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**DESCRIPTION OF THE JOHN BREAUX
ELDER JUSTICE ACT**

TECHNICAL EXPLANATION OF PROVISIONS
APPROVED BY THE COMMITTEE ON
SEPTEMBER 20, 2004

COMMITTEE ON FINANCE
UNITED STATES SENATE

CHARLES E. GRASSLEY, *Chairman*



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DESCRIPTION OF THE JOHN BREAUX ELDER JUSTICE ACT

SECTION 1—SHORT TITLE; TABLE OF CONTENTS; DEFINITIONS

PRESENT LAW

No provision.

SENATE BILL

The bill sets forth the title of the Act as the John Breaux Elder Justice Act, and outlines the table of contents. It also specifies that any term defined in new Title XXII of the Social Security Act has the meaning set forth by the bill.

SECTION 2—FINDINGS

PRESENT LAW

No provision.

SENATE BILL

The bill describes the following findings of Congress:

- the proportion of the population age 60 and over will increase dramatically over the next 30 years as baby boomers approach retirement;
- each year between 500,000 and 5 million older persons are abused, neglected, or exploited;
- elder abuse, neglect, and exploitation cross all racial, social class, gender, and geographic lines;
- victims are subject not only to injury from mistreatment and neglect but they are 3.1 times more likely to die earlier than expected;
- despite a dearth of data on abuse, neglect, and exploitation, experts agree that most cases are never reported and that abuse and neglect trigger a downward spiral in an elder's life. Programs that address domestic violence and child abuse have demonstrated the need for a multifaceted law combining public health, social service, and law enforcement approaches;
- Congress has been presented with facts and testimony for a coordinated Federal approach to combat elder abuse, neglect, and exploitation for over 20 years; the Federal Government has been slow to respond to victims' needs;
- no Federal law to adequately and comprehensively address the issues of abuse, neglect and exploitation has been enacted and limited resources are available to address these issues;
- differences in State laws and practices lead to significant disparities in prevention, protective and social services, treatment systems and law enforcement and to other inequities;

- the Federal Government has played an important role in preventing child abuse and neglect, domestic violence, and violence against women, and should promote similar efforts in prevention of elder abuse, neglect, and exploitation;
- the Federal Government should provide leadership and assist States and communities in efforts to protect elders;
- the problem of elder abuse requires a comprehensive approach that, among other things, integrates health, legal, and social services agencies and organizations and emphasizes the need for prevention, reporting, investigation, assessment, treatment and prosecution;
- the human, social, and economic cost of abuse, neglect and exploitation is high;
- the failure to coordinate activities threatens the future and well-being of millions of elders; and
- all elements of society have a shared responsibility in responding to the national problem of elder abuse, neglect, and exploitation.

SECTION 3—PURPOSES

PRESENT LAW

No provision.

SENATE BILL

The bill defines the purposes of the John Breaux Elder Justice Act, as follows:

- to enhance the social security of the Nation by ensuring adequate public-private infrastructure and resolve to prevent, detect, treat, understand, intervene in, and where appropriate, aid in the prosecution of elder abuse, neglect, and exploitation;
- to bring a comprehensive approach to preventing and combating elder, abuse, neglect and exploitation;
- to raise the issue of elder abuse, neglect and exploitation to national attention, and to create the infrastructure at the Federal, State and local levels to ensure that individuals and organizations have resources and information they need;
- to bring a comprehensive multidisciplinary approach to elder justice;
- to set in motion research and data collection to fill gaps in knowledge on the issue;
- to supplement activities of service providers and programs, to enhance training, and to leverage scarce resources efficiently to ensure that elder justice receives the attention it deserves as the Nation's population ages;
- to examine the many laws and practices about elder justice in different States and jurisdictions to ascertain those that are most effective;
- to promote an effective adult fiduciary system including an adult guardianship system;
- to recognize and address the role of mental health, disability, dementia, substance abuse, medication mismanagement, and family dysfunction problems in increasing and exacerbating elder abuse, neglect and exploitation;

- to create a strategic plan for the development and coordination of research, programs, training, and other efforts nationwide;
- to promote collaborative efforts and diminish overlap and gaps in efforts;
- to honor and respect the right of all persons with diminished capacity to decisionmaking, autonomy, self-determination, and dignity of choice; and
- to respect the wishes of persons with diminished capacity and family members in providing support services and care plans intended to protect elders from abuse, neglect, exploitation, and self-neglect.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section 101(a)—Amendments to the Social Security Act—Elder Justice

PRESENT LAW

No provision.

SENATE BILL

Section 101(a) of the bill would amend the Social Security Act by adding a new Title XXII—*Elder Justice*.

Section 2200—Definitions

PRESENT LAW

(a) Definitions related to some of the purposes of the new Title XXII are defined in other related statutes. Related statutes are as follows:

Present Law and Senate Bill: Definitions

Term	Present law	Senate bill
Abuse	<i>Section 102(13) of the Older Americans Act:</i> “Abuse” of an older person is defined as the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish, or deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish or mental illness.	“Abuse” is defined as 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.
Exploitation.	<i>Section 102(24) of the Older Americans Act:</i> “Exploitation” of an older person is defined as the illegal or improper act or process of an individual including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.	“Exploitation” is defined as 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, gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.
Long-term care facility.	<i>Section 102(32) of the Older Americans Act:</i> “Long term care facility” is defined as a skilled nursing facility as defined in Section 1819(a) of the Social Security Act; any nursing facility as defined in Section 1919(a) of the Social Security Act; and for purposes of the Title III and Title VII provisions for elder abuse prevention, a board and care facility.	“Long-term care facility” is defined as a residential care provider that arranges for, or directly provides, long-term care.

Present Law and Senate Bill: Definitions—Continued

Term	Present law	Senate bill
Neglect	<i>Section 102(34) of the Older Americans Act:</i> “Neglect” is defined as the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or the failure of a caregiver to provide the goods or services.	“Neglect” is defined as the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintaining the health or safety of an elder, or self-neglect.
Criminal sexual abuse.	<i>Title XVII of the Violent Crime Control and Enforcement Act:</i> a “sexually violent offense” is defined as any criminal offense that consists of aggravated sexual abuse or sexual abuse (as defined by 18 U.S.C. Section 2241 and 2242 or as defined by State law) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse.	“Criminal sexual abuse” is defined as serious bodily injury that shall be considered to have occurred if the conduct causing the injury is conduct constituting aggravated sexual abuse under Section 2241, or sexual abuse under 18 U.S.C. or any similar offense under State law.

(b) The Senate bill also defines the following terms: adult protective services, caregiver, direct care, elder, elder justice, eligible entity, fiduciary, grant, guardianship, Indian tribe, law enforcement, long-term care, nursing facility, Secretary, self-neglect, serious bodily injury, criminal sexual abuse, social, State, State legal assistance developer, State long-term care ombudsman, and underserved population.

Subtitle A—Federal Elder Justice System*Section 2201—Elder Justice Coordinating Council*

PRESENT LAW

No provision.

REASONS FOR CHANGE

Currently, there is little coordination of any type on elder abuse, neglect, and exploitation within the Federal Government. Because such coordination is needed, the bill creates an Elder Justice Coordinating Council. Given that there are both a public health and a law enforcement component to elder justice issues, HHS and DOJ are in the best position to spearhead coordinated efforts to prevent, intervene in, and prosecute elder abuse through an Elder Justice Coordinating Council. Moreover, the Elder Justice Coordinating Council provides a forum for coordination with delegations from States, and private and not-for-profit entities on the myriad elder justice issues faced by those entities as well. Given the distinct but interrelated nature of the various phenomena making up elder abuse, neglect, and exploitation, the Council may consider formation of various interest groups, which focus on specific issues, such as domestic violence in later life, sexual abuse, institutional and facility abuse and neglect, family violence, caregiver abuse or neglect at home, self neglect and financial fraud and exploitation. Although there will be entities with an interest in all of these areas, other entities may have more specialized interests, such as the Department of the Treasury, the Department of Labor or the Department of Housing and Urban Development.

The following entities, at a minimum, should join HHS and DOJ on the Coordinating Council, as each has an interest in elder justice-related issues: Department of Housing and Urban Development, Department of Education, Department of Labor, Department of Transportation, Department of the Treasury, Office of Management and Budget, Office of the Surgeon General, Social Security Administration, Administration on Aging, Food and Drug Administration, Federal Trade Commission, Department of Commerce, Pension Benefit Guaranty Corporation, Securities and Exchange Commission, Commodity Futures Trading Commission, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Bureau of Investigation, Centers for Disease Control and Prevention, Legal Services Corporation, Secret Service, National Institute on Aging, Internal Revenue Service, and United States Postal Service.

In addition, a representative appointed by the President from each of the following should be included in the activities of the Coordinating Council: State Justice Institute; National Research Council of the National Academy of Sciences, and the Institute of Medicine of the National Academy of Sciences.

In the discretion of the Secretary and the Attorney General, any other entities that should be included in the activities of the Coordinating Council can be included as needed.

SENATE BILL

Section 2201 would establish an *Elder Justice Coordinating Council* in the Office of the Secretary of HHS.

Membership. The Council would be co-chaired by the Secretary of HHS (or designee) and the Attorney General (or designee). Membership would also include the head of each Federal department or agency having administrative responsibility for administering programs related to elder abuse, neglect or exploitation. Members must be officers or employees of the Federal Government.

Duties and Reports. The Council would be required to make recommendations to the Secretary of HHS and the Attorney General regarding coordination of Federal, State, and local activities related to prevention of elder abuse, neglect, and exploitation. The Council would be required to submit a report to Congress that describes its activities and challenges and make recommendations for legislation, model laws, and other actions deemed appropriate. The report is to be submitted to Congress within 2 years of enactment of the Elder Justice Act and every 2 years thereafter.

Meetings. The Council is to meet at least twice a year.

Other Requirements. The bill also sets forth requirements for powers of the Council, vacancies in membership, travel expenses, and detail of Federal Government employees to the Council.

Section 2202—Advisory Board on Elder Abuse, Neglect and Exploitation

PRESENT LAW

No provision.

REASONS FOR CHANGE

Currently, there exists no Federal advisory body to periodically bring together national experts on elder abuse, neglect and exploitation with the purpose of making systematic and coordinated recommendations from a national perspective on ways to prevent elder abuse, neglect and exploitation. The bill meets this need by creating an Advisory Board on Elder Abuse, Neglect and Exploitation. There is little national coordination of any type on elder abuse, neglect, and exploitation matters. An Advisory Board on Elder Abuse, Neglect, and Exploitation would advise the Elder Justice Coordinating Council by not only providing guidance from a variety of perspectives, but would also be responsible for creating short and long term strategic plans for the development of the field of elder justice.

