

110TH CONGRESS
2D SESSION

H. R. 5352

To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2008

Mr. SESTAK introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. MODEL STATE LAWS AND PRACTICES.**

5 (a) IN GENERAL.—Subject to the availability of ap-
6 propriations to carry out this section, the Attorney Gen-
7 eral, after consultation with the Secretary of Health and
8 Human Services, shall carry out the following duties:

9 (1) STUDY.—Conduct a study of State laws and
10 practices relating to elder abuse, neglect, and exploi-
11 tation.

12 (2) REPORT TO ELDER JUSTICE COORDINATING
13 COUNCIL AND THE ADVISORY BOARD OF ELDER
14 ABUSE, NEGLECT, AND EXPLOITATION.—Prepare
15 and submit a report or periodic reports containing
16 the findings of the study conducted under paragraph
17 (1) to the Elder Justice Coordinating Council and
18 the Advisory Board of Elder Abuse, Neglect, and
19 Exploitation (established under title XX of the So-
20 cial Security Act (42 U.S.C. 1397 et seq.), as
21 amended by this Act). Such report or reports shall
22 be made available to the public.

23 (3) REPORT TO CONGRESS.—Not later than 2
24 years after the date of enactment of this Act, submit
25 to the chairman and ranking member of the Special
26 Committee on Aging of the Senate, and the Speaker

1 and minority leader of the House of Representatives,
2 a report that contains—

3 (A) a comprehensive description of State
4 laws and practices relating to elder abuse, ne-
5 glect, and exploitation;

6 (B) a comprehensive analysis of the effec-
7 tiveness of such State laws and practices; and

8 (C) recommendations—

9 (i) for model State laws and practices
10 relating to elder abuse, neglect, and exploi-
11 tation; and

12 (ii) with respect to the definitions re-
13 ferred to in subsection (b)(1).

14 (b) STATE LAWS AND PRACTICES.—In conducting
15 the study under subsection (a)(1), the Attorney General
16 shall examine State laws and practices on issues includ-
17 ing—

18 (1) the definition of—

19 (A) “elder”;

20 (B) “abuse”;

21 (C) “neglect”;

22 (D) “exploitation”; and

23 (E) any related terms the Attorney Gen-
24 eral determines to be appropriate;

- 1 (2) mandatory reporting laws with respect to
2 elder abuse, neglect, and exploitation, including—
- 3 (A) who is a mandated reporter;
- 4 (B) to whom must a mandated reporter re-
5 port, and within what time frame; and
- 6 (C) any consequences for not reporting;
- 7 (3) evidentiary, procedural, sentencing, choice
8 of remedies, and data retention issues relating to
9 pursuing cases relating to elder abuse, neglect, and
10 exploitation;
- 11 (4) laws requiring immediate reporting of all
12 nursing home deaths to the county coroner or to one
13 or more other individuals or entities;
- 14 (5) fiduciary laws, including guardianship and
15 power of attorney laws;
- 16 (6) laws that permit or encourage banks and
17 bank employees to prevent and report suspected
18 elder abuse, neglect, and exploitation;
- 19 (7) laws that may impede research on elder
20 abuse, neglect, and exploitation;
- 21 (8) practices relating to the enforcement of laws
22 relating to elder abuse, neglect, and exploitation; and
- 23 (9) practices relating to other aspects of elder
24 justice.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this sec-
3 tion—

4 (1) \$1,000,000 for fiscal year 2009; and

5 (2) \$2,000,000 for each of the fiscal years 2010
6 through 2015.

7 **SEC. 3. ELDER JUSTICE PLAN AND STRATEGY.**

8 (a) DUTIES OF THE ATTORNEY GENERAL.—Subject
9 to the availability of appropriations under this section, the
10 Attorney General shall—

11 (1) develop objectives, priorities, policies, and a
12 long-term plan for elder justice programs and activi-
13 ties relating to prevention, detection, training, treat-
14 ment, evaluation, intervention, research, and im-
15 provement of the elder justice system in the United
16 States;

17 (2) implement the overall policies and a strat-
18 egy to carry out the plan described in paragraph (1);

19 (3) hire personnel to assist in carrying out the
20 policies, programs, and administrative activities re-
21 lated to the duties under paragraphs (1) and (2);
22 and

23 (4) coordinate activities with the Elder Justice
24 Coordinating Council and the Advisory Board of
25 Elder Abuse, Neglect, and Exploitation (established

1 under title XX of the Social Security Act (42 U.S.C.
2 1397 et seq.), as amended by this Act).

