

ELDER ABUSE VICTIMS ACT OF 2008

SEPTEMBER 22, 2008.—Ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5352]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5352) to protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
The Amendment	1
Purpose and Summary	9
Background and Need for the Legislation	9
Hearings	10
Committee Consideration	10
Committee Votes	10
Committee Oversight Findings	11
New Budget Authority and Tax Expenditures	11
Congressional Budget Office Cost Estimate	11
Performance Goals and Objectives	12
Constitutional Authority Statement	12
Advisory on Earmarks	13
Section-by-Section Analysis	15
Changes in Existing Law Made by the Bill, as Reported	17
Additional Views	24

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Elder Abuse Victims Act of 2008”.

SEC. 2. ANALYSIS, REPORT, AND RECOMMENDATIONS RELATED TO ELDER JUSTICE PROGRAMS.

(a) IN GENERAL.—Subject to the availability of appropriations to carry out this section, the Attorney General, in consultation with the Secretary of Health and Human Services, shall carry out the following:

(1) STUDY.—Conduct a study of laws and practices relating to elder abuse, neglect, and exploitation, which shall include—

(A) a comprehensive description of State laws and practices relating to elder abuse, neglect, and exploitation;

(B) a comprehensive analysis of the effectiveness of such State laws and practices; and

(C) an examination of State laws and practices relating to specific elder abuse, neglect, and exploitation issues, including—

(i) the definition of—

(I) “elder”;

(II) “abuse”;

(III) “neglect”;

(IV) “exploitation”; and

(V) such related terms the Attorney General determines to be appropriate;

(ii) mandatory reporting laws, with respect to—

(I) who is a mandated reporter;

(II) to whom must they report and within what time frame;

and

(III) any consequences for not reporting;

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

(iv) laws requiring reporting of all nursing home deaths to the county coroner or to some other individual or entity;

(v) fiduciary laws, including guardianship and power of attorney laws;

(vi) laws that permit or encourage banks and bank employees to prevent and report suspected elder abuse, neglect, and exploitation;

(vii) laws relating to fraud and related activities in connection with mail, telemarketing, or the Internet;

(viii) laws that may impede research on elder abuse, neglect, and exploitation;

(ix) practices relating to the enforcement of laws relating to elder abuse, neglect, and exploitation; and

(x) practices relating to other aspects of elder justice.

(2) DEVELOPMENT OF PLAN.—Develop objectives, priorities, policies, and a long-term plan for elder justice programs and activities relating to—

(A) prevention and detection of elder abuse, neglect, and exploitation;

(B) intervention and treatment for victims of elder abuse, neglect, and exploitation;

(C) training, evaluation, and research related to elder justice programs and activities; and

(D) improvement of the elder justice system in the United States.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, submit to the chairman and ranking member of the Special Committee on Aging of the Senate, and the Speaker and minority leader of the House of Representatives, and the Secretary of Health and Human Services, and make available to the States, a report that contains—

(A) the findings of the study conducted under paragraph (1);

(B) a description of the objectives, priorities, policies, and a long-term plan developed under paragraph (2); and

(C) a list, description, and analysis of the best practices used by States to develop, implement, maintain, and improve elder justice systems, based on such findings.

(b) GAO RECOMMENDATIONS.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall report to Congress any recommendations with respect to any Federal legislation, regulations, or programs determined by the Comptroller General to be necessary to improve elder justice in the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$6,000,000 for each of the fiscal years 2009 through 2015.

SEC. 3. VICTIM ADVOCACY GRANTS.

(a) GRANTS AUTHORIZED.—The Attorney General, after consultation with the Secretary of Health and Human Services, may award grants to eligible entities to study the special needs of victims of elder abuse, neglect, and exploitation.

(b) AUTHORIZED ACTIVITIES.—Funds awarded pursuant to subsection (a) shall be used for pilot programs that—

(1) develop programs for and provide training to health care, social, and protective services providers, law enforcement, fiduciaries (including guardians), judges and court personnel, and victim advocates; and

(2) examine special approaches designed to meet the needs of victims of elder abuse, neglect, and exploitation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$3,000,000 for each of the fiscal years 2009 through 2015.

SEC. 4. SUPPORTING LOCAL PROSECUTORS AND COURTS IN ELDER JUSTICE MATTERS.

(a) GRANTS AUTHORIZED.—Subject to the availability of appropriations under this section, the Attorney General, after consultation with the Secretary of Health and Human Services, shall award grants to provide training, technical assistance, policy development, multidisciplinary coordination, and other types of support to local prosecutors and courts handling elder justice-related cases, including—

(1) funding specially designated elder justice positions or units; and

(2) funding the creation of a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation by the American Prosecutor Research Institute of the National District Attorneys Association, or any other similarly situated entity, to advise and support local prosecutors and courts nationwide in their pursuit of cases involving elder abuse, neglect, and exploitation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$6,000,000 for each of the fiscal years 2009 through 2015.

SEC. 5. SUPPORTING STATE PROSECUTORS AND COURTS IN ELDER JUSTICE MATTERS.

(a) IN GENERAL.—Subject to the availability of appropriations under this section, the Attorney General, after consultation with the Secretary of Health and Human Services, shall award grants to provide training, technical assistance, multidisciplinary coordination, policy development, and other types of support to State prosecutors and courts, employees of State Attorneys General, and Medicaid Fraud Control Units handling elder justice-related matters.

