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# The Elder Justice Act: Background and Issues for Congress

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# Summary

Elder abuse is a complex issue that often requires a multifaceted policy response that combines public health interventions, social services programs, and criminal law enforcement for abusive behavior. To address this complexity, the Elder Justice Act was enacted on March 23, 2010 as part of the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended). The act attempts to provide a coordinated federal response by emphasizing various public health and social service approaches to the prevention, detection, and treatment of elder abuse. The Elder Justice Act also represents Congress's first attempt at comprehensive legislation to address abuse, neglect, and exploitation of the elderly at the federal level.

To date, most activities and programs authorized under the Elder Justice Act have not received federal funding through the annual appropriations process. For the first time, Congress appropriated $4 million for a new Elder Justice Initiative in FY2015 and $8 million in FY2016. However, the authorizations of appropriations for most provisions under the act expired on September 30, 2014. Despite the lack of discretionary appropriations prior to FY2015, some elder justice activities have received funding from mandatory funding appropriated through the ACA Prevention and Public Health Fund (PPHF). As a result of this limited federal funding, the federal government has not substantially developed and expanded its role in addressing the prevention, detection, and treatment of elder abuse.

For FY2012, the Secretary of the Department of Health and Human Services (HHS) transferred $6.0 million to the Administration for Community Living (ACL) from the PPHF for new grants to states and tribes to test elder abuse prevention strategies. Funded projects included using forensic accountants to prevent elder financial exploitation, increasing medication adherence to prevent elder self-neglect, and developing screening tools to identify elder abuse. For FY2013, $2.0 million was transferred to ACL from the PPHF for elder justice activities, which funded development of the National Adult Protective Services Data Reporting System Project. No PPHF funds were transferred to ACL for elder justice activities for FY2014 or subsequent fiscal years.

For FY2017, the President's budget request included $10.0 million in discretionary funding for Elder Justice/Adult Protective Services (APS) that would be used to fund APS, research, and evaluation activities. The 2017 budget request did not specify an intended transfer of funding from the PPHF for elder justice activities. For FY2017, the Senate Appropriations Committee recommended $10.0 million for the Elder Justice Initiative in its FY2017 Departments of Labor, Health and Human Services, and Education, and Related Agencies (LHHS) appropriations bill. The House Appropriations Committee recommended $8.0 million in its FY2017 LHHS appropriations bill. Neither House nor Senate floor consideration of the bill occurred in the 114th Congress. Since the start of the fiscal year (October 1, 2016), funding for LHHS programs and activities has been provided by two continuing resolutions (CR; P.L. 114-223 and P.L. 114-254). The second FY2017 CR provides continuing appropriations for LHHS appropriations through April 28, 2017, or until full-year appropriations are enacted.

This report provides a brief legislative history of the Elder Justice Act, summarizes elder justice provisions enacted as part of ACA, and administrative efforts related to implementation and funding. The report then describes several issues for Congress with respect to the act's reauthorization.

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There is growing attention to elder abuse as a public policy issue in the United States. While the extent of such abuse is largely unknown, there is some indication that the problem is serious and that many incidents of abuse are never reported. A 2010 study of the extent of elder abuse in the United States found that 11% of individuals ages 60 and older who reside in the community reported some type of abuse in the past year.[1] Another 2008 study found that 9% of community-residing older adults ages 57 to 85 reported verbal mistreatment; 3.5% reported financial mistreatment; and 0.2% reported physical mistreatment by a family member in the past year.[2]

Yet, studies such as these are likely to underestimate the full extent of elder abuse as they do not include all categories of abuse, exclude individuals who reside in institutional settings such as nursing facilities, and generally exclude individuals with significant cognitive impairment (for more information see text box "What is Elder Abuse?"). In addition, incidents of elder abuse may go unreported as older individuals can be reluctant to report abuse by an individual they also rely upon for their personal care and well-being.[3] Moreover, a number of studies have associated physical and mental health problems among victims of elder abuse as well as inadequate social supports that, if present, may assist individuals in prevention, detection, and treatment.[4]

### What Is Elder Abuse?

Behaviors that constitute elder abuse and neglect, also referred to as elder mistreatment, are considered to be "intentional actions that cause harm or create a serious risk of harm (whether or not harm is intended) to a vulnerable elder by a caregiver or other person who stands in a trust relationship to the elder or failure by a caregiver to satisfy the elder's basic needs or to protect the elder from harm."

Elder abuse and neglect may occur in domestic or institutional settings, and are further described.