The Advisory Board is intended to be comprised of individuals with experience and expertise in prevention of elder abuse, neglect and exploitation. It is within the discretion of the Secretary and the Attorney General to include representatives from the following as members of the Advisory Board:

Social service providers (including State and local agencies with the statutory responsibility for adult protective services); health care providers (including geriatrics, emergency medicine, and nursing and mental health professionals); legal professionals (including law enforcement and the judiciary); gerontologists; psychologists; State and local government (including State units on aging); organizations providing services to elders and disabled persons; volunteer groups; elder rights advocates; family groups; experts in adult fiduciary relationships, and those serving as or monitoring fiduciaries, including guardians; and individuals in forensics-related positions (including coroners, medical examiners and forensic pathologists).

SENATE BILL

Section 2202 would establish the *Advisory Board on Elder Abuse, Neglect and Exploitation*.

Solicitation of Nominations, Membership, and Terms. The Secretary of HHS would be required to publish a notice in the *Federal Register* soliciting nominations for Advisory Board membership. The Board would be composed of 27 members appointed by the Secretary, and must have experience and expertise in prevention of elder abuse, neglect and exploitation. Each member would be appointed for a 3-year term, except for the first members of the Board whose terms would be staggered.

Duties and Reports. The Board would be required to create a short and long-term multidisciplinary plan for development of the field of elder justice.

Within 18 months of the bill's enactment and annually thereafter, the Advisory Board would be required to prepare and submit to the Elder Justice Coordinating Council and the appropriate committees of Congress, a report containing information on Federal, State, and local public and private elder justice activities. The report is also to contain recommendations on programs, research, services, practice, enforcement and coordination among entities

that carry out elder justice and other related activities; modifications needed in Federal and State laws, research, training, and national data collection; and on a multidisciplinary strategic plan to guide the field of elder justice.

Other Requirements. The bill sets forth requirements relating to powers of the Board, vacancies, expired terms, election of officers, travel expenses, and detail of government employees to the Board.

Section 2203—Human Subject Research

PRESENT LAW

Definition of Legally Authorized Representative. Subpart A of Part 46 of Title 45, Code of Federal Regulations, known as the Common Rule, that governs most Federally-funded human subjects research, currently defines the term “legally authorized representative” as “an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject’s participation in the procedure(s) involved in the research.”

Researcher Guidelines. No guidelines are currently in place to assist researchers who work in the areas of elder abuse, neglect, and exploitation, with issues relating to human subject research.

REASONS FOR CHANGE

Due to the difficulty in conducting research and collecting data with respect to human subjects, it is necessary to develop guidance for researchers to ensure standards of research and privacy of clinical data.

SENATE BILL

Section 2203 would define “legally authorized representative,” for purposes of research under the proposed Title XXII, to mean, “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.”

It would also require the Secretary, acting through the Director of the National Institute on Aging (NIA), to promulgate guidelines to assist researchers working in the areas of elder abuse, neglect, and exploitation, with issues relating to human subject research.

Section 2204—Regulations

PRESENT LAW

No provision.

SENATE BILL

Section 2204 would authorize the Secretary of HHS to issue regulations that may be necessary to carry out new Title XXII.

Section 2205—Authorization of Appropriations

PRESENT LAW

No provision.

SENATE BILL

To carry out the functions under Subtitle A (the Federal Elder Justice System), the bill authorizes \$3 million for FY2006, and \$3.5 million for each of FYs 2007–2009.

Subtitle B—Elder Justice Programs*Section 2211—Enhancements for Long-Term Care*

PRESENT LAW

Grants and Incentives to Enhance Long-Term Care Staffing. No provision concerning Federal agency coordination to encourage the employment of welfare recipients or recipients of Temporary Assistance to Needy Families (TANF) in long-term care facilities.

Nursing homes that receive Federal funds are required to meet certain Federal laws and standards to receive funding. These laws require nursing aides, who work on a full-time basis for more than 4 months, to complete a training and/or competency evaluation program and be competent to provide care. Nursing homes must also provide regular performance reviews and in-service education (including training for individuals providing nursing and nursing-related services to residents with cognitive impairments) to assure that nurse aides are competent to perform services. Regulations also require nurse aides to complete a training program lasting no less than 75 clock hours of training, at least 16 of which must be supervised practical training, in order to be certified.

A number of States have also used enhanced Medicaid funding to improve recruitment and retention of nurse aides working in nursing homes. For these States, some portion of an increase in State Medicaid payments (and other public funding sources) to long-term care providers must be (or intended to be) used to increase wages and/or benefits for nursing aides. Typically, this “wage pass-through” legislation has either designated some specified dollar amount (e.g., \$0.50 or \$1.00) or a certain percentage of increased State payments to be used for wages and/or benefits.

Allowing Electronic Submission of Data. Section 101 of the Medicare Modernization Act requires the Secretary to develop, adopt, recognize or modify initial uniform standards relating to requirements for electronic prescription drug programs taking into consideration any recommendations from the National Committee on Vital and Health Statistics.

There is no provision for adopting uniform standards for data not related to prescription drug programs. There is no provision requiring the Secretary to allow long-term care facilities to submit data electronically to HHS using uniform open standards.

Medication Error Reduction Grant Program. Section 108 of the Medicare Modernization Act authorizes the Secretary to make grants to physicians for the purpose of assisting such physicians to implement electronic prescription drug programs. Those grant funds may be used for software and hardware to enable e-prescribing and for providing education and training to eligible physician staff on the use of technology to implement the electronic transmission of prescription and patient information. There is no

such authority for the Secretary to make grants to long-term care facilities for the same purposes.

REASONS FOR CHANGE

Grants and Incentives to Enhance Long-Term Care Staffing. Currently, there is a dearth of individuals available to care for our Nation's elderly. This shortage is apparent not only in skilled nursing facilities, but in all long-term care residential settings and home health care programs as well. What is viewed today as a mere workforce shortage will be described in terms of crisis proportions in the not-so-distant future. In the year 2000, for every individual over the age of 85, there were 38 people aged 20–64. By 2050 that ratio will change dramatically—instead of 38 to 1 that ratio will be 11 to 1. The workforce shortage is not the only challenge. By encouraging long-term care providers to offer innovative programs the pool of eligible employees might increase exponentially.

Over a decade ago, Congress called on HHS to study the relationship between nursing home staff and quality of care for nursing home residents. HHS' two-phase study, *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes*, indicated that factors such as staff-resident ratios, management practices, and retention rates have a direct link to quality of resident care. Though these studies were limited to nursing homes, the general findings can be extrapolated to include many residential care facilities for the elderly and disabled.

Additionally, the Institute of Medicine's (IOM) 2001 report, *Improving the Quality of Long-Term Care*, States that in 1997 the turnover rate in nursing homes was 93 percent for nursing assistants. And, as the IOM goes on to point out, this statistic carries increased significance in a setting where individuals are being cared for—with a 93 percent staff turnover rate it is difficult to foster meaningful relationships between staff and residents. The IOM recommended that the Federal Government “undertake measures to improve work environments including competitive wages, career development opportunities, work rules, job design and supervision that will attract and retain a capable, committed work force.”

The bill will improve quality of care for individuals living in long-term care facilities by accomplishing three goals: improve recruitment of direct care staff; decrease turnover rates of direct care staff; and improve management practices.

Allowing Electronic Submission of Data. The provision builds on the Administration's support for and initiatives to adopt “open standards” by allowing long-term care facilities to submit data using those standards. Although the Federal Government is currently expending funds to drive the development and adoption of open standards, HHS does not accept data sent in open standards.

The use of open standards is critical to ensuring that systems are able to communicate with each other and without human manipulation, thus allowing information to be processed automatically and quickly. Automatic, expedited processing of information will reduce neglect in the form of medical errors and save lives. Currently, data may only be transmitted electronically using spreadsheets, pdfs, or SAS transport files. This form of submission does not allow

systems to communicate with each other, and slows the processing of information.

The President's Information Technology Advisory Committee describes open standards as follows:

"Standardized clinical vocabulary is essential to computerized decision-support tools using sharable protocols that lower error rates and improve the quality of health care. Medical language must be recorded in standard ways so its meaning can be shared with other EHR (electronic health record) systems in a manner that is interoperable and computable (i.e., able to be manipulated and combined with other data by a computer). This language must be coded in a standard manner, even if the concepts are referred to by different local names, displayed in different local languages, or depicted in different local alphabets."

Medication Error Reduction Grant Program. According to the Institute of Medicine, medical errors cause up to 98,000 deaths in this country each year, in addition to otherwise avoidable injuries, hospitalizations, and expenses. Although technologies are available to reduce errors and save lives, start-up costs and a lack of awareness have slowed the diffusion of these technologies, and prevented our long-term care facilities and elderly patients from reaping the benefits of these technologies.

The grant program would improve patient safety among the elderly by reducing medication errors in long-term care facilities. Grant money could be used by long-term care facilities to purchase proven technologies; the adoption of computer physician order entry systems, for example, is an essential component of any effective strategy to reduce medication errors.

Purchase and deployment of such systems is a substantial investment. Costs can delay the rapid introduction of new information technologies into long-term care facilities that already are grappling with other major financial challenges. The grant program will reduce this barrier by providing financial incentives for long-term care facilities to adopt the resource intensive information technologies essential to system-wide strategies for reducing and eventually ending most medication errors.

SENATE BILL

Grants and Incentives to Enhance Long-Term Care Staffing. Section 2211(a) would require the Secretary of HHS to carry out activities that provide incentives for individuals to train for, seek, and maintain employment providing direct care in long-term care facilities.

Coordination of Federal Agencies to Train Long-Term Care Staff. The Secretary of HHS would be required to coordinate activities with the Secretary of Labor and the Assistant Secretary of ACF to provide incentives to welfare-to-work and TANF recipients to train for and seek employment as direct care providers in long-term care facilities.

Career Ladders, Wage and Benefit Grants. The Secretary of HHS would be required to award grants to long-term care facilities to conduct programs that offer direct care employees continuing training and varying levels of certification. Grants would also be used to provide for or make arrangements with employers to pay bo-

nurses, or other increased compensation or benefits, to employees who obtain certification. To receive grant funds, long-term care facilities would submit applications directly to the Secretary.

