

Union Calendar No. 561

110TH CONGRESS
2^D SESSION

H. R. 5352

[Report No. 110-864, Part I]

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

SEPTEMBER 22, 2008

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 22, 2008

Additional sponsors: Mr. CONYERS, Mr. SCOTT of Virginia, Mr. EMANUEL,
and Mr. KING of New York

SEPTEMBER 22, 2008

Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. ANALYSIS, REPORT, AND RECOMMENDATIONS RE-**
7 **LATED TO ELDER JUSTICE PROGRAMS.**

8 *(a) IN GENERAL.—Subject to the availability of appro-*
9 *priations to carry out this section, the Attorney General,*
10 *in consultation with the Secretary of Health and Human*
11 *Services, shall carry out the following:*

12 *(1) STUDY.—Conduct a study of laws and prac-*
13 *tices relating to elder abuse, neglect, and exploitation,*
14 *which shall include—*

15 *(A) a comprehensive description of State*
16 *laws and practices relating to elder abuse, ne-*
17 *glect, and exploitation;*

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

3 (C) an examination of State laws and prac-
4 tices relating to specific elder abuse, neglect, and
5 exploitation issues, including—

6 (i) the definition of—

7 (I) “elder”;

8 (II) “abuse”;

9 (III) “neglect”;

10 (IV) “exploitation”; and

11 (V) such related terms the Attor-
12 ney General determines to be appro-
13 priate;

14 (ii) mandatory reporting laws, with
15 respect to—

16 (I) who is a mandated reporter;

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

19 (III) any consequences for not re-
20 porting;

21 (iii) evidentiary, procedural, sen-
22 tencing, choice of remedies, and data reten-
23 tion issues relating to pursuing cases relat-
24 ing to elder abuse, neglect, and exploitation;

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

4 (v) fiduciary laws, including guard-
5 ianship and power of attorney laws;

6 (vi) laws that permit or encourage
7 banks and bank employees to prevent and
8 report suspected elder abuse, neglect, and ex-
9 ploitation;

10 (vii) laws relating to fraud and related
11 activities in connection with mail, tele-
12 marketing, or the Internet;

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

15 (ix) practices relating to the enforce-
16 ment of laws relating to elder abuse, neglect,
17 and exploitation; and

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

20 (2) *DEVELOPMENT OF PLAN.*—Develop objectives,
21 priorities, policies, and a long-term plan for elder jus-
22 tice programs and activities relating to—

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

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

3 (C) *training, evaluation, and research re-*
4 *lated to elder justice programs and activities;*
5 *and*

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

8 (3) *REPORT.—Not later than 2 years after the*
9 *date of enactment of this Act, submit to the chairman*
10 *and ranking member of the Special Committee on*
11 *Aging of the Senate, and the Speaker and minority*
12 *leader of the House of Representatives, and the Sec-*
13 *retary of Health and Human Services, and make*
14 *available to the States, a report that contains—*

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

17 (B) *a description of the objectives, prior-*
18 *ities, policies, and a long-term plan developed*
19 *under paragraph (2); and*

20 (C) *a list, description, and analysis of the*
21 *best practices used by States to develop, imple-*
22 *ment, maintain, and improve elder justice sys-*
23 *tems, based on such findings.*

24 (b) *GAO RECOMMENDATIONS.—Not later than one*
25 *year after the date of the enactment of this Act, the Comp-*

1 troller General shall report to Congress any recommenda-
2 tions with respect to any Federal legislation, regulations,
3 or programs determined by the Comptroller General to be
4 necessary to improve elder justice in the United States.

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

8 **SEC. 3. VICTIM ADVOCACY GRANTS.**

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

14 (b) *AUTHORIZED ACTIVITIES.*—Funds awarded pursu-
15 ant to subsection (a) shall be used for pilot programs that—

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

20 (2) examine special approaches designed to meet
21 the needs of victims of elder abuse, neglect, and ex-
22 ploitation.

23 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There are
24 authorized to be appropriated to carry out this section
25 \$3,000,000 for each of the fiscal years 2009 through 2015.

