

113TH CONGRESS
1ST SESSION

H. R. 861

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2013

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

A BILL

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

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 2013”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the terms “abuse”, “elder”, “elder justice”,
9 “exploitation”, and “neglect” have the meanings
10 given those terms in section 2011 of the Social Secu-
11 rity Act (42 U.S.C. 1397j);

12 (2) the term “elder abuse” includes neglect and
13 exploitation;

14 (3) the term “Director” means the Director of
15 the Office appointed under section 3(b);

16 (4) the term “Office” means the Office of Elder
17 Justice established under section 3(a);

18 (5) the term “State” means each of the several
19 States of the United States, the District of Colum-
20 bia, the Commonwealth of Puerto Rico, and any
21 other territory of possession of the United States;
22 and

23 (6) the term “task force” means a multidisci-
24 plinary task force on elder justice established or des-
25 igned under section 5(c)(1).

1 **SEC. 3. OFFICE OF ELDER JUSTICE.**

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

6 (b) DIRECTOR.—The Office shall be headed by a Di-
7 rector who shall—

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

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

14 (c) RESPONSIBILITIES.—The Director shall—

15 (1) create, compile, evaluate, and disseminate
16 materials and information, and provide the nec-
17 essary training and technical assistance, to assist
18 States and units of local government in—

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

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

24 (ii) exploitation of elders, including fi-
25 nancial abuse and scams targeting elders;
26 and

1 (iii) neglect of elders; and

2 (B) assessing, addressing, and mitigating
3 the physical and psychological trauma to vic-
4 tims of elder abuse;

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

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

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

14 (3) publish a report, on an annual basis, that
15 describes the results of the evaluations conducted
16 under paragraphs (1) and (2), and submit the report
17 to each Federal agency, each State, and the Com-
18 mittee on the Judiciary and the Special Committee
19 on Aging of the Senate and the Committee on the
20 Judiciary of the House of Representatives;

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

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

5 (A) conduct investigations in elder abuse
6 cases;

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

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

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

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

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

20 (i) whether the State laws are en-
21 forced; and

22 (ii) if enforced—

23 (I) how the State laws are en-
24 forced; and

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

4 (C) a review of State definitions of the
5 terms “abuse”, “neglect”, and “exploitation” in
6 the context of elder abuse cases;

7 (D) a review of State laws that mandate
8 reporting of elder abuse, including adult protec-
9 tive services laws, laws that require the report-
10 ing of nursing home deaths or suspicious deaths
11 of elders to coroners or medical examiners, and
12 other pertinent reporting laws, that analyzes—

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

15 (ii) whether the State laws are en-
16 forced;

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

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

22 (E) a review of State evidentiary, proce-
23 dural, sentencing, choice of remedies, and data
24 retention issues relating to elder abuse;

1 (F) a review of State fiduciary laws, in-
2 cluding laws relating to guardianship, con-
3 servatorship, and power of attorney;

4 (G) a review of State laws that permit or
5 encourage employees of depository institutions
6 (as defined in section 3(c)(1) of the Federal
7 Deposit Insurance Act (12 U.S.C. 1813(c)(1))
8 and State credit unions (as defined in section
9 101 of the Federal Credit Union Act (12
10 U.S.C. 1752)) to prevent and report suspected
11 elder abuse;

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

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

18 (J) a review of State laws that create pro-
19 grams, offices, or entities that address or re-
20 spond to elder abuse; and

21 (K) an analysis of any other State laws re-
22 lating to elder abuse; and

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

1 hancing the understanding, prevention, and detec-
2 tion of, and response to, elder abuse.

3 **SEC. 4. DATA COLLECTION.**

4 The Attorney General, in consultation with the Sec-
5 retary of Health and Human Services, shall, on an annual
6 basis—

7 (1) collect from Federal, State, and local law
8 enforcement agencies and prosecutor offices statis-
9 tical data relating to the incidence of elder abuse, in-
10 cluding data relating to—

11 (A) the number of elder abuse cases re-
12 ferred to law enforcement agencies, adult pro-
13 tective services, or any other State entity tasked
14 with addressing elder abuse;

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

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

20 (2) identify common data points among Fed-
21 eral, State, and local law enforcement agencies and
22 prosecutor offices that would allow for the collection
23 of uniform national data related to elder abuse;

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

1 (4) identify—

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

4 (B) what entity is most capable of col-
5 lecting the data described in subparagraph (A);
6 and

7 (5) develop recommendations for collecting ad-
8 ditional data relating to elder abuse.