Management Improvement. The Secretary of HHS would be required to award grants to long-term care facilities for training and technical assistance. Beneficiaries of this training could include administrators, directors of nursing, staff developers, charge nurses, and others who establish or implement management practices for direct care employees. Training and technical assistance would be intended to promote retention and could include: (1) the establishment of human resource policies rewarding high performance, including policies that provide for improved wages and benefits on the basis of job reviews; (2) the establishment of motivational organizational practices; (3) the creation of a workplace culture that respects and values caregivers and their needs; (4) the promotion of a workplace culture that respects the rights of residents and results in improvements in their care; and (5) the establishment of other programs that promote high quality care, such as continuing education for certified nurse aide employees. Long-term care facilities would submit applications to the Administrator to qualify for grant funds.

Each year, the Secretary would be required to evaluate the above-listed activities and, using the results, determine activities that may be funded in subsequent years. The Secretary would be required to develop accountability measures to ensure that funded activities under this title benefit eligible employees and increase the stability of the long-term care workforce.

Allowing Electronic Submission of Data. Section 2211(b) would require the Secretary of Health and Human Services to develop a plan for adopting open standards for transactions and data elements for such transactions to enable improved electronic submission of clinical data by long-term care facilities and allowing electronic transmission of data using such standards. The optional electronic submission of data shall go into effect not later than 10 years from enactment.

Medication Error Reduction Grant Program. Section 2211(c) would allow grants to be used to improve quality and prevent neglect by improving patient safety and reducing adverse events and health care complications resulting from medication errors in long-term care settings.

The bill would authorize \$25 million for each of FYs 2006–2009.

Section 2212—Collaborative Efforts to Enhance Communication on Promoting Quality and Preventing Abuse and Neglect in Long-Term Care

PRESENT LAW

No provision.

REASONS FOR CHANGE

Pilot tests are needed to form multidisciplinary community groups to develop collaborative and innovative approaches to improving long-term care. Multidisciplinary community groups are beginning to form in some settings. They are evidencing success in

addressing difficult issues by bringing together various disciplines that have an interest in the subject matter. These successful approaches need to be applied to improving long-term care. Such funds should support community groups consisting of entities, at a minimum, including nursing home providers, advocates, ombudsmen, APS offices, surveyors, State licensing entities, law enforcement, family councils, resident representatives, CNAs, RNs and others.

SENATE BILL

Section 2212 would require the Secretary, after consultation with the Attorney General, to establish pilot projects to improve long-term care. These projects would provide grants to eligible partnerships to develop collaborative and innovative approaches to improve quality and prevent abuse and neglect in long-term care.

Eligible partnerships refer to multidisciplinary community entities, such as a community of nursing facilities, State legal assistance developers, advocates for residents of long-term care facilities, State long-term care ombudsmen, surveyors, the State agencies with responsibility for adult protective services, the State agencies with the responsibility for licensing long-term care facilities, law enforcement agencies, courts, family councils, residents, certified nurse aides, registered nurses, physicians, and other appropriate entities and individuals. Applicants would submit applications to the Secretary to receive funds.

The bill would authorize \$2.5 million for each of FYs 2006–2009.

Section 2213—Collaborative Efforts to Develop Consensus Around the Management of Certain Quality-Related Factors

PRESENT LAW

No provision.

REASONS FOR CHANGE

Funding should be provided to pilot test multidisciplinary consensus panels at the national level formed to develop collaborative and innovative approaches to improving long-term care. These panels will give various entities that advocate on long-term quality an opportunity to work together toward achieving the common purpose of quality long-term care. In developing approaches to improve long-term care, consensus panels can make significant progress in having the opportunity to work together. Consensus panels have proven successful in addressing difficult issues, such as reduction of restraints.

SENATE BILL

Section 2213 would authorize the Secretary, after consultation with the Attorney General, to provide a limited number of grants to entities that establish multidisciplinary panels to address and develop consensus on quality improvements in long-term care. At least one grant would establish a panel to develop consensus on methods of managing resident-to-resident abuse in long-term care. Entities that receive grant funds would be required to establish a panel to address a specific subject and ensure that the panel uses

the funds to establish a subject-related goal; identify best practices and determine the best way to implement them; and determine an effective way of distributing information. Applicants would submit applications to the Secretary to receive funds.

The bill would authorize \$2 million for each of FYs 2006–2009.

Section 2214—Adult Protective Services and Demonstration Grant Programs

Adult Protective Services—Functions

PRESENT LAW

Provisions related to some functions of adult protective services are found in Title XX of the Social Security Act (Social Services Block Grant) (administered by the Administration on Children and Families (ACF)) and the Older Americans Act (administered by AoA), both in DHHS, as follows:

Title XX of the Social Security Act. Title XX provides funds to States to carry out a wide range of social services on behalf of various groups. The statute sets out a number of goals for the use of these funds, including the goal of “preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests”

Funds are generally administered by State social services or human services agencies (for this purpose, sometimes referred to as adult protective services offices), and/or State agencies on aging. Funding history for Title XX is as follows: FY 1998, \$2.299 billion; FY 1999, \$1.909 billion; FY 2000, \$1.775 billion; FY 2001, \$1.725; FY 2002, \$1.7 billion; FY 2003, \$1.7 billion; and FY 2004, \$1.7 billion.

No State match is required for Federal Title XX funds, and Federal law does not specify a sub-state allocation formula, so States have complete discretion for the distribution of funds within their borders. Based on the 2002 Annual Report for the Social Services Block Grant, 34 States used some portion of Title XX funds for adult protective services, and approximately 425,000 adults received adult protective services that were funded in whole or in part with Title XX funds. Of all State expenditures under Title XX for 2002, 5.8 percent were for protective services for adults.¹

Older Americans Act. Title II of the Older Americans Act requires the Assistant Secretary on Aging in DHHS to establish a National Center on Elder Abuse. The Center is required to, among other things, compile, publish and disseminate research and training materials on prevention of elder abuse, neglect, and exploitation; maintain a clearinghouse on programs showing promise in preventing elder abuse, neglect, and exploitation; conduct research and demonstration projects that identify causes and prevention, and treatment; and provide technical assistance to State agencies and other organizations in planning and improving prevention programs. AoA awards

¹A percentage of *expenditures* differs from a percentage of the Title XX *appropriation*. Title XX expenditures include spending from funds transferred from the Temporary Assistance for Needy Families (TANF) program to Title XX.

funds to six organizations that share the funds: the National Association of State Units on Aging, which administers the Center, in cooperation with the National Protective Services Association, the National Committee for the Prevention of Elder Abuse, the American Bar Association, and the Clearinghouse on Abuse, Neglect and Exploitation.

Funding history for the Center is as follows: FY1998, \$250,000; FY1999, \$200,000; FY2000, \$815,250; FY2001, \$815,000; FY2002, \$815,000, and FY2003, \$815,000. The 2000 amendments to the Act required that the Center receive at least the same amount of funds as it received in FY2000.

Title III of the Older Americans Act authorizes, but does not require, State agencies on aging to conduct various activities related to prevention of elder abuse, neglect and exploitation. No Federal funds are separately allotted for this purpose under Title III, and States decide how much of their Title III allotments are to be used for prevention activities. In many States, State agencies on aging administer funds for adult protective services funded under Title XX of the Social Security Act (described above).

Title VII of the Older Americans Act authorizes a program of grants to States to carry out activities related to prevention of elder abuse, neglect, and exploitation. Funds are administered by State agencies on aging. In FY2004, the appropriation level for this program is \$5.2 million.

REASONS FOR CHANGE

Although APS exists in all 50 States, it has no Federal office to provide leadership and guidance to the field or to collect and disseminate data. APS exists to protect vulnerable adults and the elderly who are unable to protect themselves from abuse, exploitation or neglect by others, or who are unable to provide for their own basic needs. As APS laws evolved, each State developed its own definition of APS. In many States, these programs are chronically underfunded and their purpose and scope vary broadly from State-to-State. This fragmented system leaves giant cracks for America's seniors to fall through and offers no minimal guarantee of protection for the elderly. In fact, less than one percent (0.08 percent) of Social Security Block Grant (SSBG) funding allotted for victims of abuse actually reaches the elderly, while 93 percent goes to child abuse and 6 percent to domestic violence victims.

Development of meaningful measurements of protective services outcomes also has been hampered by the variation of State services, lack of uniform definitions of abuse, and lack of up-to-date case management systems. Improved coordination between protective services and law enforcement professionals, as also provided for by this proposal, will enable an enhanced level of protection against abuses of vulnerable adult and older Americans.

It is estimated that approximately 80 percent of elder abuse cases occur in home settings by relatives and approximately 20 percent occurs in facilities. APS is the first responder in all States to elder abuse in home settings and in 50 percent of the States with respect to elder abuse in facilities. This bill, therefore, requires the

Secretary to establish certain support functions with respect to APS to be administered by the Secretary.

SENATE BILL

Section 2214 would establish certain functions with respect to *Adult Protective Services* (APS) to be administered by the Secretary.

Adult Protective Services—Functions. Functions include providing funding and support to State and local adult protective services offices that investigate reports of abuse, neglect and exploitation of elders and vulnerable adults; collecting and disseminating information on abuse in coordination with the Department of Justice; developing and disseminating information on best practices; and conducting research and providing technical assistance to States that provide or fund protective services.

To carry out these functions, the bill authorizes \$3 million for FY 2006 and \$4 million for each of FYs 2007–2009.

Adult Protective Service Grant Program (State Formula Grants)

PRESENT LAW

No provision in current law for State formula grants that are *solely* and *specifically* targeted at providing adult protective services and carrying out projects to employ workers having caseloads of elders alone.

Some other legislation is related to adult protective services, as follows:

Title XX of the Social Security Act. Title XX provides funds to States to carry out a wide range of social services on behalf of various groups. The statute sets out a number of goals for the use of these funds, including the goal of “preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests . . .” Funds are generally administered by State social services or human services agencies (for this purpose, sometimes referred to as adult protective services offices), and/or State agencies on aging.

Title III of the Older Americans Act authorizes, but does not require, State agencies on aging to conduct various activities related to prevention of elder abuse, neglect, and exploitation, which may include adult protective services. No Federal funds are separately appropriated for this purpose under Title III, and States decide how much of their Title III allotments are to be used for these activities. In many States, State agencies on aging administer funds for adult protective services funded under Title XX of the Social Security Act (described above).

