

114TH CONGRESS
1ST SESSION

S. 1663

To better protect, serve, and advance the rights of victims of elder abuse and financial exploitation by encouraging States and other qualified entities to hold offenders accountable, enhance the capacity of the justice system to investigate, pursue, and prosecute elder abuse cases, identify existing resources to leverage to the extent possible, and assure data collection, research, and evaluation to promote the efficacy and efficiency of the activities described in this Act.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2015

Mr. BLUMENTHAL (for himself and Ms. AYOTTE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To better protect, serve, and advance the rights of victims of elder abuse and financial exploitation by encouraging States and other qualified entities to hold offenders accountable, enhance the capacity of the justice system to investigate, pursue, and prosecute elder abuse cases, identify existing resources to leverage to the extent possible, and assure data collection, research, and evaluation to promote the efficacy and efficiency of the activities described in this Act.

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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Robert Matava Elder Abuse Victims Act of 2015”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—FEDERAL PROSECUTION OF ABUSE AND EXPLOITATION
DIRECTED AT ELDERS

Sec. 101. Enhanced penalty for telemarketing and email-marketing fraud di-
rected at elders.

Sec. 102. Data collection.

TITLE II—COORDINATION OF CIVIL PROTECTIONS AND CRIMINAL
PROSECUTION AS IT RELATES TO ELDER JUSTICE

Sec. 201. Model States laws and practices.

Sec. 202. Grant program.

TITLE III—INTERSTATE INITIATIVES

Sec. 301. Interstate agreements and compacts.

Sec. 302. Recommendations on interstate communication.

TITLE IV—GAO REPORT

Sec. 401. GAO report to assess cost of elder abuse on Federal programs.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the terms “abuse”, “elder”, “elder justice”,
9 “exploitation”, and “neglect” have the meanings
10 given those terms in section 2011 of the Social Secu-
11 rity Act (42 U.S.C. 1397j);

12 (2) the term “adult protective services”—

13 (A) means such services provided to adults
14 as specified in Federal, State, or local law per-
15 taining to adult protective services; and

1 (B) includes services such as—

2 (i) receiving reports of elder abuse,
3 neglect, or exploitation;

4 (ii) investigating the reports described
5 in clause (i);

6 (iii) case planning, monitoring, evalua-
7 tion, and other case work and services; and

8 (iv) providing, arranging for, or facili-
9 tating the provision of medical, social serv-
10 ice, economic, legal, housing, law enforce-
11 ment, or other protective emergency, or
12 support services;

13 (3) the term “elder abuse” includes neglect and
14 exploitation;

15 (4) the term “State” means each of the several
16 States of the United States, the District of Colum-
17 bia, the Commonwealth of Puerto Rico, and any
18 other territory of possession of the United States;
19 and

20 (5) the term “task force” means a multidisci-
21 plinary task force on elder justice established or des-
22 ignated under section 202(a)(2)(A)(ii).

1 **TITLE I—FEDERAL PROSECU-**
 2 **TION OF ABUSE AND EXPLOI-**
 3 **TATION DIRECTED AT EL-**
 4 **DERS**

5 **SEC. 101. ENHANCED PENALTY FOR TELEMARKETING AND**
 6 **EMAIL-MARKETING FRAUD DIRECTED AT EL-**
 7 **DERS.**

8 (a) IN GENERAL.—Chapter 113A of title 18, United
 9 States Code, is amended—

10 (1) in the chapter heading by inserting “**AND**
 11 **EMAIL MARKETING**” after “**TELE-**
 12 **MARKETING**”;

13 (2) by striking section 2325 and inserting the
 14 following:

15 “§ 2325. **Definition**

16 “In this chapter, the term ‘telemarketing or email
 17 marketing’—

18 “(1) means a plan, program, promotion, or
 19 campaign that is conducted to induce—

20 “(A) purchases of goods or services;

21 “(B) participation in a contest or sweep-
 22 stakes;

23 “(C) a charitable contribution, donation, or
 24 gift of money or any other thing of value;

25 “(D) investment for financial profit;

1 “(E) participation in a business oppor-
2 tunity;

3 “(F) commitment to a loan; or

4 “(G) participation in a fraudulent medical
5 study, research study, or pilot study, by use of
6 1 or more interstate telephone calls, emails, text
7 messages, or electronic instant messages initi-
8 ated either by a person who is conducting the
9 plan, program, promotion, or campaign or by a
10 prospective purchaser or contest or sweepstakes
11 participant or charitable contributor, donor, or
12 investor; and

