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113TH CONGRESS
1ST SESSION

H. R. 861

To better protect, serve, and advance the rights of victims of elder abuse and exploitation by establishing a program to encourage States and other qualified entities to create jobs designed to hold offenders accountable, enhance the capacity of the justice system to investigate, pursue, and prosecute elder abuse cases, identify existing resources to leverage to the extent possible, and assure data collection, research, and evaluation to promote the efficacy and efficiency of the activities described in this Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2013

Mr. KING of New York (for himself, Ms. SCHAKOWSKY, Mr. HASTINGS of Florida, Mr. GRIJALVA, Mr. OWENS, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To better protect, serve, and advance the rights of victims of elder abuse and exploitation by establishing a program to encourage States and other qualified entities to create jobs designed to hold offenders accountable, enhance the capacity of the justice system to investigate, pursue, and prosecute elder abuse cases, identify existing resources to leverage to the extent possible, and assure data collection, research, and evaluation to promote the efficacy and efficiency of the activities described in this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Elder Abuse Victims Act of 2013''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''abuse'', ''elder'', ''elder justice'', ''exploitation'', and ''neglect'' have the meanings given those terms in section 2011 of the Social Security Act (42 U.S.C. 1397j);

(2) the term ''elder abuse'' includes neglect and exploitation;

(3) the term ''Director'' means the Director of the Office appointed under section 3(b);

(4) the term ''Office'' means the Office of Elder Justice established under section 3(a);

(5) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory of possession of the United States; and

(6) the term ''task force'' means a multidisciplinary task force on elder justice established or designated under section 5(c)(1).

SEC. 3. OFFICE OF ELDER JUSTICE.

(a) IN GENERAL.—There is established within the Department of Justice an office to be known as the Office of Elder Justice, which shall address issues relating to elder abuse.

(b) DIRECTOR.—The Office shall be headed by a Director who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate, from among individuals with experience and expertise in elder abuse; and

(2) serve as counsel to the Attorney General on elder justice and elder abuse.

(c) RESPONSIBILITIES.—The Director shall—

(1) create, compile, evaluate, and disseminate materials and information, and provide the necessary training and technical assistance, to assist States and units of local government in—

(A) investigating, prosecuting, pursuing, preventing, understanding, and mitigating the impact of—

(i) physical, sexual, and psychological abuse of elders;

(ii) exploitation of elders, including financial abuse and scams targeting elders; and

(iii) neglect of elders; and

(B) assessing, addressing, and mitigating the physical and psychological trauma to victims of elder abuse;

(2) collect data and perform an evidence-based evaluation to—

(A) assure the efficacy of measures and methods intended to prevent, detect, respond to, or redress elder abuse; and

(B) evaluate the number of victims of elder abuse in each State and the extent to which the needs of the victims are served by crime victim services, programs, and sources of funding;

(3) publish a report, on an annual basis, that describes the results of the evaluations conducted under paragraphs (1) and (2), and submit the report to each Federal agency, each State, and the Committee on the Judiciary and the Special Committee on Aging of the Senate and the Committee on the Judiciary of the House of Representatives;

(4) evaluate training models to determine best practices, create replication guides, create training materials for law enforcement officers, prosecutors, judges, emergency responders, individuals working in victim services, adult protective services, social serv-

ices, and public safety, medical personnel, mental health personnel, financial services personnel, and any other individuals whose work may bring them in contact with elder abuse regarding how to—

(A) conduct investigations in elder abuse cases;

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

(C) appropriately assess, respond to, and interact with victims and witnesses in elder abuse cases, including in administrative, civil, and criminal judicial proceedings;

(5) conduct, and update on a regular basis, a study of laws and practices relating to elder abuse, including—

(A) a comprehensive description of State laws and practices;

(B) an analysis of the effectiveness of State laws and practices, including—

(i) whether the State laws are enforced; and

(ii) if enforced—

(I) how the State laws are enforced; and

(II) how enforcement of the State laws has effected elder abuse within the State;

(C) a review of State definitions of the terms ''abuse'', ''neglect'', and ''exploitation'' in the context of elder abuse cases;

(D) a review of State laws that mandate reporting of elder abuse, including adult protective services laws, laws that require the reporting of nursing home deaths or suspicious deaths of elders to coroners or medical examiners, and other pertinent reporting laws, that analyzes—

(i) the impact and efficacy of the State laws;

(ii) whether the State laws are enforced;

(iii) the levels of compliance with the State laws; and

(iv) the response to, and actions taken as a result of, reports made under the State laws;

(E) a review of State evidentiary, procedural, sentencing, choice of remedies, and data retention issues relating to elder abuse;

(F) a review of State fiduciary laws, including laws relating to guardianship, conservatorship, and power of attorney;

(G) a review of State laws that permit or encourage employees of depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) and State credit unions (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)) to prevent and report suspected elder abuse;

(H) a review of State laws used in civil court proceedings to prevent and address elder abuse;

(I) a review of State laws relating to fraud and related activities in connection with mail, telemarketing, the Internet, or health care;

(J) a review of State laws that create programs, offices, or entities that address or respond to elder abuse; and

(K) an analysis of any other State laws relating to elder abuse; and

(6) carry out such other duties as the Attorney General determines necessary in connection with en-

hancing the understanding, prevention, and detection of, and response to, elder abuse.

SEC. 4. DATA COLLECTION.

