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Calendar No. 663

114TH CONGRESS *2d Session*	SENATE	REPORT 114–370

SENIORS FRAUD PREVENTION ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1490

NOVEMBER 15, 2016.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE
69–010 WASHINGTON : 2016

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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Mr. THUNE, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 1490]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1490) to establish an advisory office within the Bureau of Consumer Protection of the Federal Trade Commission to prevent fraud targeting seniors, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1490, the Seniors Fraud Prevention Act of 2015, is to establish an advisory office within the Bureau of Consumer Protection of the Federal Trade Commission (FTC or Commission) to advise the Commission on the prevention of fraud targeting seniors by monitoring the market for specific fraud schemes aimed at seniors and coordinating with other agencies to provide consumer education materials to seniors and their caregivers. The bill would also require the FTC to work with the Attorney General to establish procedures to log complaints regarding fraud targeting seniors.

BACKGROUND AND NEEDS

Seniors, those Americans aged 65 and older, number over 43 million and are the fastest growing segment of the population.[1] While

[1] The U.S. Census Bureau projects the senior population in 2050 to be 83.7 million, almost double the estimated population in 2012. The Bureau also estimates that, by 2030, 20 percent of the U.S. population will be over age 65, compared to 13 percent in 2010 and 9.8 percent in 1970. See Jennifer Ortman, Victoria Velkoff, & Howard Hogan; U.S. Department of Commerce,
Continued

older Americans are not necessarily victimized by fraud at higher rates than younger consumers,[2] their relative net worth makes them attractive targets to fraudsters.[3] Fraud directed toward seniors ranges from Medicare and medical device fraud to "grandparents schemes," in which fraudsters call a senior and pretend to be a grandchild in need of wired prison bail, to imposter schemes that claim to provide technical support to remedy non-existent computer problems. Statistics measuring the financial cost of fraud targeting seniors range from $2.9 billion[4] to $12.46 billion[5] annually.

The FTC, a civil enforcement agency, takes a multi-faceted approach to combating fraud that includes both enforcement and education efforts. In the past few years, it has brought cases against fraudsters targeting seniors. One telemarketing scam attempted to get seniors to divulge personal information by claiming to be part of Medicare.[6] The scammers used this information to debit $399 or $488 from each of the victims. In another case, fraudsters used robocalls to tell seniors that a friend or family member had purchased a medical alert system for them and that monthly monitoring fees would only be charged once the system was installed and activated, but instead began charging them immediately.[7]

In addition to these enforcement actions, the FTC has developed a consumer education campaign called *Pass It On,* which targets active, older adults. The goal of *Pass It On* is to educate seniors about common fraud schemes so they can pass on this information to their respective communities.[8] Since launching the campaign in July 2014, the FTC has received requests for more than 250,000 copies of *Pass It On* from organizations in 49 States. The FTC also partners with organizations such as the American Association of Retired Persons to provide education and counseling to seniors that have been affected by fraud. Through this program, the FTC refers consumers over the age of 60 that have called the FTC's Consumer Response Center with complaints about fraud to peer counselors that provide support to those that have been targeted.

The Commission also participates in the Elder Justice Coordinating Council, an organization composed of 12 Federal agencies, which meets regularly to coordinate activities related to elder

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U.S. Census Bureau, *An Aging Nation: The Older Population in the United States*, May 2014, pp.1–3, at https://www.census.gov/prod/2014pubs/p25-1140.pdf.

[2] The FTC's third consumer fraud survey found that the overall victimization rate for seniors was significantly lower than for younger consumers. FTC Bureau of Economics Staff Report, *Consumer Fraud in the U.S., 2011,* pp. 56–59, Apr. 2013, at https://www.ftc.gov/reports/consumer-fraud-united-states-2011-third-ftc-survey. But see, FBI Fraud Target: Senior Citizens, available at https://www.fbi.gov/scams-safety/fraud/seniors, (FBI estimates that older Americans are less likely to report fraud because they are embarrassed, don't know who to report it to, or don't know that they have been defrauded).

[3] In 2011, the net worth for households headed by seniors was approximately $17.2 trillion, with a median net worth of $170,500. See *Census Bureau*, Table 5, "Mean Value of Assets for Households by Type of Asset Owned and Selected Characteristics: 2011" 2011, at http://www.census.gov/people/wealth/files/Wealth__Tables__2011.xlsx.

[4] The Metlife Mature Market Institute, *MetLife Study of Elder Financial Abuse, Crimes of Occasion, Desperation, and Predation Against America's Elders*, June 2011, at http://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf.

