

111TH CONGRESS
1ST SESSION

S. 1821

To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2009

Mr. KOHL (for himself, Ms. MIKULSKI, Mr. LEMIEUX, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Elder Abuse Victims
3 Act of 2009”.

4 **TITLE I—ELDER ABUSE VICTIMS**

5 **SEC. 101. ANALYSIS, REPORT, AND RECOMMENDATIONS RE-**
6 **LATED TO ELDER JUSTICE PROGRAMS.**

7 (a) IN GENERAL.—Subject to the availability of ap-
8 propriations to carry out this section, the Attorney Gen-
9 eral, in consultation with the Secretary of Health and
10 Human Services, shall carry out the following:

11 (1) STUDY.—Conduct a study of laws and prac-
12 tices relating to elder abuse, neglect, and exploi-
13 tation, which shall include—

14 (A) a comprehensive description of State
15 laws and practices relating to elder abuse, ne-
16 glect, and exploitation;

17 (B) a comprehensive analysis of the effec-
18 tiveness of such State laws and practices; and

19 (C) an examination of State laws and prac-
20 tices relating to specific elder abuse, neglect,
21 and exploitation issues, including—

22 (i) the definition of—

23 (I) “elder”;

24 (II) “abuse”;

25 (III) “neglect”;

26 (IV) “exploitation”; and

1 (V) such related terms the Attor-
2 ney General determines to be appro-
3 priate;

4 (ii) mandatory reporting laws, with re-
5 spect to—

6 (I) who is a mandated reporter;

7 (II) to whom must they report
8 and within what time frame; and

9 (III) any consequences for not
10 reporting;

11 (iii) evidentiary, procedural, sen-
12 tencing, choice of remedies, and data re-
13 tention issues relating to pursuing cases
14 relating to elder abuse, neglect, and exploi-
15 tation;

16 (iv) laws requiring reporting of all
17 nursing home deaths to the county coroner
18 or to some other individual or entity;

19 (v) fiduciary laws, including guardian-
20 ship and power of attorney laws;

21 (vi) laws that permit or encourage
22 banks and bank employees to prevent and
23 report suspected elder abuse, neglect, and
24 exploitation;

1 (vii) laws relating to fraud and related
 2 activities in connection with mail, tele-
 3 marketing, or the Internet;

4 (viii) laws that may impede research
 5 on elder abuse, neglect, and exploitation;

6 (ix) practices relating to the enforce-
 7 ment of laws relating to elder abuse, ne-
 8 glect, and exploitation; and

9 (x) practices relating to other aspects
 10 of elder justice.

11 (2) DEVELOPMENT OF PLAN.—Develop objec-
 12 tives, priorities, policies, and a long-term plan for
 13 elder justice programs and activities relating to—

14 (A) prevention and detection of elder
 15 abuse, neglect, and exploitation;

16 (B) intervention and treatment for victims
 17 of elder abuse, neglect, and exploitation;

18 (C) training, evaluation, and research re-
 19 lated to elder justice programs and activities;
 20 and

21 (D) improvement of the elder justice sys-
 22 tem in the United States.

23 (3) REPORT.—Not later than 2 years after the
 24 date of enactment of this Act, submit to the chair-
 25 man and ranking member of the Special Committee

1 on Aging of the Senate, and the Speaker and minor-
2 ity leader of the House of Representatives, and the
3 Secretary of Health and Human Services, and make
4 available to the States, a report that contains—

5 (A) the findings of the study conducted
6 under paragraph (1);

7 (B) a description of the objectives, prior-
8 ities, policies, and a long-term plan developed
9 under paragraph (2); and

10 (C) a list, description, and analysis of the
11 best practices used by States to develop, imple-
12 ment, maintain, and improve elder justice sys-
13 tems, based on such findings.