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

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

10 (1) *funding specially designated elder justice po-*
11 *sitions or units; and*

12 (2) *funding the creation of a Center for the Pros-*
13 *ecution of Elder Abuse, Neglect, and Exploitation by*
14 *the American Prosecutor Research Institute of the Na-*
15 *tional District Attorneys Association, or any other*
16 *similarly situated entity, to advise and support local*
17 *prosecutors and courts nationwide in their pursuit of*
18 *cases involving elder abuse, neglect, and exploitation.*

19 (b) *AUTHORIZATION OF APPROPRIATIONS.*—There are
20 authorized to be appropriated to carry out this section
21 \$6,000,000 for each of the fiscal years 2009 through 2015.

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

24 (a) *IN GENERAL.*—Subject to the availability of appro-
25 priations under this section, the Attorney General, after
26 consultation with the Secretary of Health and Human

1 *Services, shall award grants to provide training, technical*
2 *assistance, multidisciplinary coordination, policy develop-*
3 *ment, and other types of support to State prosecutors and*
4 *courts, employees of State Attorneys General, and Medicaid*
5 *Fraud Control Units handling elder justice-related matters.*

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

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

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

15 (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*
16 *authorized to be appropriated to carry out this section*
17 *\$6,000,000 for each of the fiscal years 2009 through 2015.*

18 **SEC. 6. SUPPORTING LAW ENFORCEMENT IN ELDER JUS-**
19 **TICE MATTERS.**

20 (a) *IN GENERAL.—Subject to the availability of appro-*
21 *priations under this section, the Attorney General, after*
22 *consultation with the Secretary of Health and Human*
23 *Services, the Postmaster General, and the Chief Postal In-*
24 *spector for the United States Postal Inspection Service,*
25 *shall award grants to provide training, technical assistance,*

1 *multidisciplinary coordination, policy development, and*
2 *other types of support to police, sheriffs, detectives, public*
3 *safety officers, corrections personnel, and other first re-*
4 *sponders who handle elder justice-related matters, to fund*
5 *specially designated elder justice positions or units designed*
6 *to support first responders in elder justice matters.*

7 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
8 *authorized to be appropriated to carry out this section*
9 *\$8,000,000 for each of the fiscal years 2009 through 2015.*

10 **SEC. 7. EVALUATIONS.**

11 (a) *GRANTS UNDER THIS ACT.—*

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

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

20 (B) *as the Attorney General considers ap-*
21 *propriate, use a portion of the funds available*
22 *under this Act for a grant program under this*
23 *Act to provide assistance to an eligible entity to*
24 *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, if*
15 *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 Exploi-*
23 *tation (established under title XX of the So-*
24 *cial Security Act (42 U.S.C. 1397 et seq.),*
25 *as amended by this Act) with expertise in*

1 *evaluation methodology, shall review each*
2 *application described in subparagraph (A)*
3 *and determine whether the methodology de-*
4 *scribed in the proposal under subparagraph*
5 *(A)(i) is adequate to gather meaningful in-*
6 *formation.*

7 *(ii) DENIAL.—If the reviewing em-*
8 *ployee determines the methodology described*
9 *in such proposal is inadequate, the review-*
10 *ing employee shall recommend that the At-*
11 *torney General deny the application for the*
12 *grant, or make recommendations for how*
13 *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 ap-*
22 *propriations under this section, the Attorney General shall*
23 *award grants to appropriate entities to conduct validated*
24 *evaluations of grant activities that are funded by Federal*

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

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

6 **SEC. 8. ELDER JUSTICE.**

7 (a) *ELDER JUSTICE.—*

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

10 (A) *in the title heading, by inserting “AND*
 11 *ELDER JUSTICE” after “SOCIAL SERV-*
 12 *ICES”;*

13 (B) *by inserting before section 2001 the fol-*
 14 *lowing:*

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

17 *and*

18 (C) *by adding at the end the following:*

19 *“PART B—ELDER JUSTICE*

20 **“SEC. 2011. DEFINITIONS.**

21 *“In this part:*

22 (1) *ABUSE.—The term ‘abuse’ means the know-*
 23 *ing infliction of physical or psychological harm or the*
 24 *knowing deprivation of goods or services that are nec-*

1 *essary to meet essential needs or to avoid physical or*
2 *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 to—*

17 “(i) *prevent, detect, treat, intervene in,*
18 *and prosecute elder abuse, neglect, and ex-*
19 *ploitation; and*

20 “(ii) *protect elders with diminished ca-*
21 *capacity while maximizing their autonomy;*
22 *and*

