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110TH CONGRESS
2^D SESSION

S. 1070

[Report No. 110-470]

To amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2007

Mr. HATCH (for himself, Mrs. LINCOLN, Mr. SMITH, Mr. KOHL, Mr. BOND, Mrs. CLINTON, Mr. SPECTER, Mr. BROWN, Ms. COLLINS, Mrs. BOXER, Mr. LIEBERMAN, Mr. BAYH, Mr. SALAZAR, Mr. NELSON of Florida, Ms. STABENOW, Mr. BIDEN, Mr. REED, Mr. KERRY, Mr. OBAMA, Mr. SCHUMER, Mr. ENZI, Mr. CHAMBLISS, Mr. ROCKEFELLER, Ms. SNOWE, Mr. WYDEN, Mr. DURBIN, Mr. BINGAMAN, Mrs. MURRAY, Ms. CANTWELL, Mrs. DOLE, Mr. CASEY, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. BAUCUS, with an amendment

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

A BILL

To amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Elder Justice Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Purposes.
 Sec. 4. Definitions.
 Sec. 5. Elder Justice.

“Subtitle 2—Elder Justice

“Sec. 2011. Definitions.
 “Sec. 2012. General provisions.

“PART A—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND
 RESEARCH

“SUBPART 1—ELDER JUSTICE COORDINATING COUNCIL AND ADVISORY BOARD
 ON ELDER ABUSE, NEGLECT, AND EXPLOITATION

“Sec. 2021. Elder Justice Coordinating Council.
 “Sec. 2022. Advisory Board on Elder Abuse, Neglect, and Exploitation.
 “Sec. 2023. Research protections.
 “Sec. 2024. Authorization of appropriations.

“SUBPART 2—ELDER ABUSE, NEGLECT, AND EXPLOITATION FORENSIC
 CENTERS

“Sec. 2031. Establishment and support of elder abuse, neglect, and Ex-
 ploitation forensic Centers.

“PART B—PROGRAMS TO PROMOTE ELDER JUSTICE

“Sec. 2041. Enhancement of long-term care.
 “Sec. 2042. Adult protective services functions and grant programs.
 “Sec. 2043. Long-term care ombudsman program grants and training.
 “Sec. 2044. Provision of information regarding, and evaluations of, elder
 justice programs.
 “Sec. 2045. Report.

8 **SEC. 2. FINDINGS.**

9 Congress finds the following:

1 (1) The proportion of the United States popu-
2 lation age 60 years or older will drastically increase
3 in the next 30 years as more than 76,000,000 baby
4 boomers approach retirement and old age.

5 (2) Each year, anywhere between 500,000 and
6 5,000,000 elders in the United States are abused,
7 neglected, or exploited.

8 (3) Elder abuse, neglect, and exploitation have
9 no boundaries, and cross all racial, social class, gen-
10 der, and geographic lines.

11 (4) Victims of elder abuse, neglect, and exploi-
12 tation are not only subject to injury from mistreat-
13 ment and neglect, they are also 3.1 times more likely
14 than elders who were not victims of elder abuse, ne-
15 glect, and exploitation to die at an earlier age than
16 expected.

17 (5) There is a general dearth of data as to the
18 nature and scope of elder abuse, neglect, and exploi-
19 tation. In recognition of the need to improve data
20 collection efforts with respect to elder abuse, neglect,
21 and exploitation, Congress required the Secretary of
22 Health and Human Services to conduct a study by
23 the end of 2008 on establishing a uniform national
24 database on elder abuse under section 405 of title

1 IV of Division C of the Tax Relief and Health Care
2 Act of 2006 (Public Law 109-432).

3 (6) Despite the dearth of data in the field, ex-
4 perts agree that most cases of elder abuse, neglect,
5 and exploitation are never reported and that abuse,
6 neglect, and exploitation shorten a victim's life, often
7 triggering a downward spiral of an otherwise pro-
8 ductive, self-sufficient elder's life. Programs address-
9 ing other difficult issues such as domestic violence
10 and child abuse and neglect have demonstrated the
11 need for a multifaceted law, combining public health,
12 social service, and law enforcement approaches.

13 (7) For over 20 years, Congress has been pre-
14 sented with facts and testimony calling for a coordi-
15 nated Federal effort to combat elder abuse, neglect,
16 and exploitation.

17 (8) The Federal Government has been slow to
18 respond to the needs of victims of elder abuse, ne-
19 glect, and exploitation or to undertake prevention ef-
20 forts.

21 (9) No Federal law has been enacted that ade-
22 quately and comprehensively addresses the issues of
23 elder abuse, neglect, and exploitation and there are
24 very limited resources available to those in the field
25 that directly deal with the issues.

1 (10) Differences in State laws and practices in
2 the areas of elder abuse, neglect, and exploitation
3 lead to significant disparities in prevention, protec-
4 tive and social services, treatment systems, and law
5 enforcement, and lead to other inequities.

6 (11) The Federal Government has played an
7 important role in promoting research, training, pub-
8 lic safety, and data collection, and the identification,
9 development, and dissemination of promising health
10 care, social, and protective services, and law enforce-
11 ment practices, relating to child abuse and neglect,
12 domestic violence, and violence against women. The
13 Federal Government should promote similar efforts
14 and protections relating to elder abuse, neglect, and
15 exploitation.

16 (12) The Federal Government should provide
17 leadership and assist States and communities in
18 their efforts to protect elders in the United States
19 by—

20 (A) promoting coordinated planning among
21 all levels of government;

22 (B) generating and sharing knowledge rel-
23 evant to protecting elders;

1 (C) providing leadership to combat the
2 abuse, neglect, and exploitation of the Nation's
3 elders; and

4 (D) providing resources to States and com-
5 munities to promote elder justice.

6 (13) The problem of elder abuse, neglect, and
7 exploitation requires a comprehensive approach
8 that—

9 (A) integrates the work of health, legal,
10 and social service agencies and organizations;

11 (B) emphasizes the need for prevention, re-
12 porting, investigation, assessment, treatment,
13 and prosecution of elder abuse, neglect, and ex-
14 ploitation at all levels of government;

15 (C) ensures that sufficient numbers of
16 properly trained personnel with specialized
17 knowledge are in place to—

18 (i) treat, assess, and provide services
19 relating to elder abuse, neglect, and exploi-
20 tation; and

21 (ii) carry out elder protection duties;

22 (D) is sensitive to ethnic and cultural di-
23 versity;

24 (E) recognizes the role of mental health,
25 disability, dementia, substance abuse, medica-

1 tion mismanagement, and family dysfunction
2 problems in increasing and exacerbating elder
3 abuse, neglect, and exploitation; and

4 (F) balances elders' right to self-deter-
5 mination with society's responsibility to protect
6 elders.

7 (14) The human, social, and economic cost of
8 elder abuse, neglect, and exploitation is high and in-
9 cludes unnecessary expenditures of funds from many
10 public programs.

11 (15) The failure to coordinate activities relating
12 to, and comprehensively prevent and treat, elder
13 abuse, neglect, and exploitation threatens the future
14 and well-being of millions of elders in the United
15 States.

16 (16) All elements of society in the United
17 States have a shared responsibility in responding to
18 a national problem of elder abuse, neglect, and ex-
19 ploitation.

20 **SEC. 3. PURPOSES.**

21 The purposes of this Act are as follows:

22 (1) To enhance the social security of the Nation
23 by ensuring adequate public-private infrastructure
24 and resolving to prevent, detect, treat, understand,

1 and intervene in, and where appropriate, aid in the
2 prosecution of, elder abuse, neglect, and exploitation.

3 ~~(2) To bring a comprehensive approach to pre-~~
4 ~~venting and combating elder abuse, neglect, and ex-~~
5 ~~ploitation, a long invisible problem that afflicts the~~
6 ~~most vulnerable among the aging population of the~~
7 ~~United States.~~

8 ~~(3) To raise the issue of elder abuse, neglect,~~
9 ~~and exploitation to national attention, and to create~~
10 ~~the infrastructure at the Federal, State, and local~~
11 ~~levels, to ensure that individuals and organizations~~
12 ~~on the front lines, who are fighting elder abuse, ne-~~
13 ~~glect, and exploitation with scarce resources and~~
14 ~~fragmented systems, have the resources and infor-~~
15 ~~mation needed to carry out their fight.~~

16 ~~(4) To bring a comprehensive multidisciplinary~~
17 ~~approach to elder justice.~~

18 ~~(5) To set in motion research and data collec-~~
19 ~~tion to fill gaps in knowledge about elder abuse, ne-~~
20 ~~glect, and exploitation.~~

21 ~~(6) To supplement the activities of service pro-~~
22 ~~viders and programs, to enhance training, and to le-~~
23 ~~verage scarce resources efficiently, in order to ensure~~
24 ~~that elder justice receives the attention it deserves as~~
25 ~~the Nation's population ages.~~

1 (7) To recognize and address the role of mental
2 health, disability, dementia, substance abuse, medi-
3 cation mismanagement, and family dysfunction prob-
4 lems in increasing and exacerbating elder abuse, ne-
5 glect, and exploitation.

6 (8) To create short- and long-term strategie
7 plans for the development and coordination of elder
8 justice research, programs, studies, training, and
9 other efforts nationwide.

10 (9) To promote collaborative efforts and dimin-
11 ish overlap and gaps in efforts in developing the im-
12 portant field of elder justice.

13 (10) To honor and respect the right of all indi-
14 viduals with diminished capacity to decisionmaking
15 autonomy, self-determination, and dignity of choice.

16 (11) To respect the wishes of individuals with
17 diminished capacity and their family members in
18 providing supportive services and care plans in-
19 tended to protect elders from abuse, neglect (includ-
20 ing self-neglect), and exploitation.

21 **SEC. 4. DEFINITIONS.**

22 Except as otherwise specifically provided, any term
23 that is defined in section 2011 of the Social Security Act
24 (as added by section 5(a)) and is used in this Act has
25 the meaning given such term by such section.

1 **SEC. 5. ELDER JUSTICE.**2 (a) **ELDER JUSTICE.**—3 (1) **IN GENERAL.**—Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—4 (A) in the heading, by inserting “**AND**
5 **ELDER JUSTICE**” after “**SOCIAL**
6 **SERVICES**”;7 (B) by inserting before section 2001 the
8 following:9
10 **“Subtitle 1—Block Grants to States**
11 **for Social Services”;**

12 and

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

14 **“Subtitle 2—Elder Justice**15 **“SEC. 2011. DEFINITIONS.**

16 “In this subtitle:

17 “(1) **ABUSE.**—The term ‘abuse’ means the
18 knowing infliction of physical or psychological harm
19 or the knowing deprivation of goods or services that
20 are necessary to meet essential needs or to avoid
21 physical or psychological harm.22 “(2) **ADULT PROTECTIVE SERVICES.**—The term
23 ‘adult protective services’ means such services pro-
24 vided to adults as the Secretary may specify and in-
25 cludes services such as—

1 ~~“(A) disseminating reports of adult abuse,~~
2 ~~neglect, or exploitation;~~

3 ~~“(B) investigating the reports described in~~
4 ~~subparagraph (A);~~

5 ~~“(C) case planning, monitoring, evaluation,~~
6 ~~and other case work and services; and~~

7 ~~“(D) providing, arranging for, or facili-~~
8 ~~tating the provision of medical, social service,~~
9 ~~economic, legal, housing, law enforcement, or~~
10 ~~other protective, emergency, or support services.~~

11 ~~“(3) CAREGIVER.—The term ‘caregiver’ means~~
12 ~~an individual who has the responsibility for the care~~
13 ~~of an elder, either voluntarily, by contract, by receipt~~
14 ~~of payment for care, or as a result of the operation~~
15 ~~of law, and means a family member or other indi-~~
16 ~~vidual who provides (on behalf of such individual or~~
17 ~~of a public or private agency, organization, or insti-~~
18 ~~tution) compensated or uncompensated care to an~~
19 ~~elder who needs supportive services in any setting.~~

20 ~~“(4) DIRECT CARE.—The term ‘direct care’~~
21 ~~means care by an employee or contractor who pro-~~
22 ~~vides assistance or long-term care services to a re-~~
23 ~~ipient.~~

24 ~~“(5) ELDER.—The term ‘elder’ means an indi-~~
25 ~~vidual age 60 or older.~~

1 “(6) ELDER JUSTICE.—The term ‘elder justice’
2 means—

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

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

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

11 “(B) from an individual perspective, the
12 recognition of an elder’s rights, including the
13 right to be free of abuse, neglect, and exploi-
14 tation.

15 “(7) ELIGIBLE ENTITY.—The term ‘eligible en-
16 tity’ means a State or local government agency, In-
17 dian tribe or tribal organization, or any other public
18 or private entity that is engaged in and has expertise
19 in issues relating to elder justice or in a field nec-
20 essary to promote elder justice efforts.

21 “(8) EXPLOITATION.—The term ‘exploitation’
22 means the fraudulent or otherwise illegal, unauthor-
23 ized, or improper act or process of an individual, in-
24 cluding a caregiver or fiduciary, that uses the re-
25 sources of an elder for monetary or personal benefit,

1 profit, or gain, or that results in depriving an elder
 2 of rightful access to, or use of, benefits, resources,
 3 belongings, or assets.

4 “(9) FIDUCIARY.—The term ‘fiduciary’—

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

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

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

11 “(B) includes a trustee, a guardian, a con-
 12 servator, an executor, an agent under a finan-
 13 cial power of attorney or health care power of
 14 attorney, or a representative payee.

15 “(10) GRANT.—The term ‘grant’ includes a
 16 contract, cooperative agreement, or other mechanism
 17 for providing financial assistance.

18 “(11) GUARDIANSHIP.—The term ‘guardian-
 19 ship’ means—

20 “(A) the process by which a State court
 21 determines that an adult individual lacks capac-
 22 ity to make decisions about self-care and prop-
 23 erty, and appoints another individual or entity
 24 known as a guardian, as a conservator, or by a
 25 similar term, as a surrogate decisionmaker;

1 “(B) the manner in which the court-ap-
2 pointed surrogate decisionmaker carries out du-
3 ties to the individual and the court; or

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

6 “(12) INDIAN TRIBE.—

7 “(A) IN GENERAL.—The term ‘Indian
8 tribe’ has the meaning given such term in sec-
9 tion 4 of the Indian Self-Determination and
10 Education Assistance Act (25 U.S.C. 450b).

11 “(B) INCLUSION OF PUEBLO AND
12 RANCHERIA.—The term ‘Indian tribe’ includes
13 any Pueblo or Rancheria.

14 “(13) LAW ENFORCEMENT.—The term ‘law en-
15 forcement’ means the full range of potential re-
16 sponders to elder abuse, neglect, and exploitation in-
17 cluding—

18 “(A) police, sheriffs, detectives, public safe-
19 ty officers, and corrections personnel;

20 “(B) prosecutors;

21 “(C) medical examiners;

22 “(D) investigators; and

23 “(E) coroners.

24 “(14) LONG-TERM CARE.—

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

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

13 “(15) LONG-TERM CARE FACILITY.—The term
14 ‘long-term care facility’ means a residential care pro-
15 vider that arranges for, or directly provides, long-
16 term care.

17 “(16) NEGLECT.—The term ‘neglect’ means—
18 “(A) the failure of a caregiver or fiduciary
19 to provide the goods or services that are nec-
20 essary to maintain the health or safety of an
21 elder; or

22 “(B) self-neglect.

23 “(17) NURSING FACILITY.—

1 “(A) IN GENERAL.—The term ‘nursing fa-
2 cility’ has the meaning given such term under
3 section 1919(a).

4 “(B) INCLUSION OF SKILLED NURSING FA-
5 CILTY.—The term ‘nursing facility’ includes a
6 skilled nursing facility (as defined in section
7 1819(a)).

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

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

14 “(B) obtaining goods and services nec-
15 essary to maintain physical health, mental
16 health, or general safety; or

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

18 “(19) SERIOUS BODILY INJURY.—

19 “(A) IN GENERAL.—The term ‘serious
20 bodily injury’ means an injury—

21 “(i) involving extreme physical pain;

22 “(ii) involving substantial risk of
23 death;

1 “(iii) involving protracted loss or im-
2 pairment of the function of a bodily mem-
3 ber, organ, or mental faculty; or

4 “(iv) requiring medical intervention
5 such as surgery, hospitalization, or phys-
6 ical rehabilitation.

7 “(B) CRIMINAL SEXUAL ABUSE.—Serious
8 bodily injury shall be considered to have oc-
9 curred if the conduct causing the injury is con-
10 duct described in section 2241 (relating to ag-
11 gravated sexual abuse) or 2242 (relating to sex-
12 ual abuse) of title 18, United States Code, or
13 any similar offense under State law.

14 “(20) SOCIAL.—The term ‘social’, when used
15 with respect to a service, includes adult protective
16 services.

17 “(21) STATE LEGAL ASSISTANCE DEVEL-
18 OPER.—The term ‘State legal assistance developer’
19 means an individual described in section 731 of the
20 Older Americans Act of 1965.

21 “(22) STATE LONG-TERM CARE OMBUDSMAN.—
22 The term ‘State Long-Term Care Ombudsman’
23 means the State Long-Term Care Ombudsman de-
24 scribed in section 712(a)(2) of the Older Americans
25 Act of 1965.