(b) CREATING SPECIALIZED POSITIONS.—Grants under this section may be made for—

(1) the establishment of specially designated elder justice positions or units; and

(2) the creation of a position to coordinate elder justice-related cases, training, technical assistance, and policy development for State prosecutors and courts, by the National Association of Attorneys General or any other similarly situated entity.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$6,000,000 for each of the fiscal years 2009 through 2015.

SEC. 6. SUPPORTING LAW ENFORCEMENT IN ELDER JUSTICE MATTERS.

(a) IN GENERAL.—Subject to the availability of appropriations under this section, the Attorney General, after consultation with the Secretary of Health and Human Services, the Postmaster General, and the Chief Postal Inspector for the United States Postal Inspection Service, shall award grants to provide training, technical assistance, multidisciplinary coordination, policy development, and other types of support to police, sheriffs, detectives, public safety officers, corrections personnel, and other first responders who handle elder justice-related matters, to fund specially designated elder justice positions or units designed to support first responders in elder justice matters.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$8,000,000 for each of the fiscal years 2009 through 2015.

SEC. 7. EVALUATIONS.

(a) **GRANTS UNDER THIS ACT.**—

(1) **IN GENERAL.**—In carrying out the grant programs under this Act, the Attorney General shall—

(A) require each recipient of a grant to use a portion of the funds made available through the grant to conduct a validated evaluation of the effectiveness of the activities carried out through the grant by such recipient; or

(B) as the Attorney General considers appropriate, use a portion of the funds available under this Act for a grant program under this Act to provide assistance to an eligible entity to conduct a validated evaluation of the effectiveness of the activities carried out through such grant program by each of the grant recipients.

(2) **APPLICATIONS.**—

(A) **SUBMISSION.**—To be eligible to receive a grant under this Act, an entity shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, which shall include—

(i) a proposal for the evaluation required in accordance with paragraph (1)(A); and

(ii) the amount of assistance under paragraph (1)(B) the entity is requesting, if any.

(B) **REVIEW AND ASSISTANCE.**—

(i) **IN GENERAL.**—An employee of the Department of Justice, after consultation with an employee of the Department of Health and Human Services and a nongovernmental member of the Advisory Board of Elder Abuse, Neglect, and Exploitation (established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.), as amended by this Act) with expertise in evaluation methodology, shall review each application described in subparagraph (A) and determine whether the methodology described in the proposal under subparagraph (A)(i) is adequate to gather meaningful information.

(ii) **DENIAL.**—If the reviewing employee determines the methodology described in such proposal is inadequate, the reviewing employee shall recommend that the Attorney General deny the application for the grant, or make recommendations for how the application should be amended.

(iii) **NOTICE TO APPLICANT.**—If the Attorney General denies the application on the basis of such proposal, the Attorney General shall inform the applicant of the reasons the application was denied, and offer assistance to the applicant in modifying the proposal.

(b) **OTHER GRANTS.**—Subject to the availability of appropriations under this section, the Attorney General shall award grants to appropriate entities to conduct validated evaluations of grant activities that are funded by Federal funds not provided under this Act to reduce elder abuse, neglect, and exploitation.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$7,000,000 for each of the fiscal years 2009 through 2015.

SEC. 8. ELDER JUSTICE.

(a) **ELDER JUSTICE.**—

(1) **IN GENERAL.**—Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(A) in the title heading, by inserting “AND ELDER JUSTICE” after “SOCIAL SERVICES”;

(B) by inserting before section 2001 the following:

“PART A—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES”;

and

(C) by adding at the end the following:

“PART B—ELDER JUSTICE

“SEC. 2011. DEFINITIONS.

“In this part:

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

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

“(3) ELDER.—The term ‘elder’ means an individual age 60 or older.

“(4) ELDER JUSTICE.—The term ‘elder justice’ means—

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

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

“(ii) protect elders with diminished capacity while maximizing their autonomy; and

“(B) from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.

“(5) EXPLOITATION.—The term ‘exploitation’ means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

“(6) FIDUCIARY.—The term ‘fiduciary’—

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

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

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

“(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

“(7) GUARDIANSHIP.—The term ‘guardianship’ means—

“(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care and property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

“(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

“(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

“(8) LONG-TERM CARE.—

“(A) IN GENERAL.—The term ‘long-term care’ means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

“(B) LOSS OF CAPACITY FOR SELF-CARE.—For purposes of subparagraph (A), the term ‘loss of capacity for self-care’ means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, and management of one’s financial affairs.

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

“(A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or

“(B) self-neglect.

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

“(A) obtaining essential food, clothing, shelter, and medical care;

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

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

“SEC. 2012. GENERAL PROVISIONS.

“(a) PROTECTION OF PRIVACY.—In pursuing activities under this part, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.

“(b) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to interfere with or abridge an elder’s right to practice his or her religion through reliance on prayer alone for healing when this choice—

“(1) is contemporaneously expressed, either orally or in writing, with respect to a specific illness or injury which the elder has at the time of the decision by an elder who is competent at the time of the decision;

“(2) is previously set forth in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

“(3) may be unambiguously deduced from the elder’s life history.

“SEC. 2013. ELDER JUSTICE COORDINATING COUNCIL.

“(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Elder Justice Coordinating Council (in this section referred to as the ‘Council’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Council shall be composed of the following members:

“(A) The Secretary (or the Secretary’s designee).

“(B) The Attorney General (or the Attorney General’s designee).

“(C) The head of each Federal department or agency or other governmental entity identified by the Chair referred to in subsection (d) as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation.

“(2) REQUIREMENT.—Each member of the Council shall be an officer or employee of the Federal Government.