9 **SEC. 5. ELDER VICTIMS GRANT PROGRAM.**

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

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

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

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

21 (1) has a crime victims compensation program
22 that meets the criteria described in section 1403(b)
23 of the Victims of Crime Act of 1984 (42 U.S.C.
24 10602(b)); and

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

1 (c) ESTABLISHMENT OF TASK FORCE.—

2 (1) IN GENERAL.—In order to be eligible to re-
3 ceive a grant under this section, a State shall estab-
4 lish or, subject to paragraph (5), designate a multi-
5 disciplinary task force on elder justice that is com-
6 posed of professionals with knowledge and experi-
7 ence relating to the criminal justice system and
8 issues of elder abuse.

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

13 (A) representatives from law enforcement
14 agencies, such as police officers, sheriffs and
15 deputy sheriffs, detectives, public safety offi-
16 cers, corrections officers, investigators and vic-
17 tims' service personnel;

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

20 (C) judicial and legal officers, including in-
21 dividuals who work on cases of elder abuse;

22 (D) elder justice and elder law advocates,
23 including local agencies on aging and local pub-
24 lic and private agencies and entities relating to
25 elder abuse and other crimes against elders;

1 (E) health and mental health professionals;

2 (F) representatives from social services

3 agencies in the State; and

4 (G) family members of victims of elder
5 abuse.

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

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

12 (B) make recommendations to the State
13 based on the review and evaluation conducted
14 under subparagraph (A), including rec-
15 ommendations relating to—

16 (i) modifying the investigative, admin-
17 istrative, and judicial response to cases of
18 elder abuse in a manner that—

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

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

24 (ii) experimental, model, and dem-
25 onstration programs for testing innovative

1 approaches and techniques that may im-
2 prove the rate of successful prosecution or
3 enhance the effectiveness of judicial and
4 administrative action in elder abuse cases,
5 and which ensure procedural fairness to
6 the accused, including a determination of
7 which programs are most effective; and

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

10 (4) TASK FORCE ALTERNATIVE.—If determined
11 appropriate by the Director, a State may comply
12 with the eligibility requirement described in para-
13 graph (1) by designating a commission or task force
14 established by a State before January 1, 2013, with
15 membership and functions comparable to those de-
16 scribed in paragraphs (2) and (3), respectively, as
17 the task force on elder justice required under such
18 paragraph (1).

19 (5) TASK FORCE MEMBERSHIP WAIVER.—The
20 Director may waive, in part, the task force member-
21 ship requirements under paragraph (2) for a State
22 that demonstrates a need for the waiver.

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

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

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

8 (B) hiring or paying salary and benefits
9 for an employee to coordinate elder justice-re-
10 lated cases, training, technical assistance, and
11 policy development for State and local prosecu-
12 tors and courts;

13 (2) State and local law enforcement agencies in-
14 vestigating cases of elder abuse; and

15 (3) adult protective services.

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

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

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

23 (3) any other information the Director may re-
24 quire.

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

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

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

11 **SEC. 6. ELDER JUSTICE COORDINATING COUNCIL.**

12 Section 2021(b)(1)(B) of the Social Security Act (42
13 U.S.C. 1397k(b)(1)(B)) is amended by striking “(or the
14 Attorney General’s designee)” and inserting “(or the Di-
15 rector of the Office of Elder Justice)”.

16 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

17 There is authorized to be appropriated to carry out
18 this Act \$20,000,000 for each of fiscal years 2014 through
19 2016. Such sums shall be derived from amounts appro-
20 priated in each such fiscal year for General Administra-
21 tion, Salaries and Expenses, for the Department of Jus-
22 tice.

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