13 “(2) does not include the solicitation through
14 the posting, publication, or mailing of a catalog or
15 brochure that—

16 “(A) contains a written description or il-
17 lustration of the goods, services, or other oppor-
18 tunities being offered;

19 “(B) includes the business address of the
20 solicitor;

21 “(C) includes multiple pages of written
22 material or illustration; and

23 “(D) has been issued not less frequently
24 than once a year, if the person making the so-
25 licitation does not solicit customers by tele-

1 phone, email, text message, or electronic instant
 2 message, but only receives interstate telephone
 3 calls, emails, text messages, or electronic in-
 4 stant messages initiated by customers in re-
 5 sponse to the written materials, whether in
 6 hard copy or digital format, and in response to
 7 those interstate telephone calls, emails, text
 8 messages, or electronic instant messages does
 9 not conduct further solicitation.”; and

10 (3) in section 2326, in the matter preceding
 11 paragraph (1)—

12 (A) by striking “or 1344” and inserting
 13 “1344, or 1347 or section 1128B of the Social
 14 Security Act (42 U.S.C. 1320a–7b)”;

15 (B) by inserting “or email marketing”
 16 after “telemarketing”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 18 The table of chapters at the beginning of part I of title
 19 18, United States Code, is amended by striking the item
 20 relating to chapter 113A and inserting the following:

“113A. Telemarketing and email marketing fraud 2325”.

21 **SEC. 102. DATA COLLECTION.**

22 (a) IN GENERAL.—The Attorney General, in con-
 23 sultation with the Secretary of Health and Human Serv-
 24 ices, shall, on an annual basis—

1 (1) identify common data points among Fed-
2 eral, State, and local law enforcement agencies and
3 prosecutor offices that would allow for the collection
4 of uniform national data;

5 (2) collect from Federal, State, and local law
6 enforcement agencies and prosecutor offices statis-
7 tical data relating to the incidence of elder abuse, in-
8 cluding data relating to—

9 (A) the number of elder abuse cases re-
10 ferred to law enforcement agencies or any other
11 State entity tasked with addressing elder abuse;

12 (B) the number and types of cases filed in
13 Federal, State, and local courts; and

14 (C) the outcomes of the cases described in
15 subparagraphs (A) and (B);

16 (3) publish a summary of the data collected
17 under paragraphs (1) and (2);

18 (4) identify—

19 (A) the types of data relevant to elder
20 abuse that should be collected; and

21 (B) what entity is most capable of col-
22 lecting the data described in subparagraph (A);
23 and

24 (5) develop recommendations for collecting ad-
25 ditional data relating to elder abuse, including rec-

1 ommendations for ways to improve data reporting
 2 across Federal, State, and local agencies so that di-
 3 rect service providers can more easily meet data re-
 4 porting requirements.

5 (b) HHS REQUIREMENT.—The Secretary of Health
 6 and Human Services shall, on an annual basis, provide
 7 to the Attorney General, statistical data collected by the
 8 Secretary of Health and Human Services relating to the
 9 number of elder abuse cases referred to adult protective
 10 services, which shall be included in the summary published
 11 under subsection (a)(3).

12 (c) PROHIBITION ON INDIVIDUAL DATA.—None of
 13 the information reported under this section shall include
 14 specific individual identifiable data.

15 **TITLE II—COORDINATION OF**
 16 **CIVIL PROTECTIONS AND**
 17 **CRIMINAL PROSECUTION AS**
 18 **IT RELATES TO ELDER JUS-**
 19 **TICE**

20 **SEC. 201. MODEL STATES LAWS AND PRACTICES.**

21 The Attorney General, in consultation with the Sec-
 22 retary of Health and Human Services and the Elder Jus-
 23 tice Coordinating Council (established under section 2021
 24 of the Social Security Act (42 U.S.C. 1397k)), shall—

(1) create, compile, evaluate, and disseminate materials and information, and provide the necessary training and technical assistance, to assist States and units of local government in—

(A) investigating, prosecuting, pursuing, preventing, understanding, and mitigating the impact of—

(i) physical, sexual, and psychological abuse of elders;

(ii) exploitation of elders, including financial abuse and scams targeting elders; and

(iii) neglect of elders; and

(B) assessing, addressing, and mitigating the physical and psychological trauma to victims of elder abuse;

(2) collect data and perform an evidence-based evaluation to—

(A) assure the efficacy of measures and methods intended to prevent, detect, respond to, or redress elder abuse; and