23 “(B) *from an individual perspective, the*
24 *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, be-*
10 *longings, 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 and*
15 *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 financial*
20 *power of attorney or health care power of attor-*
21 *ney, or a representative payee.*

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

24 “(A) *the process by which a State court de-*
25 *termines that an adult individual lacks capacity*

1 *to make decisions about self-care and property,*
2 *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 speci-*
13 *fied 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, or*
16 *vulnerability.*

17 “(B) *LOSS OF CAPACITY FOR SELF-CARE.—*
18 *For purposes of subparagraph (A), the term ‘loss*
19 *of capacity for self-care’ means an inability to*
20 *engage in 1 or more activities of daily living, in-*
21 *cluding eating, dressing, bathing, and manage-*
22 *ment 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 essen-*
7 *tial self-care tasks including—*

8 “(A) *obtaining essential food, clothing, shel-*
9 *ter, and medical care;*

10 “(B) *obtaining goods and services necessary*
11 *to maintain physical health, mental health, or*
12 *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 regula-*
18 *tions promulgated under section 264(c) of the Health Insur-*
19 *ance Portability and Accountability Act of 1996 and appli-*
20 *able 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 oral-
2 ly or in writing, with respect to a specific illness or
3 injury which the elder has at the time of the decision
4 by an elder who is competent at the time of the deci-
5 sion;

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 State
9 law; or

10 “(3) may be unambiguously deduced from the el-
11 der’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 des-
20 ignee).

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

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

1 *ing responsibilities, or administering programs,*
2 *relating to elder abuse, neglect, and exploitation.*

3 “(2) *REQUIREMENT.*—*Each member of the Coun-*
4 *cil shall be an officer or employee of the Federal Gov-*
5 *ernment.*

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

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

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

13 “(f) *DUTIES.*—

14 “(1) *IN GENERAL.*—*The Council shall make rec-*
15 *ommendations to the Secretary for the coordination of*
16 *activities of the Department of Health and Human*
17 *Services, the Department of Justice, and other rel-*
18 *evant Federal, State, local, and private agencies and*
19 *entities, relating to elder abuse, neglect, and exploi-*
20 *tation and other crimes against elders.*

21 “(2) *REPORT.*—*Not later than the date that is 2*
22 *years after the date of enactment of the Elder Abuse*
23 *Victims Act of 2008 and every 2 years thereafter, the*
24 *Council shall submit to the Committee on Finance of*
25 *the Senate and the Committee on Ways and Means*

1 *and the Committee on Energy and Commerce of the*
2 *House of Representatives a report that—*

3 *“(A) describes the activities and accomplish-*
4 *ments of, and challenges faced by—*

5 *“(i) the Council; and*

6 *“(ii) the entities represented on the*
7 *Council; and*

8 *“(B) makes such recommendations for legis-*
9 *lation, model laws, or other action as the Council*
10 *determines to be appropriate.*

11 *“(g) POWERS OF THE COUNCIL.—*

12 *“(1) INFORMATION FROM FEDERAL AGENCIES.—*

13 *Subject to the requirements of section 2012(a), the*
14 *Council may secure directly from any Federal depart-*
15 *ment or agency such information as the Council con-*
16 *siders necessary to carry out this section. Upon re-*
17 *quest of the Chair of the Council, the head of such de-*
18 *partment or agency shall furnish such information to*
19 *the Council.*

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

24 *“(h) TRAVEL EXPENSES.—The members of the Council*
25 *shall not receive compensation for the performance of serv-*

1 ices for the Council. The members shall be allowed travel
2 expenses, including per diem in lieu of subsistence, at rates
3 authorized for employees of agencies under subchapter I of
4 chapter 57 of title 5, United States Code, while away from
5 their homes or regular places of business in the performance
6 of services for the Council. Notwithstanding section 1342
7 of title 31, United States Code, the Secretary may accept
8 the voluntary and uncompensated services of the members
9 of the Council.

10 “(i) *DETAIL OF GOVERNMENT EMPLOYEES.*—Any
11 Federal Government employee may be detailed to the Coun-
12 cil without reimbursement, and such detail shall be without
13 interruption or loss of civil service status or privilege.

