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SENIORS FRAUD PREVENTION ACT OF 2019

FEBRUARY 11, 2020.—Ordered to be printed

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

R E P O R T

[To accompany S. 512]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 512) 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. 512, the Seniors Fraud Prevention Act of 2019, 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 also would require the FTC to work with the United States Attorney General to establish procedures to log complaints regarding fraud targeting seniors.

BACKGROUND AND NEEDS

Seniors, specifically Americans aged 65 years and older, number over 43 million and are the fastest growing segment of the population.[1] While 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 medical device fraud[4] to "grandparents schemes," in which fraudsters call a senior and pretend to be a grandchild in need of wired prison bail,[5] to imposter schemes that claim to provide technical support to remedy non-existent computer problems.[6] Reports measuring the financial cost of fraud targeting seniors put the figure at a range between $2.9 billion[7] to $12.76 billion[8] annually.

The FTC, a civil enforcement agency, takes a multifaceted approach to combating fraud that includes both enforcement and education efforts. In the past few years, the FTC 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.[9] The scammers used this information to debit $399 or $448 from each of the victims' bank accounts.[10] 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.[11]

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.[12] The FTC also partners with organizations, such as the AARP, 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

[1] The U.S. Census Bureau projects the senior population will be 83.7 million in 2050, almost double the estimated senior 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. Ortman, Jennifer; Velkoff, Victoria; Hogan, Howard. "An Aging Nation: The Older Population in the United States." U.S. Census Bureau, U.S. Department of Commerce, May 2014, p. 1–3 (*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. Anderson, Keith B. "Consumer Fraud in the U.S., 2011: The Third FTC Survey." Bureau of Economics, Federal Trade Commission, Apr. 2013, p. 56–59 (*https://www.ftc.gov/reports/consumer-fraud-united-states-2011-third-ftc-survey*).

[3] In 2011, the net worth for households headed by seniors was approximately $17.2 trillion, with a median net worth of $170,500. "Mean Value of Assets for Households by Type of Asset Owned and Selected Characteristics: 2011." U.S. Census Bureau, U.S. Department of Commerce, 2011, Table 5 (*https://www2.census.gov/programs-surveys/demo/tables/wealth/2011/wealth-asset-ownership/wealth-tables-2011.xlsx*).

[4] AARP, "Medical Equipment Scams" (*https://www.aarp.org/money/scams-fraud/info-2019/medical-equipment.html*) (accessed Dec. 12, 2019).

[5] Tamara Lytle, "Give Gift Cards to Friends and Family—Not Fraudsters," AARP, November 7, 2019 (*https://www.aarp.org/money/scams-fraud/info-2019/prevent-gift-card-fraud.html*) (accessed Dec. 12, 2019).

[6] Id.

[7] "MetLife Study of Elder Financial Abuse, Crimes of Occasion, Desperation, and Predation Against America's Elders." The MetLife Mature Market Institute, Jun. 2011 (*https://ltcombudsman.org/uploads/files/issues/mmi-elder-financial-abuse.pdf*).

[8] "TrueLink Report on Elder Financial Abuse 2015." True Link Financial, Jan. 2015 (*http://documents.truelinkfinancial.com/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf*).

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

[10] *Id.*

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

[12] "Pass It On." Federal Trade Commission (*https://www.ftc.gov/PassItOn*). (Materials are free and in the public domain and hard copies may be requested from *https://www.ftc.gov/bulkorder*.)

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 (Council), an organization composed of 12 Federal agencies, which meets regularly to coordinate activities related to elder abuse, neglect, and exploitation.[13] 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 public awareness campaigns to assist in preventing all types of elder abuse, including fraud targeting older Americans.[14]

To address these issues, S. 512 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.

SUMMARY OF PROVISIONS

S. 512 directs the FTC to establish an office within the Bureau of Consumer Protection to advise the FTC on monitoring for and preventing mail, internet, telemarketing, or robocall fraud targeting seniors. The office would be required to disseminate to seniors and their families and caregivers information on common fraud schemes, respond to requests from members of the public for information regarding FTC enforcement actions relating to particular entities or individuals, and maintain a website with relevant information on senior fraud.

LEGISLATIVE HISTORY

S. 512 was introduced on February 14, 2019, by Senator Klobuchar (for herself and Senator Collins) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Van Hollen, King, Gillibrand, Shaheen, Sinema, Hassan, Casey, Merkley, Baldwin, Blumenthal, McSally, and Tester are additional cosponsors. On April 3, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 512 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

[13] 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.

[14] "Eight (8) Recommendations for Increased Federal Involvement in Addressing Elder Abuse, Neglect, and Exploitation." Elder Justice Coordinating Council, U.S. Department of Health & Human Services, May 2014 (*http://www.acl.gov/sites/default/files/programs/2016-09/Eight_Recommendations_for_Increased_Federal_Involvement.pdf*).

Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 512, Seniors Fraud Prevention Act of 2019
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 3, 2019

Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	n.e.

Pay-as-you-go procedures apply?	No	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

n.e. = not estimated; * = between zero and $500,000.

S. 512 would establish an office within the Federal Trade Commission's (FTC) Bureau of Consumer Protection to advise the agency on preventing fraud targeting senior citizens. This office would monitor fraud targeting seniors delivered via mail, television, internet, telemarketing, and robocalls. In addition, it would educate senior consumers by distributing information and consumer resources, respond to reports of suspected fraudulent entities, and maintain a public website of fraudulent actions. Finally, the office would log and acknowledge complaints from fraud victims, and make those complaints available to law enforcement authorities.

According to the FTC, the Bureau of Consumer Protection is already fulfilling many of the bill's requirements because it actively works to monitor and prevent consumer fraud perpetrated against senior citizens. Furthermore, the Elder Abuse Prevention and Prosecution Act requires the FTC to designate an Elder Justice Coordinator within the bureau who is responsible for coordinating elder justice issues. On that basis, CBO estimates that the cost associated with implementing the bill would be less than $500,000.

The CBO staff contact for this estimate is David Hughes. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Regulatory Impact Statement

Because S. 512 does not create any new programs, the legislation will have no additional regulatory impact, and will 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 provide that the bill may be cited as the "Seniors Fraud Prevention Act of 2019".

Section 2. Office for the prevention of fraud targeting seniors.

This section would establish an advisory 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 advisory office also would consult with the Attorney General, the 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, or 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 through 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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