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$3,000,000 for each of the fiscal years 2009 through
6 2015.

7 **SEC. 4. VICTIM ADVOCACY GRANTS.**

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

13 (b) AUTHORIZED ACTIVITIES.—Funds awarded pur-
14 suant to subsection (a) shall be used for pilot programs
15 that—

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

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

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this sec-
3 tion—

4 (1) \$2,500,000 for fiscal year 2009; and

5 (2) \$3,000,000 for each of the fiscal years 2010
6 through 2015.

7 **SEC. 5. SUPPORTING LOCAL PROSECUTORS IN ELDER JUS-**
8 **TICE MATTERS.**

9 (a) GRANTS AUTHORIZED.—Subject to the avail-
10 ability of appropriations under this section, the Attorney
11 General, after consultation with the Secretary of Health
12 and Human Services, shall award grants to provide train-
13 ing, technical assistance, policy development, multidisci-
14 plinary coordination, and other types of support to local
15 prosecutors handling elder justice-related cases, includ-
16 ing—

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

19 (2) funding the creation of a Center for the
20 Prosecution of Elder Abuse, Neglect, and Exploi-
21 tation by the American Prosecutor Research Insti-
22 tute of the National District Attorneys Association,
23 or any other similarly situated entity, to advise and
24 support local prosecutors nationwide in their pursuit

1 of cases involving elder abuse, neglect, and exploi-
2 tation.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this sec-
5 tion—

6 (1) \$3,000,000 for fiscal year 2009; and

7 (2) \$4,000,000 for each of the fiscal years 2010
8 through 2015.

9 **SEC. 6. SUPPORTING STATE PROSECUTORS IN ELDER JUS-**
10 **TICE MATTERS.**

11 (a) IN GENERAL.—Subject to the availability of ap-
12 propriations under this section, the Attorney General,
13 after consultation with the Secretary of Health and
14 Human Services, shall award grants to provide training,
15 technical assistance, multidisciplinary coordination, policy
16 development, and other types of support to State prosecu-
17 tors, including employees of State Attorneys General and
18 Medicaid Fraud Control Units handling elder justice-re-
19 lated matters.

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

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

24 (2) the creation of a position to coordinate elder
25 justice-related cases, training, technical assistance,

1 and policy development for State prosecutors, by the
2 National Association of Attorneys General or any
3 other similarly situated entity.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to carry out this sec-
6 tion—

7 (1) \$3,000,000 for fiscal year 2009; and

8 (2) \$4,000,000 for each of the fiscal years 2010
9 through 2015.

10 **SEC. 7. INCREASED SUPPORT FOR FEDERAL CASES IN-**
11 **VOLVING ELDER JUSTICE.**

12 (a) SUPPORT AND ASSISTANCE.—

13 (1) IN GENERAL.—The Attorney General shall
14 establish procedures to ensure that the Department
15 of Justice dedicates resources to investigating and
16 prosecuting cases relating to elder justice.

17 (2) ADDITIONAL STAFF.—Subject to the avail-
18 ability of appropriations under this section, the At-
19 torney General shall hire additional Federal prosecu-
20 tors and make funding available to Federal prosecu-
21 tors to hire nurse-investigators or other experts
22 needed to identify, assist with, or pursue cases relat-
23 ing to elder justice.

24 (3) RESOURCE GROUP.—The Attorney General
25 may fund, through the Executive Office of United

1 States Attorneys, a resource group to assist prosecu-
2 tors throughout the Nation in investigating and
3 prosecuting cases relating to failure of care and
4 other elder justice matters.

5 (b) OFFICE OF INSPECTOR GENERAL.—Subject to
6 the availability of appropriations under this section, the
7 Office of Inspector General of the Department of Health
8 and Human Services shall hire nurse-investigators and
9 other experts to investigate and pursue failure of care alle-
10 gations.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this sec-
13 tion—

14 (1) \$3,000,000 for fiscal year 2009; and

15 (2) \$4,000,000 for each of the fiscal years 2010
16 through 2015.