(B) evaluate the number of victims of elder abuse in each State and the extent to which the needs of the victims are served by crime victim services, programs, and sources of funding;

1 (3) publish a report, on an annual basis, that
2 describes the results of the evaluations conducted
3 under paragraphs (1) and (2), and submit the report
4 to each Federal agency, each State, and the Com-
5 mittee on the Judiciary and the Special Committee
6 on Aging of the Senate and the Committee on the
7 Judiciary of the House of Representatives;

8 (4) evaluate training models to determine best
9 practices, create replication guides, create training
10 materials, if necessary, for law enforcement officers,
11 prosecutors, judges, guardians, emergency respond-
12 ers, individuals working in victim services, adult pro-
13 tective services, social services, and public safety,
14 medical personnel, mental health personnel, financial
15 services personnel, and any other individuals whose
16 work may bring them in contact with elder abuse re-
17 garding how to—

18 (A) conduct investigations in elder abuse
19 cases;

20 (B) address evidentiary issues and other
21 legal issues; and

22 (C) appropriately assess, respond to, and
23 interact with victims and witnesses in elder
24 abuse cases, including in administrative, civil,
25 and criminal judicial proceedings;

1 (5) conduct, and update on a regular basis, a
2 study of laws and practices relating to elder abuse,
3 neglect, and exploitation, including—

4 (A) a comprehensive description of State
5 laws and practices;

6 (B) an analysis of the effectiveness of
7 State laws and practices, including—

8 (i) whether the State laws are en-
9 forced; and

10 (ii) if enforced—

11 (I) how the State laws are en-
12 forced; and

13 (II) how enforcement of the State
14 laws has effected elder abuse within
15 the State;

16 (C) a review of State definitions of the
17 terms “abuse”, “neglect”, and “exploitation” in
18 the context of elder abuse cases;

19 (D) a review of State laws that mandate
20 reporting of elder abuse, including adult protec-
21 tive services laws, laws that require the report-
22 ing of nursing home deaths or suspicious deaths
23 of elders to coroners or medical examiners, and
24 other pertinent reporting laws, that analyzes—

- 1 (i) the impact and efficacy of the
2 State laws;
- 3 (ii) whether the State laws are en-
4 forced;
- 5 (iii) the levels of compliance with the
6 State laws; and
- 7 (iv) the response to, and actions taken
8 as a result of, reports made under the
9 State laws;
- 10 (E) a review of State evidentiary, proce-
11 dural, sentencing, choice of remedies, and data
12 retention issues relating to elder abuse, neglect,
13 and exploitation;
- 14 (F) a review of State fiduciary laws, in-
15 cluding law relating to guardianship, con-
16 servatorship, and power of attorney;
- 17 (G) a review of State laws that permit or
18 encourage employees of depository institutions
19 (as defined in section 3(c)(1) of the Federal
20 Deposit Insurance Act (12 U.S.C. 1813(c)(1))
21 and State credit unions (as defined in section
22 101 of the Federal Credit Union Act (12
23 U.S.C. 1752)) to prevent and report suspected
24 elder abuse, neglect, and exploitation;

1 (H) a review of State laws used in civil
 2 court proceedings to prevent and address elder
 3 abuse;

4 (I) a review of State laws relating to fraud
 5 and related activities in connection with mail,
 6 telemarketing, the Internet, or health care;

7 (J) a review of State laws that create pro-
 8 grams, offices, entities, or other programs that
 9 address or respond to elder abuse; and

10 (K) an analysis of any other State laws re-
 11 lating to elder abuse; and

12 (6) carry out such other duties as the Attorney
 13 General determines necessary in connection with en-
 14 hancing the understanding, prevention, detection,
 15 and response to elder abuse.

16 **SEC. 202. GRANT PROGRAM.**

17 (a) ESTABLISHMENT.—

18 (1) IN GENERAL.—The Attorney General shall
 19 establish a grant program to—

20 (A) award grants and provide technical as-
 21 sistance to not more than 10 States to assist
 22 the States in developing, establishing, and oper-
 23 ating programs designed to improve—

1 (i) the response to cases of elder
2 abuse in a manner that limits additional
3 trauma to the elder victims; and

4 (ii) the investigation and prosecution
5 of cases of elder abuse; and

6 (B) in consultation with the Secretary of
7 Health and Human Services and the Legal
8 Services Corporation, award grants to not more
9 than 6 civil legal services entities that could
10 prevent or provide remedies for abuse, neglect,
11 and exploitation and collaborate with other or-
12 ganizations seeking to prevent, detect, and re-
13 spond to elder abuse.