- *Domestic* elder abuse generally refers to any of the following types of mistreatment that are committed by someone with whom the elder has a special relationship (for example, a spouse, sibling, child, friend, or caregiver).
- *Institutional* elder abuse generally refers to any of the following types of mistreatment occurring in residential facilities (such as a nursing facility, assisted living facility, group home, board and care facility, foster home, etc.) and is usually perpetrated by someone with a legal or contractual obligation to provide some element of care or protection.

The following are generally considered the major categories of elder abuse and neglect:

- *Physical abuse* is the use of force that may result in bodily injury, physical pain, injury or impairment.
- *Emotional or Psychological abuse* is the infliction of mental anguish, pain or distress through verbal or non-verbal acts.
- *Sexual abuse* is non-consensual sexual contact of any kind with an older adult.
- *Financial or material exploitation* is the illegal or improper exploitation or use of funds, property, or assets of an older adult.
- *Neglect* is the refusal or failure to fulfill any part of a person's obligations or duties to care for an older

[1] Acierno, Ron, M. A. Hernandez, A. B. Amstadter, et al., "Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study," *American Journal of Public Health*, vol. 100 (2010).

[2] Laumann, Edward O., S. A. Leitsch, and L. J. Waite, "Elder Mistreatment in the United States: Prevalence Estimates From a Nationally Representative Study," *The Journals of Gerontology Series B: Psychological and Social Sciences*, vol. 63 (2008).

[3] Centers for Disease Control and Prevention, *Understanding Elder Abuse: Fact Sheet*, Division of Violence and Prevention, National Center for Injury Prevention and Control, 2013, http://www.cdc.gov/violenceprevention/pdf/em-factsheet-a.pdf.

[4] U.S. Government Accountability Office, *Stronger Federal Leadership Could Enhance National Response to Elder Abuse*, GAO-11-208, Mar 2, 2011, http://www.gao.gov/assets/320/316224.pdf. Reissued on March 22, 2011.

adult.

- *Abandonment* is the desertion of an older person by an individual who has assumed responsibility for providing care or by a person with physical custody.

**Source:** Centers for Disease Control and Prevention, *Elder Abuse Surveillance: Uniform Definitions and Recommended Core Data Elements, Version 1.0,* National Center for Injury Prevention and Control Division of Violence Prevention, Atlanta, Georgia, 2016; Richard J. Bonnie and Robert B. Wallace, eds., *Elder Mistreatment: Abuse, Neglect and Exploitation in an Aging America*, National Research Council (Washington, DC: National Academy Press, 2003); National Center on Elder Abuse (NCEA), *Frequently Asked Questions*, Administration on Aging, https://ncea.acl.gov/faq/#faq1; and Krug, Etienne G., et al., eds. *World Report on Violence and Health: Chapter 5, Abuse of the Elderly*, 2002.

Elder abuse is a complex issue that often requires a multifaceted policy response which combines public health initiatives, social services programs, and criminal law enforcement for abusive behavior. To address this complexity, the Elder Justice Act was enacted on March 23, 2010, as part of the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended).[5] It attempts to provide a coordinated federal response by emphasizing various public health and social service approaches to the prevention, detection, and treatment of elder abuse. It also represents Congress's first attempt at comprehensive legislation to address abuse, neglect, and exploitation of the elderly at the federal level. Enactment of the Elder Justice Act places the issue of elder abuse on par with similar legislation Congress has enacted with respect to child abuse and neglect, under the Child Abuse Prevention and Treatment Act,[6] and domestic violence, under the Violence Against Women Act.[7]

Similar to other newly authorized grant programs under the ACA, implementation of new grants and activities under the Elder Justice Act has been hampered by the lack of federal discretionary spending for authorized activities, which is subject to the annual appropriations process. Agency implementation of some elder justice programs and activities has moved forward with limited funding. However, a coordinated federal response to the issue as envisioned by the Elder Justice Act has been challenging; in part due to actions Congress has taken since FY2010 to curb federal discretionary spending.[8]

**Elder Justice Defined**

*Elder justice* is defined in statute, from a societal perspective, as efforts to (1) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and (2) protect elders with diminished capacity while maximizing their autonomy.

From an individual perspective, *elder justice* is defined as the recognition of an elder's rights, including the right to be free of abuse, neglect, and exploitation.

**Source:** SSA §2011 as amended by §6703(a) of ACA [42 U.S.C. §1397j]

The extent of elder abuse has the potential to grow in scope as the older population continues to increase in size, and individuals live longer post-retirement. In 2015, an estimated 14.9% of the total U.S. population was age 65 and older; more than one in every seven Americans.[9] By 2030,

[5] §6703(a) through (c) of ACA (P.L. 111-148).

[6] For more information on the Child Abuse Prevention and Treatment Act, see CRS Report R40899, *The Child Abuse Prevention and Treatment Act (CAPTA): Background, Programs, and Funding*.

