

PROMOTING ALZHEIMER'S AWARENESS TO PREVENT
ELDER ABUSE ACT

SEPTEMBER 24, 2020.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 6813]

The Committee on the Judiciary, to whom was referred the bill (H.R. 6813) to amend the Elder Abuse Prevention and Prosecution Act to improve the prevention of elder abuse and exploitation of individuals with Alzheimer's disease and related dementias, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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Purpose and Summary

H.R. 6813, the “Promoting Alzheimer’s Awareness to Prevent Elder Abuse Act,” would require the Department of Justice’s Elder Justice Coordinator to develop best practices and training materials for professionals treating, protecting and caring for people living with Alzheimer’s and related dementias. This legislation will build upon existing requirements for training materials by requiring the Elder Justice Coordinator to engage in greater consultation

with relevant entities and stakeholders. Specifically, H.R. 6813 requires that, in the preparation of training materials, the Elder Justice Coordinator consult with the Secretary of Health and Human Services, State, local, and Tribal adult protective services, aging, social, and human services agencies, as well as Federal, State, local, and Tribal law enforcement agencies. In addition, the bill adds a new requirement that the Elder Justice Coordinator consult, as appropriate, with nationally recognized nonprofit associations with relevant expertise when creating or updating guides and training materials. H.R. 6813 also requires the Elder Justice Coordinator to develop specific training materials in the evaluation of evidence in cases where the victims and witnesses have Alzheimer’s disease or related dementias.

Background and Need for the Legislation

More than 5.8 million Americans are currently living with Alzheimer’s or dementia—more than 1 in 10 people 65 or older.¹ By 2050, the number of people age 65 and older with Alzheimer’s dementia is projected to reach 13.8 million.² Approximately one in 10 seniors aged 60 and older have experienced some form of elder abuse, and among those with Alzheimer’s and related dementias, some estimates are over 50 percent.³ Research suggests that the 2.5 million vulnerable individuals in residential care settings are at much higher risk for abuse and neglect than older persons who live at home.⁴ However, one study estimated that only 1 in 14 cases of abuse are reported to authorities.⁵ The toll of abuse brings serious consequences. According to the National Council on Aging, seniors who have been abused have a 300% higher risk of death when compared to those who have not been mistreated.⁶

During the pandemic resulting from Covid-19 in 2020, people living with Alzheimer’s and other forms of dementia face even greater risk to their health and safety. Approximately seven out of ten residents in long-term care facilities have some form of cognitive impairment, with 29 percent having mild impairment, 23 percent moderate impairment, and 19 percent severe impairment.⁷ According to one study, over 50% of nursing home staff admitted to mistreating (e.g. physical violence, mental abuse, neglect) older patients within the prior year.⁸ With social isolation measures limiting contact with family members and other visitors, these individuals are at even greater risk of abuse and exploitation.

¹Hebert LE, Weuve J, Scherr PA, Evans DA., *Alzheimer disease in the United States (2010–2050) estimated using the 2010 Census*, NEUROLOGY (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3719424/>.

²*Id.*

³National Center on Elder Abuse, *Statistics & Data* (Sept. 2020), <https://ncea.acl.gov/What-We-Do/Research/Statistics-and-Data.aspx#16>.

⁴Richard J. Bonnie & Robert B. Wallace, National Research Council, *Panel to Review Risk and Prevalence of Elder Abuse and Neglect*, (2003), <https://www.ncbi.nlm.nih.gov/books/NBK98802/>.

⁵*Id.*

⁶XinQi Dong, MD, Melissa Simon, MD, MPH, et al., *Elder Self-neglect and Abuse and Mortality Risk in a Community-Dwelling Population*, JAMA (Oct. 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2965589/>.

⁷Sheryl Zimmerman, Philip D. Sloane, and David Reed, *Dementia Prevalence And Care In Assisted Living*, HEALTH AFFAIRS, VOL. 33, NO. 4: THE LONG REACH OF ALZHEIMER’S DISEASE (April 2014) <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2013.1255>.

