

114TH CONGRESS
1ST SESSION

S. 192

To reauthorize the Older Americans Act of 1965, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2015

Mr. ALEXANDER (for himself, Mrs. MURRAY, Mr. BURR, and Mr. SANDERS)
introduced the following bill; which was read twice and referred to the
Committee on Health, Education, Labor, and Pensions

A BILL

To reauthorize the Older Americans Act of 1965, and for
other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Older Americans Act
5 Reauthorization Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

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

9 (1) by striking paragraph (1) and inserting the
10 following:

1 “(1) The term ‘abuse’ means the knowing in-
 2 fliction of physical or psychological harm or the
 3 knowing deprivation of goods or services that are
 4 necessary to meet essential needs or to avoid phys-
 5 ical or psychological harm.”;

6 (2) by striking paragraph (3) and inserting the
 7 following:

8 “(3) The term ‘adult protective services’ means
 9 such services provided to adults as the Secretary
 10 may specify and includes services such as—

11 “(A) receiving reports of adult abuse, ne-
 12 glect, or exploitation;

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

15 “(C) case planning, monitoring, evaluation,
 16 and other casework and services; and

17 “(D) providing, arranging for, or facili-
 18 tating the provision of medical, social service,
 19 economic, legal, housing, law enforcement, or
 20 other protective, emergency, or support serv-
 21 ices.”;

22 (3) by striking paragraph (4) and inserting the
 23 following:

24 “(4) The term ‘Aging and Disability Resource
 25 Center’ means an entity, network, or consortium es-

1 tablished by a State as part of the State system of
2 long-term care, to provide a coordinated and inte-
3 grated system for older individuals and individuals
4 with disabilities (as defined in section 3 of the Amer-
5 icans with Disabilities Act of 1990 (42 U.S.C.
6 12102)), and the caregivers of older individuals and
7 individuals with disabilities, that provides—

8 “(A) comprehensive information on the full
9 range of available public and private long-term
10 care programs, options, service providers, and
11 resources within a community, including infor-
12 mation on the availability of integrated long-
13 term care services, and Federal or State pro-
14 grams that provide long-term care services and
15 supports through home and community-based
16 service programs;

17 “(B) person-centered counseling to assist
18 individuals in assessing their existing or antici-
19 pated long-term care needs and goals, and de-
20 veloping and implementing a person-centered
21 plan for long-term care that is consistent with
22 the desires of such an individual and designed
23 to meet the individual’s specific needs, goals,
24 and circumstances;

“(C) access for individuals to the full range of publicly-supported long-term care services and supports for which the individuals may be eligible, including home and community-based service options, by serving as a convenient point of entry for such programs and supports; and

“(D) in cooperation with area agencies on aging, centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), and other community-based entities, information and referrals regarding available home and community-based services for individuals who are at risk for residing in, or who reside in, institutional settings, so that the individuals have the choice to remain in or to return to the community.”;

(4) in paragraph (14)(B), by inserting “oral health,” after “bone density,”;

(5) by striking paragraph (17) and inserting the following:

“(17) The term ‘elder justice’ means—

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

1 “(i) prevent, detect, treat, intervene
2 in, and prosecute elder abuse, neglect, and
3 exploitation; and

4 “(ii) protect older individuals with di-
5 minished capacity while maximizing their
6 autonomy; and

7 “(B) from an individual perspective, the
8 recognition of an older individual’s rights, in-
9 cluding the right to be free of abuse, neglect,
10 and exploitation.”; and

11 (6) in paragraph (18)(A), by striking “term ‘ex-
12 ploitation’ means” and inserting “terms ‘exploit-
13 ation’ and ‘financial exploitation’ mean”.

14 **SEC. 3. ADMINISTRATION ON AGING.**

15 (a) BEST PRACTICES.—Section 201 of the Older
16 Americans Act of 1965 (42 U.S.C. 3011) is amended—

17 (1) in subsection (d)(3)—

18 (A) in subparagraph (H), by striking
19 “202(a)(21)” and inserting “202(a)(18)”;

20 (B) in subparagraph (K), by striking
21 “and” at the end;

22 (C) in subparagraph (L)—

23 (i) by striking “Older Americans Act
24 Amendments of 1992” and inserting

1 “Older Americans Act Reauthorization Act
2 of 2015”; and

3 (ii) by striking “712(h)(4).” and in-
4 serting “712(h)(5); and”; and

5 (D) by adding at the end the following:

6 “(M) collect and analyze best practices related
7 to responding to elder abuse, neglect, and exploi-
8 tation in long-term care facilities, and publish a re-
9 port of such best practices.”; and

10 (2) in subsection (e)(2), in the matter preceding
11 subparagraph (A), by inserting “, and in coordina-
12 tion with the heads of State adult protective services
13 programs and the Director of the Office of Long-
14 Term Care Ombudsman Programs” after “and serv-
15 ices”.