14 (b) GAO RECOMMENDATIONS.—Not later than 18
15 months after the date of enactment of this Act, the Comp-
16 troller General shall review existing Federal programs and
17 initiatives in the Federal criminal justice system relevant
18 to elder justice and shall submit to Congress—

19 (1) a report on such programs and initiatives;
20 and

21 (2) any recommendations the Comptroller Gen-
22 eral determines are appropriate to improve elder jus-
23 tice in the United States.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this section

1 \$6,000,000 for each of the fiscal years 2010 through
2 2016.

3 **SEC. 102. VICTIM ADVOCACY GRANTS.**

4 (a) GRANTS AUTHORIZED.—The Attorney General,
5 after consultation with the Secretary of Health and
6 Human Services, may award grants to eligible entities to
7 study the special needs of victims of elder abuse, neglect,
8 and exploitation.

9 (b) AUTHORIZED ACTIVITIES.—Funds awarded pur-
10 suant to subsection (a) shall be used for pilot programs
11 that—

12 (1) develop programs for and provide training
13 to health care, social, and protective services pro-
14 viders, law enforcement, fiduciaries (including
15 guardians), judges and court personnel, and victim
16 advocates; and

17 (2) examine special approaches designed to
18 meet the needs of victims of elder abuse, neglect,
19 and exploitation.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this section
22 \$3,000,000 for each of the fiscal years 2010 through
23 2016.

1 **SEC. 103. SUPPORTING LOCAL PROSECUTORS AND COURTS**
 2 **IN ELDER JUSTICE MATTERS.**

3 (a) GRANTS AUTHORIZED.—Subject to the avail-
 4 ability of appropriations under this section, the Attorney
 5 General, after consultation with the Secretary of Health
 6 and Human Services, shall award grants to eligible enti-
 7 ties to provide training, technical assistance, policy devel-
 8 opment, multidisciplinary coordination, and other types of
 9 support to local prosecutors and courts handling elder jus-
 10 tice-related cases, including—

11 (1) funding specially designated elder justice
 12 positions or units in local prosecutors' offices and
 13 local courts; and

14 (2) funding the creation of a Center for the
 15 Prosecution of Elder Abuse, Neglect, and Exploi-
 16 tation to advise and support local prosecutors and
 17 courts nationwide in the pursuit of cases involving
 18 elder abuse, neglect, and exploitation.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 20 are authorized to be appropriated to carry out this section
 21 \$6,000,000 for each of the fiscal years 2010 through
 22 2016.

23 **SEC. 104. SUPPORTING STATE PROSECUTORS AND COURTS**
 24 **IN ELDER JUSTICE MATTERS.**

25 (a) IN GENERAL.—Subject to the availability of ap-
 26 propriations under this section, the Attorney General,

1 after consultation with the Secretary of Health and
 2 Human Services, shall award grants to eligible entities to
 3 provide training, technical assistance, multidisciplinary co-
 4 ordination, policy development, and other types of support
 5 to State prosecutors and courts, employees of State Attor-
 6 neys General, and Medicaid Fraud Control Units handling
 7 elder justice-related matters.

8 (b) CREATING SPECIALIZED POSITIONS.—Grants
 9 under this section may be made for—

10 (1) the establishment of specially designated
 11 elder justice positions or units in State prosecutors’
 12 offices and State courts; and

13 (2) the creation of a position to coordinate elder
 14 justice-related cases, training, technical assistance,
 15 and policy development for State prosecutors and
 16 courts.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 18 are authorized to be appropriated to carry out this section
 19 \$6,000,000 for each of the fiscal years 2010 through
 20 2016.

21 **SEC. 105. SUPPORTING LAW ENFORCEMENT IN ELDER JUS-**
 22 **TICE MATTERS.**

23 (a) IN GENERAL.—Subject to the availability of ap-
 24 propriations under this section, the Attorney General,
 25 after consultation with the Secretary of Health and

1 Human Services, the Postmaster General, and the Chief
2 Postal Inspector for the United States Postal Inspection
3 Service, shall award grants to eligible entities to provide
4 training, technical assistance, multidisciplinary coordina-
5 tion, policy development, and other types of support to po-
6 lice, sheriffs, detectives, public safety officers, corrections
7 personnel, and other first responders who handle elder jus-
8 tice-related matters, to fund specially designated elder jus-
9 tice positions or units designed to support first responders
10 in elder justice matters.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section
13 \$8,000,000 for each of the fiscal years 2010 through
14 2016.