Title VII of the Older Americans Act authorizes a program of grants to States to carry out activities related to prevention of elder abuse, neglect, and exploitation. Funds are administered by State agencies on aging. In FY2004, the appropriation level for this program is \$5.2 million.

REASONS FOR CHANGE

It is essential that greater understanding be achieved about how best to provide adult protective services to older Americans. This provision, therefore, establishes a demonstration grant program designed to compare and contrast the outcomes of workers. Conducting a demonstration grant designed to compare and contrast the outcomes of workers who carry reasonable caseloads consisting of elder abuse cases, i.e., 25 cases, with the typical caseload of workers carrying caseloads consisting of mixed caseloads (children, vulnerable adults and elderly) will provide significant data upon which to base future policy decisions.

SENATE BILL

Grants to Improve Worker Caseloads for Adult Protective Services. The Secretary would be required to award annual grants to enhance adult protective service programs provided to elders by States and local governments. These grants are to support projects that employ workers who have caseloads consisting only of elders and to identify the number of cases that should comprise a reasonable elder caseload.

Formula for Distribution of Funds. Distribution of funds to States would be based on a formula that takes into account the number of elders (people age 60 or older) residing in a State relative to the total U.S. population of elders. States would receive no less than 0.75 percent of the grant program's annual appropriation. The District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa would receive no less than 0.1 percent of the annual appropriation. In order to comply with these minimum amount requirements, the Secretary is required to make pro rata reductions in amounts to be allotted.

Use of Funds. Funds may be used only by States and local governments to provide adult protective services for elders. State receiving funds would be required to provide these funds to the agency or unit of State government having legal responsibility for providing adult protective services in the State. Each State would be required to use these funds to supplement and not supplant other Federal, State, and local public funds expended to provide adult protective services.

Reports. Each State would be required to submit a report to the Secretary comparing outcomes of workers who carry caseloads consisting only of elders with workers whose caseloads include other individuals. The report would also be required to identify a reasonable worker/elder client caseload. The Secretary would be required to submit to the appropriate congressional committees a report compiling, summarizing, and analyzing the State reports, as well making recommendations for appropriate legislative or administrative action. This report is to be submitted no later than October 1, 2010.

The bill would authorize \$100 million for each of FYs 2006–2009.

State Adult Protective Service Grants (Demonstration Program)

PRESENT LAW

No provision in current law specifically authorizes a dedicated amount of funds for State adult protective service demonstration programs. However, the Older American Act authorizes a related demonstration program (as follows), but no specific authorization is specified by law.

Section 413 of the Older Americans Act, *Older Individuals' Protection from Violence Projects*, requires the Assistant Secretary to award funds to States, area agencies on aging, and nonprofit organizations, or tribal organizations to carry out a wide range of projects related to protection of older persons from violence. Funds are to be used to: support local communities to coordinate activities regarding intervention in and prevention of abuse, neglect, and exploitation; develop outreach to assist victims; expand access to family violence and sexual assault programs (including shelters, rape crisis centers, and support groups) as well as mental health services, safety planning and other services; and promote research on legal organization and training impediments to providing services through shelters and other programs.

REASONS FOR CHANGE

Targeted demonstration grants to develop training modules and develop improved methods of detecting elder abuse will assist in developing an enhanced base of knowledge on the provision of adult protective services throughout the country.

SENATE BILL

Section 2214 would require the Secretary to establish grants to States for adult protective service demonstration programs. Funds may be used by State and local units of government to conduct demonstration programs that test: training modules developed for the purpose of detecting or preventing elder abuse; methods to detect or prevent financial exploitation and elder abuse; the feasibility of establishing safe havens for victims; whether training on elder abuse forensics enhances the detection of abuse by employees of State or local government; and other related matters. States would submit applications to the Secretary.

Each State receiving funds would be required to submit a report on the demonstration to the Secretary. The Secretary would be required to submit to the appropriate congressional committees a report compiling, summarizing, and analyzing the State reports, as well making recommendations for appropriate legislative or administrative action. This report is to be submitted no later than October 1, 2010.

The bill would authorize \$25 million for the period FY2006–2009.

Subtitle C—Collection of Data, Dissemination of Information and Studies

Section 2221—Collection of Uniform National Data on Elder Abuse, Neglect, and Exploitation

PRESENT LAW

No provision that establishes an ongoing, uniform national data collection process or provides grants to States to assist with data collection.

A related law, the *Family Violence Prevention and Services Act of 1992* (P.L. 102–295), required HHS to conduct a study of the national incidence of abuse, neglect, and exploitation of elderly persons. This study, referred to as “the National Elder Abuse Incidence Study,” used a nationally-representative sample of 20 counties in 15 States and combined local Adult Protective Services (APS) reports with reports from other community service agencies to estimate the number of new elder abuse and neglect cases over a given period. The final report for this study was released by HHS in 1998.

In addition to the study described above, the Federal Government has periodically surveyed State APS units over the last 20 years on the prevalence of elder abuse, neglect and exploitation. In these surveys, there was significant variation among the States in the definitions used and the comprehensiveness of data collected. This variation has created challenges in establishing a national data set and identifying trends in abuse, neglect and exploitation.

REASONS FOR CHANGE

To correctly assess the scope and nature of elder abuse, neglect, and exploitation, it is imperative to improve overall data collection nationwide. Although diverse reporting requirements in different States and complexities accompanying various confidentiality and privacy requirements exist, it is nonetheless critical to begin the process of compiling a centralized data base on elder abuse, neglect, and exploitation. This data repository will be an invaluable resource for research, training, raising public awareness, guiding public policy and other purposes.

The only incidence and prevalence study on elder abuse, published in 1998, was narrow in scope. Not only is the information from that study outdated as the demographics of older Americans have changed, it is not widely accepted as definitive on the subject. Compilation of new data will advance knowledge and research in the area of elder abuse, neglect and exploitation. Further, it will make it easier for the National Institutes of Health and the National Academies to develop a blueprint for further study in this area that, thus far, these entities have been unable to achieve.

SENATE BILL

Section 2221 would establish as the purpose of the section the improvement, streamlining, and promotion of uniform collection, maintenance and dissemination of national data regarding elder abuse, neglect and exploitation. The activities of the Secretary would be carried out in three phases.

The Secretary would be required to develop, under Phase I, a method for collecting national data regarding elder abuse, neglect and exploitation and uniform national data reporting forms adapted to each relevant entity or discipline (e.g., health, public safety, social and protective services and law enforcement). The Secretary would be required to consult with the Attorney General and work with experts in the Bureau of Justice Statistics and the Office of Justice Programs to develop this method for national data collection. The national data reporting forms must include the definitions of Title XXII for determining whether an event will be reportable. Finally, the activities that would be carried out under this section must ensure the protection of individual health privacy consistent with the regulations under Section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any State and local privacy regulations. Phase I must occur no later than one year after the date of enactment.

Phase II would require the Secretary to ensure that the national data reporting forms and data collection methods (developed under Phase I) would be pilot tested in six States selected by the Secretary. After pilot testing the data collection efforts, the Secretary must review the findings, consult with the Attorney General and other relevant experts, and adjust the national data reporting forms and data collection methods as necessary. Phase II must occur no later than one year following the completion of activities under Phase I.

Phase III would require the Secretary to submit the national data reporting forms and instructions to (1) the heads of the relevant components of DHHS, the Department of Justice, the Department of the Treasury, and other appropriate Federal entities; and (2) the Governor's office of each State for collection from all relevant State entities of data including health care, social services, and law enforcement data.

In Phase III, the Secretary would be authorized to award grants to States to improve data collection activities relating to elder abuse, neglect and exploitation. Each State that wants to apply for a grant, must submit an application to the Administrator following the prescribed requirements. Each State receiving a grant in a fiscal year would be required to submit data for the calendar year that begins during that year using the national data forms.

The amount of each grant to a State must be distributed using the following method: For the first fiscal year in which a State receives grant funds, the Secretary would be required to initially distribute 50 percent of those funds. The remaining funds are to be distributed at the end of the calendar year that begins during that fiscal year if the Secretary determines that the State has properly reported data required under this section for the calendar year. For subsequent years, the Secretary would be required to distribute grant funds to a State for a fiscal year if the State properly reported required data for the calendar year that ends during that fiscal year. The reports submitted by States must indicate the State and year in which the event occurred and identify the total number of events that occurred in each State during the year and the type of event.

The Secretary would be required to submit a report regarding the activities required by this section to Congress including the Committee on Finance and the Special Committee on Aging of the Senate. The first report must be submitted no later than one year after the date of enactment of the bill and annually thereafter.

To carry out the activities of this section, the bill would authorize \$10 million for FY2006; \$30 million for FY2007; and \$100 million for each of FYs 2008 and 2009.

Section 2222—Long-Term Care Consumer Clearinghouse

PRESENT LAW

No provision requiring establishment of a long-term care consumer clearinghouse.

In related activities, DHHS has funded some States to establish State-based consumer-friendly access to information about long-term care services. In FY2003 and FY2004, the Centers for Medicare and Medicaid Services (CMS) and AoA awarded approximately \$18 million in grants to States for the purpose of assisting States in their efforts to create a single, coordinated system of information and access for all persons seeking long term care to minimize confusion, enhance individual choice, and support informed decision-making. A total of 24 States have received grants for this purpose. Some of the common activities under this grant program include information and referral, outreach, counseling about public benefits and long-term care options, and case management. States' methods for implementing the grant may vary; some States have established an actual physical location, and other States have established a Statewide clearinghouse through a toll-free number or a web-based information site.

In addition, CMS has made available to the public, via its website, a comparison of Medicare and Medicaid-certified nursing homes and home health agencies. The information provides detailed facility and agency information and characteristics, and contains several measures of quality (e.g., improvement in mobility). This website does not cover assisted living facilities, group homes and other residential facilities that are not nursing facilities; nor does it cover non-medical, non-certified, home and community-based long-term care services.

REASONS FOR CHANGE

Currently there is no centralized repository of information to assist those trying to make choices about long-term care. This long-term care clearinghouse would house comprehensive information in a consumer-friendly form for those attempting to make choices about long-term care. For example, families trying to make decisions about whether they can continue to care for a loved one at home, might be interested in how to get assistance at home and for caregiver tips. They also may wish to learn about the different options in residential care, ranging from group homes to nursing homes. The clearinghouse website would provide hyperlinks to CMS sites providing information about nursing homes generally, the Medicare and Medicaid programs, and information about spe-

cific facilities. It also should include family and resident satisfaction data.