17 **SEC. 8. SUPPORTING LAW ENFORCEMENT IN ELDER JUS-**
18 **TICE MATTERS.**

19 (a) IN GENERAL.—Subject to the availability of ap-
20 propriations under this section, the Attorney General,
21 after consultation with the Secretary of Health and
22 Human Services, shall award grants to provide training,
23 technical assistance, multidisciplinary coordination, policy
24 development, and other types of support to police, sheriffs,
25 detectives, public safety officers, corrections personnel,

1 and other first responders who handle elder justice-related
2 matters, to fund specially designated elder justice posi-
3 tions or units designed to support first responders in elder
4 justice matters.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this sec-
7 tion—

8 (1) \$6,000,000 for fiscal year 2009; and

9 (2) \$8,000,000 for each of the fiscal years 2010
10 through 2015.

11 **SEC. 9. EVALUATIONS.**

12 (a) GRANTS UNDER THIS ACT.—

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

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

21 (B) as the Attorney General considers ap-
22 propriate, use a portion of the funds available
23 under this Act for a grant program under this
24 Act to provide assistance to an eligible entity to
25 conduct a validated evaluation of the effective-

1 ness of the activities carried out through such
2 grant program by each of the grant recipients.

3 (2) APPLICATIONS.—

4 (A) SUBMISSION.—To be eligible to receive
5 a grant under this Act, an entity shall submit
6 an application to the Attorney General at such
7 time, in such manner, and containing such in-
8 formation as the Attorney General may require,
9 which shall include—

10 (i) a proposal for the evaluation re-
11 quired in accordance with paragraph
12 (1)(A); and

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

16 (B) REVIEW AND ASSISTANCE.—

17 (i) IN GENERAL.—An employee of the
18 Department of Justice, after consultation
19 with an employee of the Department of
20 Health and Human Services and a non-
21 governmental member of the Advisory
22 Board of Elder Abuse, Neglect, and Ex-
23 ploitation (established under title XX of
24 the Social Security Act (42 U.S.C. 1397 et
25 seq.), as amended by this Act) with exper-

1 tise in evaluation methodology, shall review
2 each application described in subparagraph
3 (A) and determine whether the method-
4 ology described in the proposal under sub-
5 paragraph (A)(I) is adequate to gather
6 meaningful information.

7 (ii) DENIAL.—If the reviewing em-
8 ployee determines the methodology de-
9 scribed in such proposal is inadequate, the
10 reviewing employee shall recommend that
11 the Attorney General deny the application
12 for the grant, or make recommendations
13 for how the application should be amended.

14 (iii) NOTICE TO APPLICANT.—If the
15 Attorney General denies the application on
16 the basis of such proposal, the Attorney
17 General shall inform the applicant of the
18 reasons the application was denied, and
19 offer assistance to the applicant in modi-
20 fying the proposal.

21 (b) OTHER GRANTS.—Subject to the availability of
22 appropriations under this section, the Attorney General
23 shall award grants to appropriate entities to conduct vali-
24 dated evaluations of grant activities that are funded by

1 Federal funds not provided under this Act to reduce elder
2 abuse, neglect, and exploitation.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$7,000,000 for each of the fiscal years 2009 through
6 2015.

7 **SEC. 10. ELDER JUSTICE.**

8 (a) ELDER JUSTICE.—

9 (1) IN GENERAL.—Title XX of the Social Secu-
10 rity Act (42 U.S.C. 1397 et seq.) is amended—

11 (A) in the title heading, by inserting
12 **“AND ELDER JUSTICE”** after **“SO-**
13 **CIAL SERVICES”**;

14 (B) by inserting before section 2001 the
15 following:

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

18 and

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

20 **“PART B—ELDER JUSTICE**

21 **“SEC. 2011. DEFINITIONS.**

22 “In this part:

23 “(1) ABUSE.—The term ‘abuse’ means the
24 knowing infliction of physical or psychological harm
25 or the knowing deprivation of goods or services that

1 are necessary to meet essential needs or to avoid
2 physical or psychological harm.

3 “(2) CAREGIVER.—The term ‘caregiver’ means
4 an individual who has the responsibility for the care
5 of an elder, either voluntarily, by contract, by receipt
6 of payment for care, or as a result of the operation
7 of law, and means a family member or other indi-
8 vidual who provides (on behalf of such individual or
9 of a public or private agency, organization, or insti-
10 tution) compensated or uncompensated care to an
11 elder who needs supportive services in any setting.