“(c) VACANCIES.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

“(d) CHAIR.—The member described in subsection (b)(1)(A) shall be Chair of the Council.

“(e) MEETINGS.—The Council shall meet at least 2 times per year, as determined by the Chair.

“(f) DUTIES.—

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

“(2) REPORT.—Not later than the date that is 2 years after the date of enactment of the Elder Abuse Victims Act of 2008 and every 2 years thereafter, the Council shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report that—

“(A) describes the activities and accomplishments of, and challenges faced by—

“(i) the Council; and

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

“(B) makes such recommendations for legislation, model laws, or other action as the Council determines to be appropriate.

“(g) POWERS OF THE COUNCIL.—

“(1) INFORMATION FROM FEDERAL AGENCIES.—Subject to the requirements of section 2012(a), the Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon request of the Chair of the Council, the head of such department or agency shall furnish such information to the Council.

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

“(h) TRAVEL EXPENSES.—The members of the Council shall not receive compensation for the performance of services for the Council. The members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Council.

“(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(j) STATUS AS PERMANENT COUNCIL.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

“SEC. 2014. ADVISORY BOARD ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

“(a) ESTABLISHMENT.—There is established a board to be known as the ‘Advisory Board on Elder Abuse, Neglect, and Exploitation’ (in this section referred to

as the ‘Advisory Board’) to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council established under section 2013.

“(b) COMPOSITION.—The Advisory Board shall be composed of 27 members appointed by the Secretary from among members of the general public who are individuals with experience and expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution.

“(c) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the Advisory Board under subsection (b).

“(d) TERMS.—

“(1) IN GENERAL.—Each member of the Advisory Board shall be appointed for a term of 3 years, except that, of the members first appointed—

“(A) 9 shall be appointed for a term of 3 years;

“(B) 9 shall be appointed for a term of 2 years; and

“(C) 9 shall be appointed for a term of 1 year.

“(2) VACANCIES.—

“(A) IN GENERAL.—Any vacancy on the Advisory Board shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

“(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(3) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the member’s successor takes office.

“(e) ELECTION OF OFFICERS.—The Advisory Board shall elect a Chair and Vice Chair from among its members. The Advisory Board shall elect its initial Chair and Vice Chair at its initial meeting.

“(f) DUTIES.—

“(1) ENHANCE COMMUNICATION ON PROMOTING QUALITY OF, AND PREVENTING ABUSE AND NEGLECT IN, LONG-TERM CARE.—The Advisory Board shall develop collaborative and innovative approaches to improve the quality of, including preventing abuse and neglect in, long-term care.

“(2) COLLABORATIVE EFFORTS TO DEVELOP CONSENSUS AROUND THE MANAGEMENT OF CERTAIN QUALITY-RELATED FACTORS.—

“(A) IN GENERAL.—The Advisory Board shall establish multidisciplinary panels to address, and develop consensus on, subjects relating to improving the quality of long-term care. At least 1 such panel shall address, and develop consensus on, methods for managing resident-to-resident abuse in long-term care.

“(B) ACTIVITIES CONDUCTED.—The multidisciplinary panels established under subparagraph (A) shall examine relevant research and data, identify best practices with respect to the subject of the panel, determine the best way to carry out those best practices in a practical and feasible manner, and determine an effective manner of distributing information on such subject.

“(3) REPORT.—Not later than the date that is 18 months after the date of enactment of the Elder Abuse Victims Act of 2008, and annually thereafter, the Advisory Board shall prepare and submit to the Elder Justice Coordinating Council, the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing—

“(A) information on the status of Federal, State, and local public and private elder justice activities;

“(B) recommendations (including recommended priorities) regarding—

“(i) elder justice programs, research, training, services, practice, enforcement, and coordination;

“(ii) coordination between entities pursuing elder justice efforts and those involved in related areas that may inform or overlap with elder justice efforts, such as activities to combat violence against women and child abuse and neglect; and

“(iii) activities relating to adult fiduciary systems, including guardianship and other fiduciary arrangements;

“(C) recommendations for specific modifications needed in Federal and State laws (including regulations) or for programs, research, and training to enhance prevention, detection, and treatment (including diagnosis) of, intervention in (including investigation of), and prosecution of elder abuse, neglect, and exploitation;

“(D) recommendations on methods for the most effective coordinated national data collection with respect to elder justice, and elder abuse, neglect, and exploitation; and

“(E) recommendations for a multidisciplinary strategic plan to guide the effective and efficient development of the field of elder justice.

“(g) POWERS OF THE ADVISORY BOARD.—

“(1) INFORMATION FROM FEDERAL AGENCIES.—Subject to the requirements of section 2012(a), the Advisory Board may secure directly from any Federal department or agency such information as the Advisory Board considers necessary to carry out this section. Upon request of the Chair of the Advisory Board, the head of such department or agency shall furnish such information to the Advisory Board.

“(2) SHARING OF DATA AND REPORTS.—The Advisory Board may request from any entity pursuing elder justice activities under the Elder Abuse Victims Act of 2008 or an amendment made by such Act, any data, reports, or recommendations generated in connection with such activities.

“(3) POSTAL SERVICES.—The Advisory Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(h) TRAVEL EXPENSES.—The members of the Advisory Board shall not receive compensation for the performance of services for the Advisory Board. The members shall be allowed travel expenses for up to 4 meetings per year, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Board. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Advisory Board.

“(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Advisory Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(j) STATUS AS PERMANENT ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

“SEC. 2015. RESEARCH PROTECTIONS.

“(a) GUIDELINES.—The Secretary shall promulgate guidelines to assist researchers working in the area of elder abuse, neglect, and exploitation, with issues relating to human subject protections.