Although funding to States has resulted in some innovations, it is time to provide reliable, consumer-friendly information on a national basis. None of the existing databases, either at the Federal level or the State level, provide reliable, consumer-friendly information on the broad array of long-term care options.

Unfortunately, definitions and other provisions relating to residential care facilities other than nursing homes vary considerably from State-to-State. The clearinghouse will compile what information is currently available from the States and other sources regarding assisted living, board and care, congregate care, home health care, and other long-term care providers.

SENATE BILL

Section 2222 would require the Secretary to establish a long-term care consumer clearinghouse which must provide comprehensive detailed information, in a consumer-friendly form, to consumers about choices relating to long-term care providers.

The clearinghouse is to include information about obtaining the services of, and employing, caregivers; options for residential long-term care (e.g., the type of care provided by nursing facilities, and the type of care provided by group homes and other residential facilities); benefits available through the Federal health care programs; and links to Federal and State websites that describe the care available through specific long-term care facilities including information about the satisfaction of those residents and their families with the care provided. The clearinghouse must also provide information (from States and other sources) on long-term care providers including assisted living facilities, board and care facilities, congregate care facilities, home health care providers, and other long-term care providers.

To carry out the activities of this section, the bill would authorize \$2 million for FY2006; \$3 million for FY2007; and \$4 million for each of FYs 2008 and 2009.

Section 2223—Consumer Information about the Continuum of Residential Long-Term Care Facilities

PRESENT LAW

No provision.

REASONS FOR CHANGE

The increasing number of older and disabled Americans in recent decades has led to a proliferation of long-term care residential facilities. There are a variety of types of long-term care facilities. While “skilled nursing facilities” are specifically defined in Federal law, other types of residential facilities are not as specifically enumerated and are defined quite differently from State to State. For example, a facility that qualifies as “assisted living” in one State may not fall under that same category under a different State’s regulations. Consumers, often during difficult times, are confronted with a maze of decisions and little objective information to provide guidance. A prospective consumer’s failure to make appropriate ini-

tial decisions about the proper types of long-term care often have dire consequences. A comprehensive study is necessary to be able to provide complete and objective information to consumers and policymakers.

SENATE BILL

Section 2223 would require the Secretary, in consultation with the Attorney General, to conduct a study on consumer concerns relating to residential long-term care facilities other than nursing facilities. The study may be carried out either directly or through a grant. The organization conducting the study must develop definitions for classes of residential long-term care facilities and collect information on the following features of these facilities: prices, level of services, oversight and enforcement provisions, and admission and discharge criteria.

The Secretary would be required to prepare a report containing the results of the study and submit the report to the Elder Justice Coordinating Council, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance and the Special Committee on Aging of the Senate.

To carry out the study, the bill would authorize \$3 million for each of FYs 2006–2009.

Section 2224—Evaluations of Elder Justice Programs

PRESENT LAW

No provision.

REASONS FOR CHANGE

Too often, projects in the area of elder abuse, neglect, and exploitation have been funded without regard to whether they have been determined to be effective. Similarly, too few efforts in this area include a validated evaluation component designed to measure efficacy. Given the paucity of data in the field of elder abuse, neglect, and exploitation, it is imperative to leverage resources where they will do the most good. Thus, all grants or other funding mechanisms authorized under this legislation should contain a validated evaluation component, to measure the effectiveness of the efforts. Funding for such evaluations shall be provided either as a stated percentage of the project or as a separate grant for a particular project or group of projects. In addition, grants shall be available to conduct a validated evaluation of ongoing efforts, other than those funded under this legislation.

Individuals selected by the Secretary of HHS with expertise in evaluation methodology, will review the evaluation proposals to determine whether they are adequate to gather meaningful information, and, if not, to advise the applicant why the proposal was not funded, and assist applicants in modifying evaluation proposals.

SENATE BILL

Section 2224 would require the Secretary of HHS to reserve a portion of the funds appropriated in each program under Title XXII to be used to provide assistance to eligible entities to conduct validated evaluations of the effectiveness of the activities funded under

each program under Title XXII. To be eligible to receive these funds, an eligible entity must submit an application to the Secretary following the timing and requirements prescribed by the Secretary including a proposal for the evaluation.

Entities would be required to submit to the Secretary and appropriate congressional committees a report containing the results of the evaluation together with any recommendations deemed appropriate. The report would be due by the date specified by the Secretary.

Section 101(b) Amendments to the Social Security Act—Long-Term Care Facilities

PRESENT LAW

No Federal provisions for mandatory reporting of crimes in federally funded long-term care facilities. There are some Medicare and Medicaid provisions that apply when a facility that participates in either of those programs closes.

Reporting. Based on a 2000 survey of State Adult Protective Services systems, all States had elder/adult abuse reporting laws. State laws varied in who was a mandated reporter and who was encouraged to report incidents of elder/adult abuse. Many States and territories named health care professionals, such as nurses, physicians and nurse aides, as mandated reporters of elder/adult abuse. Five States did not list anyone as a mandated reporter.

Eleven States reported that there were no statutory consequences for failure of mandated reporters to report abuse; the remaining States and the District of Columbia and Guam had a specified consequence. The most common consequence for failing to report was a misdemeanor with a possible fine and/or jail sentence. State law also varied with regard to specifying a timeframe within which reporters were required to report suspicion of abuse. Nineteen States had no timeframe. Of those that specified a timeframe, the requirements varied from immediately to more than 4 days.

Notification of Facility Closure. If a long-term care facility that receives Federal funds through participation in Medicare or Medicaid closes, current Federal laws and regulations provide some guidance on the parties that need to be notified and the process for relocating residents. If a facility wants to terminate its status as a Medicare provider (for example, due to facility closure), the facility must notify both CMS and the public no later than 15 days in advance of the proposed termination date. If a facility wants to terminate its status as a Medicaid provider, Federal regulations do not specify a timeframe for notifying Federal or State agencies; however, the facility is required to notify Medicaid residents at least 30 days before transferring or discharging him or her. Facility closure is one circumstance in which a resident would need to be transferred.

The State Medicaid agency has the primary responsibility for relocating Medicaid patients and for ensuring their safe and orderly transfer from a facility that no longer participates in Medicaid to a participating facility that meets acceptable standards. CMS has provided guidance to States concerning relocating patients. Each State is expected to have a plan that describes the relocation of pa-

tients. Additionally, the notice to residents is to include information as to how to contact the ombudsman established by the Older Americans Act.

REASONS FOR CHANGE

Recent reports confirm that there is a growing concern that some recipients of long-term care services are abused by individuals to whom their care has been entrusted. Some problems that occur between a provider of care and a recipient of care are best handled within a given facility and do not require the involvement of law enforcement. But too often, serious crimes are not immediately reported to law enforcement, but instead are handled internally or solely administratively, by reporting to the State survey agency. **[See “Nursing Homes: More Can Be Done to Protect Residents from Abuse,”** GAO Report to the Special Committee on Aging, GAO-02-312, March 2002]. GAO recommended that the Federal Government facilitate the prompt reporting, investigation, and prevention of abuse to help ensure the protection of nursing home residents. In addition, the absence of prompt reporting to law enforcement may result in the compromise of forensic evidence, rendering it more difficult to establish what occurred and whether a crime was committed. Without penalties for failure to report crimes, there is no assurance these crimes will be reported.

The closure of a facility is a significant event in the lives of its residents and, if not handled properly, can result in serious decline and even death of residents. The closure of a nursing facility, and particularly the sudden closure of a nursing home chain, requires a significant government and community response. Thus, advance notice and orderly, well-planned and satisfactory transfer of residents is critical to the residents’ health and well-being. Although both long-term care ombudsmen and the States have responsibility for transferring residents in the case of a facility closure, that task is made much more difficult, if they do not have advance notice of such closure. It is thus imperative that facilities factor into their plans, the orderly and adequate transfer of residents in the event of closure and be prohibited from closing suddenly. Finally, this provision will also provide facility staff with assurance that they will have at least 60 days notice prior to a facility closure. The existing provisions or practices at the Federal level do not ensure consistency in closure notice. Moreover, there are no consequences for failure to provide notice of closure in any existing requirements. There is a need, therefore, for a uniform reporting requirement in Federal law for serious crimes committed in nursing homes against nursing home residents.

SENATE BILL

Reporting of Crimes in Federally-funded Facilities. Section 101(b) of the bill would require reporting to law enforcement of crimes occurring in federally funded long-term care facilities that receive at least \$10,000 in Federal funds during the preceding year. The owner or operator of these facilities would be required to annually notify each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility that they are required to report any reasonable suspicion of a crime against any

person who is a resident of or receiving care from the facility. These individuals are referred to in this section as “covered individuals.” Suspected crimes must be reported to the Secretary and one or more law enforcement entities for the political subdivision in which the facility is located.

Timing of Reporting. If the events that cause the suspicion of a crime result in serious bodily injury, the covered individual must report the suspicion immediately, but not later than 2 hours after forming the suspicion. If the events that cause the suspicion do not result in serious bodily injury, the individual must report the suspicion not later than 24 hours after forming the suspicion.

Penalties for Non-Reporting. If a covered individual does not report suspicion of a crime within the timeframe described above, the individual will be subject to a civil money penalty of up to \$200,000, or the Secretary shall classify the individual as an “excluded individual” (i.e., any employer of the individual is unable to receive Federal funds) for a period of not more than 3 years. If a covered individual does not report suspicion of a crime within the timeframe described above and this violation exacerbates the harm to the victim, or results in harm to another person, the individual will be subject to a civil money penalty of up to \$300,000, and the Secretary shall classify the individual as an “excluded individual” (i.e., any employer of the individual is unable to receive Federal funds) for a period of not more than 3 years.

If an individual is classified as an “excluded individual,” any entity that employs that individual will not be eligible to receive Federal funds. The Secretary may take into account the financial burden on providers with underserved populations in determining any penalty to be imposed under this section. Underserved populations are defined as the population of an area designated by the Secretary as an area or population group with a shortage of elder justice programs. These may include those that are geographically isolated, racial and ethnic minority populations, and populations underserved because of special needs (such as language barriers, disabilities, alien status, or age).

Additional Penalties for Retaliation. A long-term care facility may not retaliate against an employee for making a report, causing a report to be made, or for taking steps to make a report. Retaliation includes discharge, demotion, suspension, threats, harassment, denial of a promotion or other employment-related benefit, or any other manner of discrimination against an employee in the terms and conditions of employment because of lawful acts done by the employee. Long-term care facilities may also not retaliate against a nurse by filing a complaint or report with the appropriate State professional disciplinary agency because of lawful acts done by the nurse.