⁸National Center on Elder Abuse, *Research Brief: Long-Term Care Facilities*, (2012), [https://ncea.acl.gov/NCEA/media/docs/Abuse-of-Residents-of-Long-Term-Care-Facilities-\(2012\)_1.pdf](https://ncea.acl.gov/NCEA/media/docs/Abuse-of-Residents-of-Long-Term-Care-Facilities-(2012)_1.pdf).

On October 18, 2017, Congress enacted the Elder Abuse Prevention and Prosecution Act of 2017 to address the need for better data collection on elder abuse.⁹ Several federal agencies currently collect elder abuse data on an ongoing basis. Two distinct data sets include the National Adult Mistreatment Report System (NAMRS) (which collects state-level adult protective services data) and the Financial Crimes Enforcement Network (FinCEN) (which collects data on suspected elder financial exploitation submitted by financial institutions).¹⁰

Although many cases may go unreported, NAMRS reflects data on elder abuse cases reported to state and local authorities. Based on the most current reported data, neglect comprised the highest percentage across types of elder abuse, followed by financial exploitation.¹¹

Financial exploitation causes large economic losses for elders, families, businesses, and government programs.¹² Even though a vast number of cases go unreported, financial exploitation of seniors is becoming the most prevalent form of elder abuse.¹³ A key factor that makes the elderly more susceptible to financial exploitation is cognitive decline.¹⁴ According to FinCen data analyzed by the Consumer Financial Protection Bureau, financial exploitation lasts longer than average in cases where the targeted person has a diminished cognitive capacity.¹⁵ This population is particularly vulnerable to scams as their condition makes it more difficult for them to communicate the crimes to law enforcement or to seek critical assistance from first responders or other social services personnel.

People living with Alzheimer's or dementia may also have difficulty understanding or explaining situations; and their behaviors may be misunderstood as uncooperative, disruptive or combative. The Elder Abuse Prevention and Prosecution Act required the Justice Department to create training materials to help criminal justice, health care, and social services personnel assess and respond to elder abuse cases. Under the Act, the Elder Justice Coordinator is responsible for evaluating training models to determine best practices and creating or compiling and making publicly available replication guides and training materials for law enforcement officers, first responders, social workers, prosecutors, judges, individuals working in victim services, adult protective services, medical personnel, mental health personnel, financial services personnel, and any other individuals that encounter and support people living with Alzheimer's and other types of dementia.

This legislation will build upon existing requirements for training materials by requiring the Elder Justice Coordinator to engage

⁹Pub.L. 115-70, 131 Stat. 1208 (2017).

¹⁰Department of Justice Elder Justice Initiative, <https://www.justice.gov/elderjustice/eappa>.

¹¹*Id.*

¹²Connolly, M.T., Brandl, B., & Breckman, R., *The Elder Justice Roadmap: A Stakeholder Initiative to Respond to an Emerging Health, Justice, Financial and Social Crisis* (2014), <https://www.justice.gov/file/852856/download>.

¹³Stephen Deane, Securities & Exchange Commission, *Elder Financial Exploitation: Why is it a concern, what regulators are doing about it, and looking ahead* (June 2018), <https://www.sec.gov/files/elder-financial-exploitation.pdf>.

¹⁴*Id.*

¹⁵Consumer Financial Protection Bureau, *Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends*, at 22 (Feb. 2019), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_suspicious-activity-reports-elder-financial-exploitation_report.pdf.

in greater consultation with relevant entities and stakeholders. H.R. 6813 would also require further training materials relating to victims and witnesses who have Alzheimer's disease and related dementias. One study determined that a significant subset of individuals with dementia illnesses could reliably report on emotional events and were even able to report details of the event accurately and to recall the same event with the same accuracy after a short time delay.¹⁶ Crime victims with dementia should be evaluated for their ability to remember emotional events in order to determine whether they can provide testimony about the criminal events. This legislation would require the Elder Justice Coordinator to develop specific training materials to support individuals evaluating witness and working with crime victims in these types of cases.

Committee Consideration

On September 15, 2020, the Committee met in open session and ordered the bill, H.R. 6813, favorably reported, by a voice vote, a quorum being present.

Committee Votes

No recorded votes occurred during the Committee's consideration of H.R. 6813.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office (CBO). The Committee has requested but not received from the Director of the CBO a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

Duplication of Federal Programs

No provision of H.R. 6813 establishes or reauthorizes a program of the Federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section

¹⁶ Aileen Wiglesworth, Ph.D., Laura Mosqueda, M.D., *People with Dementia as Witnesses to Emotional Events*, NCJRS (April 2011), <https://www.ncjrs.gov/pdffiles1/nij/grants/234132.pdf>.

21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 6813 would facilitate the Federal government’s ability to develop best practices and training materials for professionals treating, protecting and caring for people living with Alzheimer’s and related dementias.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 6813 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. This section establishes the short title of the bill as the “Promoting Alzheimer’s Awareness to Prevent Elder Abuse Act.”

Sec. 2 Addressing Alzheimer’s Disease in best practices. Section 2 addresses best practices to assist individuals with Alzheimer’s disease. This section would expand the current provisions of the Elder Abuse Prevention and Prosecution Act to include any special considerations for witnesses who have Alzheimer’s disease and related dementias.

Under current law, the Elder Justice Coordinator is responsible for evaluating training models to determine best practices and creating or compiling and making publicly available replication guides and training materials for the wide range of individuals whose work may bring them in contact with this specific population. This section would require these materials to address evidentiary issues and other legal issues relating to witnesses who have Alzheimer’s disease and related dementias.

Section 2 would further address the need to include victims and witnesses who have Alzheimer’s disease and related dementias when assessing, responding to, and interacting with victims and witnesses in elder abuse cases, including in administrative, civil, and criminal judicial proceedings. Section 2 also requires that, in the preparation of training materials, the Elder Justice Coordinator consults with the Secretary of Health and Human Services, State, local, and Tribal adult protective services, aging, social, and human services agencies, as well as Federal, State, local, and Tribal law enforcement agencies. In addition, the bill adds a new requirement that the Elder Justice Coordinator consult, as appropriate, with nationally recognized nonprofit associations with relevant expertise when creating or updating guides and training materials.

Sec. 3 Report on outreach. This section would amend the current reporting requirements of the Elder Abuse Prevention and Prosecution Act by requiring the Attorney General to include a link to the publicly available best practices and the replication guides and

training materials created or compiled under the Act's requirements. The additional reporting requirements take effect two years after the enactment date of the Act. Following the initial report, the Justice Department's would be required to report to Congress on an annual basis.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

ELDER ABUSE PREVENTION AND PROSECUTION ACT

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TITLE I—SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE

SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE.

(a) SUPPORT AND ASSISTANCE.—

(1) **ELDER JUSTICE COORDINATORS.**—The Attorney General shall designate in each Federal judicial district not less than one Assistant United States Attorney to serve as the Elder Justice Coordinator for the district, who, in addition to any other responsibilities, shall be responsible for—

(A) serving as the legal counsel for the Federal judicial district on matters relating to elder abuse;

(B) prosecuting, or assisting in the prosecution of, elder abuse cases;

(C) conducting public outreach and awareness activities relating to elder abuse; and

(D) ensuring the collection of data required to be collected under section 202.

(2) **INVESTIGATIVE SUPPORT.**—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes relating to elder abuse, ensure the implementation of a regular and comprehensive training program to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to elder abuse, which shall include—

(A) specialized strategies for communicating with and assisting elder abuse victims; and

(B) relevant forensic training relating to elder abuse.

(3) **RESOURCE GROUP.**—The Attorney General, through the Executive Office for United States Attorneys, shall ensure the operation of a resource group to facilitate the sharing of knowledge, experience, sample pleadings and other case documents, training materials, and any other resources to assist prosecutors throughout the United States in pursuing cases relating to elder abuse.

(4) DESIGNATED ELDER JUSTICE WORKING GROUP OR SUBCOMMITTEE TO THE ATTORNEY GENERAL'S ADVISORY COMMITTEE OF UNITED STATES ATTORNEYS.—Not later than 60 days after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Executive Office for United States Attorneys, shall establish a subcommittee or working group to the Attorney General's Advisory Committee of United States Attorneys, as established under section 0.10 of title 28, Code of Federal Regulations, or any successor thereto, for the purposes of advising the Attorney General on policies of the Department of Justice relating to elder abuse.

(b) DEPARTMENT OF JUSTICE ELDER JUSTICE COORDINATOR.—
[Not later than]

(1) *IN GENERAL.*—*Not later than 60 days after the date of enactment of this Act, the Attorney General shall designate an Elder Justice Coordinator within the Department of Justice who, in addition to any other responsibilities, shall be responsible for—*

[(1)] (A) coordinating and supporting the law enforcement efforts and policy activities for the Department of Justice on elder justice issues;

[(2)] (B) evaluating training models to determine best practices and creating or compiling and making publicly available replication guides and training materials for law enforcement officers, prosecutors, judges, emergency responders, individuals working in victim services, adult protective services, social services, and public safety, medical personnel, mental health personnel, financial services personnel, and any other individuals whose work may bring them in contact with elder abuse regarding how to—

[(A)] (i) conduct investigations in elder abuse cases;

[(B)] (ii) address evidentiary issues and other legal issues, *including witnesses who have Alzheimer's disease and related dementias*; and

[(C)] (iii) appropriately assess, respond to, and interact with victims and witnesses in **[elder abuse cases,]** *elder abuse cases (including victims and witnesses who have Alzheimer's disease and related dementias)*, including in administrative, civil, and criminal judicial proceedings; and

[(3)] (C) carrying out such other duties as the Attorney General determines necessary in connection with enhancing the understanding, prevention, and detection of, and response to, elder abuse.

(2) *TRAINING MATERIALS.*—

(A) *IN GENERAL.*—*In creating or compiling replication guides and training materials under paragraph (1)(B), the Elder Justice Coordinator shall consult with the Secretary of Health and Human Services, State, local, and Tribal adult protective services, aging, social, and human services agencies, Federal, State, local, and Tribal law enforcement agencies, and nationally recognized nonprofit associations with relevant expertise, as appropriate.*

(B) *UPDATING.*—*The Elder Justice Coordinator shall—*

- (i) review the best practices identified and replication guides and training materials created or compiled under paragraph (1)(B) to determine if the replication guides or training materials require updating; and
- (ii) perform any necessary updating of the replication guides or training materials.

(c) FEDERAL TRADE COMMISSION.—

(1) FEDERAL TRADE COMMISSION ELDER JUSTICE COORDINATOR.—Not later than 60 days after the date of enactment of this Act, the Chairman of the Federal Trade Commission shall designate within the Bureau of Consumer Protection of the Federal Trade Commission an Elder Justice Coordinator who, in addition to any other responsibilities, shall be responsible for—

(A) coordinating and supporting the enforcement and consumer education efforts and policy activities of the Federal Trade Commission on elder justice issues; and

(B) serving as, or ensuring the availability of, a central point of contact for individuals, units of local government, States, and other Federal agencies on matters relating to the enforcement and consumer education efforts and policy activities of the Federal Trade Commission on elder justice issues.

(2) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and once every year thereafter, the Chairman of the Federal Trade Commission and the Attorney General shall each submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives [a report detailing] a report—

(A) detailing the enforcement actions taken by the Federal Trade Commission and the Department of Justice, respectively, over the preceding year in each case in which not less than one victim was an elder or that involved a financial scheme or scam that was either targeted directly toward or largely affected elders, including—

[(A)] (i) the name of the district where the case originated;

[(B)] (ii) the style of the case, including the case name and number;

[(C)] (iii) a description of the scheme or scam; and

[(D)] (iv) the outcome of the case.

(B) with respect to the report by the Attorney General, including a link to the publicly available best practices identified under subsection (b)(1)(B) and the replication guides and training materials created or compiled under such subsection.

(d) USE OF APPROPRIATED FUNDS.—No additional funds are authorized to be appropriated to carry out this section.

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