14 (2) ELIGIBILITY.—

15 (A) STATES.—

16 (i) IN GENERAL.—A State is eligible
17 to receive a grant or technical assistance
18 under paragraph (1)(A) if the State—

19 (I) has a crime victims com-
20 pensation program that meets the cri-
21 teria described in section 1403(b) of
22 the Victims of Crime Act of 1984 (42
23 U.S.C. 10602(b)); and

24 (II) is in compliance with clause
25 (ii).

1 (ii) ESTABLISHMENT OF TASK
2 FORCE.—

3 (I) IN GENERAL.—In order to be
4 eligible to receive a grant under para-
5 graph (1)(A), a State shall establish
6 or, subject to subclause (V), designate
7 a multidisciplinary task force on elder
8 justice that is composed of profes-
9 sionals with knowledge and experience
10 relating to the criminal justice system
11 and issues of elder abuse.

12 (II) MEMBERSHIP REQUIRE-
13 MENT.—Except as provided in sub-
14 clause (VI), a task force shall include
15 not less than 1 representative from—

16 (aa) law enforcement agen-
17 cies, such as police officers, sher-
18 iffs and deputy sheriffs, detec-
19 tives, public safety officers, cor-
20 rections officers, investigators,
21 and victims' service personnel;

22 (bb) the crime victim com-
23 pensation program of the State;

24 (cc) judicial and legal offi-
25 cers, including individuals who

1 work on cases of elder abuse and
2 guardianship experts;

3 (dd) elder justice and elder
4 law advocates, including local
5 agencies on aging and local pub-
6 lic and private agencies and enti-
7 ties relating to elder abuse and
8 other crimes against elders;

9 (ee) the financial services in-
10 dustry;

11 (ff) health and mental
12 health professionals;

13 (gg) social services agencies
14 in the State;

15 (hh) State and local adult
16 protective services offices; and

17 (ii) family members of vic-
18 tims of elder abuse.

19 (III) REVIEW AND EVALUA-
20 TION.—A task force shall—

21 (aa) review and evaluate the
22 investigative, administrative, and
23 judicial (including civil and crimi-
24 nal) responses to cases of elder
25 abuse in the State;

1 (bb) make recommendations
2 to the State based on the review
3 and evaluation conducted under
4 item (aa), including recommenda-
5 tions relating to—

6 (AA) modifying the in-
7 vestigative, administrative,
8 and judicial response to
9 cases of elder abuse, in a
10 manner that—

11 (BB) reduces the addi-
12 tional trauma to the elder
13 victim;

14 (CC) ensures proce-
15 dural fairness to the indi-
16 vidual accused of elder
17 abuse; and

18 (DD) experimental,
19 model, and demonstration
20 programs for testing innova-
21 tive approaches and tech-
22 niques that may improve the
23 rate of successful prosecu-
24 tion or enhance the effec-
25 tiveness of judicial and ad-

1 ministrative action in elder
 2 abuse cases, and which en-
 3 sure procedural fairness to
 4 the accused, including a de-
 5 termination of which pro-
 6 grams are most effective;
 7 and

8 (cc) submit the rec-
 9 ommendations described in item
 10 (bb) to the Attorney General.

11 (IV) INTERIM REPORT.—Not
 12 later than 1 year after the end of the
 13 grant period under this section, each
 14 State that receives a grant under this
 15 section shall submit to the Attorney
 16 General a report that includes—

17 (aa) an evaluation of the ef-
 18 fectiveness of the grant program;

19 (bb) a list of all laws of the
 20 State relating to elder abuse; and

21 (cc) any other information
 22 the Attorney General may re-
 23 quire.

24 (V) TASK FORCE ALTER-
 25 NATIVE.—If determined appropriate

1 by the Attorney General, a State may
 2 designate a commission or task force
 3 established by a State before January
 4 1, 2012, with membership and func-
 5 tions comparable to those described in
 6 subclauses (II) and (III), as a task
 7 force for the purposes of this clause.

8 (VI) TASK FORCE MEMBERSHIP
 9 WAIVER.—The Attorney General may
 10 waive, in part, the task force member-
 11 ship requirements under subclause
 12 (II) for a State that demonstrates a
 13 need for the waiver.