If a long-term care facility does retaliate, it shall be subject to a civil money penalty of up to \$200,000 or the Secretary may exclude it from participation in any Federal health care program for a period of 2 years.

Notice to Employees. Each long-term care facility must post conspicuously, in an appropriate location, a sign specifying rights of employees under this section. The sign shall include a statement that an employee may file a complaint against a long-term care fa-

cility that violates the provisions of this section with the Secretary. The notice must also contain information as to how to file a complaint.

Notification of Public Agencies and Safety of Residents in the Event of Facility Closure. In addition, if a long-term care facility (that receives at least \$10,000 in Federal funds during the previous year) is going to close, the owner or operator of the facility must submit to the Secretary and the appropriate State regulatory agency written notification of an impending closure within 60 days prior to the closure date. In the notice, the owner or operator must include a plan for transfer and adequate relocation of residents, including assurances that residents will not be moved to a facility which provides substandard care or for which an administrative or law enforcement action is pending. Within 10 days after the facility closes, the owner or operator of the facility must submit to the Secretary, and the appropriate State agency, information on where the residents were transferred to and when.

Anyone who owns a skilled nursing facility that fails to comply with the notification of closure and reporting requirements shall be subject to a civil monetary penalty of up to \$1,000,000, exclusion from participation in the programs under the Social Security Act, and any other civil monetary penalties and assessments.

A civil monetary penalty or assessment will be imposed in the same manner as a civil monetary penalty, assessment or exclusion under Section 1128A of the Social Security Act.

TITLE II—DEPARTMENT OF JUSTICE

Section 201—Victim Advocacy Grants

PRESENT LAW

Title II—Section 1209. Enhancing Protections for Older and Disabled Women from Domestic Violence and Sexual Assault. Section 1209(c) of the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106–386) (Protections for Older and Disabled Individuals from Domestic Violence and Sexual Assault) authorizes the Attorney General to award grants to States, the District of Columbia, tribal governments, and territories through the Services, Training, Officers, Prosecutors (STOP) formula grant program. Grant funding is to be used for developing, enlarging, or strengthening programs that assist law enforcement, prosecutors, courts, and others in helping older and disabled women who are victims of domestic violence or sexual assault. This assistance can include recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other services to these older and disabled victims. The Act authorizes \$5 million for each FYs 2001–2005 for this purpose.

Current law does not include the older victims. Moreover, current law does not necessarily address the victimization of older men.

REASONS FOR CHANGE

It is useful to periodically conduct an independent evaluation of the overall impact of different types of investigations and prosecutions. This aids in determining which ones are most effective in ad-

addressing a crime and influencing future behaviors, and which ones have unintended consequences. In this regard, the study must sample and quantify the outcomes of a reasonable number of investigations and prosecutions and draw a correlation to the desired impact of curbing elder abuse, neglect, and exploitation. Many prosecutors and investigators working in child abuse prevention have found it vital to include victim assistance professionals as part of the team. These professionals play a significant role in supporting victims and ensuring their ability to participate in court proceedings. Thus, the study and pilots envisioned would evaluate how outcomes are impacted by the use of victims advocates, and what types of victim assistance is most needed. In addition, training for victim advocacy will further enhance the ability of various professionals to ensure the ability of older victims to participate in court proceedings.

SENATE BILL

The bill would permit the Attorney General, after consultation with the Secretary of HHS, to award grants to eligible entities to study the needs of victims of elder abuse, neglect, and exploitation.

It would authorize \$2.5 million for FY2006 and \$3 million for each of FYs 2007–2009 for pilot programs that would: (1) develop programs for victims of elder abuse, neglect, and exploitation; (2) provide training to relevant personnel; and (3) examine special approaches aimed at meeting the needs of victims of elder abuse, neglect, and exploitation.

Section 202—Supporting State and Local Prosecutors in Elder Justice Matters

PRESENT LAW

Title II, Section 1209 of the Violence of Trafficking and Violence Protection Act of 2000 (P.L. 106–386) permits the Attorney General to make grants for training programs to assist front line law enforcement personnel to enhance their ability to address, investigate, and prosecute instances of elder abuse, neglect, and exploitation. The Administration obligated \$4.9 million in FY2003 and has estimated an obligation of \$666,000 for FY2004 for the Training Grants to Stop Abuse and Sexual Assault of Older Individuals or Individuals with Disabilities program.

REASONS FOR CHANGE

State Attorneys General and District Attorneys pursue numerous types of cases relating to elder justice, including financial fraud cases. These are cases where elders are victims of financial scams, domestic violence, institutional abuse and neglect. Present law restricts the ability to train State and local law enforcement in the full array of issues relating to elder abuse. In addition, prosecutors are without legal research support on cases of elder abuse. The American Prosecutors Research Institute for Prosecution of Child Abuse, which has been in existence for 16 years, has been the “go-to” clearinghouse for information and support to prosecutors and allied professionals for all needs associated with prosecuting physical and sexual abuse and neglect cases. Elder abuse, neglect, and exploitation cases often arise at the local level, and can be complex

cases to prosecute. There, however, is no national resource for local prosecutors to utilize. This provision would allow a legal research center to develop such a capacity.

SENATE BILL

The bill would require the Attorney General, after consultation with the Secretary of HHS to award grants to eligible entities to provide support to State and local prosecutors who handle elder justice-related cases. The grants would also be used to fund the creation of a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation that would advise and support prosecutors with respect to elder abuse, neglect, and exploitation. Among other things, the Center would be required to collaborate with experts in the field and the Advisory Board on Elder Abuse, Neglect, and Exploitation; and provide local prosecutors and their staff with relevant training and technical support with respect to handling, preventing, and prosecuting elder abuse, neglect, and exploitation.

The bill would authorize \$6 million for FY2006, and \$8 million for each of FYs 2006–2009 to carry out these grants.

Section 203—Supporting Federal Cases Involving Elder Justice

PRESENT LAW

No provision.

REASONS FOR CHANGE

Nurse investigators and others with similar expertise are critical to pursuing Federal failure of care cases, usually involving an individual or entity that knowingly bills the United States for inadequate care. This section provides resources for such assistance.

SENATE BILL

The bill would require the Attorney General to hire additional Federal prosecutors and make funding available to them to enter into contracts with experts such as nurse investigators and other experts to identify, assist with, or pursue cases related to elder justice. The bill would also permit the Attorney General to fund a resource group to assist prosecutors nationwide with respect to elder justice matters.

The bill would also require that the Office of Inspector General in DHHS enter into contracts with nurse investigators and other experts to investigate and pursue failure of care allegations.

The bill would authorize \$3.25 million for FY2006, and \$4.5 million for each of FYs 2007–2009.

Section 204—Supporting Law Enforcement in Elder Justice Matters

PRESENT LAW

Title II, Section 1209 of the Violence of Trafficking and Violence Protection Act of 2000 (P.L. 106–386) permits the Attorney General to make grants for training programs to assist front line law enforcement personnel to enhance their ability to address, investigate, and prosecute instances of elder abuse, neglect, and exploitation. The Administration obligated \$4.9 million in FY2003 and

has estimated an obligation of \$666,000 for FY2004 for the Training Grants to Stop Abuse and Sexual Assault of Older Individuals or Individuals with Disabilities program.

REASONS FOR CHANGE

State and local law enforcement pursues numerous types of cases relating to elder justice, including financial fraud cases. These are cases where elders are victims of financial scams, domestic violence, institutional abuse and neglect. Present law restricts the ability to train State and local law enforcement in the full array of issues relating to elder abuse. Federal leadership and support in developing training and policies to guide law enforcement in these complex cases is essential.

SENATE BILL

The bill would require the Attorney General, after consultation with the Secretary of HHS, to award grants to eligible entities to provide training and technical support to front line law enforcement personnel with respect to elder justice matters. The bill would authorize \$6 million for FY2006, and \$8 million for each year of FYs 2007–2009.

Section 205—Establishment and Support of Elder Abuse, Neglect, and Exploitation Forensic Centers

PRESENT LAW

No provision.

REASONS FOR CHANGE

As with child abuse in the 1960's, little is known about identifying the signs of elder abuse, neglect, or exploitation in elders. Absent forensic evidence, it is difficult to prosecute a criminal case. Forty years ago, child abuse was still considered to be a social services problem and not a law enforcement problem. If there is no detection or reporting, there can be no prosecution. Just as it was said that children bruise and fall often when considering child abuse, it is often said that frail elderly bruise and are injured easily. We simply do not yet know what patterns in bruising or what types of fractures indicate that someone has been abused or what patterns of decubitus ulcers or malnutrition indicate that someone has been neglected. There are 282 established Child Advocacy Centers around the country, and over 300 centers in development. These centers provide comprehensive culturally competent, multidisciplinary team responses to allegations of child abuse in a dedicated, child-friendly setting. The team responses include medical and forensic evaluation, therapeutic intervention, victim support and advocacy, case review and case tracking. There is no such center for elders who are the subject of an abuse, neglect, or exploitation claim.

The analysis of whether an older person has been abused or neglected is often a complex issue. It is complicated by the fact that the conditions and illnesses of aging may mask or mimic the signs of elder abuse or neglect. In addition, many of the frailest elders suffer from dementia, making explicit reporting by the victim un-

likely, and rendering it important to recognize the sometimes subtle signs or changes that may follow from abuse, such as sudden withdrawal. Because these issues are not yet part of the national consciousness, many people consider it inconceivable, for example, that an older person would be the victim of a sexual assault or that adult children would abuse their parents. Such assumptions compound problems in detection, and lead to delayed, if any, assessment.

Many health and social services professionals report that much more is learned about potentially abusive, neglectful, or exploitative aspects of an elder's living arrangement with a house call—a visit to where the individual lives. Thus, the utility of mobile forensic units should be a pilot-tested to ascertain if it is a better mechanism than other models for gathering forensic information.

One of the most significant impediments to accurate measurement of elder mistreatment is a dearth of knowledge in how to detect it among health, emergency, social services, and legal providers. Development and dissemination of evidence-based forensic markers of abuse, neglect, and exploitation will assist those on the front lines, including coroners and medical examiners, family practitioners and emergency room physicians, APS, long-term care ombudsmen, medical directors and others to detect potential problems. Development and dissemination of forensic methodologies will also assist those on the front lines to know when and how to intervene and when to defer to law enforcement.