“(b) DEFINITION OF LEGALLY AUTHORIZED REPRESENTATIVE FOR APPLICATION OF REGULATIONS.—For purposes of the application of subpart A of part 46 of title 45, Code of Federal Regulations, to research conducted under this chapter the term ‘legally authorized representative’ means, unless otherwise provided by law, the individual or judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person.

“SEC. 2016. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this chapter—

“(1) for fiscal year 2009, \$6,500,000; and

“(2) for each of fiscal years 2010 through 2012, \$7,000,000.”.

SEC. 9. REAUTHORIZATION OF THE MISSING ALZHEIMER’S DISEASE PATIENT ALERT PROGRAM.

Section 240001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14181) is amended—

(1) by amending subsection (a) to read as follows:

“(a) GRANT.—Subject to the availability of appropriations to carry out this section, the Attorney General, through the Bureau of Justice Assistance and in consultation with the Secretary of Health and Human Services, shall award competitive grants to States, units of local government, and nonprofit organizations to assist such States, units, and organizations, respectively, in paying for the costs of planning, designing, establishing, and operating locally based, proactive programs to protect and locate missing patients with Alzheimer’s disease and related dementias and other missing elderly individuals.”;

(2) in subsection (b)—

(A) by inserting “competitive” after “to receive a”; and

(B) by adding at the end the following new sentence: “The Attorney General shall periodically solicit applications for grants under this section by publishing a request for applications in the Federal Register and by posting such a request on the website of the Department of Justice.”;

(3) by amending subsection (c) to read as follows:

“(c) PREFERENCE.—In awarding grants under subsection (a), the Attorney General shall give preference to nonprofit organizations that have a direct link to patients, and families of patients, with Alzheimer’s disease and related dementias.”; and

(4) by amending subsection (d) to read as follows:

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 2009 through 2015.”.

SEC. 10. DEFINITIONS.

In this Act:

- (1) ELDER.—The term “elder” means an individual age 60 or older.
- (2) ELDER JUSTICE.—The term “elder justice” means—
 - (A) from a societal perspective, efforts to—
 - (i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and
 - (ii) protect elders with diminished capacity while maximizing their autonomy; and
 - (B) from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.

PURPOSE AND SUMMARY

The Elder Abuse Victims Act of 2008 addresses the problem of elder abuse. It requires the Attorney General to research State laws and practices relating to elder abuse, neglect, and exploitation; develop objectives, priorities, policies, and a long-term plan for elder justice programs and activities; and report its findings. It requires the Comptroller General to report to Congress any recommendations regarding Federal legislation, regulations, and programs. The Act authorizes the Attorney General to award grants to provide training, assistance, and other support to local and State prosecutors and courts, police, and other first responders in matters relating to elder justice. It amends Title XX of the Social Security Act to add a new subpart on Elder Justice, establishing a national Elder Justice Coordinating Council and an Advisory Board on Elder Abuse, Neglect, and Exploitation. It also reauthorizes the Missing Alzheimer’s Disease Patient Alert Program, and directs the Attorney General to award competitive grants to States, units of local government, and nonprofit organizations for establishing and operating locally based programs to protect and locate missing patients with Alzheimer’s disease and related dementias.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 5352 addresses two significant problems affecting elderly Americans. One is when they are abused at the hands of their caretakers and others. The other is when they go missing, suffering from Alzheimers or dementia, foul play, or other unusual circumstances.

Each year in the United States, between one-half million to five million elders are abused, neglected or exploited. Experts agree that most cases are never reported. Data collected on the problem is minimal, and there has been no comprehensive national approach to solving the problem. In fact, prior to the hearing on this bill, the House had held only one hearing on elder abuse, more than 16 years ago, in 1991. These problems will likely increase over the next 30 years, as 76 million baby boomers approach retirement.

Elder abuse is not always easy to detect. Abuse includes not only physical abuse, but also sexual and emotional abuse, financial exploitation, neglect, and abandonment. Training and education are

critically needed to help those who live or work with elderly individuals, so they can recognize the symptoms of elder abuse and meaningfully address the problem. A national response to elder abuse also is needed, as many aspects of elder abuse are national in scope or can benefit from a national enforcement and remedial approach.

In addition, thousands of vulnerable older adults go missing each year as a result of dementia, diminished capacity, foul play, or other unusual circumstances. The Alzheimer's Foundation of America estimates that over five million Americans suffer from Alzheimer's disease, and that sixty percent of these are likely to wander from their homes. Alzheimer's disease and other dementia-related illnesses often leave their victims disoriented and confused and unable to find their way home. According to the Alzheimer's Association, up to 50% of wanderers risk serious illness, injury, or death if not found within 24 hours.¹

The Missing Alzheimer's Disease Patient Alert Program, administered by the Department of Justice, is the only Federal program that currently provides grant funding to locate vulnerable elderly individuals who go missing. Authorization for this program ceased in 1998, though Congress has continued to appropriate some monies for it through fiscal year 2008, when it appropriated \$940,000.²

HEARINGS

The Subcommittee on Crime, Terrorism, and Homeland Security held 1 day of hearings on H.R. 5352, and the related bill, H.R. 1783, the Elder Justice Act, on April 17, 2008. Testimony was received from the Honorable Rahm Emanuel; the Honorable Joe Sestak; Robert Blancato, Elder Justice Coalition; Sherry Friedlander, A Child is Missing Alert and Recovery Center; and Vernon Keenan, Georgia Bureau of Investigation; with additional material submitted by the National Center for State Courts, the National Association of Local Long Term Care Ombudsmen, and the American Bar Association Commission on Law and Aging.