1 ~~“SEC. 2012. GENERAL PROVISIONS.~~

2 ~~“(a) PROTECTION OF PRIVACY.—In pursuing activi-~~
 3 ~~ties under this subtitle, the Secretary shall ensure the pro-~~
 4 ~~tection of individual health privacy consistent with the reg-~~
 5 ~~ulations promulgated under section 264(e) of the Health~~
 6 ~~Insurance Portability and Accountability Act of 1996 and~~
 7 ~~applicable State and local privacy regulations.~~

8 ~~“(b) RULE OF CONSTRUCTION.—Nothing in this sub-~~
 9 ~~title shall be construed to interfere with or abridge an el-~~
 10 ~~der’s right to practice his or her religion through reliance~~
 11 ~~on prayer alone for healing when this choice—~~

12 ~~“(1) is contemporaneously expressed, either~~
 13 ~~orally or in writing, with respect to a specific illness~~
 14 ~~or injury which the elder has at the time of the deci-~~
 15 ~~sion by an elder who is competent at the time of the~~
 16 ~~decision;~~

17 ~~“(2) is previously set forth in a living will,~~
 18 ~~health care proxy, or other advance directive docu-~~
 19 ~~ment that is validly executed and applied under~~
 20 ~~State law; or~~

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

1 **“PART A—NATIONAL COORDINATION OF ELDER**
2 **JUSTICE ACTIVITIES AND RESEARCH**
3 **“Subpart 1—Elder Justice Coordinating Council and**
4 **Advisory Board on Elder Abuse, Neglect, and Ex-**
5 **ploitation**

6 **“SEC. 2021. ELDER JUSTICE COORDINATING COUNCIL.**

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

10 “(b) **MEMBERSHIP.**—

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

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

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

17 “(C) The head of each Federal department
18 or agency or other governmental entity identi-
19 fied by the Chair referred to in subsection (d)
20 as having responsibilities, or administering pro-
21 grams, relating to elder abuse, neglect, and ex-
22 ploitation.

23 “(2) **REQUIREMENT.**—Each member of the
24 Council shall be an officer or employee of the Fed-
25 eral Government.

1 “(e) VACANCIES.—Any vacancy in the Council shall
2 not affect its powers, but shall be filled in the same man-
3 ner as the original appointment was made.

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

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

8 “(f) DUTIES.—

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

17 “(2) REPORT.—Not later than the date that is
18 2 years after the date of enactment of the Elder
19 Justice Act and every 2 years thereafter, the Council
20 shall submit to the Committee on Finance of the
21 Senate and the Committee on Ways and Means and
22 the Committee on Energy and Commerce of the
23 House of Representatives a report that—

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

1 “(i) the Council; and

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

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

7 “(g) POWERS OF THE COUNCIL.—

8 “(1) INFORMATION FROM FEDERAL AGEN-
9 CIES.—Subject to the requirements of section
10 2012(a), the Council may secure directly from any
11 Federal department or agency such information as
12 the Council considers necessary to carry out this sec-
13 tion. Upon request of the Chair of the Council, the
14 head of such department or agency shall furnish
15 such information to the Council.

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

20 “(h) TRAVEL EXPENSES.—The members of the
21 Council shall not receive compensation for the perform-
22 ance of services for the Council. The members shall be
23 allowed travel expenses, including per diem in lieu of sub-
24 sistence, at rates authorized for employees of agencies
25 under subchapter I of chapter 57 of title 5, United States

1 Code, while away from their homes or regular places of
2 business in the performance of services for the Council.
3 Notwithstanding section 1342 of title 31, United States
4 Code, the Secretary may accept the voluntary and uncom-
5 pensated services of the members of the Council.

6 “(i) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any
7 Federal Government employee may be detailed to the
8 Council without reimbursement, and such detail shall be
9 without interruption or loss of civil service status or privi-
10 lege.

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

14 **“SEC. 2022. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
15 **AND EXPLOITATION.**

16 “(a) **ESTABLISHMENT.**—There is established a board
17 to be known as the ‘Advisory Board on Elder Abuse, Ne-
18 glect, and Exploitation’ (in this section referred to as the
19 ‘Advisory Board’) to create short- and long-term multi-
20 disciplinary strategic plans for the development of the field
21 of elder justice and to make recommendations to the Elder
22 Justice Coordinating Council established under section
23 2021.

24 “(b) **COMPOSITION.**—The Advisory Board shall be
25 composed of 27 members appointed by the Secretary from

1 among members of the general public who are individuals
 2 with experience and expertise in elder abuse, neglect, and
 3 exploitation prevention, detection, treatment, intervention,
 4 or prosecution.

5 “(e) SOLICITATION OF NOMINATIONS.—The Sec-
 6 retary shall publish a notice in the Federal Register solie-
 7 iting nominations for the appointment of members of the
 8 Advisory Board under subsection (b).

9 “(d) TERMS.—

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

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

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

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

19 “(2) VACANCIES.—

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

24 “(B) FILLING UNEXPIRED TERM.—An in-
 25 dividual chosen to fill a vacancy shall be ap-

1 pointed for the unexpired term of the member
2 replaced.

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

6 ~~“(e) ELECTION OF OFFICERS.—The Advisory Board~~
7 shall elect a Chair and Vice Chair from among its mem-
8 bers. The Advisory Board shall elect its initial Chair and
9 Vice Chair at its initial meeting.

10 ~~“(f) DUTIES.—~~

11 ~~“(1) ENHANCE COMMUNICATION ON PRO-~~
12 ~~MOTING QUALITY OF, AND PREVENTING ABUSE AND~~
13 ~~NEGLECT IN, LONG-TERM CARE.—The Advisory~~
14 Board shall develop collaborative and innovative ap-
15 proaches to improve the quality of, including pre-
16 venting abuse and neglect in, long-term care.

17 ~~“(2) COLLABORATIVE EFFORTS TO DEVELOP~~
18 ~~CONSENSUS AROUND THE MANAGEMENT OF CER-~~
19 ~~TAIN QUALITY-RELATED FACTORS.—~~

20 ~~“(A) IN GENERAL.—The Advisory Board~~
21 shall establish multidisciplinary panels to ad-
22 dress, and develop consensus on, subjects relat-
23 ing to improving the quality of long-term care.
24 At least 1 such panel shall address, and develop

1 consensus on; methods for managing resident-
2 to-resident abuse in long-term care.

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

12 “(3) REPORT.—Not later than the date that is
13 18 months after the date of enactment of the Elder
14 Justice Act, and annually thereafter, the Advisory
15 Board shall prepare and submit to the Elder Justice
16 Coordinating Council, the Committee on Finance of
17 the Senate, and the Committee on Ways and Means
18 and the Committee on Energy and Commerce of the
19 House of Representatives a report containing—

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

23 “(B) recommendations (including rec-
24 ommended priorities) regarding—

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

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

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

13 “(C) recommendations for specific modi-
14 fications needed in Federal and State laws (in-
15 cluding regulations) or for programs, research,
16 and training to enhance prevention, detection,
17 and treatment (including diagnosis) of, inter-
18 vention in (including investigation of), and
19 prosecution of elder abuse, neglect, and exploi-
20 tation;

21 “(D) recommendations on methods for the
22 most effective coordinated national data collec-
23 tion with respect to elder justice, and elder
24 abuse, 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 jus-
4 tice.

5 “(g) POWERS OF THE ADVISORY BOARD.—

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

15 “(2) SHARING OF DATA AND REPORTS.—The
16 Advisory Board may request from any entity pur-
17 suing elder justice activities under the Elder Justice
18 Act or an amendment made by that Act, any data,
19 reports, or recommendations generated in connection
20 with such activities.

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

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

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

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

21 **“SEC. 2023. RESEARCH PROTECTIONS.**

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

1 “(b) DEFINITION OF LEGALLY AUTHORIZED REP-
 2 REPRESENTATIVE FOR APPLICATION OF REGULATIONS.—For
 3 purposes of the application of subpart A of part 46 of title
 4 45, Code of Federal Regulations, to research conducted
 5 under this subpart, the term ‘legally authorized represent-
 6 ative’ means, unless otherwise provided by law, the indi-
 7 vidual or judicial or other body authorized under the appli-
 8 cable law to consent to medical treatment on behalf of an-
 9 other person.

10 **“SEC. 2024. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to carry out
 12 this subpart—

13 “(1) for fiscal year 2008, \$6,500,000; and

14 “(2) for each of fiscal years 2009 through
 15 2011, \$7,000,000.

16 **“Subpart 2—Elder Abuse, Neglect, and Exploitation**
 17 **Forensic Centers**

18 **“SEC. 2031. ESTABLISHMENT AND SUPPORT OF ELDER**
 19 **ABUSE, NEGLECT, AND EXPLOITATION FO-**
 20 **RENSIC CENTERS.**

21 “(a) IN GENERAL.—The Secretary, in consultation
 22 with the Attorney General, shall make grants to eligible
 23 entities to establish and operate stationary and mobile fo-
 24 rensic centers, to develop forensic expertise regarding, and

1 provide services relating to, elder abuse, neglect, and ex-
 2 ploitation.

3 “(b) STATIONARY FORENSIC CENTERS.—The Sec-
 4 retary shall make 4 of the grants described in subsection
 5 (a) to institutions of higher education with demonstrated
 6 expertise in forensics or commitment to preventing or
 7 treating elder abuse, neglect, or exploitation; to establish
 8 and operate stationary forensic centers.

9 “(c) MOBILE CENTERS.—The Secretary shall make
 10 6 of the grants described in subsection (a) to appropriate
 11 entities to establish and operate mobile forensic centers.

12 “(d) AUTHORIZED ACTIVITIES.—

13 “(1) DEVELOPMENT OF FORENSIC MARKERS
 14 AND METHODOLOGIES.—An eligible entity that re-
 15 ceives a grant under this section shall use funds
 16 made available through the grant to assist in deter-
 17 mining whether abuse, neglect, or exploitation oc-
 18 curred and whether a crime was committed and to
 19 conduct research to describe and disseminate infor-
 20 mation on—

21 “(A) forensic markers that indicate a case
 22 in which elder abuse, neglect, or exploitation
 23 may have occurred; and

24 “(B) methodologies for determining, in
 25 such a case, when and how health care, emer-

1 gency service, social and protective services, and
2 legal service providers should intervene and
3 when the providers should report the case to
4 law enforcement authorities.

5 “(2) DEVELOPMENT OF FORENSIC EXPER-
6 TISE.—An eligible entity that receives a grant under
7 this section shall use funds made available through
8 the grant to develop forensic expertise regarding
9 elder abuse, neglect, and exploitation in order to
10 provide medical and forensic evaluation, therapeutic
11 intervention, victim support and advocacy, case re-
12 view, and case tracking.

13 “(3) COLLECTION OF EVIDENCE.—The Sec-
14 retary, in coordination with the Attorney General,
15 shall use data made available by grant recipients
16 under this section to develop the capacity of geriatric
17 health care professionals and law enforcement to col-
18 lect forensic evidence, including collecting forensic
19 evidence relating to a potential determination of
20 elder abuse, neglect, or exploitation.

21 “(e) APPLICATION.—To be eligible to receive a grant
22 under this section, an entity shall submit an application
23 to the Secretary at such time, in such manner, and con-
24 taining such information as the Secretary may require.

1 ment providing direct care in a long-term care
2 facility.

3 “(B) CAREER LADDERS AND WAGE OR
4 BENEFIT INCREASES TO INCREASE STAFFING IN
5 LONG-TERM CARE FACILITIES.—

6 “(i) IN GENERAL.—The Secretary
7 shall make grants to long-term care facili-
8 ties to carry out programs through which
9 the facilities—

10 “(I) offer, to employees who pro-
11 vide direct care to residents of a long-
12 term care facility, continuing training
13 and varying levels of certification,
14 based on observed clinical care prac-
15 tices and the amount of time the em-
16 ployees spend providing direct care;
17 and

18 “(II) provide, or make arrange-
19 ments to provide, bonuses or other in-
20 creased compensation or benefits to
21 employees who achieve certification
22 under such a program.

23 “(ii) APPLICATION.—To be eligible to
24 receive a grant under this subparagraph, a
25 long-term care facility shall submit an ap-

1 plication to the Secretary at such time, in
2 such manner, and containing such infor-
3 mation as the Secretary may require
4 (which may include evidence of consulta-
5 tion with the State in which the long-term
6 care facility is located with respect to ear-
7 rying out activities funded under the
8 grant).

9 “(iii) AUTHORITY TO LIMIT NUMBER
10 OF APPLICANTS.—Nothing in this subpara-
11 graph shall be construed as prohibiting the
12 Secretary from limiting the number of ap-
13 plicants for a grant under this subpara-
14 graph.

15 “(3) SPECIFIC PROGRAMS TO IMPROVE MAN-
16 AGEMENT PRACTICES.—

17 “(A) IN GENERAL.—The Secretary shall
18 make grants to long-term care facilities to en-
19 able the facilities to provide training and tech-
20 nical assistance to eligible employees.

21 “(B) AUTHORIZED ACTIVITIES.—A long-
22 term care facility that receives a grant under
23 subparagraph (A) shall use funds made avail-
24 able through the grant to provide training and
25 technical assistance to eligible employees re-

1 garding management practices using methods
2 that are demonstrated to promote retention of
3 individuals who provide direct care to residents
4 of the long-term care facility, such as—

5 “(i) the establishment of standard
6 human resource policies that reward high
7 performance, including policies that pro-
8 vide for improved wages and benefits on
9 the basis of job reviews;

10 “(ii) the establishment of motivational
11 and thoughtful work organization prac-
12 tices;

13 “(iii) the creation of a workplace cul-
14 ture that respects and values caregivers
15 and their needs;

16 “(iv) the promotion of a workplace
17 culture that respects the rights of residents
18 of a long-term care facility and results in
19 improved care for the residents; and

20 “(v) the establishment of other pro-
21 grams that promote the provision of high
22 quality care, such as a continuing edu-
23 cation program that provides additional
24 hours of training, including on-the-job

1 training, for employees who are certified
2 nurse aides.

3 “(C) APPLICATION.—To be eligible to re-
4 ceive a grant under this paragraph, a long-term
5 care facility shall submit an application to the
6 Secretary at such time, in such manner, and
7 containing such information as the Secretary
8 may require (which may include evidence of
9 consultation with the State in which the long-
10 term care facility is located with respect to ear-
11 rying out activities funded under the grant).

12 “(D) AUTHORITY TO LIMIT NUMBER OF
13 APPLICANTS.—Nothing in this paragraph shall
14 be construed as prohibiting the Secretary from
15 limiting the number of applicants for a grant
16 under this paragraph.

17 “(E) ELIGIBLE EMPLOYEE DEFINED.—In
18 this paragraph, the term ‘eligible employee’
19 means an individual who establishes or imple-
20 ments management practices applicable with re-
21 spect to individuals who provide direct care to
22 residents of a long-term care facility and in-
23 cludes administrators, directors of nursing,
24 staff developers, and charge nurses.

1 “(4) ACCOUNTABILITY MEASURES.—The Sec-
2 retary shall develop accountability measures to en-
3 sure that the activities conducted using funds made
4 available under this subsection benefit eligible em-
5 ployees and increase the stability of the long-term
6 care workforce.

7 “(b) INFORMATICS SYSTEMS GRANT PROGRAM.—

8 “(1) GRANTS AUTHORIZED.—The Secretary is
9 authorized to make grants to long-term care facili-
10 ties for the purpose of assisting such entities in off-
11 setting the costs related to purchasing, leasing, de-
12 veloping, and implementing standardized clinical
13 health care informatics systems designed to improve
14 patient safety and reduce adverse events and health
15 care complications resulting from medication errors.

16 “(2) USE OF GRANT FUNDS.—Funds provided
17 under grants under this subsection may be used for
18 any of the following:

19 “(A) Purchasing, leasing, and installing
20 computer software and hardware, including
21 handheld computer technologies.

22 “(B) Making improvements to existing
23 computer software and hardware.

1 “(C) Making upgrades and other improve-
2 ments to existing computer software and hard-
3 ware to enable e-prescribing.

4 “(D) Providing education and training to
5 eligible long-term care facility staff on the use
6 of technology to implement the electronic trans-
7 mission of prescription and patient information.

8 “(3) APPLICATION.—To be eligible to receive a
9 grant under this subsection, a long-term care facility
10 shall submit an application to the Secretary at such
11 time, in such manner, and containing such informa-
12 tion as the Secretary may require (which may in-
13 clude evidence of consultation with the State in
14 which the long-term care facility is located with re-
15 spect to carrying out activities funded under the
16 grant).

17 “(4) AUTHORITY TO LIMIT NUMBER OF APPLI-
18 CANTS.—Nothing in this subsection shall be con-
19 strued as prohibiting the Secretary from limiting the
20 number of applicants for a grant under this sub-
21 section.

22 “(5) ACCOUNTABILITY MEASURES.—The Sec-
23 retary shall develop accountability measures to en-
24 sure that the activities conducted using funds made
25 available under this subsection help improve patient

1 safety and reduce adverse events and health care
2 complications resulting from medication errors.