SENATE BILL

The bill would require the Attorney General to award grants to eligible entities to establish and operate both stationary and mobile forensic centers and to develop forensic expertise pertaining to elder abuse, neglect, and exploitation. With respect to the stationary forensic centers, the bill would require the Attorney General to make four grants to higher education institutions with demonstrated expertise in forensics or commitment to preventing or treating elder abuse, neglect, or exploitation; and with respect to mobile forensic centers, the bill would require the Attorney General to make six grants to appropriate entities.

Funding would be authorized for the centers to: (1) develop forensic markers that would determine whether abuse or neglect occurred and whether a crime was committed; (2) conduct research to describe and disseminate information on the forensic markers; (3) determine methodologies for how and when intervention should occur; and (4) develop forensic expertise with respect to elder abuse, neglect, and exploitation in order to provide relevant evaluation, intervention, support and advocacy, case review and tracking. The bill would also require the Attorney General, in coordination with the Secretary, to use data to develop the capacity to collect forensic evidence.

The bill would authorize \$4 million in funding for FY2006, \$6 million for FY2007 and \$8 million for each of FYs 2008–2009.

Section 206—Model State Laws and Practices

PRESENT LAW

No provision.

REASONS FOR CHANGE

State laws relating to elder abuse, neglect, and exploitation vary considerably from State-to-State. Similarly, the States' enforcement procedures and other practices differ considerably, as well. To date there has been no comprehensive description and comparative analysis of these laws and practices. Nor has a compendium of model State laws been prepared. The report should include recommendations to inform the efforts of other States contemplating what types of legislation to enact, and in or determining policy and practices to implement. Indeed, State legislatures often seek this type of assistance. The types of laws to be reviewed include:

Definitions: A threshold issue relates to the definitions—defining, for example, an elder, abuse, neglect, and exploitation. Greater uniformity among definitions and laws would greatly assist in information gathering, training, research, clinical practice, interventions, and other efforts.

Mandatory reporting laws: Laws mandating reporting of elder abuse, neglect, and exploitation to APS exist in all but six States. These laws differ, however, in how they define a mandated reporter, to whom reports should be made, what types of followup are required once a report is made, what should be reported, and the consequences of failing to report. In addition, there is considerable divergence of views about the efficacy and purpose of reporting laws in general, which also should be examined.

Evidentiary laws: Because older victims often are frail, and sometimes suffer from diminished capacity or significant illness, this review should focus on what evidentiary rules accommodate the circumstances and needs of older victims and the need to preserve witness testimony. Examples may include permitting televised testimony under certain circumstances. Assuring that a person with dementia may testify at the time of day they are most lucid, or providing for transportation and other assistance also may have a significant impact on the outcome of the case, and on the extent to which the older victim is further traumatized by the legal procedures surrounding the original event.

Reporting of nursing home deaths: A 1999 Arkansas statute requires reporting of all deaths occurring in nursing homes or within 5 days of discharge from a nursing home to the county coroner. Based on anecdotal observation, this law appears to have coincided with a decrease in decubitus ulcers and other indicators of neglect, at least in Pulaski County, Arkansas, where the appointed coroner has vigorously enforced the law. A study should be done to test this hypothesis and to examine whether this is a law that should be replicated in other States.

Guardianship and Power of Attorney laws: Court-appointed guardians are useful in cases where individuals have lost the cognitive capacity for decisionmaking. Establishing legal

guardianship can be expensive and time-consuming. On the other hand, like power-of-attorney, some guardians betray and exploit those whose fiduciary interests they are charged with representing. State laws and procedures for establishing, monitoring, and providing for guardians, in the case of financial need, vary. This study will examine guardianship laws to identify those that most effectively protect vulnerable elders while not imposing too onerous a burden on others. Similarly, in most jurisdictions there are few protections on powers-of-attorney. One State recently amended its law to increase restrictions.

Banking laws: State laws, such as those in Oregon, Idaho, Illinois, Florida, and other States should be studied to determine their success in preventing elder fraud and exploitation. Some States provide financial institutions the ability to make contact with the appropriate State or Federal agencies concerning any suspected violation of law. These provisions allow the reporting institution to disclose customer financial records to the relevant State or Federal agency when financial exploitation is suspected, and immunize the financial institution from liability for loss, damage or injury arising out of, or in any way related to, the report or release of information pertaining to the suspected violation of law. Banking laws should be examined as they relate to elder financial exploitation, both in terms of providing a potential model for other States, and also as potential model for Federal consideration.

SENATE BILL

The Attorney General, after consultation with the Secretary of HHS, would be required to: (1) conduct a study and prepare a report on State laws and practices with respect to elder abuse, neglect, and exploitation; (2) report to all appropriate congressional committees on findings no later than 2 years after enactment of the Elder Justice Act; and (3) publish its findings.

In reporting to Congress on State laws and practices issues, the bill would require the following: (1) development of a comprehensive description and comparative analysis of State laws and practices; (2) recommendations on models based on analysis of the most effective State laws and practices; (3) provision of a definition for "elder," "abuse," "neglect," and "exploitation"; (4) definition of who is a mandated reporter, to whom and when a mandated reporter must report information, and what the consequences are for not reporting information; and (5) information on data retention issues.

The report would also be required to contain information on State laws and practices issues with respect to evidentiary, procedural, sentencing, and choice of remedies matters. Additionally, the report would be required to contain information on: issues pertaining to State laws that require immediate reporting of all nursing home deaths to the county coroner as well as issues with respect to fiduciary laws (including guardianship and power of attorney laws); laws that permit or encourage banks or bank employees to prevent and report suspected elder abuse, neglect, and exploitation; laws that may impede research on elder abuse, neglect, and

exploitation; and practices related to the enforcement of such laws and other aspects of elder justice.

The bill would authorize \$2.5 million for FY2006, and \$3 million for each of fiscal years 2007–2009.

Section 207—Evaluations of Department of Justice Elder Justice Programs

PRESENT LAW

No provision.

REASONS FOR CHANGE

Too often, projects in the area of elder abuse, neglect, and exploitation have been funded without regard to whether they have been determined to be effective. Similarly, too few efforts in this area include a validated evaluation component designed to measure efficacy. Given the paucity of data in the field of elder abuse, neglect, and exploitation, it is imperative to leverage resources where they will do the most good. Thus, all grants or other funding mechanisms authorized under this legislation should contain a validated evaluation component, to measure the effectiveness of the efforts. Funding for such evaluations shall be provided either as a stated percentage of the project or as a separate grant for a particular project or group of projects. In addition, grants shall be available to conduct a validated evaluation of ongoing efforts, other than those funded under this legislation.

Individuals by the Attorney General with expertise in evaluation methodology, will review the evaluation proposals to determine whether they are adequate to gather meaningful information, and, if not, to advise the applicant why the proposal was not funded, and assist applicants in modifying evaluation proposals.

SENATE BILL

The bill would require the Attorney General to reserve a portion of funds appropriated to carry out the programs described in this title to be used to aid eligible entities to conduct program evaluations. Eligible entities would be required to submit an application to the Attorney General in order to receive the funding and report to the Attorney General and Congress on its findings and recommendations from the evaluation.

Other Provisions

PRESENT LAW

No provision.

SENATE BILL

The bill amends the title to read: An Act to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and resolve to prevent, detect, treat, understand, and intervene in elder abuse, neglect, and exploitation, and for other purposes.



CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas Holtz-Eakin, Director

September 27, 2004

Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 333, the Elder Justice Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Paul Cullinan, who can be reached at 226-2820.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas Holtz-Eakin', written over a circular stamp or seal.

Douglas Holtz-Eakin

Enclosure

cc: Honorable Max Baucus
Ranking Democratic Member



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 27, 2004

S. 333
Elder Justice Act of 2004

*As ordered reported by the Senate Committee on Finance
on September 20, 2004*

SUMMARY

S. 333 would authorize various elements of a coordinated federal, state, and local government system designed to help detect and prevent the abuse and exploitation of the elderly. Appropriations of the authorized amounts would result in additional outlays of \$124 million in 2006 and \$763 million over the 2006-2009 period. Enacting the bill would not affect direct spending; CBO estimates that the collections of civil monetary penalties authorized by the bill would have a negligible effect on revenues.

S. 333 contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA). State, local, and tribal governments would be eligible for a number of grants authorized by the bill, and the costs of any requirements tied to those grants would be incurred voluntarily.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 333 is summarized in Table 1. The costs of this legislation fall within budget functions 500 (education, training, employment, and social services) and 750 (administration of justice).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF S. 333

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	0	200	206	279	279
Estimated Outlays	0	124	168	213	258

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2005 and that the authorized amounts will be appropriated for each year. CBO estimates the resulting outlays based on the spending patterns of activities similar in nature to those authorized under this bill.

Spending Subject to Appropriation

Title I: Department of Health and Human Services. Title I of the bill would authorize the appropriation of funding for various programs and activities that would be conducted through the Department of Health and Human Services (HHS). The authorizations total \$176 million in 2006 and \$837 million over the 2006-2009 period, and if fully funded, would result in additional outlays of \$682 million over the four-year period (see Table 2).

Subtitle A: Federal Elder Justice System. The bill would establish a federal Office of Adult Protective Services within the Department of Health and Human Services. The office would administer a number of grant programs authorized by the bill, collect data relating to the abuse, exploitation, and neglect of elderly people, and conduct research, develop best practices, and provide technical assistance to states and other entities. S. 333 also would create an Elder Justice Coordinating Council that would make recommendations to the Secretary of HHS and the Attorney General for the coordination of the activities of federal, state, local, and private agencies relating to elder justice issues. In addition, the bill authorizes an Advisory Board on Elder Abuse that would be responsible for creating a short-term and long-term multidisciplinary strategy for development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council.

For the activities under subtitle A, S. 333 would authorize the appropriation of \$3 million in 2006 and \$3.5 million each year from 2007 to 2009. Assuming the appropriation of the authorized amounts, the resulting outlays would be \$2 million in 2006, and \$13 million over the 2006-2009 period.