COMMITTEE CONSIDERATION

On May 13, 2008, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered the bill, H.R. 5352, favorably reported, without amendment, by voice vote, a quorum being present. On June 11, 2008, the Committee met in open session and ordered the bill, H.R. 5352, favorably reported with an amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 5352.

¹ Alzheimer's Association, *Issue Kit: Public Policy Response to Wandering Behavior*, Washington Public Policy Office, Alzheimer's Association, Sept. 2006.

² H. Rept. 107-278 (FY 2002); H. Rept. 108-10 (FY 2003); H. Rept. 108-401 (FY 2004); H. Rept. 108-792 (FY 2005); H. Rept. 109-272 (FY 2006); P.L. 110-5 (FY 2007); U.S. House, Committee on Appropriations, Joint Explanatory Statement to Accompany FY 2008 Consolidated Appropriations Amendment to H.R. 2764 (P.L. 110-161), Division B (FY 2008).

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5352, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 24, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5352, the "Elder Abuse Victims Act of 2008."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 5352—Elder Abuse Victims Act of 2008.

SUMMARY

H.R. 5352 would authorize the appropriation of \$315 million over the 2009–2015 period for programs to improve the treatment of elderly victims in the justice system. Most of these funds would be for Department of Justice grants to state and local governments. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$173 million over the 2009–2013 period, with remaining amounts spent in subsequent years. Enacting H.R. 5352 would not affect direct spending or revenues.

H.R. 5352 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 5352 is shown in the following table. CBO assumes that the amounts authorized by the bill will be appropriated near the start of each fiscal year and that outlays will follow the historical rates of spending for similar activities. The costs of this legislation fall within budget functions 750 (administration of justice) and 500 (education, training, employment, and social services).

By Fiscal Year, in Millions of Dollars

	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	48	48	48	48	41	233
Estimated Outlays	17	31	38	43	44	173

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 5352 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would benefit those governments by authorizing grant programs to prevent elder abuse; any costs related to applying for the grants would be incurred voluntarily.

ESTIMATE PREPARED BY:

Federal Costs: Mark Grabowicz (226–2860)
 Impact on State, Local, and Tribal Governments: Leo Lex and Santiago Vallinas (225–3220)
 Impact on the Private Sector: Paige Piper/Bach (226–2940)

ESTIMATE APPROVED BY:

Peter H. Fontaine
 Assistant Director for Budget Analysis

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5352 is designed to survey existing State laws and practices regarding elder abuse and develop policies and plans; make recommendations regarding Federal laws; authorize grants for training and assistance to local and State law enforcement, prosecutors, and courts; establish a national Elder Justice Coordinating Council and an Advisory Board on Elder Abuse, Neglect and Exploitation; and reauthorize the Missing Alzheimer's Disease Patient Alert Program.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5352 does not contain any limited tax benefits or limited tariff benefits as defined in clause 9(e) or 9(f). The Committee is treating the bill, which authorizes grants in specific amounts to specific entities, as an earmark, as defined in clause 9(d), and is treating the sponsor of the bill, Joe Sestak, as the requester, the American Prosecutor Research Institute of the National District Attorneys Association and the National Association of Attorneys General as the recipients, and the separate authorizations of \$6 million per year for each fiscal year 2009–2015, as the requested amount for each recipient.

JOE SESTAK
7th District, PENNSYLVANIA

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

(202) 225-2011

September 3, 2008

The Honorable John Conyers, Chair
The Honorable Lamar Smith, Ranking Member
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

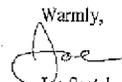
Dear Chairman Conyers and Ranking Member Smith:

I am requesting authorization for funding for the National District Attorneys Association, located at 44 Canal Center Plaza, Suite 110, Alexandria, VA 22314) and the National Association of Attorneys General, located at 2030 M Street NW, 8th Floor, Washington, DC 20036.

The funding for the National District Attorneys Association would be used to fund the creation of a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation to advise and support local prosecutors and courts nationwide in their pursuit of cases involving elder abuse, neglect, and exploitation.

The funding for the National Association of Attorneys General would be used to create a position to coordinate elder justice-related cases, training, technical assistance, and policy development for State prosecutors and courts.

I certify that neither I nor my spouse has any financial interest in this project.

Warmly,

Joe Sestak
Member of Congress

COMMITTEE
ARMED SERVICES
AIR AND LAND FORCES
OVERSIGHT AND INVESTIGATIONS
SHAWNEE AND EXPEDITIONARY FORCES
EDUCATION AND LABOR
EARLY CHILDHOOD, ELEMENTARY AND
SECONDARY EDUCATION
HEALTH, EMPLOYMENT, LABOR
AND PENSIONS
SMALL BUSINESS
VICE CHAIRMAN
FARM AND TAX
CONSTRUCTION AND TECHNOLOGY
REGULATORY, HEALTH CARE AND TRADE

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the “Elder Abuse Victims Act of 2008.”

Sec. 2. Analysis, Report, and Recommendations Related to Elder Justice Programs. Section 2 requires the Attorney General to conduct a study of laws and practices relating to elder abuse, neglect, and exploitation, and to develop objectives, priorities, policies, and a long-term plan for elder justice programs. The Comptroller General is to report to Congress any recommendations regarding Federal legislation, regulations, or programs to improve elder justice in the United States. This section authorizes \$6,000,000 for each fiscal year 2009 through 2015.