The Attorney General, in consultation with the Secretary of Health and Human Services, shall, on an annual basis—

(1) collect from Federal, State, and local law enforcement agencies and prosecutor offices statistical data relating to the incidence of elder abuse, including data relating to—

(A) the number of elder abuse cases referred to law enforcement agencies, adult protective services, or any other State entity tasked with addressing elder abuse;

(B) the number and types of such cases filed in Federal, State, and local courts; and

(C) the outcomes of the cases described in subparagraphs (A) and (B) and the reasons for such outcomes;

(2) identify common data points among Federal, State, and local law enforcement agencies and prosecutor offices that would allow for the collection of uniform national data related to elder abuse;

(3) publish a summary of the data collected under paragraphs (1) and (2);

(4) identify—

(A) the types of data relevant to elder abuse that should be collected; and

(B) what entity is most capable of collecting the data described in subparagraph (A); and

(5) develop recommendations for collecting additional data relating to elder abuse.

SEC. 5. ELDER VICTIMS GRANT PROGRAM.

(a) IN GENERAL.—The Director may make grants and provide technical assistance to not more than 15 States to assist the States in developing, establishing, and operating programs designed to improve—

(1) the response to cases of elder abuse in a manner that limits additional trauma to the elder victims; and

(2) the investigation and prosecution of cases of elder abuse.

(b) ELIGIBILITY.—A State is eligible to receive a grant under this section if the State—

(1) has a crime victims compensation program that meets the criteria described in section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)); and

(2) is in compliance with subsection (c).

(c) ESTABLISHMENT OF TASK FORCE.—

(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a State shall establish or, subject to paragraph (5), designate a multidisciplinary task force on elder justice that is composed of professionals with knowledge and experience relating to the criminal justice system and issues of elder abuse.

(2) MEMBERSHIP REQUIREMENT.—Except as provided in paragraph (6), a task force established or designated in accordance with this subsection shall include—

(A) representatives from law enforcement agencies, such as police officers, sheriffs and deputy sheriffs, detectives, public safety officers, corrections officers, investigators and victims' service personnel;

(B) a representative from the crime victim compensation program of the State;

(C) judicial and legal officers, including individuals who work on cases of elder abuse;

(D) elder justice and elder law advocates, including local agencies on aging and local public and private agencies and entities relating to elder abuse and other crimes against elders;

(E) health and mental health professionals;

(F) representatives from social services agencies in the State; and

(G) family members of victims of elder abuse.

(3) REVIEW AND EVALUATION.—A task force established or designated in accordance with this subsection shall—

(A) review and evaluate the investigative, administrative, and judicial responses to cases of elder abuse in the State;

(B) make recommendations to the State based on the review and evaluation conducted under subparagraph (A), including recommendations relating to—

(i) modifying the investigative, administrative, and judicial response to cases of elder abuse in a manner that—

(I) reduces additional trauma to the elder victim; and

(II) ensures procedural fairness to the individual accused of elder abuse; and

(ii) experimental, model, and demonstration programs for testing innovative

approaches and techniques that may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in elder abuse cases, and which ensure procedural fairness to the accused, including a determination of which programs are most effective; and

(C) submit the recommendations described in subparagraph (B) to the Office.

(4) TASK FORCE ALTERNATIVE.—If determined appropriate by the Director, a State may comply with the eligibility requirement described in paragraph (1) by designating a commission or task force established by a State before January 1, 2013, with membership and functions comparable to those described in paragraphs (2) and (3), respectively, as the task force on elder justice required under such paragraph (1).

(5) TASK FORCE MEMBERSHIP WAIVER.—The Director may waive, in part, the task force membership requirements under paragraph (2) for a State that demonstrates a need for the waiver.

(d) USE OF FUNDS.—Grant funds awarded under this section may be used by a State to support—

(1) State and local prosecutor offices and courts in elder abuse matters, including—

(A) hiring or paying salary and benefits for employees and establishing or implementing units designated to work on elder justice issues in State prosecutors' offices and State courts; and

(B) hiring or paying salary and benefits for an employee to coordinate elder justice-related cases, training, technical assistance, and policy development for State and local prosecutors and courts;

(2) State and local law enforcement agencies investigating cases of elder abuse; and

(3) adult protective services.

(e) STATE REPORTS.—Not later than 1 year after a State receives grant funds under this section, the State shall submit to the Director a report that includes—

(1) an evaluation of the effectiveness of the grant program;

(2) a list of all laws of the State relating to elder abuse; and

(3) any other information the Director may require.

(f) EVALUATION AND REPORT.—Not later than 1 year after the date on which the Director makes available the final funds awarded under a grant under this section, the Director shall—

(1) evaluate the grant program established under this section; and

(2) submit to the appropriate congressional committees a report on the evaluation conducted under paragraph (1), including recommendations on whether the grant program should be continued.

SEC. 6. ELDER JUSTICE COORDINATING COUNCIL.

Section 2021(b)(1)(B) of the Social Security Act (42 U.S.C. 1397k(b)(1)(B)) is amended by striking ''(or the Attorney General's designee)'' and inserting ''(or the Director of the Office of Elder Justice)''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $20,000,000 for each of fiscal years 2014 through 2016. Such sums shall be derived from amounts appropriated in each such fiscal year for General Administration, Salaries and Expenses, for the Department of Justice.

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