) who have experienced or are at risk  
 2            of elder abuse, including physical, emotional, or  
 3            financial abuse, neglect, or exploitation and;”.

4            (b) COMMUNITY SERVICE SENIOR OPPORTUNI-  
 5 TIES.—Section 502(b)(1)(E) of the Older Americans Act  
 6 of 1965 (42 U.S.C. 3056(b)(1)(E)) is amended by insert-  
 7 ing “, and for the health and safety of, and prevention  
 8 and detection of elder abuse for, older adults” after “fami-  
 9 lies”.

10           (c) ALLOTMENTS FOR VULNERABLE ELDER RIGHTS  
 11 PROTECTION ACTIVITIES.—

12           (1) STATE PLAN REQUIREMENTS.—Section  
 13 705(a)(2) of the Older Americans Act of 1965 (42  
 14 U.S.C. 3058d(a)(2)) is amended by inserting “fam-  
 15 ily caregivers,” after “title VI,”.

16           (2) STATE LONG-TERM CARE OMBUDSMAN PRO-  
 17 GRAM.—

18           (A) SUPPORT OF OFFICE UNDER THE NA-  
 19 TIONAL FAMILY CAREGIVER SUPPORT PRO-  
 20 GRAM.—Section 373(g) of the Older Americans  
 21 Act of 1965 (42 U.S.C. 3030s–1(g)) is amend-  
 22 ed by adding at the end the following:

23           “(3) USE OF FUNDS FOR OMBUDSMAN PRO-  
 24 GRAM.—Amounts made available to a State to carry  
 25 out the State program under this subpart may be



1       used to support the Office of the State Long-Term  
 2       Care Ombudsman, including supporting the develop-  
 3       ment of resident and family councils.”.

4               (B) ENSURING EFFECTIVE PROGRAMS AND  
 5       RESIDENTS’ RIGHTS.—Section 712 of the Older  
 6       Americans Act of 1965 (42 U.S.C. 3058g) is  
 7       amended by adding at the end the following:

8       “(k) ENSURING EFFECTIVE PROGRAMS AND RESI-  
 9       DENTS’ RIGHTS.—The State agency shall ensure the Of-  
 10      fice—

11              “(1) provides facility residents with private and  
 12      unimpeded access to the Office, including access to  
 13      all records concerning the resident; and

14              “(2) allows all facility residents to receive serv-  
 15      ices from the Office.”.

16              (3) PREVENTION OF ELDER ABUSE, NEGLECT,  
 17      AND EXPLOITATION.—Section 721(b) of the Older  
 18      Americans Act of 1965 (42 U.S.C. 3058i(b)) is  
 19      amended—

20              (A) by redesignating paragraphs (7), (8),  
 21              (9), (10), (11), and (12), as paragraphs (8),  
 22              (10), (11), (12), (13), and (14), respectively;

23              (B) by striking paragraph (6) and insert-  
 24      ing the following:

1           “(6) conducting specialized abuse sensitivity  
2 training for caregivers described in part E of title  
3 III;

4           “(7) conducting training for professionals and  
5 paraprofessionals in relevant fields on the identifica-  
6 tion, prevention, and treatment of elder abuse, ne-  
7 glect, and exploitation, with particular focus on pre-  
8 vention and enhancement of self-determination and  
9 autonomy;”; and

10           (C) by inserting after paragraph (8), as re-  
11 designated by subparagraph (B), the following:

12           “(9) conducting appropriate training to ensure  
13 cultural sensitivity in the provision of elder rights  
14 services, including training in cultural issues associ-  
15 ated with abuse;”.

○