Sec. 3. Victim Advocacy Grants. Section 3 authorizes the Attorney General to award grants to study the special needs of victims of elder abuse, neglect, and exploitation. Funded activities include pilot programs for training and for the examination of special approaches to meet these needs. The section authorizes \$3 million for each fiscal year 2009 through 2015.

Sec. 4. Supporting Local Prosecutors and Courts in Elder Justice Matters. Section 4 authorizes the Attorney General to award grants to provide training, technical assistance, policy development, multidisciplinary coordination, and other types of support to local prosecutors and courts handling elder justice-related cases. Authorized activities include funding specially designated elder-justice positions or units and the creation of a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation in the American Prosecutor Research Institute of the National District Attorneys Association or another similarly situated entity. The section authorizes \$6,000,000 for each fiscal year 2009 through 2015.

Sec. 5. Supporting State Prosecutors and Courts in Elder Justice Matters. Section 5 authorizes the Attorney General to award grants to provide training, assistance, and other support to State prosecutors and courts, employees of State Attorneys General, and Medicaid Fraud Control Units handling elder justice-related matters. Similarly to the local grants, grants may be made for the establishment of specially designated elder-justice positions or units, and for the creation of a position to coordinate elder justice-related cases, training, technical assistance, and policy development for State prosecutors and courts, by the National Association of Attorneys General or other similarly situated entity. The section authorizes \$6,000,000 for each fiscal year 2009 through 2015.

Sec. 6. Supporting Law Enforcement in Elder Justice Matters. Section 6 authorizes the Attorney General to award grants to provide training and other assistance and support to police, sheriffs, detectives, public safety officers, corrections personnel, and other first responders who handle elder justice-related matters. The section authorizes \$8 million for each fiscal year 2009 through 2015.

Sec. 7. Evaluations. Section 7 directs the Attorney General to require each grant recipient to evaluate the effectiveness of the funded activities. In the alternative, the Attorney General may fund an eligible entity to conduct the evaluation. The Act sets forth an application process, and authorizes the Attorney General to award

grants to conduct evaluations of grant activities that are funded by Federal funds not provided under this Act. This section authorizes \$7 million for each fiscal year 2009 through 2015.

Sec. 8. Elder Justice. Section 8 amends Title XX of the Social Security Act to add a new Part B, “Elder Justice,” to include new sections 2011–2016.

New section 2011 provides new definitions for terms used in this Act.

New section 2012 requires the Secretary of Health and Human Services to ensure the protection of individual health privacy consistent with the regulations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and applicable State and local privacy regulations. It adds a rule of construction that respects religious beliefs in health care treatment decisions.

New section 2013 establishes an Elder Justice Coordinating Council within the Office of the Secretary, composed of the Secretary, the Attorney General, and head of each Federal department or agency having responsibilities relating to elder abuse. The Council is to make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant public and private agencies, and to submit biannual reports.

New section 2014 establishes an Advisory Board on Elder Abuse, Neglect, and Exploitation to create short- and long-term strategic plans and to make recommendations to the Council. The Board is to establish multidisciplinary panels to develop consensus on subjects relating to improving the quality of long-term care. The panels are to examine relevant research and data, identify best practices, determine an effective manner of distributing information, and submit annual reports.

New section 2015 requires the Secretary to promulgate guidelines to assist researchers.

New section 2016 authorizes \$6.5 million for fiscal year 2009, and \$7 million for each fiscal year 2010–2012.

Sec. 9. Reauthorization of the Missing Alzheimer’s Disease Patient Alert Program. Section 9 amends Section 240001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. §14181). It directs the Attorney General to award competitive grants to States, units of local government, and nonprofit organizations for planning, designing, establishing, and operating locally based, proactive programs to protect and locate missing patients with Alzheimer’s disease and other dementias and other missing elderly individuals.

Section 9 modifies the existing program by requiring competitive grants and by requiring the Attorney General to periodically solicit applications for grants by publishing application requests in the Federal Register and on the Department of Justice website. The Act requires the Attorney General to give preference to national nonprofit organizations that have a direct link to patients, and families of patients, with Alzheimer’s disease and other dementias. The section authorizes \$5,000,000 for each of the fiscal years 2009–2015.

Sec. 10. Definitions. Section 10 defines the terms “elder” and “elder justice.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * *

TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES AND ELDER JUSTICE**PART A—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES**

* * * * *

PART B—ELDER JUSTICE**SEC. 2011. DEFINITIONS.**

In this part:

(1) **ABUSE.**—*The term “abuse” means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.*

(2) **CAREGIVER.**—*The term “caregiver” means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder who needs supportive services in any setting.*

(3) **ELDER.**—*The term “elder” means an individual age 60 or older.*

(4) **ELDER JUSTICE.**—*The term “elder justice” means—*

(A) *from a societal perspective, efforts to—*

(i) *prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and*

(ii) *protect elders with diminished capacity while maximizing their autonomy; and*

(B) *from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.*

(5) **EXPLOITATION.**—*The term “exploitation” means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.*

(6) **FIDUCIARY.**—*The term “fiduciary”—*

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

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

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

(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

(7) GUARDIANSHIP.—The term “guardianship” means—

(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care and property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

(8) LONG-TERM CARE.—

(A) IN GENERAL.—The term “long-term care” means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

(B) LOSS OF CAPACITY FOR SELF-CARE.—For purposes of subparagraph (A), the term “loss of capacity for self-care” means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, and management of one’s financial affairs.

(9) NEGLECT.—The term “neglect” means—

(A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or

(B) self-neglect.