12 “(3) ELDER.—The term ‘elder’ means an indi-
13 vidual age 60 or older.

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

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

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

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

24 “(B) from an individual perspective, the
25 recognition of an elder’s rights, including the

1 right to be free of abuse, neglect, and exploi-
2 tation.

3 “(5) EXPLOITATION.—The term ‘exploitation’
4 means the fraudulent or otherwise illegal, unauthor-
5 ized, or improper act or process of an individual, in-
6 cluding a caregiver or fiduciary, that uses the re-
7 sources of an elder for monetary or personal benefit,
8 profit, or gain, or that results in depriving an elder
9 of rightful access to, or use of, benefits, resources,
10 belongings, or assets.

11 “(6) FIDUCIARY.—The term ‘fiduciary’—

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

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

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

18 “(B) includes a trustee, a guardian, a con-
19 servator, an executor, an agent under a finan-
20 cial power of attorney or health care power of
21 attorney, or a representative payee.

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

24 “(A) the process by which a State court
25 determines that an adult individual lacks capac-

1 ity to make decisions about self-care and prop-
2 erty, and appoints another individual or entity
3 known as a guardian, as a conservator, or by a
4 similar term, as a surrogate decisionmaker;

5 “(B) the manner in which the court-ap-
6 pointed surrogate decisionmaker carries out du-
7 ties to the individual and the court; or

8 “(C) the manner in which the court exer-
9 cises oversight of the surrogate decisionmaker.

10 “(8) LONG-TERM CARE.—

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

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

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

24 “(A) the failure of a caregiver or fiduciary
25 to provide the goods or services that are nec-

1 essary to maintain the health or safety of an
2 elder; or

3 “(B) self-neglect.

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

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

10 “(B) obtaining goods and services nec-
11 essary to maintain physical health, mental
12 health, or general safety; or

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

14 **“SEC. 2012. GENERAL PROVISIONS.**

15 “(a) PROTECTION OF PRIVACY.—In pursuing activi-
16 ties under this part, the Secretary shall ensure the protec-
17 tion of individual health privacy consistent with the regu-
18 lations promulgated under section 264(c) of the Health
19 Insurance Portability and Accountability Act of 1996 and
20 applicable State and local privacy regulations.

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

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

6 “(2) is previously set forth in a living will,
7 health care proxy, or other advance directive docu-
8 ment that is validly executed and applied under
9 State law; or

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

12 **“SEC. 2013. ELDER JUSTICE COORDINATING COUNCIL.**

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

16 “(b) MEMBERSHIP.—

17 “(1) IN GENERAL.—The Council shall be com-
18 posed of the following members:

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

21 “(B) The Attorney General (or the Attor-
22 ney General’s designee).

23 “(C) The head of each Federal department
24 or agency or other governmental entity identi-
25 fied by the Chair referred to in subsection (d)

1 as having responsibilities, or administering pro-
2 grams, relating to elder abuse, neglect, and ex-
3 ploitation.

4 “(2) REQUIREMENT.—Each member of the
5 Council shall be an officer or employee of the Fed-
6 eral Government.

7 “(c) VACANCIES.—Any vacancy in the Council shall
8 not affect its powers, but shall be filled in the same man-
9 ner as the original appointment was made.

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

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

14 “(f) DUTIES.—

15 “(1) IN GENERAL.—The Council shall make
16 recommendations to the Secretary for the coordina-
17 tion of activities of the Department of Health and
18 Human Services, the Department of Justice, and
19 other relevant Federal, State, local, and private
20 agencies and entities, relating to elder abuse, ne-
21 glect, and exploitation and other crimes against el-
22 ders.

23 “(2) REPORT.—Not later than the date that is
24 2 years after the date of enactment of the Elder
25 Abuse Victims Act of 2008 and every 2 years there-

1 after, the Council shall submit to the Committee on
2 Finance of the Senate and the Committee on Ways
3 and Means and the Committee on Energy and Com-
4 merce of the House of Representatives a report
5 that—

6 “(A) describes the activities and accom-
7 pishments of, and challenges faced by—

8 “(i) the Council; and

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

11 “(B) makes such recommendations for leg-
12 islation, model laws, or other action as the
13 Council determines to be appropriate.