15 **SEC. 106. EVALUATIONS.**

16 (a) GRANTS UNDER THIS TITLE.—

17 (1) IN GENERAL.—In carrying out the grant
18 programs under this title, the Attorney General
19 shall—

20 (A) require each recipient of a grant to use
21 a portion of the funds made available through
22 the grant to conduct a validated evaluation of
23 the effectiveness of the activities carried out
24 through the grant by such recipient; or

1 (B) as the Attorney General considers ap-
2 propriate, use a portion of the funds available
3 under this title for a grant program under this
4 title to provide assistance to an eligible entity to
5 conduct a validated evaluation of the effective-
6 ness of the activities carried out through such
7 grant program by each of the grant recipients.

8 (2) APPLICATIONS.—

9 (A) SUBMISSION.—To be eligible to receive
10 a grant under this title, an entity shall submit
11 an application to the Attorney General at such
12 time, in such manner, and containing such in-
13 formation as the Attorney General may require,
14 which shall include—

15 (i) a proposal for the evaluation re-
16 quired in accordance with paragraph
17 (1)(A); and

18 (ii) the amount of assistance under
19 paragraph (1)(B) the entity is requesting,
20 if any.

21 (B) REVIEW AND ASSISTANCE.—

22 (i) IN GENERAL.—An employee of the
23 Department of Justice, after consultation
24 with an employee of the Department of
25 Health and Human Services with expertise

1 in evaluation methodology, shall review
2 each application described in subparagraph
3 (A) and determine whether the method-
4 ology described in the proposal under sub-
5 paragraph (A)(i) is adequate to gather
6 meaningful information.

7 (ii) DENIAL.—If the reviewing em-
8 ployee determines the methodology de-
9 scribed in such proposal is inadequate, the
10 reviewing employee shall recommend that
11 the Attorney General deny the application
12 for the grant, or make recommendations
13 for how the application should be amended.

14 (iii) NOTICE TO APPLICANT.—If the
15 Attorney General denies the application on
16 the basis of such proposal, the Attorney
17 General shall inform the applicant of the
18 reasons the application was denied, and
19 offer assistance to the applicant in modi-
20 fying the proposal.

21 (b) OTHER GRANTS.—Subject to the availability of
22 appropriations under this section, the Attorney General
23 shall award grants to appropriate entities to conduct vali-
24 dated evaluations of grant activities that are funded by

1 Federal funds not provided under this title, or other funds,
 2 to reduce elder abuse, neglect, and exploitation.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 4 are authorized to be appropriated to carry out this section
 5 \$7,000,000 for each of the fiscal years 2010 through
 6 2016.

7 **SEC. 107. DEFINITIONS.**

8 In this title:

9 (1) ELDER.—The term “elder” means an indi-
 10 vidual age 60 or older.

11 (2) ELDER JUSTICE.—The term “elder justice”
 12 means—

13 (A) from a societal perspective, efforts
 14 to—

15 (i) prevent, detect, treat, intervene in,
 16 and prosecute elder abuse, neglect, and ex-
 17 ploitation; and

18 (ii) protect elders with diminished ca-
 19 pacity while maximizing their autonomy;
 20 and

21 (B) from an individual perspective, the rec-
 22 ognition of an elder’s rights, including the right
 23 to be free of abuse, neglect, and exploitation.

24 (3) ELIGIBLE ENTITIES.—The term “eligible
 25 entity” means a State or local government agency,

1 Indian tribe or tribal organization, or any other pub-
 2 lic or nonprofit private entity that is engaged in and
 3 has expertise in issues relating to elder justice or a
 4 field necessary to promote elder justice efforts.