(10) SELF-NEGLECT.—The term “self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, and medical care;

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

(C) managing one’s own financial affairs.

SEC. 2012. GENERAL PROVISIONS.

(a) PROTECTION OF PRIVACY.—In pursuing activities under this part, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.

(b) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to interfere with or abridge an elder’s right to practice his or her religion through reliance on prayer alone for healing when this choice—

(1) is contemporaneously expressed, either orally or in writing, with respect to a specific illness or injury which the elder has at the time of the decision by an elder who is competent at the time of the decision;

(2) is previously set forth in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

(3) may be unambiguously deduced from the elder's life history.

SEC. 2013. ELDER JUSTICE COORDINATING COUNCIL.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary an Elder Justice Coordinating Council (in this section referred to as the “Council”).

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Council shall be composed of the following members:

(A) The Secretary (or the Secretary's designee).

(B) The Attorney General (or the Attorney General's designee).

(C) The head of each Federal department or agency or other governmental entity identified by the Chair referred to in subsection (d) as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation.

(2) **REQUIREMENT.**—Each member of the Council shall be an officer or employee of the Federal Government.

(c) **VACANCIES.**—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) **CHAIR.**—The member described in subsection (b)(1)(A) shall be Chair of the Council.

(e) **MEETINGS.**—The Council shall meet at least 2 times per year, as determined by the Chair.

(f) **DUTIES.**—

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

(2) **REPORT.**—Not later than the date that is 2 years after the date of enactment of the Elder Abuse Victims Act of 2008 and every 2 years thereafter, the Council shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report that—

(A) describes the activities and accomplishments of, and challenges faced by—

(i) the Council; and

(ii) the entities represented on the Council; and

(B) makes such recommendations for legislation, model laws, or other action as the Council determines to be appropriate.

(g) **POWERS OF THE COUNCIL.**—

(1) *INFORMATION FROM FEDERAL AGENCIES.*—Subject to the requirements of section 2012(a), the Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon request of the Chair of the Council, the head of such department or agency shall furnish such information to the Council.

(2) *POSTAL SERVICES.*—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(h) *TRAVEL EXPENSES.*—The members of the Council shall not receive compensation for the performance of services for the Council. The members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Council.

(i) *DETAIL OF GOVERNMENT EMPLOYEES.*—Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) *STATUS AS PERMANENT COUNCIL.*—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

SEC. 2014. ADVISORY BOARD ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.

(a) *ESTABLISHMENT.*—There is established a board to be known as the “Advisory Board on Elder Abuse, Neglect, and Exploitation” (in this section referred to as the “Advisory Board”) to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council established under section 2013.

(b) *COMPOSITION.*—The Advisory Board shall be composed of 27 members appointed by the Secretary from among members of the general public who are individuals with experience and expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution.

(c) *SOLICITATION OF NOMINATIONS.*—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the Advisory Board under subsection (b).

(d) *TERMS.*—

(1) *IN GENERAL.*—Each member of the Advisory Board shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 9 shall be appointed for a term of 3 years;

(B) 9 shall be appointed for a term of 2 years; and

(C) 9 shall be appointed for a term of 1 year.

(2) *VACANCIES.*—

(A) *IN GENERAL.*—Any vacancy on the Advisory Board shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(B) *FILLING UNEXPIRED TERM.*—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(3) *EXPIRATION OF TERMS.*—The term of any member shall not expire before the date on which the member's successor takes office.

(e) *ELECTION OF OFFICERS.*—The Advisory Board shall elect a Chair and Vice Chair from among its members. The Advisory Board shall elect its initial Chair and Vice Chair at its initial meeting.

(f) *DUTIES.*—

(1) *ENHANCE COMMUNICATION ON PROMOTING QUALITY OF, AND PREVENTING ABUSE AND NEGLECT IN, LONG-TERM CARE.*—The Advisory Board shall develop collaborative and innovative approaches to improve the quality of, including preventing abuse and neglect in, long-term care.

(2) *COLLABORATIVE EFFORTS TO DEVELOP CONSENSUS AROUND THE MANAGEMENT OF CERTAIN QUALITY-RELATED FACTORS.*—

(A) *IN GENERAL.*—The Advisory Board shall establish multidisciplinary panels to address, and develop consensus on, subjects relating to improving the quality of long-term care. At least 1 such panel shall address, and develop consensus on, methods for managing resident-to-resident abuse in long-term care.

(B) *ACTIVITIES CONDUCTED.*—The multidisciplinary panels established under subparagraph (A) shall examine relevant research and data, identify best practices with respect to the subject of the panel, determine the best way to carry out those best practices in a practical and feasible manner, and determine an effective manner of distributing information on such subject.

(3) *REPORT.*—Not later than the date that is 18 months after the date of enactment of the Elder Abuse Victims Act of 2008, and annually thereafter, the Advisory Board shall prepare and submit to the Elder Justice Coordinating Council, the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing—

(A) information on the status of Federal, State, and local public and private elder justice activities;

(B) recommendations (including recommended priorities) regarding—

(i) elder justice programs, research, training, services, practice, enforcement, and coordination;

(ii) coordination between entities pursuing elder justice efforts and those involved in related areas that may inform or overlap with elder justice efforts, such as activities to combat violence against women and child abuse and neglect; and

(iii) activities relating to adult fiduciary systems, including guardianship and other fiduciary arrangements;

(C) recommendations for specific modifications needed in Federal and State laws (including regulations) or for

programs, research, and training to enhance prevention, detection, and treatment (including diagnosis) of, intervention in (including investigation of), and prosecution of elder abuse, neglect, and exploitation;

(D) recommendations on methods for the most effective coordinated national data collection with respect to elder justice, and elder abuse, neglect, and exploitation; and

(E) recommendations for a multidisciplinary strategic plan to guide the effective and efficient development of the field of elder justice.