3 ~~“(c) INCLUSION OF ADJUDICATED CRIMES ON NURS-~~
4 ~~ING HOME COMPARE WEBSITE.—~~Not later than 1 year
5 after the date of enactment of the Elder Justice Act, the
6 Secretary shall ensure that the Department of Health and
7 Human Services includes, as part of the information pro-
8 vided for comparison of nursing facilities on the official
9 Internet website of the Federal Government for Medicare
10 beneficiaries (commonly referred to as the ‘Nursing Home
11 Compare’ Medicare website), the number of adjudicated
12 instances of criminal violations by a nursing facility or
13 crimes committed by an employee of a nursing facility—

14 ~~“(1) that were committed inside of the facility;~~
15 ~~and~~

16 ~~“(2) with respect to such instances of violations~~
17 ~~or crimes committed outside of the facility, that~~
18 ~~were the violations or crimes of elder abuse, neglect,~~
19 ~~and exploitation, criminal sexual abuse of an elder,~~
20 ~~or other violations or crimes that resulted in the se-~~
21 ~~rious bodily injury of an elder.~~

22 ~~“(d) DEVELOPMENT OF CONSUMER RIGHTS INFOR-~~
23 ~~MATION PAGE ON NURSING HOME COMPARE WEBSITE.—~~
24 Not later than 1 year after the date of enactment of the
25 Elder Justice Act, the Secretary shall ensure that the De-

1 partment of Health and Human Services, as part of the
 2 information provided for comparison of nursing facilities
 3 on the Nursing Home Compare Medicare website develops
 4 and includes a consumer rights information page that con-
 5 tains links to descriptions of, and information with respect
 6 to, the following:

7 “(1) The documentation on nursing facilities
 8 that is available to the public.

9 “(2) General information and tips on choosing
 10 a nursing facility that meets the needs of the indi-
 11 vidual.

12 “(3) General information on consumer rights
 13 with respect to nursing facilities.

14 “(4) The nursing facility survey process (on a
 15 national and State-specific basis).

16 “(5) On a State-specific basis, the services
 17 available through the State long-term care ombuds-
 18 man for such State.

19 “(e) DEVELOPMENT AND ADOPTION OF STANDARDS
 20 FOR TRANSACTIONS INVOLVING CLINICAL DATA BY
 21 LONG-TERM CARE FACILITIES.—

22 “(1) STANDARDS.—The Secretary shall develop
 23 and adopt uniform open electronic standards for
 24 transactions involving clinical data by long-term care

1 facilities. Such standards shall include messaging
2 and nomenclature standards.

3 ~~“(2) COMPATIBILITY WITH OTHER STAND-~~
4 ~~ARDS.—~~The standards developed and adopted under
5 paragraph (1) shall be compatible with standards es-
6 tablished under part C of title XI, standards estab-
7 lished under subsections (b)(2)(B)(i) and (c)(4) of
8 section 1860D-4, and with general health informa-
9 tion technology standards.

10 ~~“(3) ELECTRONIC SUBMISSION OF DATA TO~~
11 ~~THE SECRETARY.—~~

12 ~~“(A) IN GENERAL.—~~Not later than 10
13 years after the date of enactment of the Elder
14 Justice Act, the Secretary shall have procedures
15 in place to accept the optional electronic sub-
16 mission of clinical data by long-term care facili-
17 ties pursuant to the standards developed and
18 adopted under paragraph (1).

19 ~~“(B) RULE OF CONSTRUCTION.—~~Nothing
20 in this subsection shall be construed to require
21 a long-term care facility to submit clinical data
22 electronically to the Secretary.

23 ~~“(f) REGULATIONS.—~~The Secretary shall promulgate
24 regulations to carry out subsections (c), (d), and (e) of
25 this section. Such regulations shall require a State, as a

1 condition of the receipt of funds under this part, to con-
 2 duct such data collection and reporting as the Secretary
 3 determines are necessary to satisfy the requirements of
 4 such subsections.

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

8 “(1) for fiscal year 2008, \$20,000,000;
 9 “(2) for fiscal year 2009, \$17,500,000; and
 10 “(3) for each of fiscal years 2010 and 2011,
 11 \$15,000,000.

12 **“SEC. 2042. ADULT PROTECTIVE SERVICES FUNCTIONS AND**
 13 **GRANT PROGRAMS.**

14 “(a) SECRETARIAL RESPONSIBILITIES.—

15 “(1) IN GENERAL.—The Secretary shall ensure
 16 that the Department of Health and Human Serv-
 17 ices—

18 “(A) provides funding authorized by this
 19 part to State and local adult protective services
 20 offices that investigate reports of the abuse, ne-
 21 glect, and exploitation of elders;

22 “(B) collects and disseminates data annu-
 23 ally relating to the abuse, exploitation, and ne-
 24 glect of elders in coordination with the Depart-
 25 ment of Justice;

1 “(C) develops and disseminates informa-
2 tion on best practices regarding, and provides
3 training on, carrying out adult protective serv-
4 ices;

5 “(D) conducts research related to the pro-
6 vision of adult protective services; and

7 “(E) provides technical assistance to
8 States and other entities that provide or fund
9 the provision of adult protective services, in-
10 cluding through grants made under subsections
11 (b) and (e).

12 “(2) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated to carry out
14 this subsection, \$3,000,000 for fiscal year 2008 and
15 \$4,000,000 for each of fiscal years 2009 through
16 2011.

17 “(b) GRANTS TO ENHANCE THE PROVISION OF
18 ADULT PROTECTIVE SERVICES.—

19 “(1) ESTABLISHMENT.—There is established an
20 adult protective services grant program under which
21 the Secretary shall annually award grants to States
22 in the amounts calculated under paragraph (2) for
23 the purposes of enhancing adult protective services
24 provided by States and local units of government.

25 “(2) AMOUNT OF PAYMENT.—

1 “(A) IN GENERAL.—Subject to the avail-
2 ability of appropriations and subparagraphs (B)
3 and (C), the amount paid to a State for a fiscal
4 year under the program under this subsection
5 shall equal the amount appropriated for that
6 year to carry out this subsection multiplied by
7 the percentage of the total number of elders
8 who reside in the United States who reside in
9 that State.

10 “(B) GUARANTEED MINIMUM PAYMENT
11 AMOUNT.—

12 “(i) 50 STATES.—Subject to clause
13 (ii), if the amount determined under sub-
14 paragraph (A) for a State for a fiscal year
15 is less than 0.75 percent of the amount ap-
16 propriated for such year, the Secretary
17 shall increase such determined amount so
18 that the total amount paid under this sub-
19 section to the State for the year is equal
20 to 0.75 percent of the amount so appro-
21 priated.

22 “(ii) TERRITORIES.—In the case of a
23 State other than 1 of the 50 States, clause
24 (i) shall be applied as if each reference to
25 ‘0.75’ were a reference to ‘0.1’.

1 “(C) PRO RATA REDUCTIONS.—The Sec-
2 retary shall make such pro rata reductions to
3 the amounts described in subparagraph (A) as
4 are necessary to comply with the requirements
5 of subparagraph (B).

6 “(3) AUTHORIZED ACTIVITIES.—

7 “(A) ADULT PROTECTIVE SERVICES.—
8 Funds made available pursuant to this sub-
9 section may only be used by States and local
10 units of government to provide adult protective
11 services and may not be used for any other pur-
12 pose.

13 “(B) USE BY AGENCY.—Each State receiv-
14 ing funds pursuant to this subsection shall pro-
15 vide such funds to the agency or unit of State
16 government having legal responsibility for pro-
17 viding adult protective services within the State.

18 “(C) SUPPLEMENT NOT SUPPLANT.—Each
19 State or local unit of government shall use
20 funds made available pursuant to this sub-
21 section to supplement and not supplant other
22 Federal, State, and local public funds expended
23 to provide adult protective services in the State.

24 “(4) STATE REPORTS.—Each State receiving
25 funds under this subsection shall submit to the Sec-

1 retary, at such time and in such manner as the Sec-
 2 retary may require, a report on the number of elders
 3 served by the grants awarded under this subsection.

4 “(5) AUTHORIZATION OF APPROPRIATIONS.—

5 There are authorized to be appropriated to carry out
 6 this subsection, \$100,000,000 for each of fiscal
 7 years 2008 through 2011.

8 “(e) STATE DEMONSTRATION PROGRAMS.—

9 “(1) ESTABLISHMENT.—The Secretary shall
 10 award grants to States for the purposes of con-
 11 ducting demonstration programs in accordance with
 12 paragraph (2).

13 “(2) DEMONSTRATION PROGRAMS.—Funds

14 made available pursuant to this subsection may be
 15 used by States and local units of government to con-
 16 duct demonstration programs that test—

17 “(A) training modules developed for the
 18 purpose of detecting or preventing elder abuse;

19 “(B) methods to detect or prevent financial
 20 exploitation of elders;

21 “(C) methods to detect elder abuse;

22 “(D) whether training on elder abuse
 23 forensics enhances the detection of elder abuse
 24 by employees of the State or local unit of gov-
 25 ernment; or

1 “(E) other matters relating to the detec-
2 tion or prevention of elder abuse.

3 “(3) APPLICATION.—To be eligible to receive a
4 grant under this subsection, a State shall submit an
5 application to the Secretary at such time, in such
6 manner, and containing such information as the Sec-
7 retary may require.

8 “(4) STATE REPORTS.—Each State that re-
9 ceives funds under this subsection shall submit a re-
10 port to the Secretary at such time, in such manner,
11 and containing such information as the Secretary
12 may require on the results of the demonstration pro-
13 gram conducted by the State using funds made
14 available under this subsection.

15 “(5) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated to carry out
17 this subsection, \$25,000,000 for each of fiscal years
18 2008 through 2011.

19 **“SEC. 2043. LONG-TERM CARE OMBUDSMAN PROGRAM**
20 **GRANTS AND TRAINING.**

21 “(a) GRANTS TO SUPPORT THE LONG-TERM CARE
22 OMBUDSMAN PROGRAM.—

23 “(1) IN GENERAL.—The Secretary shall make
24 grants to eligible entities with relevant expertise and
25 experience in abuse and neglect in long-term care fa-

1 ilities or long-term care ombudsman programs and
2 responsibilities, for the purpose of—

3 “(A) improving the capacity of State long-
4 term care ombudsman programs to respond to
5 and resolve complaints about abuse and neglect;

6 “(B) conducting pilot programs with State
7 long-term care ombudsman offices or local om-
8 budsman entities; and

9 “(C) providing support for such State
10 long-term care ombudsman programs and such
11 pilot programs (such as through the establish-
12 ment of a national long-term care ombudsman
13 resource center).

14 “(2) AUTHORIZATION OF APPROPRIATIONS.—

15 There are authorized to be appropriated to carry out
16 this subsection—

17 “(A) for fiscal year 2008, \$5,000,000;

18 “(B) for fiscal year 2009, \$7,500,000; and

19 “(C) for each of fiscal years 2010 and
20 2011, \$10,000,000.

21 “(b) OMBUDSMAN TRAINING PROGRAMS.—

22 “(1) IN GENERAL.—The Secretary shall estab-
23 lish programs to provide and improve ombudsman
24 training with respect to elder abuse, neglect, and ex-

1 exploitation for national organizations and State long-
 2 term care ombudsman programs.

3 ~~“(2) AUTHORIZATION OF APPROPRIATIONS.—~~

4 There are authorized to be appropriated to carry out
 5 this subsection, for each of fiscal years 2008
 6 through 2011, \$10,000,000.

7 **“SEC. 2044. PROVISION OF INFORMATION REGARDING, AND**
 8 **EVALUATIONS OF, ELDER JUSTICE PRO-**
 9 **GRAMS.**

10 ~~“(a) PROVISION OF INFORMATION.—To be eligible to~~
 11 ~~receive a grant under this part, an applicant shall agree—~~

12 ~~“(1) except as provided in paragraph (2), to~~
 13 ~~provide the eligible entity conducting an evaluation~~
 14 ~~under subsection (b) of the activities funded through~~
 15 ~~the grant with such information as the eligible entity~~
 16 ~~may require in order to conduct such evaluation; or~~

17 ~~“(2) in the case of an applicant for a grant~~
 18 ~~under section 2041(b), to provide the Secretary with~~
 19 ~~such information as the Secretary may require to~~
 20 ~~conduct an evaluation or audit under subsection (c).~~

21 ~~“(b) USE OF ELIGIBLE ENTITIES TO CONDUCT~~
 22 ~~EVALUATIONS.—~~

23 ~~“(1) EVALUATIONS REQUIRED.—Except as pro-~~
 24 ~~vided in paragraph (2), the Secretary shall—~~

1 “(A) reserve a portion (not less than 2 per-
2 cent) of the funds appropriated with respect to
3 each program carried out under this part; and

4 “(B) use the funds reserved under sub-
5 paragraph (A) to provide assistance to eligible
6 entities to conduct evaluations of the activities
7 funded under each program carried out under
8 this part.

9 “(2) INFORMATICS SYSTEMS GRANT PROGRAM
10 NOT INCLUDED.—The provisions of this subsection
11 shall not apply to the informatics systems grant pro-
12 gram under section 2041(b).

13 “(3) AUTHORIZED ACTIVITIES.—A recipient of
14 assistance described in paragraph (1)(B) shall use
15 the funds made available through the assistance to
16 conduct a validated evaluation of the effectiveness of
17 the activities funded under a program carried out
18 under this part.

19 “(4) APPLICATIONS.—To be eligible to receive
20 assistance under paragraph (1)(B), an entity shall
21 submit an application to the Secretary at such time,
22 in such manner, and containing such information as
23 the Secretary may require, including a proposal for
24 the evaluation.

1 “(5) REPORTS.—Not later than a date specified
2 by the Secretary, an eligible entity receiving assist-
3 ance under paragraph (1)(B) shall submit to the
4 Secretary, the Committee on Ways and Means and
5 the Committee on Energy and Commerce of the
6 House of Representatives, and the Committee on Fi-
7 nance of the Senate a report containing the results
8 of the evaluation conducted using such assistance to-
9 gether with such recommendations as the entity de-
10 termines to be appropriate.

11 “(e) EVALUATIONS AND AUDITS OF INFORMATICS
12 SYSTEMS GRANT PROGRAM BY THE SECRETARY.—

13 “(1) EVALUATIONS.—The Secretary shall con-
14 duct an evaluation of the activities funded under the
15 informatics systems grant program under section
16 2041(b). Such evaluation shall include an evaluation
17 of whether the funding provided under the grant is
18 expended only for the purposes for which it is made.

19 “(2) AUDITS.—The Secretary shall conduct ap-
20 propriate audits of grants made under section
21 2041(b).

22 **“SEC. 2045. REPORT.**

23 “Not later than October 1, 2011, the Secretary shall
24 submit to the Elder Justice Coordinating Council, the
25 Committee on Ways and Means and the Committee on En-

1 ergy and Commerce of the House of Representatives, and
 2 the Committee on Finance of the Senate a report—

3 “(1) compiling, summarizing, and analyzing the
 4 information contained in the State reports submitted
 5 under subsections (b)(4) and (c)(4) of section 2042;
 6 and

7 “(2) containing such recommendations for legis-
 8 lative or administrative action as the Secretary de-
 9 termines to be appropriate.”.

10 (2) OPTION FOR STATE PLAN UNDER PROGRAM
 11 FOR TEMPORARY ASSISTANCE FOR NEEDY FAMI-
 12 LIES.—

13 (A) IN GENERAL.—Section 402(a)(1)(B) of
 14 the Social Security Act (42 U.S.C.
 15 602(a)(1)(B)) is amended by adding at the end
 16 the following new clause:

17 “(v) The document shall indicate
 18 whether the State intends to assist individ-
 19 uals to train for, seek, and maintain em-
 20 ployment—

21 “(I) providing direct care in a
 22 long-term care facility (as such terms
 23 are defined under section 2011); or

24 “(II) in other occupations related
 25 to elder care determined appropriate

1 by the State for which the State iden-
 2 tifies an unmet need for service per-
 3 sonnel,

4 and, if so, shall include an overview of such
 5 assistance.”.

6 (B) EFFECTIVE DATE.—The amendment
 7 made by subparagraph (A) shall take effect on
 8 October 1, 2008.

9 (b) PROTECTING RESIDENTS OF LONG-TERM CARE
 10 FACILITIES.—

11 (1) NATIONAL TRAINING INSTITUTE FOR SUR-
 12 VEYORS.—

13 (A) IN GENERAL.—The Secretary of
 14 Health and Human Services shall enter into a
 15 contract with an entity for the purpose of estab-
 16 lishing and operating a National Training Insti-
 17 tute for Federal and State surveyors. Such In-
 18 stitute shall provide and improve the training of
 19 surveyors with respect to investigating allega-
 20 tions of abuse, neglect, and misappropriation of
 21 property in programs and long-term care facili-
 22 ties that receive payments under title XVIII or
 23 XIX of the Social Security Act.

24 (B) ACTIVITIES CARRIED OUT BY THE IN-
 25 STITUTE.—The contract entered into under

1 subparagraph (A) shall require the Institute es-
2 tablished and operated under such contract to
3 carry out the following activities:

4 (i) Assess the extent to which State
5 agencies use specialized surveyors for the
6 investigation of reported allegations of
7 abuse, neglect, and misappropriation of
8 property in such programs and long-term
9 care facilities.

10 (ii) Evaluate how the competencies of
11 surveyors may be improved to more effec-
12 tively investigate reported allegations of
13 such abuse, neglect, and misappropriation
14 of property, and provide feedback to Fed-
15 eral and State agencies on the evaluations
16 conducted.

17 (iii) Provide a national program of
18 training, tools, and technical assistance to
19 Federal and State surveyors on inves-
20 tigating reports of such abuse, neglect, and
21 misappropriation of property.

22 (iv) Develop and disseminate informa-
23 tion on best practices for the investigation
24 of such abuse, neglect, and misappropria-
25 tion of property.

1 (v) Assess the performance of State
2 complaint intake systems, in order to en-
3 sure that the intake of complaints occurs
4 24 hours per day, 7 days a week (including
5 holidays).

6 (vi) To the extent approved by the
7 Secretary of Health and Human Services,
8 provide a national 24 hours per day, 7
9 days a week (including holidays), back-up
10 system to State complaint intake systems
11 in order to ensure optimum national re-
12 sponsiveness to complaints of such abuse,
13 neglect, and misappropriation of property.

14 (vii) Analyze and report annually on
15 the following:

16 (I) The total number and sources
17 of complaints of such abuse, neglect,
18 and misappropriation of property.

19 (II) The extent to which such
20 complaints are referred to law en-
21 forcement agencies.

22 (III) General results of Federal
23 and State investigations of such com-
24 plaints.

1 (viii) Conduct a national study of the
2 cost to State agencies of conducting com-
3 plaint investigations of skilled nursing fa-
4 cilities and nursing facilities under sections
5 1819 and 1919, respectively, of the Social
6 Security Act (42 U.S.C. 1395i-3; 1396r),
7 and making recommendations to the Sec-
8 retary of Health and Human Services with
9 respect to options to increase the efficiency
10 and cost-effectiveness of such investiga-
11 tions.

12 (C) AUTHORIZATION.—There are author-
13 ized to be appropriated to carry out this para-
14 graph, for the period of fiscal years 2008
15 through 2011, \$12,000,000.

16 (2) GRANTS TO STATE SURVEY AGENCIES.—

17 (A) IN GENERAL.—The Secretary of
18 Health and Human Services shall make grants
19 to State agencies that perform surveys of
20 skilled nursing facilities or nursing facilities
21 under sections 1819 or 1919, respectively, of
22 the Social Security Act (42 U.S.C. 1395i-3;
23 1395r).

24 (B) USE OF FUNDS.—A grant awarded
25 under subparagraph (A) shall be used for the

1 purpose of designing and implementing com-
2 plaint investigations systems that—

3 (i) promptly prioritize complaints in
4 order to ensure a rapid response to the
5 most serious and urgent complaints;

6 (ii) respond to complaints with opti-
7 mum effectiveness and timeliness; and

8 (iii) optimize the collaboration be-
9 tween local authorities, consumers, and
10 providers, including—

11 (I) such State agency;

12 (II) the State Long-Term Care
13 Ombudsman;

14 (III) local law enforcement agen-
15 cies;

16 (IV) advocacy and consumer or-
17 ganizations;

18 (V) State aging units;

19 (VI) Area Agencies on Aging;

20 and

21 (VII) other appropriate entities.

22 (C) AUTHORIZATION.—There are author-
23 ized to be appropriated to carry out this para-
24 graph, for each of fiscal years 2008 through
25 2011, \$5,000,000.

1 (3) REPORTING OF CRIMES AND ENSURING
 2 SAFETY OF RESIDENTS WHEN FEDERALLY FUNDED
 3 LONG-TERM CARE FACILITIES CLOSE.—Part A of
 4 title XI of the Social Security Act (42 U.S.C. 1301
 5 et seq.) is amended by adding at the end the fol-
 6 lowing new sections:

7 “REPORTING TO LAW ENFORCEMENT OF CRIMES OCCUR-
 8 RING IN FEDERALLY FUNDED LONG-TERM CARE FA-
 9 CILITIES

10 “SEC. 1150A. (a) DETERMINATION AND NOTIFICA-
 11 TION.—

12 “(1) DETERMINATION.—The owner or operator
 13 of each long-term care facility that receives Federal
 14 funds under this Act shall annually determine
 15 whether the facility received at least \$10,000 in such
 16 Federal funds during the preceding year.

17 “(2) NOTIFICATION.—If the owner or operator
 18 determines under paragraph (1) that the facility re-
 19 ceived at least \$10,000 in such Federal funds during
 20 the preceding year, such owner or operator shall an-
 21 nually notify each covered individual (as defined in
 22 paragraph (3)) of that individual’s obligation to
 23 comply with the reporting requirements described in
 24 subsection (b).

25 “(3) COVERED INDIVIDUAL DEFINED.—In this
 26 section, the term ‘covered individual’ means each in-

1 individual who is an owner, operator, employee, man-
 2 ager, agent, or contractor of a long-term care facility
 3 that is the subject of a determination described in
 4 paragraph (1).

5 “(b) REPORTING REQUIREMENTS.—

6 “(1) IN GENERAL.—Each covered individual
 7 shall report to the Secretary and 1 or more law en-
 8 forcement entities for the political subdivision in
 9 which the facility is located any reasonable suspicion
 10 of a crime (as defined by the law of the applicable
 11 political subdivision) against any individual who is a
 12 resident of, or is receiving care from, the facility.

13 “(2) TIMING.—If the events that cause the sus-
 14 picion—

15 “(A) result in serious bodily injury, the in-
 16 dividual shall report the suspicion immediately,
 17 but not later than 2 hours after forming the
 18 suspicion; and

19 “(B) do not result in serious bodily injury,
 20 the individual shall report the suspicion not
 21 later than 24 hours after forming the suspicion.

22 “(c) PENALTIES.—

23 “(1) IN GENERAL.—If a covered individual vio-
 24 lates subsection (b)—

1 “(A) the covered individual shall be subject
2 to a civil money penalty of not more than
3 \$200,000; or

4 “(B) the Secretary shall classify the cov-
5 ered individual as an excluded individual, for a
6 period of not more than 3 years.

7 “(2) INCREASED HARM.—If a covered indi-
8 vidual violates subsection (b) and the violation exae-
9 rbates the harm to the victim of the crime or re-
10 sults in harm to another individual—

11 “(A) the covered individual shall be subject
12 to a civil money penalty of not more than
13 \$300,000; and

14 “(B) the Secretary shall classify the cov-
15 ered individual as an excluded individual, for a
16 period of not more than 3 years.

17 “(3) EXCLUDED INDIVIDUAL.—During any pe-
18 riod for which a covered individual is classified as an
19 excluded individual under paragraph (1)(B) or
20 (2)(B), a long-term care facility that employs such
21 individual shall be ineligible to receive Federal funds
22 under this Act.

23 “(4) EXTENUATING CIRCUMSTANCES.—

24 “(A) IN GENERAL.—The Secretary may
25 take into account the financial burden on pro-

1 viders with underserved populations in deter-
 2 mining any penalty to be imposed under this
 3 subsection.

4 “(B) UNDERSERVED POPULATION DE-
 5 FINED.—In this paragraph, the term ‘under-
 6 served population’ means the population of an
 7 area designated by the Secretary as an area
 8 with a shortage of elder justice programs or a
 9 population group designated by the Secretary
 10 as having a shortage of such programs. Such
 11 areas or groups designated by the Secretary
 12 may include—

13 “(i) areas or groups that are geo-
 14 graphically isolated (such as isolated in a
 15 rural area);

16 “(ii) racial and ethnic minority popu-
 17 lations; and

18 “(iii) populations underserved because
 19 of special needs (such as language barriers,
 20 disabilities, alien status, or age).

21 “(d) ADDITIONAL PENALTIES FOR RETALIATION.—

22 “(1) IN GENERAL.—A long-term care facility
 23 may not—

24 “(A) discharge, demote, suspend, threaten,
 25 harass, or deny a promotion or other employ-

1 ment-related benefit to an employee, or in any
2 other manner discriminate against an employee
3 in the terms and conditions of employment be-
4 cause of lawful acts done by the employee; or
5 “~~(B)~~ file a complaint or a report against a
6 nurse or other employee with the appropriate
7 State professional disciplinary agency because
8 of lawful acts done by the nurse or employee,
9 for making a report, causing a report to be made,
10 or for taking steps in furtherance of making a report
11 pursuant to subsection (b)(1).

12 “~~(2)~~ PENALTIES FOR RETALIATION.—If a long-
13 term care facility violates subparagraph (A) or (B)
14 of paragraph (1) the facility shall be subject to a
15 civil money penalty of not more than \$200,000 or
16 the Secretary may classify the entity as an excluded
17 entity for a period of 2 years pursuant to section
18 1128(b), or both.

19 “~~(3)~~ REQUIREMENT TO POST NOTICE.—Each
20 long-term care facility shall post conspicuously in an
21 appropriate location a sign (in a form specified by
22 the Secretary) specifying the rights of employees
23 under this section. Such sign shall include a state-
24 ment that an employee may file a complaint with the
25 Secretary against a long-term care facility that vio-

1 lates the provisions of this subsection and informa-
 2 tion with respect to the manner of filing such a com-
 3 plaint.

4 “(e) PROCEDURE.—The provisions of section 1128A
 5 (other than subsections (a) and (b) and the second sen-
 6 tence of subsection (f)) shall apply to a civil money penalty
 7 under this section in the same manner as such provisions
 8 apply to a penalty or proceeding under section 1128A(a).

9 “(f) DEFINITIONS.—In this section, the terms ‘elder
 10 justice’, ‘long-term care facility’, and ‘law enforcement’
 11 have the meanings given those terms in section 2011.

12 “ENSURING SAFETY OF RESIDENTS WHEN FEDERALLY
 13 FUNDED LONG-TERM CARE FACILITIES CLOSE

14 “SEC. 1150B. (a) IN GENERAL.—

15 “(1) NOTIFICATION OF FACILITY CLOSURE.—
 16 Subject to paragraph (2), if the owner or operator
 17 determines under section 1150A(a)(1) that a long-
 18 term care facility received at least \$10,000 in Fed-
 19 eral funds under this Act during the preceding year,
 20 the owner or operator of the facility shall—

21 “(A) submit to the Secretary and the ap-
 22 propriate State regulatory agency written notifi-
 23 cation of an impending closure not later than
 24 the date that is 60 days prior to the date of
 25 such closure;

1 “(B) include in the notice a plan for the
2 transfer and adequate relocation of the resi-
3 dents of the facility prior to closure, including
4 assurances that the residents will be transferred
5 to the most appropriate facility in terms of
6 quality, services, and location; and

7 “(C) not later than 10 days after the facil-
8 ity closure, submit to the Secretary and the ap-
9 propriate State agency information identifying
10 where residents of the closed facility were trans-
11 ferred and on what date.

12 “(2) EXCEPTION WHERE THE SECRETARY HAS
13 ISSUED A TERMINATION NOTICE.—In the case of a
14 long-term care facility described in paragraph (1) for
15 which the Secretary has issued a termination notice
16 for the facility to close by not later than 15 days
17 after the issuance of such notice, the Secretary shall
18 establish requirements for the notification, transfer,
19 and adequate relocation of residents within an ap-
20 propriate timeframe.

21 “(b) SANCTIONS.—Any person owning or operating
22 a long-term care facility that fails to comply with the re-
23 quirements of subsection (a) shall be subject to—

24 “(1) a civil monetary penalty of up to
25 \$1,000,000;

1 ~~“(2) exclusion from participation in the pro-~~
2 ~~grams under this Act (in accordance with the proce-~~
3 ~~dures of section 1128); and~~

4 ~~“(3) any other applicable civil monetary pen-~~
5 ~~alties and assessments.~~

6 ~~“(e) PROCEDURE.—The provisions of section 1128A~~
7 ~~(other than subsections (a) and (b) and the second sen-~~
8 ~~tence of subsection (f)) shall apply to a civil money penalty~~
9 ~~or assessment under this section in the same manner as~~
10 ~~such provisions apply to a penalty or proceeding under~~
11 ~~section 1128A(a).~~

12 ~~“(d) DEFINITION.—In this section, the term ‘long-~~
13 ~~term care facility’ has the meaning given that term in sec-~~
14 ~~tion 2011.”.~~

15 ~~(4) REPORT TO CONGRESS ON PILOT PROGRAM~~
16 ~~FOR NATIONAL AND STATE BACKGROUND CHECKS~~
17 ~~ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-~~
18 ~~TERM CARE FACILITIES OR PROVIDERS.—Not later~~
19 ~~than the date that is 6 months after the completion~~
20 ~~of the pilot program for national and State back-~~
21 ~~ground checks on direct patient access employees of~~
22 ~~long-term care facilities or providers established~~
23 ~~under section 307 of the Medicare Prescription~~
24 ~~Drug, Improvement, and Modernization Act of 2003~~
25 ~~(42 U.S.C. 1395aa note), the Secretary shall submit~~

1 to the Committee on Finance of the Senate and the
 2 Committee on Ways and Means and the Committee
 3 on Energy and Commerce of the House of Rep-
 4 resentatives a report containing the results of the
 5 evaluation required under subsection (e) of such sec-
 6 tion of such Act, together with recommendations for
 7 such legislation and administrative action as the
 8 Secretary determines appropriate.

9 (c) NATIONAL NURSE AIDE REGISTRY.—

10 (1) DEFINITION OF NURSE AIDE.—In this sub-
 11 section, the term “nurse aide” has the meaning
 12 given that term in sections 1819(b)(5)(F) and
 13 1919(b)(5)(F) of the Social Security Act (42 U.S.C.
 14 1395i-3(b)(5)(F); 1396r(b)(5)(F)).

15 (2) STUDY AND REPORT.—

16 (A) IN GENERAL.—The Secretary, in con-
 17 sultation with appropriate government agencies
 18 and private sector organizations, shall conduct
 19 a study on establishing a national nurse aide
 20 registry.

21 (B) AREAS EVALUATED.—The study con-
 22 ducted under this subsection shall include an
 23 evaluation of—

24 (i) who should be included in the reg-

25 istry;

1 (ii) how such a registry would comply
2 with Federal and State privacy laws and
3 regulations;

4 (iii) how data would be collected for
5 the registry;

6 (iv) what entities and individuals
7 would have access to the data collected;

8 (v) how the registry would provide ap-
9 propriate information regarding violations
10 of Federal and State law by individuals in-
11 cluded in the registry;

12 (vi) how the functions of a national
13 nurse aide registry would be coordinated
14 with the pilot program for national and
15 State background checks on direct patient
16 access employees of long-term care facili-
17 ties or providers established under section
18 307 of the Medicare Prescription Drug,
19 Improvement, and Modernization Act of
20 2003 (Public Law 108-173); and

21 (vii) how the information included in
22 State nurse aide registries developed and
23 maintained under sections 1819(e)(2) and
24 1919(e)(2) of the Social Security Act (42
25 U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2))

1 would be provided as part of a national
2 nurse aide registry.

3 (C) CONSIDERATIONS.—In conducting the
4 study and preparing the report required under
5 this subsection, the Secretary shall take into
6 consideration the findings and conclusions of
7 relevant reports and other relevant resources,
8 including the following:

9 (i) The Department of Health and
10 Human Services Office of Inspector Gen-
11 eral Report, Nurse Aide Registries: State
12 Compliance and Practices (February
13 2005).

14 (ii) The General Accounting Office
15 (now known as the Government Account-
16 ability Office) Report, Nursing Homes:
17 More Can Be Done to Protect Residents
18 from Abuse (March 2002).

19 (iii) The Department of Health and
20 Human Services Office of the Inspector
21 General Report, Nurse Aide Registries:
22 Long-Term Care Facility Compliance and
23 Practices (July 2005).

24 (iv) The Department of Health and
25 Human Services Health Resources and

1 Services Administration Report, Nursing
2 Aides, Home Health Aides, and Related
3 Health Care Occupations—National and
4 Local Workforce Shortages and Associated
5 Data Needs (2004)(in particular with re-
6 spect to chapter 7 and appendix F).

7 (v) The 2001 Report to CMS from
8 the School of Rural Public Health, Texas
9 A&M University, Preventing Abuse and
10 Neglect in Nursing Homes: The Role of
11 Nurse Aide Registries.

12 (vi) Information included in State
13 nurse aide registries developed and main-
14 tained under sections 1819(e)(2) and
15 1919(e)(2) of the Social Security Act (42
16 U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)).

17 (D) REPORT.—Not later than 18 months
18 after the date of enactment of this Act, the Sec-
19 retary shall submit a report to the Elder Jus-
20 tice Coordinating Council, the Committee on
21 Finance of the Senate, and the Committee on
22 Ways and Means and the Committee on Energy
23 and Commerce of the House of Representatives
24 containing the findings and recommendations of
25 the study conducted under this paragraph.

1 ~~(E) FUNDING LIMITATION.—~~Funding for
2 the study conducted under this subsection shall
3 not exceed \$500,000.

4 ~~(3) CONGRESSIONAL ACTION.—~~After receiving
5 the report submitted by the Secretary under para-
6 graph ~~(2)(D)~~, the Committee on Finance of the Sen-
7 ate and the Committee on Ways and Means and the
8 Committee on Energy and Commerce of the House
9 of Representatives shall, as they deem appropriate,
10 take action based on the recommendations contained
11 in the report.

12 ~~(4) AUTHORIZATION OF APPROPRIATIONS.—~~
13 There are authorized to be appropriated such sums
14 as are necessary for the purpose of carrying out this
15 subsection.

16 ~~(d) CONFORMING AMENDMENTS.—~~

17 ~~(1) TITLE XX.—~~Title XX of the Social Security
18 Act (42 U.S.C. 1397 et seq.), as amended by section
19 5(a), is amended—

20 (A) in the heading of section 2001, by
21 striking “TITLE” and inserting “SUBTITLE”;
22 and

23 (B) in subtitle 1, by striking “this title”
24 each place it appears and inserting “this sub-
25 title”.

1 (2) TITLE IV.—Title IV of the Social Security
2 Act (42 U.S.C. 601 et seq.) is amended—

3 (A) in section 404(d)—

4 (i) in paragraphs (1)(A), (2)(A), and
5 (3)(B), by inserting “subtitle 1 of” before
6 “title XX” each place it appears;

7 (ii) in the heading of paragraph (2),
8 by inserting “SUBTITLE OF” before “TITLE
9 XX”; and

10 (iii) in the heading of paragraph
11 (3)(B), by inserting “SUBTITLE OF” before
12 “TITLE XX”; and

13 (B) in sections 422(b), 471(a)(4),
14 472(h)(1), and 473(b)(2), by inserting “subtitle
15 1 of” before “title XX” each place it appears.

16 (3) TITLE XI.—Title XI of the Social Security
17 Act (42 U.S.C. 1301 et seq.) is amended—

18 (A) in section 1128(h)(3)—

19 (i) by inserting “subtitle 1 of” before
20 “title XX”; and

21 (ii) by striking “such title” and in-
22 serting “such subtitle”; and

23 (B) in section 1128A(i)(1), by inserting
24 “subtitle 1 of” before “title XX”.

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
 3 *“Elder Justice Act of 2008”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 5 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. Definitions.

Sec. 5. Elder Justice.

“Subtitle 2—Elder Justice

“Sec. 2011. Definitions.

“Sec. 2012. General provisions.

“PART A—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND
RESEARCH

“SUBPART 1—ELDER JUSTICE COORDINATING COUNCIL AND ADVISORY BOARD
ON ELDER ABUSE, NEGLECT, AND EXPLOITATION

“Sec. 2021. Elder Justice Coordinating Council.

“Sec. 2022. Advisory Board on Elder Abuse, Neglect, and Exploitation.

“Sec. 2023. Research protections.

“Sec. 2024. Authorization of appropriations.

“SUBPART 2—ELDER ABUSE, NEGLECT, AND EXPLOITATION FORENSIC CENTERS

“Sec. 2031. Establishment and support of elder abuse, neglect, and Exploi-
tation forensic Centers.

“PART B—PROGRAMS TO PROMOTE ELDER JUSTICE

“Sec. 2041. Enhancement of long-term care.

“Sec. 2042. Adult protective services functions and grant programs.

“Sec. 2043. Long-term care ombudsman program grants and training.

“Sec. 2044. Provision of information regarding, and evaluations of, elder
justice programs.

“Sec. 2045. Report.

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 (1) *The proportion of the United States popu-*
 9 *lation age 60 years or older will drastically increase*

1 *in the next 30 years as more than 76,000,000 baby*
2 *boomers approach retirement and old age.*

3 (2) *Each year, anywhere between 500,000 and*
4 *5,000,000 elders in the United States are abused, ne-*
5 *glected, or exploited.*

6 (3) *Elder abuse, neglect, and exploitation have*
7 *no boundaries, and cross all racial, social class, gen-*
8 *der, and geographic lines.*

9 (4) *Victims of elder abuse, neglect, and exploi-*
10 *tation are not only subject to injury from mistreat-*
11 *ment and neglect, they are also 3.1 times more likely*
12 *than elders who were not victims of elder abuse, ne-*
13 *glect, and exploitation to die at an earlier age than*
14 *expected.*

15 (5) *There is a general dearth of data as to the*
16 *nature and scope of elder abuse, neglect, and exploi-*
17 *tation. In recognition of the need to improve data col-*
18 *lection efforts with respect to elder abuse, neglect, and*
19 *exploitation, Congress required the Secretary of*
20 *Health and Human Services to conduct a study by*
21 *the end of 2008 on establishing a uniform national*
22 *database on elder abuse under section 405 of title IV*
23 *of Division C of the Tax Relief and Health Care Act*
24 *of 2006 (Public Law 109–432).*

1 (6) *Despite the dearth of data in the field, ex-*
2 *erts agree that most cases of elder abuse, neglect, and*
3 *exploitation are never reported and that abuse, ne-*
4 *glect, and exploitation shorten a victim's life, often*
5 *triggering a downward spiral of an otherwise produc-*
6 *tive, self-sufficient elder's life. Programs addressing*
7 *other difficult issues such as domestic violence and*
8 *child abuse and neglect have demonstrated the need*
9 *for a multifaceted law, combining public health, so-*
10 *cial service, and law enforcement approaches.*

11 (7) *For over 20 years, Congress has been pre-*
12 *sented with facts and testimony calling for a coordi-*
13 *nated Federal effort to combat elder abuse, neglect,*
14 *and exploitation.*

15 (8) *The Federal Government has been slow to re-*
16 *spond to the needs of victims of elder abuse, neglect,*
17 *and exploitation or to undertake prevention efforts.*

18 (9) *No Federal law has been enacted that ade-*
19 *quately and comprehensively addresses the issues of*
20 *elder abuse, neglect, and exploitation and there are*
21 *very limited resources available to those in the field*
22 *that directly deal with the issues.*

23 (10) *Differences in State laws and practices in*
24 *the areas of elder abuse, neglect, and exploitation lead*
25 *to significant disparities in prevention, protective*

1 *and social services, treatment systems, and law en-*
2 *forcement, and lead to other inequities.*

3 *(11) The Federal Government has played an im-*
4 *portant role in promoting research, training, public*
5 *safety, and data collection, and the identification, de-*
6 *velopment, and dissemination of promising health*
7 *care, social, and protective services, and law enforce-*
8 *ment practices, relating to child abuse and neglect,*
9 *domestic violence, and violence against women. The*
10 *Federal Government should promote similar efforts*
11 *and protections relating to elder abuse, neglect, and*
12 *exploitation.*

13 *(12) The Federal Government should provide*
14 *leadership and assist States and communities in their*
15 *efforts to protect elders in the United States by—*

16 *(A) promoting coordinated planning among*
17 *all levels of government;*

18 *(B) generating and sharing knowledge rel-*
19 *evant to protecting elders;*

20 *(C) providing leadership to combat the*
21 *abuse, neglect, and exploitation of the Nation's*
22 *elders; and*

23 *(D) providing resources to States and com-*
24 *munities to promote elder justice.*

1 (13) *The problem of elder abuse, neglect, and ex-*
2 *ploitation requires a comprehensive approach that—*

3 (A) *integrates the work of health, legal, and*
4 *social service agencies and organizations;*

5 (B) *emphasizes the need for prevention, re-*
6 *porting, investigation, assessment, treatment,*
7 *and prosecution of elder abuse, neglect, and ex-*
8 *ploitation at all levels of government;*

9 (C) *ensures that sufficient numbers of prop-*
10 *erly trained personnel with specialized knowledge*
11 *are in place to—*

12 (i) *treat, assess, and provide services*
13 *relating to elder abuse, neglect, and exploi-*
14 *tation; and*

15 (ii) *carry out elder protection duties;*

16 (D) *is sensitive to ethnic and cultural diver-*
17 *sity;*

18 (E) *recognizes the role of mental health, dis-*
19 *ability, dementia, substance abuse, medication*
20 *mismanagement, and family dysfunction prob-*
21 *lems in increasing and exacerbating elder abuse,*
22 *neglect, and exploitation; and*

23 (F) *balances elders' right to self-determina-*
24 *tion with society's responsibility to protect el-*
25 *ders.*

1 (14) *The human, social, and economic cost of*
2 *elder abuse, neglect, and exploitation is high and in-*
3 *cludes unnecessary expenditures of funds from many*
4 *public programs.*

5 (15) *The failure to coordinate activities relating*
6 *to, and comprehensively prevent and treat, elder*
7 *abuse, neglect, and exploitation threatens the future*
8 *and well-being of millions of elders in the United*
9 *States.*

10 (16) *All elements of society in the United States*
11 *have a shared responsibility in responding to a na-*
12 *tional problem of elder abuse, neglect, and exploi-*
13 *tation.*

14 **SEC. 3. PURPOSES.**

15 *The purposes of this Act are as follows:*

16 (1) *To enhance the social security of the Nation*
17 *by ensuring adequate public-private infrastructure*
18 *and resolving to prevent, detect, treat, understand,*
19 *and intervene in, and where appropriate, aid in the*
20 *prosecution of, elder abuse, neglect, and exploitation.*

21 (2) *To bring a comprehensive approach to pre-*
22 *venting and combating elder abuse, neglect, and ex-*
23 *ploitation, a long invisible problem that afflicts the*
24 *most vulnerable among the aging population of the*
25 *United States.*

1 (3) *To raise the issue of elder abuse, neglect, and*
2 *exploitation to national attention, and to create the*
3 *infrastructure at the Federal, State, and local levels,*
4 *to ensure that individuals and organizations on the*
5 *front lines, who are fighting elder abuse, neglect, and*
6 *exploitation with scarce resources and fragmented sys-*
7 *tems, have the resources and information needed to*
8 *carry out their fight.*

9 (4) *To bring a comprehensive multidisciplinary*
10 *approach to elder justice.*

11 (5) *To set in motion research and data collection*
12 *to fill gaps in knowledge about elder abuse, neglect,*
13 *and exploitation.*

14 (6) *To supplement the activities of service pro-*
15 *viders and programs, to enhance training, and to le-*
16 *verage scarce resources efficiently, in order to ensure*
17 *that elder justice receives the attention it deserves as*
18 *the Nation's population ages.*

19 (7) *To recognize and address the role of mental*
20 *health, disability, dementia, substance abuse, medica-*
21 *tion mismanagement, and family dysfunction prob-*
22 *lems in increasing and exacerbating elder abuse, ne-*
23 *glect, and exploitation.*

24 (8) *To create short- and long-term strategic*
25 *plans for the development and coordination of elder*

1 *justice research, programs, studies, training, and*
 2 *other efforts nationwide.*

3 (9) *To promote collaborative efforts and dimin-*
 4 *ish overlap and gaps in efforts in developing the im-*
 5 *portant field of elder justice.*

6 (10) *To honor and respect the right of all indi-*
 7 *viduals with diminished capacity to decisionmaking*
 8 *autonomy, self-determination, and dignity of choice.*

9 (11) *To respect the wishes of individuals with di-*
 10 *minished capacity and their family members in pro-*
 11 *viding supportive services and care plans intended to*
 12 *protect elders from abuse, neglect (including self-ne-*
 13 *glect), and exploitation.*

14 **SEC. 4. DEFINITIONS.**

15 *Except as otherwise specifically provided, any term*
 16 *that is defined in section 2011 of the Social Security Act*
 17 *(as added by section 5(a)) and is used in this Act has the*
 18 *meaning given such term by such section.*

19 **SEC. 5. ELDER JUSTICE.**

20 (a) *ELDER JUSTICE.*—

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

23 (A) *in the heading, by inserting “AND*
 24 **ELDER JUSTICE”** *after “SOCIAL*
 25 **SERVICES”;**

1 (B) by inserting before section 2001 the fol-
2 lowing:

3 **“Subtitle 1—Block Grants to States**
4 **for Social Services”;**

5 and

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

7 **“Subtitle 2—Elder Justice**

8 **“SEC. 2011. DEFINITIONS.**

9 *“In this subtitle:*

10 *“(1) ABUSE.—The term ‘abuse’ means the know-*
11 *ing infliction of physical or psychological harm or the*
12 *knowing deprivation of goods or services that are nec-*
13 *essary to meet essential needs or to avoid physical or*
14 *psychological harm.*

15 *“(2) ADULT PROTECTIVE SERVICES.—The term*
16 *‘adult protective services’ means such services pro-*
17 *vided to adults as the Secretary may specify and in-*
18 *cludes services such as—*

19 *“(A) disseminating reports of adult abuse,*
20 *neglect, or exploitation;*

21 *“(B) investigating the reports described in*
22 *subparagraph (A);*

23 *“(C) case planning, monitoring, evaluation,*
24 *and other case work and services; and*

1 “(D) providing, arranging for, or facili-
2 tating the provision of medical, social service,
3 economic, legal, housing, law enforcement, or
4 other protective, emergency, or support services.

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

14 “(4) DIRECT CARE.—The term ‘direct care’
15 means care by an employee or contractor who pro-
16 vides assistance or long-term care services to a recipi-
17 ent.

18 “(5) ELDER.—The term ‘elder’ means an indi-
19 vidual age 60 or older.

20 “(6) ELDER JUSTICE.—The term ‘elder justice’
21 means—

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

23 “(i) prevent, detect, treat, intervene in,
24 and prosecute elder abuse, neglect, and ex-
25 ploitation; and

1 “(ii) protect elders with diminished ca-
2 pacity while maximizing their autonomy;
3 and

4 “(B) from an individual perspective, the
5 recognition of an elder’s rights, including the
6 right to be free of abuse, neglect, and exploi-
7 tation.

8 “(7) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
9 ty’ means a State or local government agency, Indian
10 tribe or tribal organization, or any other public or
11 private entity that is engaged in and has expertise in
12 issues relating to elder justice or in a field necessary
13 to promote elder justice efforts.

14 “(8) *EXPLOITATION*.—The term ‘exploitation’
15 means the fraudulent or otherwise illegal, unauthor-
16 ized, or improper act or process of an individual, in-
17 cluding a caregiver or fiduciary, that uses the re-
18 sources of an elder for monetary or personal benefit,
19 profit, or gain, or that results in depriving an elder
20 of rightful access to, or use of, benefits, resources, be-
21 longings, or assets.

22 “(9) *FIDUCIARY*.—The term ‘fiduciary’—

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

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

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

5 “(B) includes a trustee, a guardian, a con-
6 servator, an executor, an agent under a financial
7 power of attorney or health care power of attor-
8 ney, or a representative payee.

9 “(10) GRANT.—The term ‘grant’ includes a con-
10 tract, cooperative agreement, or other mechanism for
11 providing financial assistance.

12 “(11) GUARDIANSHIP.—The term ‘guardianship’
13 means—

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

20 “(B) the manner in which the court-ap-
21 pointed surrogate decisionmaker carries out du-
22 ties to the individual and the court; or

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

25 “(12) INDIAN TRIBE.—

1 “(A) *IN GENERAL.*—*The term ‘Indian tribe’*
2 *has the meaning given such term in section 4 of*
3 *the Indian Self-Determination and Education*
4 *Assistance Act (25 U.S.C. 450b).*

5 “(B) *INCLUSION OF PUEBLO AND*
6 *RANCHERIA.*—*The term ‘Indian tribe’ includes*
7 *any Pueblo or Rancheria.*

8 “(13) *LAW ENFORCEMENT.*—*The term ‘law en-*
9 *forcement’ means the full range of potential respon-*
10 *ders to elder abuse, neglect, and exploitation includ-*
11 *ing—*

12 “(A) *police, sheriffs, detectives, public safety*
13 *officers, and corrections personnel;*

14 “(B) *prosecutors;*

15 “(C) *medical examiners;*

16 “(D) *investigators; and*

17 “(E) *coroners.*

18 “(14) *LONG-TERM CARE.*—

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

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

7 “(15) *LONG-TERM CARE FACILITY.*—*The term*
8 *‘long-term care facility’ means a residential care pro-*
9 *vider that arranges for, or directly provides, long-*
10 *term care.*

11 “(16) *NEGLECT.*—*The term ‘neglect’ means—*
12 “(A) *the failure of a caregiver or fiduciary*
13 *to provide the goods or services that are nec-*
14 *essary to maintain the health or safety of an*
15 *elder; or*

16 “(B) *self-neglect.*

17 “(17) *NURSING FACILITY.*—

18 “(A) *IN GENERAL.*—*The term ‘nursing fa-*
19 *cility’ has the meaning given such term under*
20 *section 1919(a).*

21 “(B) *INCLUSION OF SKILLED NURSING FA-*
22 *CILITY.*—*The term ‘nursing facility’ includes a*
23 *skilled nursing facility (as defined in section*
24 *1819(a)).*

1 “(18) *SELF-NEGLECT*.—The term ‘self-neglect’
2 *means an adult’s inability, due to physical or mental*
3 *impairment or diminished capacity, to perform essen-*
4 *tial self-care tasks including—*

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

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

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

11 “(19) *SERIOUS BODILY INJURY*.—

12 “(A) *IN GENERAL*.—The term ‘serious bod-
13 *ily injury’ means an injury—*

14 “(i) *involving extreme physical pain;*

15 “(ii) *involving substantial risk of*
16 *death;*

17 “(iii) *involving protracted loss or im-*
18 *pairment of the function of a bodily mem-*
19 *ber, organ, or mental faculty; or*

20 “(iv) *requiring medical intervention*
21 *such as surgery, hospitalization, or physical*
22 *rehabilitation.*

23 “(B) *CRIMINAL SEXUAL ABUSE*.—*Serious*
24 *bodily injury shall be considered to have oc-*
25 *curred if the conduct causing the injury is con-*

1 *duct described in section 2241 (relating to aggra-*
2 *vated sexual abuse) or 2242 (relating to sexual*
3 *abuse) of title 18, United States Code, or any*
4 *similar offense under State law.*

5 “(20) *SOCIAL.*—*The term ‘social’, when used*
6 *with respect to a service, includes adult protective*
7 *services.*

8 “(21) *STATE LEGAL ASSISTANCE DEVELOPER.*—
9 *The term ‘State legal assistance developer’ means an*
10 *individual described in section 731 of the Older*
11 *Americans Act of 1965.*

12 “(22) *STATE LONG-TERM CARE OMBUDSMAN.*—
13 *The term ‘State Long-Term Care Ombudsman’ means*
14 *the State Long-Term Care Ombudsman described in*
15 *section 712(a)(2) of the Older Americans Act of 1965.*

16 **“SEC. 2012. GENERAL PROVISIONS.**

17 “(a) *PROTECTION OF PRIVACY.*—*In pursuing activi-*
18 *ties under this subtitle, the Secretary shall ensure the pro-*
19 *tection of individual health privacy consistent with the reg-*
20 *ulations promulgated under section 264(c) of the Health In-*
21 *surance Portability and Accountability Act of 1996 and ap-*
22 *plicable State and local privacy regulations.*

23 “(b) *RULE OF CONSTRUCTION.*—*Nothing in this sub-*
24 *title shall be construed to interfere with or abridge an elder’s*

1 *right to practice his or her religion through reliance on*
 2 *prayer alone for healing when this choice—*

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

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

12 “(3) *may be unambiguously deduced from the el-*
 13 *der’s life history.*

14 **“PART A—NATIONAL COORDINATION OF ELDER**
 15 **JUSTICE ACTIVITIES AND RESEARCH**

16 **“Subpart 1—Elder Justice Coordinating Council and**
 17 **Advisory Board on Elder Abuse, Neglect, and Ex-**
 18 **ploitation**

19 **“SEC. 2021. ELDER JUSTICE COORDINATING COUNCIL.**

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

23 “(b) *MEMBERSHIP.—*

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

1 “(A) *The Secretary (or the Secretary’s des-*
2 *ignee).*

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

5 “(C) *The head of each Federal department*
6 *or agency or other governmental entity identified*
7 *by the Chair referred to in subsection (d) as hav-*
8 *ing responsibilities, or administering programs,*
9 *relating to elder abuse, neglect, and exploitation.*

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

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

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

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

20 “(f) *DUTIES.—*

21 “(1) *IN GENERAL.—The Council shall make rec-*
22 *ommendations to the Secretary for the coordination of*
23 *activities of the Department of Health and Human*
24 *Services, the Department of Justice, and other rel-*
25 *evant Federal, State, local, and private agencies and*

1 *entities, relating to elder abuse, neglect, and exploi-*
 2 *tation and other crimes against elders.*

3 “(2) *REPORT.*—*Not later than the date that is 2*
 4 *years after the date of enactment of the Elder Justice*
 5 *Act of 2008 and every 2 years thereafter, the Council*
 6 *shall submit to the Committee on Finance of the Sen-*
 7 *ate and the Committee on Ways and Means and the*
 8 *Committee on Energy and Commerce of the House of*
 9 *Representatives a report that—*

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

12 “(i) *the Council; and*

13 “(ii) *the entities represented on the*
 14 *Council; and*

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

18 “(g) *POWERS OF THE COUNCIL.*—

19 “(1) *INFORMATION FROM FEDERAL AGENCIES.*—
 20 *Subject to the requirements of section 2012(a), the*
 21 *Council may secure directly from any Federal depart-*
 22 *ment or agency such information as the Council con-*
 23 *siders necessary to carry out this section. Upon re-*
 24 *quest of the Chair of the Council, the head of such de-*

1 *partment or agency shall furnish such information to*
2 *the Council.*

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

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

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

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

1 **“SEC. 2022. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
2 **AND EXPLOITATION.**

3 “(a) *ESTABLISHMENT.*—*There is established a board*
4 *to be known as the ‘Advisory Board on Elder Abuse, Neglect,*
5 *and Exploitation’ (in this section referred to as the ‘Advi-*
6 *sory Board’)* to create short- and long-term multidisci-
7 *plinary strategic plans for the development of the field of*
8 *elder justice and to make recommendations to the Elder*
9 *Justice Coordinating Council established under section*
10 *2021.*

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

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

21 “(d) *TERMS.*—

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

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

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

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

5 “(2) VACANCIES.—

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

10 “(B) FILLING UNEXPIRED TERM.—An indi-
11 vidual chosen to fill a vacancy shall be ap-
12 pointed for the unexpired term of the member re-
13 placed.

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

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

21 “(f) DUTIES.—

22 “(1) ENHANCE COMMUNICATION ON PROMOTING
23 QUALITY OF, AND PREVENTING ABUSE AND NEGLECT
24 IN, LONG-TERM CARE.—The Advisory Board shall de-
25 velop collaborative and innovative approaches to im-

1 *prove the quality of, including preventing abuse and*
2 *neglect in, long-term care.*

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

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

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

21 “(3) *REPORT.—Not later than the date that is*
22 *18 months after the date of enactment of the Elder*
23 *Justice Act of 2008, and annually thereafter, the Ad-*
24 *visory Board shall prepare and submit to the Elder*
25 *Justice Coordinating Council, the Committee on Fi-*

1 *nance of the Senate, and the Committee on Ways and*
2 *Means and the Committee on Energy and Commerce*
3 *of the House of Representatives a report 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 pur-*
13 *suing elder justice efforts and those involved*
14 *in related areas that may inform or overlap*
15 *with elder justice efforts, such as activities*
16 *to combat violence against women and child*
17 *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 modifica-*
22 *tions needed in Federal and State laws (includ-*
23 *ing regulations) or for programs, research, and*
24 *training to enhance prevention, detection, and*
25 *treatment (including diagnosis) of, intervention*

1 *in (including investigation of), and prosecution*
2 *of elder abuse, neglect, and exploitation;*

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

7 “(E) *recommendations for a multidisci-*
8 *plinary strategic plan to guide the effective and*
9 *efficient development of the field of elder justice.*

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

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

19 “(2) *SHARING OF DATA AND REPORTS.—The Ad-*
20 *visory Board may request from any entity pursuing*
21 *elder justice activities under the Elder Justice Act of*
22 *2008 or an amendment made by that Act, any data,*
23 *reports, or recommendations generated in connection*
24 *with such activities.*

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

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

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

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

1 **“SEC. 2023. RESEARCH PROTECTIONS.**

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

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

15 **“SEC. 2024. AUTHORIZATION OF APPROPRIATIONS.**

16 “*There are authorized to be appropriated to carry out*
17 *this subpart—*

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

19 “(2) *for each of fiscal years 2010 through 2012,*
20 *\$7,000,000.*

1 **“Subpart 2—Elder Abuse, Neglect, and Exploitation**
 2 **Forensic Centers**

3 **“SEC. 2031. ESTABLISHMENT AND SUPPORT OF ELDER**
 4 **ABUSE, NEGLECT, AND EXPLOITATION FO-**
 5 **RENSIC CENTERS.**

6 “(a) *IN GENERAL.*—*The Secretary, in consultation*
 7 *with the Attorney General, shall make grants to eligible en-*
 8 *tities to establish and operate stationary and mobile foren-*
 9 *sic centers, to develop forensic expertise regarding, and pro-*
 10 *vide services relating to, elder abuse, neglect, and exploi-*
 11 *tation.*

12 “(b) *STATIONARY FORENSIC CENTERS.*—*The Sec-*
 13 *retary shall make 4 of the grants described in subsection*
 14 *(a) to institutions of higher education with demonstrated*
 15 *expertise in forensics or commitment to preventing or treat-*
 16 *ing elder abuse, neglect, or exploitation, to establish and*
 17 *operate stationary forensic centers.*

18 “(c) *MOBILE CENTERS.*—*The Secretary shall make 6*
 19 *of the grants described in subsection (a) to appropriate enti-*
 20 *ties to establish and operate mobile forensic centers.*

21 “(d) *AUTHORIZED ACTIVITIES.*—

22 “(1) *DEVELOPMENT OF FORENSIC MARKERS AND*
 23 *METHODOLOGIES.*—*An eligible entity that receives a*
 24 *grant under this section shall use funds made avail-*
 25 *able through the grant to assist in determining wheth-*
 26 *er abuse, neglect, or exploitation occurred and whether*

1 *a crime was committed and to conduct research to de-*
2 *scribe and disseminate information on—*

3 *“(A) forensic markers that indicate a case*
4 *in which elder abuse, neglect, or exploitation*
5 *may have occurred; and*

6 *“(B) methodologies for determining, in such*
7 *a case, when and how health care, emergency*
8 *service, social and protective services, and legal*
9 *service providers should intervene and when the*
10 *providers should report the case to law enforce-*
11 *ment authorities.*

12 *“(2) DEVELOPMENT OF FORENSIC EXPERTISE.—*
13 *An eligible entity that receives a grant under this sec-*
14 *tion shall use funds made available through the grant*
15 *to develop forensic expertise regarding elder abuse, ne-*
16 *glect, and exploitation in order to provide medical*
17 *and forensic evaluation, therapeutic intervention, vic-*
18 *tim support and advocacy, case review, and case*
19 *tracking.*

20 *“(3) COLLECTION OF EVIDENCE.—The Secretary,*
21 *in coordination with the Attorney General, shall use*
22 *data made available by grant recipients under this*
23 *section to develop the capacity of geriatric health care*
24 *professionals and law enforcement to collect forensic*
25 *evidence, including collecting forensic evidence relat-*

1 “(A) *COORDINATION WITH SECRETARY OF*
2 *LABOR TO RECRUIT AND TRAIN LONG-TERM CARE*
3 *STAFF.—The Secretary shall coordinate activities*
4 *under this subsection with the Secretary of Labor*
5 *in order to provide incentives for individuals to*
6 *train for and seek employment providing direct*
7 *care in a long-term care facility.*

8 “(B) *CAREER LADDERS AND WAGE OR BEN-*
9 *EFIT INCREASES TO INCREASE STAFFING IN*
10 *LONG-TERM CARE FACILITIES.—*

11 “(i) *IN GENERAL.—The Secretary shall*
12 *make grants to long-term care facilities to*
13 *carry out programs through which the fa-*
14 *cilities—*

15 “(I) *offer, to employees who pro-*
16 *vide direct care to residents of a long-*
17 *term care facility, continuing training*
18 *and varying levels of certification,*
19 *based on observed clinical care prac-*
20 *tices and the amount of time the em-*
21 *ployees spend providing direct care;*
22 *and*

23 “(II) *provide, or make arrange-*
24 *ments to provide, bonuses or other in-*
25 *creased compensation or benefits to em-*

1 *ployees who achieve certification under*
2 *such a program.*

3 “(ii) *APPLICATION.—To be eligible to*
4 *receive a grant under this subparagraph, a*
5 *long-term care facility shall submit an ap-*
6 *plication to the Secretary at such time, in*
7 *such manner, and containing such informa-*
8 *tion as the Secretary may require (which*
9 *may include evidence of consultation with*
10 *the State in which the long-term care facil-*
11 *ity is located with respect to carrying out*
12 *activities funded under the grant).*

13 “(iii) *AUTHORITY TO LIMIT NUMBER*
14 *OF APPLICANTS.—Nothing in this subpara-*
15 *graph shall be construed as prohibiting the*
16 *Secretary from limiting the number of ap-*
17 *plicants for a grant under this subpara-*
18 *graph.*

19 “(3) *SPECIFIC PROGRAMS TO IMPROVE MANAGE-*
20 *MENT PRACTICES.—*

21 “(A) *IN GENERAL.—The Secretary shall*
22 *make grants to long-term care facilities to enable*
23 *the facilities to provide training and technical*
24 *assistance to eligible employees.*

1 “(B) *AUTHORIZED ACTIVITIES.*—A long-
2 term care facility that receives a grant under
3 subparagraph (A) shall use funds made available
4 through the grant to provide training and tech-
5 nical assistance to eligible employees regarding
6 management practices using methods that are
7 demonstrated to promote retention of individuals
8 who provide direct care to residents of the long-
9 term care facility, such as—

10 “(i) the establishment of standard
11 human resource policies that reward high
12 performance, including policies that provide
13 for improved wages and benefits on the
14 basis of job reviews;

15 “(ii) the establishment of motivational
16 and thoughtful work organization practices;

17 “(iii) the creation of a workplace cul-
18 ture that respects and values caregivers and
19 their needs;

20 “(iv) the promotion of a workplace cul-
21 ture that respects the rights of residents of
22 a long-term care facility and results in im-
23 proved care for the residents; and

24 “(v) the establishment of other pro-
25 grams that promote the provision of high

1 *quality care, such as a continuing edu-*
2 *cation program that provides additional*
3 *hours of training, including on-the-job*
4 *training, for employees who are certified*
5 *nurse aides.*

6 “(C) *APPLICATION.—To be eligible to re-*
7 *ceive a grant under this paragraph, a long-term*
8 *care facility shall submit an application to the*
9 *Secretary at such time, in such manner, and*
10 *containing such information as the Secretary*
11 *may require (which may include evidence of con-*
12 *sultation with the State in which the long-term*
13 *care facility is located with respect to carrying*
14 *out activities funded under the grant).*

15 “(D) *AUTHORITY TO LIMIT NUMBER OF AP-*
16 *PLICANTS.—Nothing in this paragraph shall be*
17 *construed as prohibiting the Secretary from lim-*
18 *iting the number of applicants for a grant under*
19 *this paragraph.*

20 “(E) *ELIGIBLE EMPLOYEE DEFINED.—In*
21 *this paragraph, the term ‘eligible employee’*
22 *means an individual who establishes or imple-*
23 *ments management practices applicable with re-*
24 *spect to individuals who provide direct care to*
25 *residents of a long-term care facility and in-*

1 *cludes administrators, directors of nursing, staff*
2 *developers, and charge nurses.*

3 “(4) *ACCOUNTABILITY MEASURES.*—*The Sec-*
4 *retary shall develop accountability measures to ensure*
5 *that the activities conducted using funds made avail-*
6 *able under this subsection benefit eligible employees*
7 *and increase the stability of the long-term care work-*
8 *force.*

9 “(b) *INFORMATICS SYSTEMS GRANT PROGRAM.*—

10 “(1) *GRANTS AUTHORIZED.*—*The Secretary is*
11 *authorized to make grants to long-term care facilities*
12 *for the purpose of assisting such entities in offsetting*
13 *the costs related to purchasing, leasing, developing,*
14 *and implementing standardized clinical health care*
15 *informatics systems designed to improve patient safe-*
16 *ty and reduce adverse events and health care com-*
17 *plications resulting from medication errors.*

18 “(2) *USE OF GRANT FUNDS.*—*Funds provided*
19 *under grants under this subsection may be used for*
20 *any of the following:*

21 “(A) *Purchasing, leasing, and installing*
22 *computer software and hardware, including*
23 *handheld computer technologies.*

24 “(B) *Making improvements to existing com-*
25 *puter software and hardware.*

1 “(C) *Making upgrades and other improve-*
2 *ments to existing computer software and hard-*
3 *ware to enable e-prescribing.*

4 “(D) *Providing education and training to*
5 *eligible long-term care facility staff on the use of*
6 *technology to implement the electronic trans-*
7 *mission of prescription and patient information.*

8 “(3) *APPLICATION.—To be eligible to receive a*
9 *grant under this subsection, a long-term care facility*
10 *shall submit an application to the Secretary at such*
11 *time, in such manner, and containing such informa-*
12 *tion as the Secretary may require (which may in-*
13 *clude evidence of consultation with the State in which*
14 *the long-term care facility is located with respect to*
15 *carrying out activities funded under the grant).*

16 “(4) *AUTHORITY TO LIMIT NUMBER OF APPLI-*
17 *CANTS.—Nothing in this subsection shall be construed*
18 *as prohibiting the Secretary from limiting the num-*
19 *ber of applicants for a grant under this subsection.*

20 “(5) *ACCOUNTABILITY MEASURES.—The Sec-*
21 *retary shall develop accountability measures to ensure*
22 *that the activities conducted using funds made avail-*
23 *able under this subsection help improve patient safety*
24 *and reduce adverse events and health care complica-*
25 *tions resulting from medication errors.*

1 “(c) *INCLUSION OF ADJUDICATED CRIMES ON NURS-*
2 *ING HOME COMPARE WEBSITE.*—Not later than 1 year
3 *after the date of enactment of the Elder Justice Act of 2008,*
4 *the Secretary shall ensure that the Department of Health*
5 *and Human Services includes, as part of the information*
6 *provided for comparison of nursing facilities on the official*
7 *Internet website of the Federal Government for Medicare*
8 *beneficiaries (commonly referred to as the ‘Nursing Home*
9 *Compare’ Medicare website), the number of adjudicated in-*
10 *stances of criminal violations by a nursing facility or*
11 *crimes committed by an employee of a nursing facility—*

12 “(1) *that were committed inside of the facility;*
13 *and*

14 “(2) *with respect to such instances of violations*
15 *or crimes committed outside of the facility, that were*
16 *the violations or crimes of elder abuse, neglect, and*
17 *exploitation, criminal sexual abuse of an elder, or*
18 *other violations or crimes that resulted in the serious*
19 *bodily injury of an elder.*

20 “(d) *DEVELOPMENT OF CONSUMER RIGHTS INFORMA-*
21 *TION PAGE ON NURSING HOME COMPARE WEBSITE.*—Not
22 *later than 1 year after the date of enactment of the Elder*
23 *Justice Act of 2008, the Secretary shall ensure that the De-*
24 *partment of Health and Human Services, as part of the*
25 *information provided for comparison of nursing facilities*

1 *on the Nursing Home Compare Medicare website develops*
2 *and includes a consumer rights information page that con-*
3 *tains links to descriptions of, and information with respect*
4 *to, the following:*

5 “(1) *The documentation on nursing facilities*
6 *that is available to the public.*

7 “(2) *General information and tips on choosing a*
8 *nursing facility that meets the needs of the indi-*
9 *vidual.*

10 “(3) *General information on consumer rights*
11 *with respect to nursing facilities.*

12 “(4) *The nursing facility survey process (on a*
13 *national and State-specific basis).*

14 “(5) *On a State-specific basis, the services avail-*
15 *able through the State long-term care ombudsman for*
16 *such State.*

17 “(e) *DEVELOPMENT AND ADOPTION OF STANDARDS*
18 *FOR TRANSACTIONS INVOLVING CLINICAL DATA BY LONG-*
19 *TERM CARE FACILITIES.—*

20 “(1) *STANDARDS.—The Secretary shall develop*
21 *and adopt uniform open electronic standards for*
22 *transactions involving clinical data by long-term care*
23 *facilities. Such standards shall include messaging and*
24 *nomenclature standards.*

1 “(2) *COMPATIBILITY WITH OTHER STANDARDS.*—
2 *The standards developed and adopted under para-*
3 *graph (1) shall be compatible with standards estab-*
4 *lished under part C of title XI, standards established*
5 *under subsections (b)(2)(B)(i) and (e)(4) of section*
6 *1860D-4, and with general health information tech-*
7 *nology standards.*

8 “(3) *ELECTRONIC SUBMISSION OF DATA TO THE*
9 *SECRETARY.*—

10 “(A) *IN GENERAL.*—*Not later than 10 years*
11 *after the date of enactment of the Elder Justice*
12 *Act of 2008, the Secretary shall have procedures*
13 *in place to accept the optional electronic submis-*
14 *sion of clinical data by long-term care facilities*
15 *pursuant to the standards developed and adopted*
16 *under paragraph (1).*

17 “(B) *RULE OF CONSTRUCTION.*—*Nothing in*
18 *this subsection shall be construed to require a*
19 *long-term care facility to submit clinical data*
20 *electronically to the Secretary.*

21 “(f) *REGULATIONS.*—*The Secretary shall promulgate*
22 *regulations to carry out subsections (c), (d), and (e) of this*
23 *section. Such regulations shall require a State, as a condi-*
24 *tion of the receipt of funds under this part, to conduct such*

1 *data collection and reporting as the Secretary determines*
 2 *are necessary to satisfy the requirements of such subsections.*

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

6 “(1) *for fiscal year 2009, \$20,000,000;*

7 “(2) *for fiscal year 2010, \$17,500,000; and*

8 “(3) *for each of fiscal years 2011 and 2012,*
 9 *\$15,000,000.*

10 **“SEC. 2042. ADULT PROTECTIVE SERVICES FUNCTIONS AND**
 11 **GRANT PROGRAMS.**

12 “(a) *SECRETARIAL RESPONSIBILITIES.—*

13 “(1) *IN GENERAL.—The Secretary shall ensure*
 14 *that the Department of Health and Human Serv-*
 15 *ices—*

16 “(A) *provides funding authorized by this*
 17 *part to State and local adult protective services*
 18 *offices that investigate reports of the abuse, ne-*
 19 *glect, and exploitation of elders;*

20 “(B) *collects and disseminates data annu-*
 21 *ally relating to the abuse, exploitation, and ne-*
 22 *glect of elders in coordination with the Depart-*
 23 *ment of Justice;*

1 “(C) develops and disseminates information
2 on best practices regarding, and provides train-
3 ing on, carrying out adult protective services;

4 “(D) conducts research related to the provi-
5 sion of adult protective services; and

6 “(E) provides technical assistance to States
7 and other entities that provide or fund the provi-
8 sion of adult protective services, including
9 through grants made under subsections (b) and
10 (c).

11 “(2) *AUTHORIZATION OF APPROPRIATIONS.*—
12 *There are authorized to be appropriated to carry out*
13 *this subsection, \$3,000,000 for fiscal year 2009 and*
14 *\$4,000,000 for each of fiscal years 2010 through 2012.*

15 “(b) *GRANTS TO ENHANCE THE PROVISION OF ADULT*
16 *PROTECTIVE SERVICES.*—

17 “(1) *ESTABLISHMENT.*—*There is established an*
18 *adult protective services grant program under which*
19 *the Secretary shall annually award grants to States*
20 *in the amounts calculated under paragraph (2) for*
21 *the purposes of enhancing adult protective services*
22 *provided by States and local units of government.*

23 “(2) *AMOUNT OF PAYMENT.*—

24 “(A) *IN GENERAL.*—*Subject to the avail-*
25 *ability of appropriations and subparagraphs (B)*

1 *and (C), the amount paid to a State for a fiscal*
2 *year under the program under this subsection*
3 *shall equal the amount appropriated for that*
4 *year to carry out this subsection multiplied by*
5 *the percentage of the total number of elders who*
6 *reside in the United States who reside in that*
7 *State.*

8 “(B) *GUARANTEED MINIMUM PAYMENT*
9 *AMOUNT.—*

10 “(i) *50 STATES.—Subject to clause (ii),*
11 *if the amount determined under subpara-*
12 *graph (A) for a State for a fiscal year is*
13 *less than 0.75 percent of the amount appro-*
14 *priated for such year, the Secretary shall*
15 *increase such determined amount so that the*
16 *total amount paid under this subsection to*
17 *the State for the year is equal to 0.75 per-*
18 *cent of the amount so appropriated.*

19 “(ii) *TERRITORIES.—In the case of a*
20 *State other than 1 of the 50 States, clause*
21 *(i) shall be applied as if each reference to*
22 *‘0.75’ were a reference to ‘0.1’.*

23 “(C) *PRO RATA REDUCTIONS.—The Sec-*
24 *retary shall make such pro rata reductions to the*
25 *amounts described in subparagraph (A) as are*

1 *necessary to comply with the requirements of*
2 *subparagraph (B).*

3 “(3) *AUTHORIZED ACTIVITIES.*—

4 “(A) *ADULT PROTECTIVE SERVICES.*—
5 *Funds made available pursuant to this sub-*
6 *section may only be used by States and local*
7 *units of government to provide adult protective*
8 *services and may not be used for any other pur-*
9 *pose.*

10 “(B) *USE BY AGENCY.*—*Each State receiv-*
11 *ing funds pursuant to this subsection shall pro-*
12 *vide such funds to the agency or unit of State*
13 *government having legal responsibility for pro-*
14 *viding adult protective services within the State.*

15 “(C) *SUPPLEMENT NOT SUPPLANT.*—*Each*
16 *State or local unit of government shall use funds*
17 *made available pursuant to this subsection to*
18 *supplement and not supplant other Federal,*
19 *State, and local public funds expended to provide*
20 *adult protective services in the State.*

21 “(4) *STATE REPORTS.*—*Each State receiving*
22 *funds under this subsection shall submit to the Sec-*
23 *retary, at such time and in such manner as the Sec-*
24 *retary may require, a report on the number of elders*
25 *served by the grants awarded under this subsection.*

1 “(5) *AUTHORIZATION OF APPROPRIATIONS.—*
2 *There are authorized to be appropriated to carry out*
3 *this subsection, \$100,000,000 for each of fiscal years*
4 *2009 through 2012.*

5 “(c) *STATE DEMONSTRATION PROGRAMS.—*

6 “(1) *ESTABLISHMENT.—The Secretary shall*
7 *award grants to States for the purposes of conducting*
8 *demonstration programs in accordance with para-*
9 *graph (2).*

10 “(2) *DEMONSTRATION PROGRAMS.—Funds made*
11 *available pursuant to this subsection may be used by*
12 *States and local units of government to conduct dem-*
13 *onstration programs that test—*

14 “(A) *training modules developed for the*
15 *purpose of detecting or preventing elder abuse;*

16 “(B) *methods to detect or prevent financial*
17 *exploitation of elders;*

18 “(C) *methods to detect elder abuse;*

19 “(D) *whether training on elder abuse*
20 *forensics enhances the detection of elder abuse by*
21 *employees of the State or local unit of govern-*
22 *ment; or*

23 “(E) *other matters relating to the detection*
24 *or prevention of elder abuse.*

1 “(3) *APPLICATION.*—*To be eligible to receive a*
 2 *grant under this subsection, a State shall submit an*
 3 *application to the Secretary at such time, in such*
 4 *manner, and containing such information as the Sec-*
 5 *retary may require.*

6 “(4) *STATE REPORTS.*—*Each State that receives*
 7 *funds under this subsection shall submit a report to*
 8 *the Secretary at such time, in such manner, and con-*
 9 *taining such information as the Secretary may re-*
 10 *quire on the results of the demonstration program*
 11 *conducted by the State using funds made available*
 12 *under this subsection.*

13 “(5) *AUTHORIZATION OF APPROPRIATIONS.*—
 14 *There are authorized to be appropriated to carry out*
 15 *this subsection, \$25,000,000 for each of fiscal years*
 16 *2009 through 2012.*

17 **“SEC. 2043. LONG-TERM CARE OMBUDSMAN PROGRAM**
 18 **GRANTS AND TRAINING.**

19 “(a) *GRANTS TO SUPPORT THE LONG-TERM CARE*
 20 *OMBUDSMAN PROGRAM.*—

21 “(1) *IN GENERAL.*—*The Secretary shall make*
 22 *grants to eligible entities with relevant expertise and*
 23 *experience in abuse and neglect in long-term care fa-*
 24 *cilities or long-term care ombudsman programs and*
 25 *responsibilities, for the purpose of—*

1 “(A) *improving the capacity of State long-*
2 *term care ombudsman programs to respond to*
3 *and resolve complaints about abuse and neglect;*

4 “(B) *conducting pilot programs with State*
5 *long-term care ombudsman offices or local om-*
6 *budsman entities; and*

7 “(C) *providing support for such State long-*
8 *term care ombudsman programs and such pilot*
9 *programs (such as through the establishment of*
10 *a national long-term care ombudsman resource*
11 *center).*

12 “(2) *AUTHORIZATION OF APPROPRIATIONS.—*
13 *There are authorized to be appropriated to carry out*
14 *this subsection—*

15 “(A) *for fiscal year 2009, \$5,000,000;*

16 “(B) *for fiscal year 2010, \$7,500,000; and*

17 “(C) *for each of fiscal years 2011 and 2012,*
18 *\$10,000,000.*

19 “(b) *OMBUDSMAN TRAINING PROGRAMS.—*

20 “(1) *IN GENERAL.—The Secretary shall establish*
21 *programs to provide and improve ombudsman train-*
22 *ing with respect to elder abuse, neglect, and exploi-*
23 *tation for national organizations and State long-term*
24 *care ombudsman programs.*

1 “(2) *AUTHORIZATION OF APPROPRIATIONS.*—
 2 *There are authorized to be appropriated to carry out*
 3 *this subsection, for each of fiscal years 2009 through*
 4 *2012, \$10,000,000.*

5 **“SEC. 2044. PROVISION OF INFORMATION REGARDING, AND**
 6 **EVALUATIONS OF, ELDER JUSTICE PRO-**
 7 **GRAMS.**

8 “(a) *PROVISION OF INFORMATION.*—*To be eligible to*
 9 *receive a grant under this part, an applicant shall agree—*

10 “(1) *except as provided in paragraph (2), to pro-*
 11 *vide the eligible entity conducting an evaluation*
 12 *under subsection (b) of the activities funded through*
 13 *the grant with such information as the eligible entity*
 14 *may require in order to conduct such evaluation; or*

15 “(2) *in the case of an applicant for a grant*
 16 *under section 2041(b), to provide the Secretary with*
 17 *such information as the Secretary may require to*
 18 *conduct an evaluation or audit under subsection (c).*

19 “(b) *USE OF ELIGIBLE ENTITIES TO CONDUCT EVAL-*
 20 *UATIONS.*—

21 “(1) *EVALUATIONS REQUIRED.*—*Except as pro-*
 22 *vided in paragraph (2), the Secretary shall—*

23 “(A) *reserve a portion (not less than 2 per-*
 24 *cent) of the funds appropriated with respect to*
 25 *each program carried out under this part; and*

1 “(B) use the funds reserved under subpara-
2 graph (A) to provide assistance to eligible enti-
3 ties to conduct evaluations of the activities fund-
4 ed under each program carried out under this
5 part.

6 “(2) *INFORMATICS SYSTEMS GRANT PROGRAM*
7 *NOT INCLUDED.*—The provisions of this subsection
8 shall not apply to the informatics systems grant pro-
9 gram under section 2041(b).

10 “(3) *AUTHORIZED ACTIVITIES.*—A recipient of
11 assistance described in paragraph (1)(B) shall use the
12 funds made available through the assistance to con-
13 duct a validated evaluation of the effectiveness of the
14 activities funded under a program carried out under
15 this part.

16 “(4) *APPLICATIONS.*—To be eligible to receive as-
17 sistance under paragraph (1)(B), an entity shall sub-
18 mit an application to the Secretary at such time, in
19 such manner, and containing such information as the
20 Secretary may require, including a proposal for the
21 evaluation.

22 “(5) *REPORTS.*—Not later than a date specified
23 by the Secretary, an eligible entity receiving assist-
24 ance under paragraph (1)(B) shall submit to the Sec-
25 retary, the Committee on Ways and Means and the

1 *Committee on Energy and Commerce of the House of*
2 *Representatives, and the Committee on Finance of the*
3 *Senate a report containing the results of the evalua-*
4 *tion conducted using such assistance together with*
5 *such recommendations as the entity determines to be*
6 *appropriate.*

7 *“(c) EVALUATIONS AND AUDITS OF INFORMATICS SYS-*
8 *TEMS GRANT PROGRAM BY THE SECRETARY.—*

9 *“(1) EVALUATIONS.—The Secretary shall con-*
10 *duct an evaluation of the activities funded under the*
11 *informatics systems grant program under section*
12 *2041(b). Such evaluation shall include an evaluation*
13 *of whether the funding provided under the grant is*
14 *expended only for the purposes for which it is made.*

15 *“(2) AUDITS.—The Secretary shall conduct ap-*
16 *propriate audits of grants made under section*
17 *2041(b).*

18 **“SEC. 2045. REPORT.**

19 *“Not later than October 1, 2012, the Secretary shall*
20 *submit to the Elder Justice Coordinating Council, the Com-*
21 *mittee on Ways and Means and the Committee on Energy*
22 *and Commerce of the House of Representatives, and the*
23 *Committee on Finance of the Senate a report—*

24 *“(1) compiling, summarizing, and analyzing the*
25 *information contained in the State reports submitted*

1 *under subsections (b)(4) and (c)(4) of section 2042;*
2 *and*

3 *“(2) containing such recommendations for legis-*
4 *lative or administrative action as the Secretary deter-*
5 *mines to be appropriate.”.*

6 *(2) OPTION FOR STATE PLAN UNDER PROGRAM*
7 *FOR TEMPORARY ASSISTANCE FOR NEEDY FAMI-*
8 *LIES.—*

9 *(A) IN GENERAL.—Section 402(a)(1)(B) of*
10 *the Social Security Act (42 U.S.C. 602(a)(1)(B))*
11 *is amended by adding at the end the following*
12 *new clause:*

13 *“(v) The document shall indicate*
14 *whether the State intends to assist individ-*
15 *uals to train for, seek, and maintain em-*
16 *ployment—*

17 *“(I) providing direct care in a*
18 *long-term care facility (as such terms*
19 *are defined under section 2011); or*

20 *“(II) in other occupations related*
21 *to elder care determined appropriate*
22 *by the State for which the State identi-*
23 *fies an unmet need for service per-*
24 *sonnel,*

1 *and, if so, shall include an overview of such*
2 *assistance.”.*

3 *(B) EFFECTIVE DATE.—The amendment*
4 *made by subparagraph (A) shall take effect on*
5 *January 1, 2009.*

6 *(b) PROTECTING RESIDENTS OF LONG-TERM CARE*
7 *FACILITIES.—*

8 *(1) NATIONAL TRAINING INSTITUTE FOR SUR-*
9 *VEYORS.—*

10 *(A) IN GENERAL.—The Secretary of Health*
11 *and Human Services shall enter into a contract*
12 *with an entity for the purpose of establishing*
13 *and operating a National Training Institute for*
14 *Federal and State surveyors. Such Institute shall*
15 *provide and improve the training of surveyors*
16 *with respect to investigating allegations of abuse,*
17 *neglect, and misappropriation of property in*
18 *programs and long-term care facilities that re-*
19 *ceive payments under title XVIII or XIX of the*
20 *Social Security Act.*

21 *(B) ACTIVITIES CARRIED OUT BY THE IN-*
22 *STITUTE.—The contract entered into under sub-*
23 *paragraph (A) shall require the Institute estab-*
24 *lished and operated under such contract to carry*
25 *out the following activities:*

1 (i) *Assess the extent to which State*
2 *agencies use specialized surveyors for the in-*
3 *vestigation of reported allegations of abuse,*
4 *neglect, and misappropriation of property*
5 *in such programs and long-term care facili-*
6 *ties.*

7 (ii) *Evaluate how the competencies of*
8 *surveyors may be improved to more effec-*
9 *tively investigate reported allegations of*
10 *such abuse, neglect, and misappropriation*
11 *of property, and provide feedback to Federal*
12 *and State agencies on the evaluations con-*
13 *ducted.*

14 (iii) *Provide a national program of*
15 *training, tools, and technical assistance to*
16 *Federal and State surveyors on inves-*
17 *tigating reports of such abuse, neglect, and*
18 *misappropriation of property.*

19 (iv) *Develop and disseminate informa-*
20 *tion on best practices for the investigation*
21 *of such abuse, neglect, and misappropria-*
22 *tion of property.*

23 (v) *Assess the performance of State*
24 *complaint intake systems, in order to ensure*
25 *that the intake of complaints occurs 24*

1 *hours per day, 7 days a week (including*
2 *holidays).*

3 *(vi) To the extent approved by the Sec-*
4 *retary of Health and Human Services, pro-*
5 *vide a national 24 hours per day, 7 days a*
6 *week (including holidays), back-up system*
7 *to State complaint intake systems in order*
8 *to ensure optimum national responsiveness*
9 *to complaints of such abuse, neglect, and*
10 *misappropriation of property.*

11 *(vii) Analyze and report annually on*
12 *the following:*

13 *(I) The total number and sources*
14 *of complaints of such abuse, neglect,*
15 *and misappropriation of property.*

16 *(II) The extent to which such com-*
17 *plaints are referred to law enforcement*
18 *agencies.*

19 *(III) General results of Federal*
20 *and State investigations of such com-*
21 *plaints.*

22 *(viii) Conduct a national study of the*
23 *cost to State agencies of conducting com-*
24 *plaint investigations of skilled nursing fa-*
25 *cilities and nursing facilities under sections*

1 1819 and 1919, respectively, of the Social
2 Security Act (42 U.S.C. 1395i-3; 1396r),
3 and making recommendations to the Sec-
4 retary of Health and Human Services with
5 respect to options to increase the efficiency
6 and cost-effectiveness of such investigations.

7 (C) *AUTHORIZATION.*—There are authorized
8 to be appropriated to carry out this paragraph,
9 for the period of fiscal years 2009 through 2012,
10 \$12,000,000.

11 (2) *GRANTS TO STATE SURVEY AGENCIES.*—

12 (A) *IN GENERAL.*—The Secretary of Health
13 and Human Services shall make grants to State
14 agencies that perform surveys of skilled nursing
15 facilities or nursing facilities under sections
16 1819 or 1919, respectively, of the Social Security
17 Act (42 U.S.C. 1395i-3; 1395r).

18 (B) *USE OF FUNDS.*—A grant awarded
19 under subparagraph (A) shall be used for the
20 purpose of designing and implementing com-
21 plaint investigations systems that—

22 (i) promptly prioritize complaints in
23 order to ensure a rapid response to the most
24 serious and urgent complaints;

1 (ii) respond to complaints with opti-
2 mum effectiveness and timeliness; and

3 (iii) optimize the collaboration between
4 local authorities, consumers, and providers,
5 including—

6 (I) such State agency;

7 (II) the State Long-Term Care
8 Ombudsman;

9 (III) local law enforcement agen-
10 cies;

11 (IV) advocacy and consumer orga-
12 nizations;

13 (V) State aging units;

14 (VI) Area Agencies on Aging; and

15 (VII) other appropriate entities.

16 (C) AUTHORIZATION.—There are authorized
17 to be appropriated to carry out this paragraph,
18 for each of fiscal years 2009 through 2012,
19 \$5,000,000.

20 (3) REPORTING OF CRIMES AND ENSURING SAFE-
21 TY OF RESIDENTS WHEN FEDERALLY FUNDED LONG-
22 TERM CARE FACILITIES CLOSE.—Part A of title XI of
23 the Social Security Act (42 U.S.C. 1301 et seq.) is
24 amended by adding at the end the following new sec-
25 tions:

1 “REPORTING TO LAW ENFORCEMENT OF CRIMES OCCUR-
2 RING IN FEDERALLY FUNDED LONG-TERM CARE FA-
3 CILITIES

4 “SEC. 1150A. (a) DETERMINATION AND NOTIFICA-
5 TION.—

6 “(1) DETERMINATION.—The owner or operator of
7 each long-term care facility that receives Federal
8 funds under this Act shall annually determine wheth-
9 er the facility received at least \$10,000 in such Fed-
10 eral funds during the preceding year.

11 “(2) NOTIFICATION.—If the owner or operator
12 determines under paragraph (1) that the facility re-
13 ceived at least \$10,000 in such Federal funds during
14 the preceding year, such owner or operator shall an-
15 nually notify each covered individual (as defined in
16 paragraph (3)) of that individual’s obligation to com-
17 ply with the reporting requirements described in sub-
18 section (b).

19 “(3) COVERED INDIVIDUAL DEFINED.—In this
20 section, the term ‘covered individual’ means each in-
21 dividual who is an owner, operator, employee, man-
22 ager, agent, or contractor of a long-term care facility
23 that is the subject of a determination described in
24 paragraph (1).

25 “(b) REPORTING REQUIREMENTS.—

1 “(1) *IN GENERAL.*—*Each covered individual*
2 *shall report to the Secretary and 1 or more law en-*
3 *forcement entities for the political subdivision in*
4 *which the facility is located any reasonable suspicion*
5 *of a crime (as defined by the law of the applicable po-*
6 *litical subdivision) against any individual who is a*
7 *resident of, or is receiving care from, the facility.*

8 “(2) *TIMING.*—*If the events that cause the sus-*
9 *picion—*

10 “(A) *result in serious bodily injury, the in-*
11 *dividual shall report the suspicion immediately,*
12 *but not later than 2 hours after forming the sus-*
13 *picion; and*

14 “(B) *do not result in serious bodily injury,*
15 *the individual shall report the suspicion not*
16 *later than 24 hours after forming the suspicion.*

17 “(c) *PENALTIES.*—

18 “(1) *IN GENERAL.*—*If a covered individual vio-*
19 *lates subsection (b)—*

20 “(A) *the covered individual shall be subject*
21 *to a civil money penalty of not more than*
22 *\$200,000; or*

23 “(B) *the Secretary shall classify the covered*
24 *individual as an excluded individual, for a pe-*
25 *riod of not more than 3 years.*

1 “(2) *INCREASED HARM.*—If a covered individual
2 violates subsection (b) and the violation exacerbates
3 the harm to the victim of the crime or results in harm
4 to another individual—

5 “(A) the covered individual shall be subject
6 to a civil money penalty of not more than
7 \$300,000; and

8 “(B) the Secretary shall classify the covered
9 individual as an excluded individual, for a pe-
10 riod of not more than 3 years.

11 “(3) *EXCLUDED INDIVIDUAL.*—During any pe-
12 riod for which a covered individual is classified as an
13 excluded individual under paragraph (1)(B) or
14 (2)(B), a long-term care facility that employs such
15 individual shall be ineligible to receive Federal funds
16 under this Act.

17 “(4) *EXTENUATING CIRCUMSTANCES.*—

18 “(A) *IN GENERAL.*—The Secretary may take
19 into account the financial burden on providers
20 with underserved populations in determining
21 any penalty to be imposed under this subsection.

22 “(B) *UNDERSERVED POPULATION DE-*
23 *FINED.*—In this paragraph, the term ‘under-
24 served population’ means the population of an
25 area designated by the Secretary as an area with

1 *a shortage of elder justice programs or a popu-*
2 *lation group designated by the Secretary as hav-*
3 *ing a shortage of such programs. Such areas or*
4 *groups designated by the Secretary may in-*
5 *clude—*

6 “(i) *areas or groups that are geo-*
7 *graphically isolated (such as isolated in a*
8 *rural area);*

9 “(ii) *racial and ethnic minority popu-*
10 *lations; and*

11 “(iii) *populations underserved because*
12 *of special needs (such as language barriers,*
13 *disabilities, alien status, or age).*

14 “(d) *ADDITIONAL PENALTIES FOR RETALIATION.—*

15 “(1) *IN GENERAL.—A long-term care facility*
16 *may not—*

17 “(A) *discharge, demote, suspend, threaten,*
18 *harass, or deny a promotion or other employ-*
19 *ment-related benefit to an employee, or in any*
20 *other manner discriminate against an employee*
21 *in the terms and conditions of employment be-*
22 *cause of lawful acts done by the employee; or*

23 “(B) *file a complaint or a report against a*
24 *nurse or other employee with the appropriate*

1 *State professional disciplinary agency because of*
2 *lawful acts done by the nurse or employee,*
3 *for making a report, causing a report to be made, or*
4 *for taking steps in furtherance of making a report*
5 *pursuant to subsection (b)(1).*

6 “(2) *PENALTIES FOR RETALIATION.*—*If a long-*
7 *term care facility violates subparagraph (A) or (B) of*
8 *paragraph (1) the facility shall be subject to a civil*
9 *money penalty of not more than \$200,000 or the Sec-*
10 *retary may classify the entity as an excluded entity*
11 *for a period of 2 years pursuant to section 1128(b),*
12 *or both.*

13 “(3) *REQUIREMENT TO POST NOTICE.*—*Each*
14 *long-term care facility shall post conspicuously in an*
15 *appropriate location a sign (in a form specified by*
16 *the Secretary) specifying the rights of employees*
17 *under this section. Such sign shall include a state-*
18 *ment that an employee may file a complaint with the*
19 *Secretary against a long-term care facility that vio-*
20 *lates the provisions of this subsection and information*
21 *with respect to the manner of filing such a complaint.*

22 “(e) *PROCEDURE.*—*The provisions of section 1128A*
23 *(other than subsections (a) and (b) and the second sentence*
24 *of subsection (f)) shall apply to a civil money penalty under*

1 *this section in the same manner as such provisions apply*
 2 *to a penalty or proceeding under section 1128A(a).*

3 “(f) *DEFINITIONS.—In this section, the terms ‘elder*
 4 *justice’, ‘long-term care facility’, and ‘law enforcement’ have*
 5 *the meanings given those terms in section 2011.*

6 “*ENSURING SAFETY OF RESIDENTS WHEN FEDERALLY*
 7 *FUNDED LONG-TERM CARE FACILITIES CLOSE*

8 “*SEC. 1150B. (a) IN GENERAL.—*

9 “(1) *NOTIFICATION OF FACILITY CLOSURE.—*
 10 *Subject to paragraph (2), if the owner or operator de-*
 11 *termines under section 1150A(a)(1) that a long-term*
 12 *care facility received at least \$10,000 in Federal*
 13 *funds under this Act during the preceding year, the*
 14 *owner or operator of the facility shall—*

15 “(A) *submit to the Secretary and the appro-*
 16 *priate State regulatory agency written notifica-*
 17 *tion of an impending closure not later than the*
 18 *date that is 60 days prior to the date of such clo-*
 19 *sure;*

20 “(B) *include in the notice a plan for the*
 21 *transfer and adequate relocation of the residents*
 22 *of the facility prior to closure, including assur-*
 23 *ances that the residents will be transferred to the*
 24 *most appropriate facility in terms of quality,*
 25 *services, and location; and*

1 “(C) not later than 10 days after the facil-
2 ity closure, submit to the Secretary and the ap-
3 propriate State agency information identifying
4 where residents of the closed facility were trans-
5 ferred and on what date.

6 “(2) *EXCEPTION WHERE THE SECRETARY HAS*
7 *ISSUED A TERMINATION NOTICE.*—In the case of a
8 long-term care facility described in paragraph (1) for
9 which the Secretary has issued a termination notice
10 for the facility to close by not later than 15 days after
11 the issuance of such notice, the Secretary shall estab-
12 lish requirements for the notification, transfer, and
13 adequate relocation of residents within an appro-
14 priate timeframe.

15 “(b) *SANCTIONS.*—Any person owning or operating a
16 long-term care facility that fails to comply with the require-
17 ments of subsection (a) shall be subject to—

18 “(1) a civil monetary penalty of up to
19 \$1,000,000;

20 “(2) exclusion from participation in the pro-
21 grams under this Act (in accordance with the proce-
22 dures of section 1128); and

23 “(3) any other applicable civil monetary pen-
24 alties and assessments.

1 “(c) *PROCEDURE.*—*The provisions of section 1128A*
 2 *(other than subsections (a) and (b) and the second sentence*
 3 *of subsection (f)) shall apply to a civil money penalty or*
 4 *assessment under this section in the same manner as such*
 5 *provisions apply to a penalty or proceeding under section*
 6 *1128A(a).*

7 “(d) *DEFINITION.*—*In this section, the term ‘long-term*
 8 *care facility’ has the meaning given that term in section*
 9 *2011.”.*

10 (c) *NATIONAL NURSE AIDE REGISTRY.*—

11 (1) *DEFINITION OF NURSE AIDE.*—*In this sub-*
 12 *section, the term “nurse aide” has the meaning given*
 13 *that term in sections 1819(b)(5)(F) and 1919(b)(5)(F)*
 14 *of the Social Security Act (42 U.S.C. 1395i-*
 15 *3(b)(5)(F); 1396r(b)(5)(F)).*

16 (2) *STUDY AND REPORT.*—

17 (A) *IN GENERAL.*—*The Secretary, in con-*
 18 *sultation with appropriate government agencies*
 19 *and private sector organizations, shall conduct a*
 20 *study on establishing a national nurse aide reg-*
 21 *istry.*

22 (B) *AREAS EVALUATED.*—*The study con-*
 23 *ducted under this subsection shall include an*
 24 *evaluation of—*

1 (i) who should be included in the reg-
2 istry;

3 (ii) how such a registry would comply
4 with Federal and State privacy laws and
5 regulations;

6 (iii) how data would be collected for
7 the registry;

8 (iv) what entities and individuals
9 would have access to the data collected;

10 (v) how the registry would provide ap-
11 propriate information regarding violations
12 of Federal and State law by individuals in-
13 cluded in the registry;

14 (vi) how the functions of a national
15 nurse aide registry would be coordinated
16 with the pilot program for national and
17 State background checks on direct patient
18 access employees of long-term care facilities
19 or providers established under section 307 of
20 the Medicare Prescription Drug, Improve-
21 ment, and Modernization Act of 2003 (Pub-
22 lic Law 108–173); and

23 (vii) how the information included in
24 State nurse aide registries developed and
25 maintained under sections 1819(e)(2) and

1 *1919(e)(2) of the Social Security Act (42*
2 *U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)) would*
3 *be provided as part of a national nurse aide*
4 *registry.*

5 *(C) CONSIDERATIONS.—In conducting the*
6 *study and preparing the report required under*
7 *this subsection, the Secretary shall take into con-*
8 *sideration the findings and conclusions of rel-*
9 *evant reports and other relevant resources, in-*
10 *cluding the following:*

11 *(i) The Department of Health and*
12 *Human Services Office of Inspector General*
13 *Report, Nurse Aide Registries: State Com-*
14 *pliance and Practices (February 2005).*

15 *(ii) The General Accounting Office*
16 *(now known as the Government Account-*
17 *ability Office) Report, Nursing Homes:*
18 *More Can Be Done to Protect Residents*
19 *from Abuse (March 2002).*

20 *(iii) The Department of Health and*
21 *Human Services Office of the Inspector*
22 *General Report, Nurse Aide Registries:*
23 *Long-Term Care Facility Compliance and*
24 *Practices (July 2005).*

1 (iv) *The Department of Health and*
2 *Human Services Health Resources and*
3 *Services Administration Report, Nursing*
4 *Aides, Home Health Aides, and Related*
5 *Health Care Occupations—National and*
6 *Local Workforce Shortages and Associated*
7 *Data Needs (2004)(in particular with re-*
8 *spect to chapter 7 and appendix F).*

9 (v) *The 2001 Report to CMS from the*
10 *School of Rural Public Health, Texas A&M*
11 *University, Preventing Abuse and Neglect*
12 *in Nursing Homes: The Role of Nurse Aide*
13 *Registries.*

14 (vi) *Information included in State*
15 *nurse aide registries developed and main-*
16 *tained under sections 1819(e)(2) and*
17 *1919(e)(2) of the Social Security Act (42*
18 *U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)).*

19 (D) *REPORT.—Not later than 18 months*
20 *after the date of enactment of this Act, the Sec-*
21 *retary shall submit a report to the Elder Justice*
22 *Coordinating Council, the Committee on Finance*
23 *of the Senate, and the Committee on Ways and*
24 *Means and the Committee on Energy and Com-*
25 *merce of the House of Representatives containing*

1 *the findings and recommendations of the study*
2 *conducted under this paragraph.*

3 *(E) FUNDING LIMITATION.—Funding for the*
4 *study conducted under this subsection shall not*
5 *exceed \$500,000.*

6 *(3) CONGRESSIONAL ACTION.—After receiving the*
7 *report submitted by the Secretary under paragraph*
8 *(2)(D), the Committee on Finance of the Senate and*
9 *the Committee on Ways and Means and the Com-*
10 *mittee on Energy and Commerce of the House of Rep-*
11 *resentatives shall, as they deem appropriate, take ac-*
12 *tion based on the recommendations contained in the*
13 *report.*

14 *(4) AUTHORIZATION OF APPROPRIATIONS.—*
15 *There are authorized to be appropriated such sums as*
16 *are necessary for the purpose of carrying out this sub-*
17 *section.*

18 *(d) CONFORMING AMENDMENTS.—*

19 *(1) TITLE XX.—Title XX of the Social Security*
20 *Act (42 U.S.C. 1397 et seq.), as amended by section*
21 *5(a), is amended—*

22 *(A) in the heading of section 2001, by strik-*
23 *ing “TITLE” and inserting “SUBTITLE”; and*

1 (B) in subtitle 1, by striking “this title”
2 each place it appears and inserting “this sub-
3 title”.

4 (2) *TITLE IV.*—*Title IV of the Social Security*
5 *Act (42 U.S.C. 601 et seq.) is amended—*

6 (A) in section 404(d)—

7 (i) in paragraphs (1)(A), (2)(A), and
8 (3)(B), by inserting “subtitle 1 of” before
9 “title XX” each place it appears;

10 (ii) in the heading of paragraph (2),
11 by inserting “SUBTITLE OF” before “TITLE
12 XX”; and

13 (iii) in the heading of paragraph
14 (3)(B), by inserting “SUBTITLE OF” before
15 “TITLE XX”; and

16 (B) in sections 422(b), 471(a)(4), 472(h)(1),
17 and 473(b)(2), by inserting “subtitle 1 of” before
18 “title XX” each place it appears.

19 (3) *TITLE XI.*—*Title XI of the Social Security*
20 *Act (42 U.S.C. 1301 et seq.) is amended—*

21 (A) in section 1128(h)(3)—

22 (i) by inserting “subtitle 1 of” before
23 “title XX”; and

24 (ii) by striking “such title” and insert-
25 ing “such subtitle”; and

- 1 *(B) in section 1128A(i)(1), by inserting*
- 2 *“subtitle 1 of” before “title XX”.*

Calendar No. 1029

110TH CONGRESS
2^D SESSION

S. 1070

[Report No. 110-470]

A BILL

To amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 2008

Reported with an amendment