16 (b) TRAINING.—Section 202 of the Older Americans
17 Act of 1965 (42 U.S.C. 3012) is amended—

18 (1) in subsection (a)—

19 (A) in paragraph (5), by inserting “health
20 and economic” before “needs of older individ-
21 uals”;

22 (B) in paragraph (7), by inserting “health
23 and economic” before “welfare”;

1 (C) in paragraph (14), by inserting “(in-
 2 cluding the Health Resources and Services Ad-
 3 ministration)” after “other agencies”;

4 (D) in paragraph (27), by striking “and”
 5 at the end;

6 (E) in paragraph (28), by striking the pe-
 7 riod and inserting a semicolon; and

8 (F) by adding at the end the following:

9 “(29) provide information and technical assist-
 10 ance to States, area agencies on aging, and service
 11 providers, in collaboration with relevant Federal
 12 agencies, on providing efficient, person-centered
 13 transportation services, including across geographic
 14 boundaries;

15 “(30) identify model programs and provide in-
 16 formation and technical assistance to States, area
 17 agencies on aging, and service providers (including
 18 providers operating multipurpose senior centers), to
 19 support the modernization of multipurpose senior
 20 centers; and

21 “(31) provide technical assistance to and share
 22 best practices with States, area agencies on aging,
 23 and Aging and Disability Resource Centers, on how
 24 to collaborate and coordinate services with health
 25 care entities, such as Federally-qualified health cen-

ters, as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)), in order to improve care coordination for individuals with multiple chronic illnesses.”;

(2) in subsection (b)—

(A) in paragraph (5)—

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

(ii) in subparagraph (C), by inserting “and” after the semicolon; and

(iii) by adding at the end the following:

“(D) when feasible, developing, in consultation with States and national organizations, a consumer-friendly tool to assist older individuals and their families in choosing home and community-based services, with a particular focus on ways for consumers to assess how providers protect the health, safety, welfare, and rights, including the rights provided under section 314, of older individuals;”;

(B) in paragraph (8)—

(i) in subparagraph (B), by inserting “to identify and articulate goals of care and” after “individuals”;

1 (ii) in subparagraph (D)—

2 (I) by inserting “respond to or”

3 before “plan”; and

4 (II) by striking “future long-term

5 care needs; and” and inserting “long-

6 term care needs;”;

7 (iii) in subparagraph (E), by adding

8 “and” at the end; and

9 (iv) by adding at the end the fol-

10 lowing:

11 “(F) to provide information and referrals

12 regarding available home and community-based

13 services for individuals who are at risk for re-

14 siding in, or who reside in, institutional set-

15 tings, so that the individuals have the choice to

16 remain in or to return to the community;”;

17 (3) by adding at the end the following:

18 “(g) The Assistant Secretary shall, as appropriate,

19 ensure that programs authorized under this Act include

20 appropriate training in the prevention of abuse, neglect,

21 and exploitation and provision of services that address

22 elder justice and the exploitation of older individuals.”.

23 (c) REPORTS.—Section 207(a) of the Older Ameri-

24 cans Act of 1965 (42 U.S.C. 3018(a)) is amended—

1 (1) in paragraph (2), by striking “202(a)(19)”
 2 and inserting “202(a)(16)”; and

3 (2) in paragraph (4), by striking “202(a)(17)”
 4 and inserting “202(a)(14)”.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
 6 216 of the Older Americans Act of 1965 (42 U.S.C.
 7 3020f) is amended—

8 (1) in subsection (a), by striking “2007, 2008,
 9 2009, 2010, and 2011” and inserting “2016, 2017,
 10 and 2018”;

11 (2) in subsection (b)—

12 (A) by striking “202(a)(24)” and inserting
 13 “202(a)(21)”; and

14 (B) by striking “2007, 2008, 2009, 2010,
 15 and 2011” and inserting “2016, 2017, and
 16 2018”; and

17 (3) in subsection (c), by striking “2007, 2008,
 18 2009, 2010, and 2011” and inserting “2016, 2017,
 19 and 2018”.

20 **SEC. 4. STATE AND COMMUNITY PROGRAMS ON AGING.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
 22 303 of the Older Americans Act of 1965 (42 U.S.C. 3023)
 23 is amended—

1 (1) in subsection (a)(1), by striking “fiscal
2 years 2007” and all that follows and inserting “each
3 of fiscal years 2016 through 2018.”;

4 (2) in subsection (b)—

5 (A) in paragraph (1), by striking “fiscal
6 years 2007” and all that follows and inserting
7 “each of fiscal years 2016 through 2018.”; and

8 (B) in paragraph (2), by striking “fiscal
9 years 2007” and all that follows and inserting
10 “each of fiscal years 2016 through 2018.”;

11 (3) in subsection (d), by striking “fiscal years
12 2007” and all that follows and inserting “each of
13 fiscal years 2016 through 2018.”; and

14 (4) in subsection (e)(2), by striking “2011” and
15 inserting “2011 and each of fiscal years 2016
16 through 2018”.