(g) **POWERS OF THE ADVISORY BOARD.**—

(1) **INFORMATION FROM FEDERAL AGENCIES.**—Subject to the requirements of section 2012(a), the Advisory Board may secure directly from any Federal department or agency such information as the Advisory Board considers necessary to carry out this section. Upon request of the Chair of the Advisory Board, the head of such department or agency shall furnish such information to the Advisory Board.

(2) **SHARING OF DATA AND REPORTS.**—The Advisory Board may request from any entity pursuing elder justice activities under the Elder Abuse Victims Act of 2008 or an amendment made by such Act, any data, reports, or recommendations generated in connection with such activities.

(3) **POSTAL SERVICES.**—The Advisory Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(h) **TRAVEL EXPENSES.**—The members of the Advisory Board shall not receive compensation for the performance of services for the Advisory Board. The members shall be allowed travel expenses for up to 4 meetings per year, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Board. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Advisory Board.

(i) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Advisory Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) **STATUS AS PERMANENT ADVISORY COMMITTEE.**—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

SEC. 2015. RESEARCH PROTECTIONS.

(a) **GUIDELINES.**—The Secretary shall promulgate guidelines to assist researchers working in the area of elder abuse, neglect, and exploitation, with issues relating to human subject protections.

(b) **DEFINITION OF LEGALLY AUTHORIZED REPRESENTATIVE FOR APPLICATION OF REGULATIONS.**—For purposes of the application of subpart A of part 46 of title 45, Code of Federal Regulations, to research conducted under this chapter the term “legally authorized representative” means, unless otherwise provided by law, the individual or judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person.

SEC. 2016. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

- (1) for fiscal year 2009, \$6,500,000; and*
- (2) for each of fiscal years 2010 through 2012, \$7,000,000.*

* * * * *

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

* * * * *

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

SEC. 240001. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

[(a) GRANT.—The Attorney General shall, subject to the availability of appropriations, award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.]

(a) GRANT.—Subject to the availability of appropriations to carry out this section, the Attorney General, through the Bureau of Justice Assistance and in consultation with the Secretary of Health and Human Services, shall award competitive grants to States, units of local government, and nonprofit organizations to assist such States, units, and organizations, respectively, in paying for the costs of planning, designing, establishing, and operating locally based, proactive programs to protect and locate missing patients with Alzheimer's disease and related dementias and other missing elderly individuals.

(b) APPLICATION.—To be eligible to receive a *competitive* grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program. *The Attorney General shall periodically solicit applications for grants under this section by publishing a request for applications in the Federal Register and by posting such a request on the website of the Department of Justice.*

[(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.]

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- [(1) \$900,000 for fiscal year 1996;
- [(2) \$900,000 for fiscal year 1997; and

【(3) \$900,000 for fiscal year 1998.】

(c) *PREFERENCE.*—*In awarding grants under subsection (a), the Attorney General shall give preference to nonprofit organizations that have a direct link to patients, and families of patients, with Alzheimer’s disease and related dementias.*

(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 2009 through 2015.*

* * * * *

ADDITIONAL VIEWS

We join the Majority in support of this Elder Abuse bill. Elder abuse is a serious problem facing our older Americans. Americans over the age of 50 account for 12 percent of our nation’s murder victims and 7 percent of other serious and violent crime victims. Ninety percent of all elder abuse and neglect cases are by known perpetrators, usually family members. Our eldest seniors, 80 plus years, are abused and neglected at 2–3 times the proportion of all other senior citizens. And with the population of people aged 85 or older expected to double to 8.9 million by the year 2030, we can be sure the problem will only grow.

This bill makes efforts to curb these acts of abuse. The bill awards grants to state and local governments to aide in the investigation and prosecution of elder abuse. This bill also directs the Attorney General (1) to study and report to the Elder Justice Coordinating Council (EJCC), the Advisory Board of Elder Abuse, Neglect, and Exploitation, and Congress on state laws and practices relating to elder abuse, neglect, and exploitation; and (2) to develop and implement a long-term plan for elder justice programs and related activities.

We were initially concerned that imposing such burdensome requirements on the Department of Justice would not be the most effective approach to achieving the goals of the bill.

For instance, the bill required the Department to promulgate model state laws, despite the fact that the majority of states have already adopted elder justice statutes. The bill also directed the Department to hire federal prosecutors and nurse investigators to prosecute federal elder abuse cases, notwithstanding the fact that the federal government lacks the police power to impose penalties for such crimes.¹

Our colleagues in the Majority agreed to amend Title II to address our concerns and negotiate a bipartisan compromise to the problematic provisions of the bill. First, the amendment streamlines sections 201 and 202 into one new section. The revised section 201 maintains the requirement that the Department complete a study. However, the amendment eliminates the requirement for model state laws and implementation of a national strategy. The amendment also strikes section 206 of the bill, which required the Department to hire federal prosecutors and nurse investigators, expands state and local grant eligibility to not just prosecutors but the courts as well, and makes other technical improvements to Title II.

¹See *United States v. Morrison*, 529 U.S. 598 (2000); *United States v. Lopez*, 514 U.S. 549 (1995).

We appreciate the Majority's willingness to compromise and support the passage of this bill.

LAMAR SMITH.
STEVE CHABOT.