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

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

19 “(a) *ESTABLISHMENT.*—There is established a board
20 to be known as the ‘Advisory Board on Elder Abuse, Neglect,
21 and Exploitation’ (in this section referred to as the ‘Advi-
22 sory Board’) to create short- and long-term multidisci-
23 plinary strategic plans for the development of the field of
24 elder justice and to make recommendations to the Elder

1 *Justice Coordinating Council established under section*
2 *2013.*

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

9 “(c) *SOLICITATION OF NOMINATIONS.*—*The Secretary*
10 *shall publish a notice in the Federal Register soliciting*
11 *nominations for the appointment of members of the Advi-*
12 *sory Board under subsection (b).*

13 “(d) *TERMS.*—

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

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

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

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

23 “(2) *VACANCIES.*—

24 “(A) *IN GENERAL.*—*Any vacancy on the*
25 *Advisory Board shall not affect its powers, but*

1 *shall be filled in the same manner as the original*
2 *appointment was made.*

3 “(B) *FILLING UNEXPIRED TERM.*—*An indi-*
4 *vidual chosen to fill a vacancy shall be ap-*
5 *pointed for the unexpired term of the member re-*
6 *placed.*

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

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

14 “(f) *DUTIES.*—

15 “(1) *ENHANCE COMMUNICATION ON PROMOTING*
16 *QUALITY OF, AND PREVENTING ABUSE AND NEGLECT*
17 *IN, LONG-TERM CARE.*—*The Advisory Board shall de-*
18 *velop collaborative and innovative approaches to im-*
19 *prove the quality of, including preventing abuse and*
20 *neglect in, long-term care.*

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

24 “(A) *IN GENERAL.*—*The Advisory Board*
25 *shall establish multidisciplinary panels to ad-*

1 *dress, and develop consensus on, subjects relating*
2 *to improving the quality of long-term care. At*
3 *least 1 such panel shall address, and develop con-*
4 *sensus on, methods for managing resident-to-resi-*
5 *dent abuse in long-term care.*

6 “(B) *ACTIVITIES CONDUCTED.*—*The multi-*
7 *disciplinary panels established under subpara-*
8 *graph (A) shall examine relevant research and*
9 *data, identify best practices with respect to the*
10 *subject of the panel, determine the best way to*
11 *carry out those best practices in a practical and*
12 *feasible manner, and determine an effective man-*
13 *ner of distributing information on such subject.*

14 “(3) *REPORT.*—*Not later than the date that is*
15 *18 months after the date of enactment of the Elder*
16 *Abuse Victims Act of 2008, and annually thereafter,*
17 *the Advisory Board shall prepare and submit to the*
18 *Elder Justice Coordinating Council, the Committee*
19 *on Finance of the Senate, and the Committee on*
20 *Ways and Means and the Committee on Energy and*
21 *Commerce of the House of Representatives a report*
22 *containing—*

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

1 “(B) recommendations (including rec-
2 ommended priorities) regarding—

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

6 “(ii) coordination between entities pur-
7 suing elder justice efforts and those involved
8 in related areas that may inform or overlap
9 with elder justice efforts, such as activities
10 to combat violence against women and child
11 abuse and neglect; and

12 “(iii) activities relating to adult fidu-
13 ciary systems, including guardianship and
14 other fiduciary arrangements;

15 “(C) recommendations for specific modifica-
16 tions needed in Federal and State laws (includ-
17 ing regulations) or for programs, research, and
18 training to enhance prevention, detection, and
19 treatment (including diagnosis) of, intervention
20 in (including investigation of), and prosecution
21 of elder abuse, neglect, and exploitation;

22 “(D) recommendations on methods for the
23 most effective coordinated national data collec-
24 tion with respect to elder justice, and elder abuse,
25 neglect, and exploitation; and

1 “(E) recommendations for a multidisci-
2 plinary strategic plan to guide the effective and
3 efficient development of the field of elder justice.

4 “(g) POWERS OF THE ADVISORY BOARD.—

5 “(1) INFORMATION FROM FEDERAL AGENCIES.—
6 Subject to the requirements of section 2012(a), the Ad-
7 visory Board may secure directly from any Federal
8 department or agency such information as the Advi-
9 sory Board considers necessary to carry out this sec-
10 tion. Upon request of the Chair of the Advisory
11 Board, the head of such department or agency shall
12 furnish such information to the Advisory Board.

13 “(2) SHARING OF DATA AND REPORTS.—The Ad-
14 visory Board may request from any entity pursuing
15 elder justice activities under the Elder Abuse Victims
16 Act of 2008 or an amendment made by such Act, any
17 data, reports, or recommendations generated in con-
18 nection with such activities.