17 (b) ALLOTMENT.—Section 304 of the Older Ameri-
18 cans Act of 1965 (42 U.S.C. 3024) is amended—

19 (1) in subsection (a)(3), by striking subpara-
20 graph (D) and inserting the following:

21 “(D)(i) For each of fiscal years 2016 through 2018,
22 no State shall be allotted an amount that is less than 99
23 percent of the amount allotted to such State for the pre-
24 vious fiscal year.

1 “(ii) For fiscal year 2019 and each subsequent fiscal
 2 year, no State shall be allotted an amount that is less than
 3 100 percent of the amount allotted to such State for fiscal
 4 year 2018.”; and

5 (2) in subsection (b), by striking “subpart 1
 6 of”.

7 (c) PLANNING AND SERVICE AREAS.—Section
 8 305(b)(5)(C)(i)(III) of the Older Americans Act of 1965
 9 (42 U.S.C. 3025(b)(5)(C)(i)(III)) is amended by striking
 10 “planning and services areas” and inserting “planning
 11 and service areas”.

12 (d) AREA PLANS.—Section 306 of the Older Ameri-
 13 cans Act of 1965 (42 U.S.C. 3026) is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1), by striking “estab-
 16 lishment, maintenance, or construction of multi-
 17 purpose senior centers,” and inserting “estab-
 18 lishment, maintenance, modernization, or con-
 19 struction of multipurpose senior centers (includ-
 20 ing a plan to use the skills and services of older
 21 individuals in paid and unpaid work, including
 22 multigenerational and older individual to older
 23 individual work),”; and

24 (B) in paragraph (6)—

1 (i) in subparagraph (G), by adding
 2 “and” at the end; and

3 (ii) by adding at the end the fol-
 4 lowing:

5 “(H) in coordination with the State agency
 6 and with the State agency responsible for elder
 7 abuse prevention services, increase public
 8 awareness of elder abuse, neglect, and exploi-
 9 tation, and remove barriers to education, pre-
 10 vention, investigation, and treatment of elder
 11 abuse, neglect, and exploitation, as appro-
 12 priate;”; and

13 (2) in subsection (b)(3)—

14 (A) in subparagraph (J), by striking “and”
 15 at the end;

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

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

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

22 (e) STATE PLANS.—Section 307(a)(2)(A) of the
 23 Older Americans Act of 1965 (42 U.S.C. 3027(a)(2)(A))
 24 is amended by striking “202(a)(29)” and inserting
 25 “202(a)(26)”.

1 (f) NUTRITION SERVICES INCENTIVE PROGRAM.—
 2 Section 311(e) of the Older Americans Act of 1965 (42
 3 U.S.C. 3030a(e)) is amended by striking “fiscal year
 4 2007” and all that follows and inserting “each of fiscal
 5 years 2016 through 2018.”.

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

9 (1) in subsection (a)—

10 (A) in paragraph (1), by striking “or refer-
 11 ral services” and inserting “referral, chronic
 12 condition self-care management, or falls preven-
 13 tion services”;

14 (B) in paragraph (8), by striking “(includ-
 15 ing” and all that follows and inserting the fol-
 16 lowing: “(including mental and behavioral
 17 health screening and falls prevention services
 18 screening) to detect or prevent (or both) ill-
 19 nesses and injuries that occur most frequently
 20 in older individuals;” and

21 (C) in paragraph (15), by inserting before
 22 the semicolon the following: “, and screening
 23 for elder abuse, neglect, and exploitation”;

24 (2) in subsection (b)(1), by inserting “or mod-
 25 ernization” after “construction”;

1 (3) in subsection (c), by inserting before the pe-
 2 riod the following: “, and pursue opportunities for
 3 the development of intergenerational shared site
 4 models for programs or projects, consistent with the
 5 purposes of this Act”; and

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

7 “(e) In this section, the term ‘adult child with a dis-
 8 ability’ means a child who—

9 “(1) is age 18 or older;

10 “(2) is financially dependent on an older indi-
 11 vidual who is a parent of the child; and

12 “(3) has a disability.”.

13 (h) HOME DELIVERED NUTRITION SERVICES PRO-
 14 GRAM.—Section 336(1) of the Older Americans Act of
 15 1965 (42 U.S.C. 3030f(1)) is amended by striking
 16 “canned” and all that follows through “meals” and insert-
 17 ing “canned, or fresh foods and, as appropriate, supple-
 18 mental foods, and any additional meals”.

19 (i) NUTRITION SERVICES.—Section 339 of the Older
 20 Americans Act of 1965 (42 U.S.C. 3030g–21) is amended

21 (1) in paragraph (1), by striking “solicit” and
 22 inserting “utilize”; and

23 (2) in paragraph (2)—

24 (A) in subparagraph (J), by striking “and”
 25 at the end;

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

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

4 “(L) where feasible, encourages the use of
5 locally grown foods in meal programs and iden-
6 tifies potential partnerships and contracts with
7 local producers and providers of locally grown
8 foods.”.

9 (j) EVIDENCE-BASED DISEASE PREVENTION AND
10 HEALTH PROMOTION SERVICES PROGRAM.—Part D of
11 title III of the Older Americans Act of 1965 (42 U.S.C.
12 3030m et seq.) is amended—

13 (1) in the part heading, by inserting “EVI-
14 DENCE-BASED” before “DISEASE”; and

15 (2) in section 361(a), by inserting “evidence-
16 based” after “to provide”.

17 (k) OLDER RELATIVE CAREGIVERS.—

18 (1) TECHNICAL AMENDMENT.—Part E of title
19 III of the Older Americans Act of 1965 (42 U.S.C.
20 3030s et seq.) is amended by striking the subpart
21 heading for subpart 1.

22 (2) DEFINITIONS.—Section 372 of such Act (42
23 U.S.C. 3030s) is amended—

24 (A) in subsection (a)—

- 1 (i) in paragraph (1), by striking “or
 2 who is an individual with a disability”; and
 3 (ii) by striking paragraph (2) and in-
 4 serting the following:

5 “(2) INDIVIDUAL WITH A DISABILITY.—The
 6 term ‘individual with a disability’ means an indi-
 7 vidual with a disability, as defined in section 3 of the
 8 Americans with Disabilities Act of 1990 (42 U.S.C.
 9 12102), who is not less than age 18 and not more
 10 than age 59.

11 “(3) OLDER RELATIVE CAREGIVER.—The term
 12 ‘older relative caregiver’ means a caregiver who—

13 “(A)(i) is age 55 or older; and

14 “(ii) lives with, is the informal provider of
 15 in-home and community care to, and is the pri-
 16 mary caregiver for, a child or an individual with
 17 a disability;

18 “(B) in the case of a caregiver for a
 19 child—

20 “(i) is the grandparent,
 21 stepgrandparent, or other relative (other
 22 than the parent) by blood, marriage, or
 23 adoption, of the child;

24 “(ii) is the primary caregiver of the
 25 child because the biological or adoptive

1 parents are unable or unwilling to serve as
 2 the primary caregivers of the child; and

3 “(iii) has a legal relationship to the
 4 child, such as legal custody, adoption, or
 5 guardianship, or is raising the child infor-
 6 mally; and

7 “(C) in the case of a caregiver for an indi-
 8 vidual with a disability, is the parent, grand-
 9 parent, or other relative by blood, marriage, or
 10 adoption, of the individual with a disability.”;
 11 and

12 (B) in subsection (b)—

13 (i) by striking “subpart” and all that
 14 follows through “family caregivers” and in-
 15 serting “part, for family caregivers”;

16 (ii) by striking “; and” and inserting
 17 a period; and

18 (iii) by striking paragraph (2).

19 (I) NATIONAL FAMILY CAREGIVER SUPPORT PRO-
 20 GRAM.—Section 373 of the Older Americans Act of 1965
 21 (42 U.S.C. 3030s–1) is amended—

22 (1) in subsection (a)(2), by striking “grand-
 23 parents or older individuals who are relative care-
 24 givers.” and inserting “older relative caregivers.”;

25 (2) in subsection (c)—

1 (A) in paragraph (1), in the matter pre-
 2 ceding subparagraph (A), by striking “grand-
 3 parents and older individuals who are relative
 4 caregivers, and who” and inserting “older rel-
 5 ative caregivers, who”; and

6 (B) in paragraph (2)(B), by striking “to
 7 older individuals providing care to individuals
 8 with severe disabilities, including children with
 9 severe disabilities” and inserting “to older rel-
 10 ative caregivers of children with severe disabil-
 11 ities, or individuals with disabilities who have
 12 severe disabilities”;

13 (3) in subsection (e)(3), by striking “grand-
 14 parents or older individuals who are relative care-
 15 givers” and inserting “older relative caregivers”;

16 (4) in subsection (f)(1)(A), by striking “for fis-
 17 cal years 2007, 2008, 2009, 2010, and 2011” and
 18 inserting “for a fiscal year”; and

19 (5) in subsection (g)(2)(C), by striking “grand-
 20 parents and older individuals who are relative care-
 21 givers of a child who is not more than 18 years of
 22 age” and inserting “older relative caregivers”.

23 (m) CONFORMING AMENDMENT.—Part E of title III
 24 is amended by striking “this subpart” each place it ap-
 25 pears and inserting “this part”.

1 **SEC. 5. ACTIVITIES FOR HEALTH, INDEPENDENCE, AND**
2 **LONGEVITY.**

3 (a) GRANT PROGRAMS.—Section 411 of the Older
4 Americans Act of 1965 (42 U.S.C. 3032) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (12), by striking “and”
7 at the end;

8 (B) by redesignating paragraph (13) as
9 paragraph (14); and

10 (C) by inserting after paragraph (12) the
11 following:

12 “(13) continuing support for program integrity
13 initiatives concerning the Medicare program under
14 title XVIII of the Social Security Act (42 U.S.C.
15 1395 et seq.) that train senior volunteers to prevent
16 and identify health care fraud and abuse; and”;

17 (2) in subsection (b), by striking “for fiscal
18 years 2007” and all that follows through “2011”
19 and inserting “for each of fiscal years 2016 through
20 2018”.

21 (b) NATIVE AMERICAN PROGRAMS.—Section 418(b)
22 of the Older Americans Act of 1965 (42 U.S.C. 3032g(b))
23 is amended by striking “a national meeting to train” and
24 inserting “national trainings for”.

1 (c) LEGAL ASSISTANCE FOR OLDER AMERICANS.—
 2 Section 420(c) of the Older Americans Act of 1965 (42
 3 U.S.C. 3032i(c)) is amended by striking “national”.

4 (d) REPEALS.—Sections 415, 419, and 421 of the
 5 Older Americans Act of 1965 (42 U.S.C. 3032d, 3032h,
 6 3032j) are repealed.

7 (e) CONFORMING AMENDMENT.—Section
 8 417(a)(1)(A) of the Older Americans Act of 1965 (42
 9 U.S.C. 3032f(a)(1)(A)) is amended by striking “grand-
 10 parents and other older individuals who are relative care-
 11 givers” and inserting “older relative caregivers (as defined
 12 in section 372)”.

13 **SEC. 6. COMMUNITY SERVICE SENIOR OPPORTUNITIES.**

14 Section 517(a) of the Older Americans Act of 1965
 15 (42 U.S.C. 3056o(a)) is amended by striking “fiscal years
 16 2007, 2008, 2009, 2010, and 2011” and inserting “each
 17 of fiscal years 2016 through 2018”.

18 **SEC. 7. GRANTS FOR NATIVE AMERICANS.**

19 Section 643(2) of the Older Americans Act of 1965
 20 (42 U.S.C. 3057n(2)) is amended by striking “fiscal year
 21 2011” and inserting “each of fiscal years 2016 through
 22 2018”.

1 **SEC. 8. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.**
 2 **TIES.**

3 (a) OMBUDSMAN DEFINITIONS.—Section 711(6) of
 4 the Older Americans Act of 1965 (42 U.S.C. 3058f(6))
 5 is amended by striking “older”.

6 (b) OMBUDSMAN PROGRAMS.—Section 712 of the
 7 Older Americans Act of 1965 (42 U.S.C. 3058g) is
 8 amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2), by adding at the end
 11 the following: “The Ombudsman shall be re-
 12 sponsible for the management, including the fis-
 13 cal management, of the Office.”;

14 (B) in paragraph (3)—

15 (i) in subparagraph (A), by striking
 16 clause (i) and inserting the following:

17 “(i) are made by, or on behalf of, resi-
 18 dents, including residents with limited or
 19 no decisionmaking capacity and who have
 20 no known legal representative, and if such
 21 a resident is unable to communicate con-
 22 sent for an Ombudsman to work on a com-
 23 plaint directly involving the resident, the
 24 Ombudsman shall seek evidence to indicate
 25 what outcome the resident would have
 26 communicated (and, in the absence of evi-

dence to the contrary, shall assume that the resident wishes to have the resident's health, safety, welfare, and rights protected) and shall work to accomplish that outcome; and";

(ii) in subparagraph (D), by striking "regular and timely" and inserting "regular, timely, private, and unimpeded";

(iii) in subparagraph (H)(iii)—

(I) by inserting " , actively encourage, and assist in" after "provide technical support for"; and

(II) by striking "and" after the semicolon;

(iv) by redesignating subparagraph (I) as subparagraph (J); and

(v) by inserting after subparagraph (H) the following:

"(I) when feasible, continue to carry out the functions described in this section on behalf of residents transitioning from a long-term care facility to a home care setting; and";

(C) in paragraph (5)(B)—

(i) in clause (vi)—

1 (I) by inserting “, actively en-
2 courage, and assist in” after “sup-
3 port”; and

4 (II) by striking “and” after the
5 semicolon;

6 (ii) by redesignating clause (vii) as
7 clause (viii); and

8 (iii) by inserting after clause (vi) the
9 following:

10 “(vii) identify, investigate, and resolve
11 complaints described in clause (iii) that are
12 made by or on behalf of residents with lim-
13 ited or no decisionmaking capacity and
14 who have no known legal representative,
15 and if such a resident is unable to commu-
16 nicate consent for an Ombudsman to work
17 on a complaint directly involving the resi-
18 dent, the Ombudsman shall seek evidence
19 to indicate what outcome the resident
20 would have communicated (and, in the ab-
21 sence of evidence to the contrary, shall as-
22 sume that the resident wishes to have the
23 resident’s health, safety, welfare, and
24 rights protected) and shall work to accom-
25 plish that outcome; and”;

1 (2) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by striking
4 “access” and inserting “private and
5 unimpeded access”; and

6 (ii) in subparagraph (B)—

7 (I) in clause (i)—

8 (aa) in the matter preceding
9 subclause (I), by striking “the
10 medical and social records of a”
11 and inserting “all files, records,
12 and other information concerning
13 a”; and

14 (bb) in subclause (II), by
15 striking “to consent” and insert-
16 ing “to communicate consent”;
17 and

18 (II) in clause (ii), in the matter
19 before subclause (I), by striking “the
20 records” and inserting “the files,
21 records, and information”; and

22 (B) by adding at the end the following:

23 “(3) HEALTH OVERSIGHT AGENCY.—For pur-
24 poses of section 264(c) of the Health Insurance
25 Portability and Accountability Act of 1996 (includ-

ing regulations issued under that section) (42 U.S.C. 1320d–2 note), the Ombudsman and a representative of the Office shall be considered a ‘health oversight agency,’ so that release of residents’ individually identifiable health information to the Ombudsman or representative is not precluded in cases in which the requirements of clause (i) or (ii) of paragraph (1)(B), or the requirements of paragraph (1)(D), are otherwise met.”;

(3) in subsection (c)(2)(D), by striking “202(a)(21)” and inserting “202(a)(18)”;

(4) in subsection (d)—

(A) in paragraph (1), by striking “files” and inserting “files, records, and other information”; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “files and records” each place such term appears and inserting “files, records, and other information”; and

(II) by striking “and” after the semicolon;

(ii) in subparagraph (B)—

1 (I) by striking “files or records”
 2 and inserting “files, records, or other
 3 information”; and

4 (II) in clause (iii), by striking the
 5 period at the end and inserting “;
 6 and”; and

7 (iii) by adding at the end the fol-
 8 lowing:

9 “(C) notwithstanding subparagraph (B),
 10 ensure that the Ombudsman may disclose infor-
 11 mation as needed in order to best serve resi-
 12 dents with limited or no decisionmaking capac-
 13 ity who have no known legal representative and
 14 are unable to communicate consent, in order for
 15 the Ombudsman to carry out the functions and
 16 duties described in paragraphs (3)(A) and
 17 (5)(B) of subsection (a).”; and

18 (5) by striking subsection (f) and inserting the
 19 following:

20 “(f) CONFLICT OF INTEREST.—

21 “(1) INDIVIDUAL CONFLICT OF INTEREST.—

22 The State agency shall—

23 “(A) ensure that no individual, or member
 24 of the immediate family of an individual, in-
 25 volved in the designation of the Ombudsman

(whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

“(B) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest; and

“(C) ensure that the Ombudsman—

“(i) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

“(ii) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

“(iii) is not employed by, or participating in the management of, a long-term care facility or a related organization, and has not been employed by such a facility or organization within 1 year before the date of the determination involved;

1 “(iv) does not receive, or have the
 2 right to receive, directly or indirectly, re-
 3 muneration (in cash or in kind) under a
 4 compensation arrangement with an owner
 5 or operator of a long-term care facility;

6 “(v) does not have management re-
 7 sponsibility for, or operate under the su-
 8 pervision of an individual with manage-
 9 ment responsibility for, adult protective
 10 services; and

11 “(vi) does not serve as a guardian or
 12 in another fiduciary capacity for residents
 13 of long-term care facilities in an official ca-
 14 pacity (as opposed to serving as a guardian
 15 or fiduciary for a family member, in a per-
 16 sonal capacity).

17 “(2) ORGANIZATIONAL CONFLICT OF INTER-
 18 EST.—

19 “(A) IN GENERAL.—The State agency
 20 shall comply with subparagraph (B)(i) in a case
 21 in which the Office poses an organizational con-
 22 flict of interest, including a situation in which
 23 the Office is placed in an organization that—

1 “(i) is responsible for licensing, certi-
2 fying, or surveying long-term care services
3 in the State;

4 “(ii) is an association (or an affiliate
5 of such an association) of long-term care
6 facilities, or of any other residential facili-
7 ties for older individuals;

8 “(iii) provides long-term care services,
9 including programs carried out under a
10 Medicaid waiver approved under section
11 1115 of the Social Security Act (42 U.S.C.
12 1315) or under subsection (b) or (c) of
13 section 1915 of the Social Security Act (42
14 U.S.C. 1396n), or under a Medicaid State
15 plan amendment under subsection (i), (j),
16 or (k) of section 1915 of the Social Secu-
17 rity Act (42 U.S.C. 1396n);

18 “(iv) provides long-term care case
19 management;

20 “(v) sets rates for long-term care
21 services;

22 “(vi) provides adult protective serv-
23 ices;

24 “(vii) is responsible for eligibility de-
25 terminations for the Medicaid program

carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

“(viii) conducts preadmission screening for placements in facilities described in clause (ii); or

“(ix) makes decisions regarding admission or discharge of individuals to or from such facilities.

“(B) IDENTIFYING, REMOVING, AND REMEDYING ORGANIZATIONAL CONFLICT.—

“(i) IN GENERAL.—The State agency may not operate the Office or carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization, in a case in which there is an organizational conflict of interest (within the meaning of subparagraph (A)) unless such conflict of interest has been—

“(I) identified by the State agency;

“(II) disclosed by the State agency to the Assistant Secretary in writing; and

1 “(III) remedied in accordance
2 with this subparagraph.

3 “(ii) ACTION BY ASSISTANT SEC-
4 RETARY.—In a case in which a potential or
5 actual organizational conflict of interest
6 (within the meaning of subparagraph (A))
7 involving the Office is disclosed or reported
8 to the Assistant Secretary by any person
9 or entity, the Assistant Secretary shall re-
10 quire that the State agency, in accordance
11 with the policies and procedures estab-
12 lished by the State agency under sub-
13 section (a)(5)(D)(iii)—

14 “(I) remove the conflict; or

15 “(II) submit, and obtain the ap-
16 proval of the Assistant Secretary for,
17 an adequate remedial plan that indi-
18 cates how the Ombudsman will be
19 unencumbered in fulfilling all of the
20 functions specified in subsection
21 (a)(3).”; and

22 (6) in subsection (h)—

23 (A) in paragraph (3)(A)(i), by striking
24 “older”;

1 (B) in paragraph (4), by striking all that
2 precedes “procedures” and inserting the fol-
3 lowing:

4 “(4) strengthen and update”;

5 (C) by redesignating paragraphs (4)
6 through (9) as paragraphs (5) through (10), re-
7 spectively;

8 (D) by inserting after paragraph (3) the
9 following:

10 “(4) ensure that the Ombudsman or a designee
11 participates in training provided by the National
12 Ombudsman Resource Center established in section
13 202(a)(18);”;

14 (E) in paragraph (6)(A), as redesignated
15 by subparagraph (C) of this paragraph, by
16 striking “paragraph (4)” and inserting “para-
17 graph (5)”;

18 (F) in paragraph (7)(A), as redesignated
19 by subparagraph (C) of this paragraph, by
20 striking “subtitle C of the” and inserting “sub-
21 title C of title I of the”; and

22 (G) in paragraph (10), as redesignated by
23 subparagraph (C) of this paragraph, by striking
24 “(6), or (7)” and inserting “(7), or (8)”.

1 (c) OMBUDSMAN REGULATIONS.—Section 713 of the
 2 Older Americans Act of 1965 (42 U.S.C. 3058h) is
 3 amended—

4 (1) in paragraph (1), by striking “paragraphs
 5 (1) and (2) of section 712(f)” and inserting “sub-
 6 paragraphs (A) and (B) of section 712(f)(1)”; and
 7 (2) in paragraph (2), by striking “subpara-
 8 graphs (A) through (D) of section 712(f)(3)” and
 9 inserting “clauses (i) through (vi) of section
 10 712(f)(1)(C)”.

11 (d) PREVENTION OF ELDER ABUSE, NEGLECT, AND
 12 EXPLOITATION.—Section 721 of the Older Americans Act
 13 of 1965 (42 U.S.C. 3058i) is amended—

14 (1) in subsection (b)—

15 (A) in the matter preceding paragraph (1),
 16 by striking “(including financial exploitation)”;

17 (B) by redesignating paragraphs (5)
 18 through (12) as paragraphs (6) through (13),
 19 respectively;

20 (C) by inserting after paragraph (4) the
 21 following:

22 “(5) promoting the submission of data on elder
 23 abuse, neglect, and exploitation for the appropriate
 24 database of the Administration or another database
 25 specified by the Assistant Secretary;”;

1 (D) in paragraph (10)(C), as redesignated
 2 by subparagraph (B) of this paragraph—

3 (i) in clause (ii), by inserting “, such
 4 as forensic specialists,” after “such per-
 5 sonnel”; and

6 (ii) in clause (v), by inserting before
 7 the comma the following: “, including pro-
 8 grams and arrangements that protect
 9 against financial exploitation”; and

10 (E) in paragraph (12), as redesignated by
 11 subparagraph (B) of this paragraph—

12 (i) in subparagraph (D), by striking
 13 “and” at the end; and

14 (ii) by adding at the end the fol-
 15 lowing:

16 “(F) supporting and studying innovative
 17 practices in communities to develop partner-
 18 ships across disciplines for the prevention, in-
 19 vestigation, and prosecution of abuse, neglect,
 20 and exploitation; and”; and

21 (2) in subsection (e)(2), in the matter preceding
 22 subparagraph (A)—

23 (A) by striking “subsection (b)(9)(B)(i)”
 24 and inserting “subsection (b)(10)(B)(i)”; and

1 (B) by striking “subsection (b)(9)(B)(ii)”
 2 and inserting “subsection (b)(10)(B)(ii)”.

3 **SEC. 9. BEHAVIORAL HEALTH.**

4 The Older Americans Act of 1965 is amended—

5 (1) in section 102 (42 U.S.C. 3002)—

6 (A) in paragraph (14)(G), by inserting
 7 “and behavioral” after “mental”;

8 (B) in paragraph (36), by inserting “and
 9 behavioral” after “mental”; and

10 (C) in paragraph (47)(B), by inserting
 11 “and behavioral” after “mental”;

12 (2) in section 201(f)(1) (42 U.S.C. 3011(f)(1)),
 13 by inserting “and behavioral” after “mental”;

14 (3) in section 202(a)(5) (42 U.S.C.
 15 3012(a)(5)), by inserting “and behavioral” after
 16 “mental”;

17 (4) in section 306(a) (42 U.S.C. 3026(a))—

18 (A) in paragraph (2)(A), by inserting “and
 19 behavioral” after “mental”; and

20 (B) in paragraph (6)(F), by striking “men-
 21 tal health services” each place such term ap-
 22 pears and inserting “mental and behavioral
 23 health services”; and

24 (5) in section 321(a) (42 U.S.C. 3030d)—

1 (A) in paragraph (1), as amended by sec-
 2 tion 4(g), by inserting “and behavioral” after
 3 “mental”;

4 (B) in paragraph (14)(B), by inserting
 5 “and behavioral” after “mental”; and

6 (C) in paragraph (23), by inserting “and
 7 behavioral” after “mental”.

8 **SEC. 10. GUIDANCE ON SERVING HOLOCAUST SURVIVORS.**

9 (a) IN GENERAL.—Because the services under the
 10 Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)
 11 are critical to meeting the urgent needs of Holocaust sur-
 12 vivors to age in place with dignity, comfort, security, and
 13 quality of life, the Assistant Secretary for Aging shall
 14 issue guidance to States, that shall be applicable to States,
 15 area agencies on aging, and providers of services for older
 16 individuals, with respect to serving Holocaust survivors,
 17 including guidance on promising practices for conducting
 18 outreach to that population. In developing the guidance,
 19 the Assistant Secretary for Aging shall consult with ex-
 20 perts and organizations serving Holocaust survivors, and
 21 shall take into account the possibility that the needs of
 22 Holocaust survivors may differ based on geography.

23 (b) CONTENTS.—The guidance shall include the fol-
 24 lowing:

1 (1) How nutrition service providers may meet
2 the special health-related or other dietary needs of
3 participants in programs under the Older Americans
4 Act of 1965, including needs based on religious, cul-
5 tural, or ethnic requirements.

6 (2) How transportation service providers may
7 address the urgent transportation needs of Holo-
8 caust survivors.

9 (3) How State long-term care ombudsmen may
10 address the unique needs of residents of long-term
11 care facilities for whom institutional settings may
12 produce sights, sounds, smells, emotions, and rou-
13 tines, that can induce panic, anxiety, and retrauma-
14 tization as a result of experiences from the Holo-
15 caust.

16 (4) How supportive services providers may con-
17 sider the unique needs of Holocaust survivors.

18 (5) How other services provided under that Act,
19 as determined by the Assistant Secretary for Aging,
20 may serve Holocaust survivors.

21 (c) DATE OF ISSUANCE.—The guidance described in
22 subsection (a) shall be issued not later than 180 days after
23 the date of enactment of this Act.