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF TITLE 1 OF S. 333

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Title I: Department of Health and Human Services					
Subtitle A: Federal Elder Justice System					
Authorization Level	0	3	4	4	4
Estimated Outlays	0	2	3	4	4
Subtitle B: Elder Justice Program					
Section 2211: Enhancement of long-term care					
Authorization Level	0	25	25	25	25
Estimated Outlays	0	6	18	24	25
Section 2212: Collaborative efforts to enhance communication on quality of and preventing abuse and neglect in long-term care					
Authorization Level	0	3	3	3	3
Estimated Outlays	0	1	2	2	3
Section 2213: Collaborative efforts to develop consensus around the management of certain quality-related factors					
Authorization Level	0	2	2	2	2
Estimated Outlays	0	2	2	2	2
Section 2214: Adult Protective Service Functions and Grant Program					
Authorization Level	0	128	104	104	104
Estimated Outlays	0	100	107	104	104
Subtotal: Subtitle B					
Authorization Level	0	158	134	134	134
Estimated Outlays	0	108	128	133	134

Continued

TABLE 2. Continued

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
Subtitle C: Collection of Data, Dissemination of Information, and Studies					
Section 2221: Collection of uniform national data on elder abuse, neglect, and exploitation					
Authorization Level	0	10	30	100	100
Estimated Outlays	0	3	14	27	85
Section 2222: Long-term care consumer clearinghouse					
Authorization Level	0	2	3	4	4
Estimated Outlays	0	1	2	3	4
Section 2223: Consumer information about the continuum of residential long-term care facilities					
Authorization Level	0	3	3	3	3
Estimated Outlays	0	1	2	3	3
Subtotal: Subtitle C					
Authorization Level	0	15	36	107	107
Estimated Outlays	0	5	18	52	91
Title I Total					
Authorization Level	0	176	173	244	244
Estimated Outlays	0	115	150	189	228

Subtitle B: Elder Justice Programs. S. 333 would authorize appropriations for a variety of grant programs directed toward elder justice issues to be administered by HHS. Assuming the appropriation of the authorized amounts, CBO estimates those provisions would result in outlays of \$108 million in 2006 and \$503 million over the 2006-2009 period.

- *Section 2211: Enhancement of Long-Term Care.* The bill would authorize funding for certain programs to train workers for employment in long-term care facilities and to improve compensation for employees who achieve certification under these programs. These grant also would be used to promote the training of management employees who direct workers in long-term care facilities. This section would authorize the appropriation of \$25 million annually for the 2006-2009 period.

- *Section 2212: Collaborative Efforts to Enhance Communication on Quality of and Preventing Abuse and Neglect in Long-Term Care.* The bill would authorize funding for pilot projects to develop approaches to improve the quality of long-term care, including the prevention of abuse and neglect in this care. The bill specifies that these projects use multidisciplinary community partnerships comprised of a broad range of organizations representing stakeholders in the delivery of quality long-term care. This section would authorize the appropriation of \$2.5 million annually for the 2006-2009 period.
- *Section 2213: Collaborative Efforts to Develop Consensus Around the Management of Certain Quality-Related Factors.* The bill would authorize funding for the Secretary of HHS to make grants to eligible entities to establish a multidisciplinary panel to address and develop consensus on approaches to improving the quality of long-term care. The panel would review the relevant data and research, identify the best practices, assess the best ways to carry out these practices, and determine how information on these findings should be distributed. This section would authorize the appropriation of \$2 million annually for the 2006-2009 period.
- *Section 2214: Adult Protective Services Functions and Demonstration Grant Programs.* The bill would authorize grants to states to employ caseworkers whose focus would be entirely on providing protective services for elderly clients. Section 2214 also would authorize grants to states to establish demonstration projects to test the effectiveness of training programs designed to help detect elder abuse or financial exploitation. These grants also could be used to test the feasibility of establishing safe havens for victims of elder abuse. This section would authorize the appropriation of \$100 million for the 2006-2009 period for the elder justice caseworkers. In addition, the bill would authorize \$25 million for the 2006-2009 period for the state demonstration programs. Moreover, S. 333 would authorize \$3 million in 2006 and \$4 million for each year from 2007 to 2009 to support investigations, undertake data collection and dissemination, conduct research, and provide technical assistance on elder justice issues.

Subtitle C: Collection and Data, Dissemination of Information, and Studies. S. 333 would authorize appropriations for collection of data and the distribution of information about elder abuse and about residential long-term care facilities. Assuming the appropriation of the authorized amounts, CBO estimates those provisions would result in outlays of \$5 million in 2006 and \$167 million over the 2006-2009 period.

- *Section 2221: Collection of Uniform National Data on Elder Abuse, Neglect, and Exploitation.* The bill would require the Secretary of HHS, in consultation with the

Attorney General, to develop a national system of reporting and data collection on elder abuse, neglect, and exploitation. The Secretary would develop a method for collecting national data and a uniform national data reporting form. The new reporting system first would be pilot-tested in six states before being implemented nationally. Section 2221 would authorize funding for the proposed federal activities as well as state grants to improve data collection efforts. This section would authorize the appropriation of \$10 million in 2006, \$30 million in 2007, and \$100 million in both 2008 and 2009.

- *Section 2222: Long-term Care Consumer Clearinghouse.* The bill would direct the Secretary of HHS to establish an information clearinghouse for consumers with information about long-term care alternatives, federal benefits, and links to federal and state websites that profile various types of care and consumer feedback for specific facilities. The clearinghouse would provide information on assisted living facilities, board and care facilities, congregate care facilities, home health care providers, and other long-term care providers. This section would authorize the appropriation of \$2 million in 2006, \$3 million in 2007, and \$4 million in both 2008 and 2009.
- *Section 2223: Consumer Information About the Continuum of Residential Long-Term Care Facilities.* The bill would direct the Secretary of HHS and the Attorney General to conduct (either directly or through grants) a study on consumer concerns relating to residential long-term care facilities. This section would authorize the appropriation of \$3 million annually over the 2006-2009 period.

Title II: Department of Justice. S. 333 would authorize a number of grants through the Department of Justice for training programs, interagency coordination, forensic activities, model law development, and evaluation programs relating to elder abuse. The bill would authorize the appropriation of \$24 million in 2006 and \$127 million for the 2006-2009 period. Assuming the authorized amounts are appropriated, outlays would total \$9 million in 2006 and \$81 million over the 2006-2009 period (see Table 3). The components of that spending are as follows:

- *Section 201: Victim Advocacy Grants.* The bill would authorize the Attorney General, in consultation with the Secretary of HHS, to award grants to eligible entities to study the special needs of victims of elder abuse, neglect, and exploitation. The funding would be for pilot programs that would, among other activities, provide training to personnel who deal with the needs of victims of elder abuse, neglect, and exploitation. Section 201 would authorize the appropriation of \$3 million annually for the 2006-2009 period.

TABLE 3. ESTIMATED BUDGETARY EFFECTS OF TITLE II OF S. 333

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Title II: Department of Justice					
Section 201: Victim Advocacy Grants					
Authorization Level	0	3	3	3	3
Estimated Outlays	0	1	1	2	3
Section 202: Supporting state and local prosecutors in elder justice matters					
Authorization Level	0	6	8	8	8
Estimated Outlays	0	1	4	5	7
Section 203: Supporting federal cases involving elder justice					
Authorization Level	0	3	5	5	5
Estimated Outlays	0	3	4	5	5
Section 204: Supporting law enforcement in elder matters					
Authorization Level	0	6	8	8	8
Estimated Outlays	0	1	4	5	7
Section 205: Establishment and support of elder abuse, neglect, and exploitation forensic centers					
Authorization Level	0	4	6	8	8
Estimated Outlays	0	1	3	4	6
Section 206: Model State Laws and Practices					
Authorization Level	0	3	3	3	3
Estimated Outlays	0	2	3	3	3
Title II Total					
Authorization Level	0	24	33	35	35
Estimated Outlays	0	9	18	25	29

- *Section 202: Supporting State and Local Prosecutors in Elder Justice Matters.* Section 202 would authorize the Attorney General to award grants to eligible entities to provide training, technical assistance, policy development, and other types of support to state and local prosecutors dealing with elder justice-related cases. The bill also would authorize the creation of a Center for the Prosecution of Elder Abuse,

Neglect, and Exploitation to further these objectives. Section 202 would authorize the appropriation of \$6 million in 2006 and \$8 million each year for the 2007-2009 period.

- *Section 203: Supporting Federal Cases Involving Elder Justice.* Section 203 would require the Attorney General to hire additional prosecutors and enter into contracts with nurse-investigators and other professionals to help in cases involving elder justice issues. The Attorney General could also fund a resource group to assist prosecutors in pursuing cases of elder justice matters. Section 203 would authorize the appropriation of \$3 million in 2006, \$5 million each year for the 2007-2009 period.
- *Section 204: Supporting Law Enforcement in Elder Justice Matters.* Section 204 would authorize the Attorney General to award grants to eligible entities to provide training, technical assistance, policy development, and other types of support to police, detectives, sheriffs, and other law enforcement personnel who handle elder justice-related cases. Section 204 would authorize the appropriation of \$6 million in 2006 and \$8 million each year for the 2007-2009 period.
- *Section 205: Establishment and Support of Elder Abuse, Neglect, and Exploitation Forensic Centers.* Section 205 would authorize the Attorney General to award grants to eligible entities to establish and operate forensic centers and to develop forensic expertise and services for elder abuse, neglect, and exploitation cases. Four of the grants would be for stationary forensic centers; another six would be for mobile centers. Section 205 would authorize the appropriation of \$4 million in 2006, \$6 million in 2007, and \$8 million for 2008 and 2009.
- *Section 206: Model State Laws and Practices.* Section 206 would require the Attorney General, in consultation with the Secretary of HHS, to conduct a study and prepare a report on the various state laws and practices concerning elder justice matters. The Attorney General would provide a comprehensive analysis of these laws and practices and report these findings along with recommendations for models of state laws to the appropriate committees of the Congress. Section 206 would authorize the appropriation of \$2.5 million in 2006 and \$3 million each year for the 2007-2009 period.

Direct Spending and Revenues

S. 333 would not affect direct spending, but potentially could affect revenues through the creation of several new civil penalties for violations relating to the evaluation of elder justice programs. Collections of such penalties are recorded as revenues and deposited in the Treasury; however, CBO expects that any increase in federal revenues resulting from those new penalties would be negligible.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 333 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments would be eligible for a number of grants authorized by the bill, including grants for employee training and certification, research efforts, caseworker support for victims of elder abuse, evaluation programs, and forensic activities tied to elder abuse, neglect, and exploitation. The costs of any requirements tied to these grants would be incurred voluntarily. The bill also would authorize grants to states for reporting data on elder abuse, neglect, and exploitation to the federal government.

ESTIMATE PREPARED BY:

Federal Costs: Paul Cullinan
Impact on State, Local, and Tribal Governments: Leo Lex
Impact on the Private Sector: Meena Fernandes

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis