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

23 “(h) TRAVEL EXPENSES.—The members of the Advi-
24 sory Board shall not receive compensation for the perform-
25 ance of services for the Advisory Board. The members shall

1 *be allowed travel expenses for up to 4 meetings per year,*
2 *including per diem in lieu of subsistence, at rates author-*
3 *ized for employees of agencies under subchapter I of chapter*
4 *57 of title 5, United States Code, while away from their*
5 *homes or regular places of business in the performance of*
6 *services for the Advisory Board. Notwithstanding section*
7 *1342 of title 31, United States Code, the Secretary may ac-*
8 *cept the voluntary and uncompensated services of the mem-*
9 *bers of the Advisory Board.*

10 “(i) *DETAIL OF GOVERNMENT EMPLOYEES.—Any*
11 *Federal Government employee may be detailed to the Advi-*
12 *sory Board without reimbursement, and such detail shall*
13 *be without interruption or loss of civil service status or*
14 *privilege.*

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

18 **“SEC. 2015. RESEARCH PROTECTIONS.**

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

23 “(b) *DEFINITION OF LEGALLY AUTHORIZED REP-*
24 *RESENTATIVE FOR APPLICATION OF REGULATIONS.—For*
25 *purposes of the application of subpart A of part 46 of title*

1 45, Code of Federal Regulations, to research conducted
2 under this chapter the term ‘legally authorized representa-
3 tive’ means, unless otherwise provided by law, the indi-
4 vidual or judicial or other body authorized under the appli-
5 cable law to consent to medical treatment on behalf of an-
6 other person.

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

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

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

11 “(2) for each of fiscal years 2010 through 2012,
12 \$7,000,000.”.

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

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

17 (1) by amending subsection (a) to read as fol-
18 lows:

19 “(a) GRANT.—Subject to the availability of appropria-
20 tions to carry out this section, the Attorney General,
21 through the Bureau of Justice Assistance and in consulta-
22 tion with the Secretary of Health and Human Services,
23 shall award competitive grants to States, units of local gov-
24 ernment, and nonprofit organizations to assist such States,
25 units, and organizations, respectively, in paying for the

1 *costs of planning, designing, establishing, and operating lo-*
2 *cally based, proactive programs to protect and locate miss-*
3 *ing patients with Alzheimer’s disease and related dementias*
4 *and other missing elderly individuals.”;*

5 (2) *in subsection (b)—*

6 (A) *by inserting “competitive” after “to re-*
7 *ceive a”;* and

8 (B) *by adding at the end the following new*
9 *sentence: “The Attorney General shall periodi-*
10 *cally solicit applications for grants under this*
11 *section by publishing a request for applications*
12 *in the Federal Register and by posting such a re-*
13 *quest on the website of the Department of Jus-*
14 *tice.”;*

15 (3) *by amending subsection (c) to read as fol-*
16 *lows:*

17 “(c) *PREFERENCE.—In awarding grants under sub-*
18 *section (a), the Attorney General shall give preference to*
19 *nonprofit organizations that have a direct link to patients,*
20 *and families of patients, with Alzheimer’s disease and re-*
21 *lated dementias.”;* and

22 (4) *by amending subsection (d) to read as fol-*
23 *lows:*

1 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
2 *are authorized to be appropriated to carry out this section*
3 *\$5,000,000 for each of the fiscal years 2009 through 2015.*”.

4 **SEC. 10. DEFINITIONS.**

5 *In this Act:*

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

8 (2) *ELDER JUSTICE.*—*The term “elder justice”*
9 *means—*

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

11 (i) *prevent, detect, treat, intervene in,*
12 *and prosecute elder abuse, neglect, and ex-*
13 *ploitation; and*

14 (ii) *protect elders with diminished ca-*
15 *capacity while maximizing their autonomy;*
16 *and*

17 (B) *from an individual perspective, the rec-*
18 *ognition of an elder’s rights, including the right*
19 *to be free of abuse, neglect, and exploitation.*

Union Calendar No. 561

110TH CONGRESS
2^D SESSION

H. R. 5352

[Report No. 110-864, Part I]

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.

SEPTEMBER 22, 2008

Reported from the Committee on the Judiciary with an amendment

SEPTEMBER 22, 2008

Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed