To amend the Older Americans Act of 1965 to authorize Federal assistance to State adult protective services programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2012

Mr. BLUMENTHAL (for himself, Mr. FRANKEN, Mr. WHITEHOUSE, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Older Americans Act of 1965 to authorize Federal assistance to State adult protective services programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Elder Protection and Abuse Prevention Act”.

(b) FINDINGS.—Congress finds the following:

(1) In 2009, the Department of Justice estimated that 14.1 percent of non-institutionalized...
older adults in the United States had experienced some form of elder abuse in the past year.

(2) Only 1 in 23.5 cases of elder abuse is ever reported due to a lack of screening, awareness, and prevention efforts.

(3) The mortality rate of older adults who are victims of abuse is 3 times higher than older adults that are not victims of abuse.

(4) The annual financial loss by victims of elder financial abuse is estimated to be at least $2,900,000,000, and steadily increasing.

SEC. 2. ADULT PROTECTIVE SERVICES; DEFINITIONS.

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) ABUSE.—The term ‘abuse’ means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.”;

(2) by redesignating paragraphs (4) through (54) as paragraphs (5) through (55);

(3) by inserting after paragraph (3), the following:
“(4) Adult Protective Services.—The term ‘adult protective services’ means such services provided to adults as the Secretary may specify and includes services such as—

“(A) receiving reports of adult abuse, neglect, or exploitation;

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

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

“(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.”;

(4) by amending paragraph (18), as so redesignated, to read as follows:

“(18) Elder Justice.—The term ‘elder justice’ means—

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

“(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and
“(ii) protect older individuals with diminished capacity while maximizing their autonomy; and

“(B) from an individual perspective, the recognition of an older individual’s rights, including the right to be free of abuse, neglect, and exploitation.”;

(5) in paragraph (19), as so redesignated, by striking “The term ‘exploitation’ means” and inserting “The terms ‘exploitation’ and ‘financial exploitation’ mean”;

(6) in paragraph (25), as so redesignated—

(A) in subparagraph (B), by striking “and”;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(D) abuse, neglect (including self-neglect), financial exploitation, including factors that are the basis of a referral to adult protective services.”;

(7) in paragraph (29)(C), as so redesignated, by inserting “, including opportunities for work and volunteer service in the community” after “available”;
(8) in paragraph (30), as so redesignated, by striking “information and referral” and inserting “information and referral assistance”; and

(9) in paragraph (37), as so redesignated, by inserting “(including elder abuse and neglect screening)” after “educational services”.

SEC. 3. COORDINATION OF ELDER JUSTICE ACTIVITIES.

(a) USE OF FUNDS.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

“(g) The Assistant Secretary is authorized to use funds appropriated to carry out this Act to implement activities authorized under part I of subtitle B of title XX of the Social Security Act (42 U.S.C. 1397k et seq.), including the establishment of the Advisory Board on Elder Abuse, Neglect, and Exploitation, and to convene the Elder Justice Coordinating Council.”.

(b) ASSURANCE OF APPROPRIATE TRAINING FOR STAFF.—Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended by adding at the end the following:

“(g) The Assistant Secretary shall—

“(1) ensure, where appropriate, that all programs funded under this Act include appropriate
training in prevention and provision of services that
address elder justice and exploitation; and

“(2) periodically update the need for and ben-
efit of such training related to prevention of abuse,
neglect, and exploitation of older adults.”.

(c) INFORMATION AND ASSISTANCE SERVICES.—Sec-
tion 202(a)(21) of the Older Americans Act of 1965 (42
U.S.C. 3012(a)(21)) is amended to read as follows:

“(21)(A) establish information and assistance serv-
ices as priority services for older individuals, and ensure
that quality information and assistance services are con-
sistently provided to older individuals;

“(B) ensure that there is full collaboration between
all governmental information and assistance systems that
serve older individuals, whether specialized, crisis interven-
tion, disaster assistance, or others; and

“(C) develop and operate, either directly or through
contracts, grants, or cooperative agreements, a National
Eldercare Locator Service, providing information and as-
sistance services through a nationwide toll free number to
identify community resources for older individuals;”.

(d) INTEGRATION OF TITLES.—Section 701 of the
Older Americans Act of 1965 (42 U.S.C. 3058) is amend-
ed by adding at the end the following: “The Assistant Sec-
retary, to the maximum extent practicable, shall ensure
there be full integration of education and public awareness activities under this title with all service programs under title III with special emphasis on the nutrition programs, legal services, information and referral assistance activities, the work of aging and disability resource centers, and the long-term care ombudsman programs, including programs carried out under title VI.”.

SEC. 4. COORDINATION OF NATIONAL ADULT PROTECTIVE SERVICES RESOURCE CENTER WITH ELDER ABUSE AND EXPLOITATION PREVENTION.

Subsection (e)(2) of section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended in the matter preceding subparagraph (A) by inserting ‘‘, and in coordination with State Directors of the Adult Protective Services Programs and State Directors of the Office of Long-Term Care Ombudsman Programs’’ after ‘‘and services’’.

SEC. 5. NATIONAL ADULT PROTECTIVE SERVICES RESOURCE CENTER.

(a) In General.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

“(g)(1) The Assistant Secretary shall, by grant or contract with a national nonprofit entity, establish a National Adult Protective Services Resource Center (referred
to in this subsection as the ‘Center’). The purposes of the Center are to improve the capacity of State and local adult protective services programs to respond effectively to abuse, neglect, and exploitation of vulnerable adults, including home care consumers and residents of long-term care facilities, and to coordinate with the Long-Term Care Ombudsman Program to protect home care consumers and residents most effectively.

“(2) The nonprofit entity awarded a grant or contract under this subsection shall have expertise in, and representation by, State and local adult protective services programs.

“(3) The Center shall—

“(A) collect and disseminate information regarding, and increase public awareness of, the role of adult protective services programs in investigating the abuse, neglect (including self-neglect), and exploitation of vulnerable adults, including home care consumers and residents of long-term care facilities, and in intervening to protect the consumers and residents from abuse;

“(B) develop, distribute, and provide training and technical assistance for adult protective services program investigators and supervisors investigating the abuse, neglect (including self-neglect), and ex-
ploitation of vulnerable adults, including home care
consumers and residents of long-term care facilities,
and intervening to protect the consumers and resi-
dents from further abuse;

“(C) develop, distribute, and provide training to
home care and long-term care professionals and oth-
ers on recognizing, reporting (including regarding
mandatory reporting requirements), and responding
to the abuse, neglect (including self-neglect), and fi-
nancial exploitation of vulnerable adults, including
home care consumers and residents of long-term
care facilities;

“(D) compile and disseminate reports on re-
search and best practices for adult protective serv-
ices programs and other programs on effective re-
sponses to the abuse, neglect (including self-neglect),
and exploitation of vulnerable adults, including home
care consumers and residents of long-term care fa-
cilities;

“(E) work with the National Ombudsman Re-
source Center and long-term care ombudsman pro-
grams to develop and disseminate training, practice
standards, and policies regarding—

“(i) the roles and responsibilities of adult
protective services and ombudsman programs;
“(ii) confidentiality and abuse reporting issues and protocols; and

“(iii) effective ways to maximize the resources of adult protective services programs for the benefit of home care consumers and residents of long-term care facilities; and

“(F) establish a data system to collect information on the abuse, neglect (including self-neglect), and exploitation of home care consumers and residents of long-term care facilities and to measure the effectiveness of the activities carried out by the Center.

“(4) Not later than 18 months after the date of enactment of the Elder Protection and Abuse Prevention Act, the Director shall—

“(A) collect and analyze, from leading national and State experts, the best practices related to screening for elder abuse;

“(B) publish a report that describes recommendations regarding such best practices and disseminate such report to all grantees under programs established under this Act and described under this section; and
“(C) submit to Congress such report and a description of the dissemination activities under subparagraph (B).

“(5) In this subsection, the term ‘home care consumer’ means a person who receives services in the person’s home or community to promote independence and reduce the necessity for residence in a long-term care facility, which may include home care services provided through this Act, the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or another public or private funding source.”.

(b) Authorization of Appropriations.—Section 216 of the Older Americans Act is amended by adding at the end the following:

“(d) National Adult Protective Services Resource Center.—There are authorized to be appropriated to carry out section 201(g) (relating to the National Adult Protective Services Resource Center), such sums as may be necessary for fiscal years 2012, 2013, 2014, 2015, and 2016.”.
SEC. 6. INCLUSION OF ADULT PROTECTIVE SERVICES PROGRAMS IN CONGRESSIONAL REPORTS.

Section 207(b)(1)(C) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(1)(C)) is amended by inserting “and the adult protective services programs of the States” after “of the States”.

SEC. 7. PREVENTION, ASSESSMENT, AND RESPONSE TO ELDER ABUSE.

(a) PREFERENCES.—Section 305(a)(2)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)(E)) is amended by inserting “older individuals who are or are alleged victims of elder abuse, neglect, or exploitation,” after “proficiency,”.

(b) AREA PLANS.—Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (a)(6), by adding at the end the following:

“(H)(i) in coordination with the State agency and with the State agency responsible for elder abuse prevention services, increase public awareness of elder abuse and financial exploitation, remove barriers to elder abuse education, prevention, investigation, and treatment;

“(ii) coordinate elder justice activities (including screenings) provided by the area agency on aging, community health centers, other pub-
lic agencies, and nonprofit private organizations;

“(iii) develop standardized, coordinated, and reporting protocols with respect to elder abuse; and

“(iv) report any instances elder abuse in accordance with State law.”; and

(2) in subsection (b)(3)—

(A) in subparagraph (J), by striking “and”;

(B) by redesignating subparagraph (K) as subparagraph (L); and

(C) by inserting after subparagraph (J) the following:

“(K) protection from elder abuse, neglect, and financial exploitation; and”.

(c) State Plans.—Section 307(a)(12) is amend-
ed—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(2) by inserting after subparagraph (A) the fol-
lowing:

“(B) that the State will develop and imple-
ment standardized protocols for screening and reporting with respect to elder abuse;”.

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(d) SUPPORTIVE SERVICES.—Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (1), by inserting “elder abuse and neglect screening,” after “mental health”),”; 

(2) in paragraph (8), by inserting “, elder abuse, and neglect” after “mental health”; and 

(3) in paragraph (23), by inserting “, elder abuse, neglect, and financial exploitation” after “mental health”.

(e) NUTRITION.—Section 339(2) of the Older Americans Act of 1965 (42 U.S.C. 3030g–21(2)) is amended—

(1) in subparagraph (J), by striking “, and” and inserting a comma; 

(2) in subparagraph (K), by striking the period at the end and inserting “, and”; and 

(3) by adding at the end the following:

“(L) encourages individuals who distribute nutrition services under subpart 2 to distribute information on diabetes, elder abuse, neglect, financial exploitation, and the annual Medicare wellness exam.”.

SEC. 8. ABUSE PREVENTION EDUCATION AND TRAINING.

(a) ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY.—
(1) **OLDER INDIVIDUALS’ PROTECTION FROM VIOLENCE PROJECTS.**—Section 413(b) of the Older Americans Act of 1965 (42 U.S.C. 3032b(b)) is amended—

(A) in paragraph (3), by striking “or” after the semicolon at the end;

(B) in paragraph (4), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(5) research and replicate successful models of elder abuse, neglect, and exploitation prevention and training.”.

(2) **DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS.**—Section 417(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3032f(a)(1)) is amended—

(A) in subparagraph (A), by striking “or” after the semicolon;

(B) in subparagraph (B), by striking “and” after the semicolon and inserting “or”; and

(C) by adding at the end the following:

“(C) engage volunteers who are older than 50 years of age in providing support and information to older adults (and their families or
caretakers) who have experienced or are at risk of elder abuse, including physical, emotional, or financial abuse, neglect, or exploitation and;”.

(b) Community Service Senior Opportunities.—Section 502(b)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)(E)) is amended by inserting “, and for the health and safety of, and prevention and detection of elder abuse for, older adults” after “families”.

(c) Allotments for Vulnerable Elder Rights Protection Activities.—

(1) State plan requirements.—Section 705(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3058d(a)(2)) is amended by inserting “family caregivers,” after “title VI,.”.

(2) State long-term care ombudsman program.—

(A) Support of office under the national family caregiver support program.—Section 373(g) of the Older Americans Act of 1965 (42 U.S.C. 3030s–1(g)) is amended by adding at the end the following:

“(3) Use of funds for ombudsman program.—Amounts made available to a State to carry out the State program under this subpart may be
used to support the Office of the State Long-Term Care Ombudsman, including supporting the development of resident and family councils.”.

(B) Ensuring effective programs and residents’ rights.—Section 712 of the Older Americans Act of 1965 (42 U.S.C. 3058g) is amended by adding at the end the following:

“(k) Ensuring Effective Programs and Residents’ Rights.—The State agency shall ensure the Office—

“(1) provides facility residents with private and unimpeded access to the Office, including access to all records concerning the resident; and

“(2) allows all facility residents to receive services from the Office.”.

(3) Prevention of elder abuse, neglect, and exploitation.—Section 721(b) of the Older Americans Act of 1965 (42 U.S.C. 3058i(b)) is amended—

(A) by redesignating paragraphs (7), (8), (9), (10), (11), and (12), as paragraphs (8), (10), (11), (12), (13), and (14), respectively;

(B) by striking paragraph (6) and inserting the following:
“(6) conducting specialized abuse sensitivity training for caregivers described in part E of title III;

“(7) conducting training for professionals and paraprofessionals in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;”;

and

(C) by inserting after paragraph (8), as redesignated by subparagraph (B), the following:

“(9) conducting appropriate training to ensure cultural sensitivity in the provision of elder rights services, including training in cultural issues associated with abuse;”.