[5] *TrueLink Report on Elder Financial Abuse 2015*, January 2015, at *http://www.nasuad/files/True-Link-Report-On-Elder-Financial-Abuse.pdf.*

[6] *FTC v. Sun Bright Ventures LLC*, No. 140CV–02153–JDW–EAJ (M.D. Fla Oct. 2, 2014), at *https://www.ftc.gov/enforcement/cases-proceedings/132-3217/sun-bright-ventures-llc-gmy-llc.*

[7] *FTC v. Worldwide Information Services, Inc.*, No. 6:14–CV–8 ORC–28DAB (M.D. Fla Jan. 13, 2014), at *https://www.ftc.gov/enforcement/cases-proceedings/132-3175/worldwide-info-services-inc.*

[8] *Pass It On* materials, at https://www.ftc.gov/PassItOn. The materials are free and in the public domain and hard copies may be requested from https://www.ftc.gov/bulkorder.

abuse, neglect, and exploitation.[9] Every 2 years, the Council provides a report to Congress with recommendations on how best to address these abuses. The Council's most recent report contained eight recommendations for increased Federal involvement in addressing these issues, including a recommendation that agencies develop a public awareness campaign to assist in preventing elder abuse, including fraud targeting older Americans.[10]

To address these issues, S. 1490 would establish a permanent advisory office within the FTC's Bureau of Consumer Protection to streamline efforts to prevent fraud targeting seniors. This bill also would facilitate coordination between various Federal agencies with jurisdiction over fraud to ensure consumer education efforts are effective, contain accurate information, and are consistent across the relevant agencies.

Legislative History

Senator Klobuchar introduced this bill on June 3, 2015, with Senator Collins as an original cosponsor. The bill is also cosponsored by Senators Ayotte, McCaskill, Schatz, and Shaheen. On June 15, 2016, the Committee met in open Executive Session and, by voice vote, ordered S. 1490 to be reported favorably without amendment.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1490—Seniors Fraud Prevention Act of 2015

S. 1490 would direct the Federal Trade Commission (FTC) to establish an advisory office to assist the commission with preventing fraud that targets seniors. CBO estimates that implementing S. 1490 would have no significant effect on the federal budget.

Under current law, the FTC has the authority to issue rules regarding unfair or deceptive acts or practices affecting commerce. Within the FTC, the Bureau of Consumer Protection investigates consumer complaints, develops rules, and educates consumers about those practices. S. 1490 would direct the FTC to establish an office within the Bureau of Consumer Protection to address deceptive practices that target seniors. The office would monitor fraud activity, disseminate information regarding common fraud schemes, and maintain a website. The advisory office also would log complaints received in the Consumer Sentinel Network, which is currently operated by the FTC. On the basis of information from the FTC, CBO estimates that the costs of implementing S. 1490 would

[9] The Elder Justice Coordinating Council is chaired by the Department of Health and Human Services and its membership includes the Consumer Financial Protection Bureau, the Corporation for National and Community Service, the Department of Housing and Urban Development, the Department of Justice, the Department of Labor, the Department of Transportation, the Veterans Administration, the FTC, the Securities and Exchange Commission, the Social Security Administration, and the U.S. Postal Inspection Service.

[10] U.S. Department of Health & Human Services, *Eight (8) Recommendations for Increased Federal Involvement In Addressing Elder Abuse, Neglect, and Exploitation*, May 2014, at http://www.aoa.acl.gov/AoA__Programs/Elder__Rights/EJCC/docs/Eight__Recommendations__for__Increased__Federal__Involvement.pdf.

be less than $500,000 annually because the agency is already taking actions to monitor and disseminate information to prevent fraud that targets seniors. That spending would be subject to the availability of appropriated funds.

Enacting S. 1490 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1490 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 1490 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Regulatory Impact

Because S. 1490 would not create any new programs, the legislation would have no additional regulatory impact, and would result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

Congressionally Directed Spending

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

Section-by-Section Analysis

Section 1. Short title.

This section would establish the bill's short title as the "Seniors Fraud Prevention Act of 2015."

Section 2. Office for the Prevention of Fraud Targeting Seniors.

This section would establish an office within the FTC's Bureau of Consumer Protection that would advise the Commission on the prevention of fraud targeting seniors.

The advisory office would be tasked with monitoring the market for mail, television, internet, and robocall fraud targeting seniors.

The office also would consult with the Attorney General, Secretary of Health and Human Services, the Postmaster General, the Chief Postal Inspector for the United States Postal Inspection Service, and other relevant agencies to undertake efforts to educate consumers, including seniors, their families, and their caregivers, about fraud targeting older Americans. This consumer outreach program would provide information about the most common senior fraud schemes as well as information on how to report senior fraud through the national toll-free number or through the FTC's Consumer Sentinel Network.

This section would require the Commission, in response to a specific request, to provide publicly available information about any enforcement actions it has taken against any particular individual or entity. The advisory office also would maintain a website providing information regarding the various types of fraud targeting seniors.

This section also would require the Commission, through the advisory office, and in consultation with the Attorney General, to establish procedures to log and acknowledge complaints from individuals who believe they have been victims of mail, television, internet, telemarketing, and robocall fraud in the Consumer Sentinel Network. These complaints would be made immediately available to Federal, State and local law enforcement authorities. In so doing, the Commission, acting though the advisory office, would be required to consult with the Attorney General to provide specific and general information on fraud schemes to individuals and law enforcement agencies.

This section would clarify, however, that the Commission, through the advisory office, may implement the consumer education program and complaint procedures described in this section without the approval of the officials and agencies with which it is required to consult.

The Commission would have 1 year after the date of enactment to commence carrying out the bill's requirements.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

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