14 “(g) POWERS OF THE COUNCIL.—

15 “(1) INFORMATION FROM FEDERAL AGEN-
16 CIES.—Subject to the requirements of section
17 2012(a), the Council may secure directly from any
18 Federal department or agency such information as
19 the Council considers necessary to carry out this sec-
20 tion. Upon request of the Chair of the Council, the
21 head of such department or agency shall furnish
22 such information to the Council.

23 “(2) POSTAL SERVICES.—The Council may use
24 the United States mails in the same manner and

1 under the same conditions as other departments and
2 agencies of the Federal Government.

3 “(h) TRAVEL EXPENSES.—The members of the
4 Council shall not receive compensation for the perform-
5 ance of services for the Council. The members shall be
6 allowed travel expenses, including per diem in lieu of sub-
7 sistence, at rates authorized for employees of agencies
8 under subchapter I of chapter 57 of title 5, United States
9 Code, while away from their homes or regular places of
10 business in the performance of services for the Council.
11 Notwithstanding section 1342 of title 31, United States
12 Code, the Secretary may accept the voluntary and uncom-
13 pensated services of the members of the Council.

14 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
15 Federal Government employee may be detailed to the
16 Council without reimbursement, and such detail shall be
17 without interruption or loss of civil service status or privi-
18 lege.

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

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

24 “(a) ESTABLISHMENT.—There is established a board
25 to be known as the ‘Advisory Board on Elder Abuse, Ne-

1 glect, and Exploitation’ (in this section referred to as the
2 ‘Advisory Board’) to create short- and long-term multi-
3 disciplinary strategic plans for the development of the field
4 of elder justice and to make recommendations to the Elder
5 Justice Coordinating Council established under section
6 2013.

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

13 “(c) SOLICITATION OF NOMINATIONS.—The Sec-
14 retary shall publish a notice in the Federal Register solie-
15 iting nominations for the appointment of members of the
16 Advisory Board under subsection (b).

17 “(d) TERMS.—

18 “(1) IN GENERAL.—Each member of the Advi-
19 sory Board shall be appointed for a term of 3 years,
20 except that, of the members first appointed—

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

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

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

3 “(2) VACANCIES.—

4 “(A) IN GENERAL.—Any vacancy on the
5 Advisory Board shall not affect its powers, but
6 shall be filled in the same manner as the origi-
7 nal appointment was made.

8 “(B) FILLING UNEXPIRED TERM.—An in-
9 dividual chosen to fill a vacancy shall be ap-
10 pointed for the unexpired term of the member
11 replaced.

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

15 “(e) ELECTION OF OFFICERS.—The Advisory Board
16 shall elect a Chair and Vice Chair from among its mem-
17 bers. The Advisory Board shall elect its initial Chair and
18 Vice Chair at its initial meeting.

19 “(f) DUTIES.—

20 “(1) ENHANCE COMMUNICATION ON PRO-
21 MOTING QUALITY OF, AND PREVENTING ABUSE AND
22 NEGLECT IN, LONG-TERM CARE.—The Advisory
23 Board shall develop collaborative and innovative ap-
24 proaches to improve the quality of, including pre-
25 venting abuse and neglect in, long-term care.

1 “(2) COLLABORATIVE EFFORTS TO DEVELOP
2 CONSENSUS AROUND THE MANAGEMENT OF CER-
3 TAIN QUALITY-RELATED FACTORS.—

4 “(A) IN GENERAL.—The Advisory Board
5 shall establish multidisciplinary panels to ad-
6 dress, and develop consensus on, subjects relat-
7 ing to improving the quality of long-term care.
8 At least 1 such panel shall address, and develop
9 consensus on, methods for managing resident-
10 to-resident abuse in long-term care.

11 “(B) ACTIVITIES CONDUCTED.—The multi-
12 disciplinary panels established under subpara-
13 graph (A) shall examine relevant research and
14 data, identify best practices with respect to the
15 subject of the panel, determine the best way to
16 carry out those best practices in a practical and
17 feasible manner, and determine an effective
18 manner of distributing information on such
19 subject.