5 **TITLE II—ELDER SERVE VICTIM** 6 **GRANT PROGRAMS**

7 **SEC. 201. ESTABLISHMENT OF ELDER SERVE VICTIM** 8 **GRANT PROGRAMS.**

9 (a) ESTABLISHMENT.—The Attorney General, acting
 10 through the Director of the Office of Victims of Crime
 11 of the Department of Justice (in this section referred to
 12 as the “Director”), shall, subject to appropriations, carry
 13 out a three-year grant program to be known as the Elder
 14 Serve Victim grant program (in this section referred to
 15 as the “Program”) to provide grants to eligible entities
 16 to establish programs to facilitate and coordinate pro-
 17 grams described in subsection (e) for victims of elder
 18 abuse.

19 (b) ELIGIBILITY REQUIREMENTS FOR GRANTEEES.—
 20 To be eligible to receive a grant under the Program, an
 21 entity must meet the following criteria:

22 (1) ELIGIBLE CRIME VICTIM ASSISTANCE PRO-
 23 GRAM.—The entity is a crime victim assistance pro-
 24 gram receiving a grant under the Victims of Crime
 25 Act of 1984 (42 U.S.C. 1401 et seq.) for the period

1 described in subsection (c)(2) with respect to the
2 grant sought under this section.

3 (2) COORDINATION WITH LOCAL COMMUNITY
4 BASED AGENCIES AND SERVICES.—The entity shall
5 demonstrate to the satisfaction of the Director that
6 such entity has a record of community coordination
7 or established contacts with other county and local
8 services that serve elderly individuals.

9 (3) ABILITY TO CREATE ECRT ON TIMELY
10 BASIS.—The entity shall demonstrate to the satisfac-
11 tion of the Director the ability of the entity to cre-
12 ate, not later than 6 months after receiving such
13 grant, an Emergency Crisis Response Team pro-
14 gram described in subsection (e)(1) and the pro-
15 grams described in subsection (e)(2).

16 For purposes of meeting the criteria described in para-
17 graph (2), for each year an entity receives a grant under
18 this section the entity shall provide a record of community
19 coordination or established contacts described in such
20 paragraph through memoranda of understanding, con-
21 tracts, subcontracts, and other such documentation.

22 (c) ADMINISTRATIVE PROVISIONS.—

23 (1) CONSULTATION.—Each program established
24 pursuant to this section shall be developed and car-

1 ried out in consultation with the following entities,
2 as appropriate:

3 (A) Relevant Federal, State, and local pub-
4 lic and private agencies and entities, relating to
5 elder abuse, neglect, and exploitation and other
6 crimes against elderly individuals.

7 (B) Local law enforcement including po-
8 lice, sheriffs, detectives, public safety officers,
9 corrections personnel, prosecutors, medical ex-
10 aminers, investigators, and coroners.

11 (C) Long-term care and nursing facilities.

12 (2) GRANT PERIOD.—Grants under the Pro-
13 gram shall be issued for a three-year period.

14 (3) LOCATIONS.—The Program shall be carried
15 out in six geographically and demographically di-
16 verse locations, taking into account—

17 (A) the number of elderly individuals resid-
18 ing in or near an area; and

19 (B) the difficulty of access to immediate
20 short-term housing and health services for vic-
21 tims of elder abuse.

22 (d) PERSONNEL.—In providing care and services,
23 each program established pursuant to this section may
24 employ a staff to assist in creating an Emergency Crisis
25 Response Teams under subsection (e)(1).

1 (e) USE OF GRANTS.—

2 (1) EMERGENCY CRISIS RESPONSE TEAM.—

3 Each entity that receives a grant under this section
4 shall use such grant to establish an Emergency Cri-
5 sis Response Team program by not later than the
6 date that is six months after the entity receives the
7 grant. Under such program the following shall
8 apply:

9 (A) Such program shall include immediate,
10 short-term emergency services, including shel-
11 ter, care services, food, clothing, transportation
12 to medical or legal appointment as appropriate,
13 and any other life services deemed necessary by
14 the entity for victims of elder abuse.

15 (B) Such program shall provide services to
16 victims of elder abuse, including those who have
17 been referred to the program through the adult
18 protective services agency of the local law en-
19 forcement or any other relevant law enforce-
20 ment or referral agency.

21 (C) A victim of elder abuse may not re-
22 ceive short-term housing under the program for
23 more than 30 consecutive days.

24 (D) The entity that established the pro-
25 gram shall enter into arrangements with the

1 relevant local law enforcement agencies so that
2 the program receives quarterly reports from
3 such agencies on elder abuse.

4 (2) ADDITIONAL SERVICES REQUIRED TO BE
5 PROVIDED.—Not later than one year after the date
6 an entity receives a grant under this section, such
7 entity shall have established the following programs
8 (and community collaborations to support such pro-
9 grams):

10 (A) COUNSELING.—A program that pro-
11 vides counseling and assistance for victims of
12 elder abuse accessing health care, educational,
13 pension, or other benefits for which seniors may
14 be eligible under Federal or applicable State
15 law.

16 (B) MENTAL HEALTH SCREENING.—A
17 program that provides mental health screenings
18 for victims of elder abuse to identify and seek
19 assistance for potential mental health disorders
20 such as depression or substance abuse.

21 (C) EMERGENCY LEGAL ADVOCACY.—A
22 program that provides legal advocacy for vic-
23 tims of elder abuse and, as appropriate, their
24 families.

1 (D) JOB PLACEMENT ASSISTANCE.—A pro-
2 gram that provides job placement assistance
3 and information on employment, training, or
4 volunteer opportunities for victims of elder
5 abuse.

6 (E) BEREAVEMENT COUNSELING.—A pro-
7 gram that provides bereavement counseling for
8 families of victims of elder abuse.

9 (F) OTHER SERVICES.—A program that
10 provides such other care, services, and assist-
11 ance as the entity considers appropriate for
12 purposes of the program.

13 (f) TECHNICAL ASSISTANCE.—The Director shall
14 enter into contracts with private entities with experience
15 in elder abuse coordination or victim services to provide
16 such technical assistance to grantees under this section
17 as the entity determines appropriate.

18 (g) REPORTS TO CONGRESS.—Not later than 12
19 months after the commencement of the Program, and an-
20 nually thereafter, the entity shall submit a report to the
21 Chairman and Ranking Member of the Committee on the
22 Judiciary of the House of Representatives, and the Chair-
23 man and Ranking Member of the Special Committee on
24 Aging of the Senate. Each report shall include the fol-
25 lowing:

1 (1) A description and assessment of the imple-
2 mentation of the Program.

3 (2) An assessment of the effectiveness of the
4 Program in providing care and services to seniors,
5 including a comparative assessment of effectiveness
6 for each of the locations designated under subsection
7 (c)(3) for the Program.

8 (3) An assessment of the effectiveness of the
9 coordination for programs described in subsection
10 (e) in contributing toward the effectiveness of the
11 Program.

12 (4) Such recommendations as the entity con-
13 siders appropriate for modifications of the Program
14 in order to better provide care and services to sen-
15 iors.

16 (h) DEFINITIONS.—For purposes of this section:

17 (1) ELDER ABUSE.—The term “elder abuse”
18 means any type of violence or abuse, whether mental
19 or physical, inflicted upon an elderly individual, and
20 any type of criminal financial exploitation of an el-
21 derly individual.

22 (2) ELDERLY INDIVIDUAL.—The term “elderly
23 individual” means an individual who is age 60 or
24 older.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated for the Department of Jus-
3 tice to carry out this section \$3,000,000 for each of the
4 fiscal years 2010 through 2012.

○