14 (B) LEGAL SERVICE ENTITIES.—

15 (i) IN GENERAL.—A legal service enti-
 16 ty is eligible to receive a grant under para-
 17 graph (1)(B) if the entity can demonstrate
 18 a commitment to representation of elder
 19 abuse victims or potential victims and par-
 20 ticipating in multidisciplinary and inter-
 21 agency efforts to combat elder abuse.

22 (ii) REQUIREMENTS.—To receive a
 23 grant under paragraph (1)(B) an entity
 24 shall—

1 (I) be an experienced nonprofit
2 legal services provider; and

3 (II) propose or demonstrate—

4 (aa) collaboration with State
5 or local aging, social, and human
6 services and law enforcement
7 agencies;

8 (bb) partnership with profes-
9 sionals with knowledge and expe-
10 rience relating to the criminal
11 justice system; and

12 (cc) methodology for timely
13 evidenced-based evaluation.

14 (3) GEOGRAPHIC DIVERSITY.—The Attorney
15 General shall make every effort to ensure equitable
16 geographic distribution of grants under this section
17 and take into consideration the needs of underserved
18 populations, including rural and tribal communities.

19 (b) USE OF FUNDS.—

20 (1) IN GENERAL.—Grant funds awarded under
21 this section may be used to support—

22 (A) State, county, and local prosecutor of-
23 fices and courts in elder abuse matters, includ-
24 ing—

1 (i) hiring or paying salary and bene-
2 fits for employees and establishing or im-
3 plementing units designated to work on
4 elder justice issues in State prosecutors'
5 offices and State courts; and

6 (ii) hiring or paying salary and bene-
7 fits for an employee to coordinate elder
8 justice-related cases, training, technical as-
9 sistance, and policy development for State,
10 county, and local prosecutors and courts;

11 (B) State and local law enforcement agen-
12 cies investigating cases of elder abuse; and

13 (C) adult protective services.

14 (2) LIMITATION.—A State or legal services en-
15 tity that receives a grant under this section may not
16 use more than 8 percent of the amount of the grant
17 for administrative or personnel costs.

18 (3) SUPPLEMENTAL FUNDING.—Any grant
19 funds awarded under this section that are used as
20 described in paragraph (1)(C) shall be used to sup-
21 plement, not supplant, other Federal, State, or local
22 government funding.

23 (c) DURATION OF GRANT.—A grant awarded under
24 this section shall be for a period of not more than 3 years.

1 (d) REPORT.—Not later than 1 year after the date
 2 on which the Attorney General awards grants under sub-
 3 section (a)(1)(B), the Attorney General shall submit to
 4 Congress a report on the grant program that includes the
 5 results of the grant program and recommendations for
 6 such legislation and administrative action as the Attorney
 7 General determines to be appropriate.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to the Attorney General
 10 such sums as are necessary for fiscal years 2016 through
 11 2018 to carry out this section.

12 **TITLE III—INTERSTATE** 13 **INITIATIVES**

14 **SEC. 301. INTERSTATE AGREEMENTS AND COMPACTS.**

15 The consent of Congress is given to any 2 or more
 16 States (acting through State agencies with jurisdiction
 17 over adult protective services) to enter into agreements or
 18 compacts for cooperative effort and mutual assistance—

19 (1) in promoting the safety and well-being of el-
 20 ders; and

21 (2) in enforcing their respective laws and poli-
 22 cies to promote such safety and well-being.

1 **SEC. 302. RECOMMENDATIONS ON INTERSTATE COMMU-**
2 **NICATION.**

3 The Executive Director of the State Justice Institute,
4 in consultation with State or local aging, social, and
5 human services and law enforcement agencies and nation-
6 ally recognized nonprofit associations with expertise in
7 data sharing among criminal justice agencies and famili-
8 arity with the issues raised in elder exploitation cases,
9 shall submit to Congress legislative proposals relating to
10 the facilitation of interstate agreements and compacts.

11 **TITLE IV—GAO REPORT**

12 **SEC. 401. GAO REPORT TO ASSESS COST OF ELDER ABUSE**
13 **ON FEDERAL PROGRAMS.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Comptroller General of the United States,
16 in consultation with the Secretary of Health and Human
17 Services, the Department of Health and Human Services
18 Office of the Inspector General, the Attorney General, and
19 the Chairman of the Federal Trade Commission, shall
20 publish a report reviewing any findings on the financial
21 cost to the Federal Government from the abuse and exploi-
22 tation of elders.