20 “(3) REPORT.—Not later than the date that is
21 18 months after the date of enactment of the Elder
22 Abuse Victims Act of 2008, and annually thereafter,
23 the Advisory Board shall prepare and submit to the
24 Elder Justice Coordinating Council, the Committee
25 on Finance of the Senate, and the Committee on

1 Ways and Means and the Committee on Energy and
2 Commerce of the House of Representatives a report
3 containing—

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

7 “(B) recommendations (including rec-
8 ommended priorities) regarding—

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

12 “(ii) coordination between entities
13 pursuing elder justice efforts and those in-
14 volved in related areas that may inform or
15 overlap with elder justice efforts, such as
16 activities to combat violence against women
17 and child abuse and neglect; and

18 “(iii) activities relating to adult fidu-
19 ciary systems, including guardianship and
20 other fiduciary arrangements;

21 “(C) recommendations for specific modi-
22 fications needed in Federal and State laws (in-
23 cluding regulations) or for programs, research,
24 and training to enhance prevention, detection,
25 and treatment (including diagnosis) of, inter-

1 vention in (including investigation of), and
2 prosecution of elder abuse, neglect, and exploi-
3 tation;

4 “(D) recommendations on methods for the
5 most effective coordinated national data collec-
6 tion with respect to elder justice, and elder
7 abuse, neglect, and exploitation; and

8 “(E) recommendations for a multidisci-
9 plinary strategic plan to guide the effective and
10 efficient development of the field of elder jus-
11 tice.

12 “(g) POWERS OF THE ADVISORY BOARD.—

13 “(1) INFORMATION FROM FEDERAL AGEN-
14 CIES.—Subject to the requirements of section
15 2012(a), the Advisory Board may secure directly
16 from any Federal department or agency such infor-
17 mation as the Advisory Board considers necessary to
18 carry out this section. Upon request of the Chair of
19 the Advisory Board, the head of such department or
20 agency shall furnish such information to the Advi-
21 sory Board.

22 “(2) SHARING OF DATA AND REPORTS.—The
23 Advisory Board may request from any entity pur-
24 suing elder justice activities under the Elder Abuse
25 Victims Act of 2008 or an amendment made by such

1 Act, any data, reports, or recommendations gen-
2 erated in connection with such activities.

3 “(3) POSTAL SERVICES.—The Advisory Board
4 may use the United States mails in the same man-
5 ner and under the same conditions as other depart-
6 ments and agencies of the Federal Government.

7 “(h) TRAVEL EXPENSES.—The members of the Advi-
8 sory Board shall not receive compensation for the perform-
9 ance of services for the Advisory Board. The members
10 shall be allowed travel expenses for up to 4 meetings per
11 year, including per diem in lieu of subsistence, at rates
12 authorized for employees of agencies under subchapter I
13 of chapter 57 of title 5, United States Code, while away
14 from their homes or regular places of business in the per-
15 formance of services for the Advisory Board. Notwith-
16 standing section 1342 of title 31, United States Code, the
17 Secretary may accept the voluntary and uncompensated
18 services of the members of the Advisory Board.

19 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
20 Federal Government employee may be detailed to the Ad-
21 visory Board without reimbursement, and such detail shall
22 be without interruption or loss of civil service status or
23 privilege.

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

4 **“SEC. 2015. RESEARCH PROTECTIONS.**

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

9 “(b) DEFINITION OF LEGALLY AUTHORIZED REP-
10 RESENTATIVE FOR APPLICATION OF REGULATIONS.—For
11 purposes of the application of subpart A of part 46 of title
12 45, Code of Federal Regulations, to research conducted
13 under this chapter the term ‘legally authorized representa-
14 tive’ means, unless otherwise provided by law, the indi-
15 vidual or judicial or other body authorized under the appli-
16 cable law to consent to medical treatment on behalf of an-
17 other person.

18 **“SEC. 2016. AUTHORIZATION OF APPROPRIATIONS.**

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

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

22 “(2) for each of fiscal years 2010 through
23 2012, \$7,000,000.”.

24 **SEC. 11. DEFINITIONS.**

25 In this Act:

1 (1) ELDER.—The term “elder” means an indi-
2 vidual age 60 or older.

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

5 (A) from a societal perspective, efforts
6 to—

7 (i) prevent, detect, treat, intervene in,
8 and prosecute elder abuse, neglect, and ex-
9 ploitation; and

10 (ii) protect elders with diminished ca-
11 pacity while maximizing their autonomy;
12 and

13 (B) from an individual perspective, the rec-
14 ognition of an elder’s rights, including the right
15 to be free of abuse, neglect, and exploitation.

○