[7] For more information on the Violence Against Women Act, see CRS Report R42499, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*.

[8] For more information, see CRS Report R41390, *Discretionary Spending Under the Affordable Care Act (ACA)*.

[9] U.S Census Bureau, *Older Americans Month: May 2016*, Profile America Facts for Features: CB15-FF.08, April 15, 2016, http://www.census.gov/content/dam/Census/newsroom/facts-for-features/2016/cb16-ff08_older_americans.pdf.

the Census projects that one in every five, or 20.6% of the U.S. population, will be age 65 or older.[10] Thus, Congress will likely have a continued interest in shaping the federal role and response to elder abuse going forward. This report provides a brief legislative history of the Elder Justice Act, summarizes elder justice provisions enacted as part of ACA and any administrative efforts related to implementation and funding. The report then describes several issues for Congress with respect to the act's reauthorization.

# Legislative History

Congressional interest in the issue of elder abuse spans more than a quarter of a century with numerous hearings and reports concerning the need for a federal response to abuse, neglect, and exploitation of the elderly. Prior to enactment of the Elder Justice Act as part of the ACA, Congress took a number of steps towards addressing elder abuse, including authorizing federal assistance to state Adult Protective Services (APS) programs through the Social Services Block Grant (SSBG) program and amendments to the Older Americans Act (OAA) to provide separate funding for elder abuse prevention and vulnerable elder rights protection activities, including establishment of the Long-Term Care Ombudsman Program (LTCOP). Provisions regarding elder justice were also incorporated in the OAA reauthorization of 2006 (P.L. 109-365).[11]

In 2002, the 107th Congress first introduced the Elder Justice Act (S. 2933) by then Senator John Breaux. After that, Elder Justice Act legislation was re-introduced in subsequent Congresses with Senate Finance Committee action on bills in the 108th, 109th, and 110th Congresses.[12] In the 111th Congress, Senator Orrin Hatch introduced the Elder Justice Act of 2009 (S. 795) which addressed public health and social services approaches to the issue. A separate bill (H.R. 2006) was introduced in the House by Representative Peter T. King, which, in addition to the public health and social services provisions also included criminal justice provisions. The Senate bill (S. 795) was incorporated into the Senate Finance Committee's health reform bill (S. 1796) and subsequently adopted in the Senate health reform bill (H.R. 3590) which became the ACA (P.L. 111-148).

It is important to note that the elder justice provisions enacted under the ACA did not achieve the multidisciplinary approach (public health, social services, and criminal justice) fully envisioned in earlier versions of introduced legislation. Enactment of the Elder Justice Act under the ACA contains provisions that address certain public health and social services approaches to prevention, detection, and treatment of elder abuse primarily under the Department of Health and Human Services (HHS) authorities and administration. It does not include a criminal justice response which would address the prevention, detection, and prosecution of elder abuse crimes under various Department of Justice (DOJ) authorities and administration. Earlier versions of the Elder Justice Act included such a multidisciplinary approach that incorporated criminal justice provisions. With enactment of the Elder Justice Act under the ACA, criminal justice provisions

[10] Federal Interagency Forum on Aging-Related Statistics, *Older Americans 2016: Key Indicators of Well-Being. Federal Interagency Forum on Aging-Related Statistics,* Washington, DC: U.S. Government Publishing Office. August 2016, p. 83.

[11] Congress included several provisions related to elder justice activities in the OAA Amendments of 2006 (P.L. 109-365). For example, the law added various elder justice activities to be carried out by the Assistant Secretary for Aging. These provisions include responsibility for Administration on Aging (AoA) to develop and implement systems for elder justice and to conduct an elder abuse national incidence study. It also added a requirement that the Assistant Secretary award funds for competitive grants to states for development and implementation of elder justice activities under Title VII of OAA.

[12] The Elder Justice Act has been introduced in the 108th Congress (S. 333; H.R. 2490), 109th Congress (S. 2010; H.R. 4993), and 110th Congress (S. 1070; H.R. 1783).

have been subsequently introduced as separate stand-alone legislation. In the 114th Congress, these bills included S. 3270, the Elder Abuse Prevention and Prosecution Act; S. 2747/H.R. 5018, the Elder Protection and Abuse Prevention Act; S. 1663, the Robert Matava Elder Abuse Victims Act of 2015; and H.R. 4963 the Elder Abuse Victims Act of 2016. In addition, one bill was introduced to reauthorize the Elder Justice Act in the 114th Congress. The Elder Justice Reauthorization Act (H.R. 988), introduced by Representative Peter King would have extended the authorization of appropriations under the act through FY2019. None of these bills were enacted into law in the 114th Congress.

# Elder Justice Act

The Elder Justice Act provisions enacted under the ACA authorize entities and programs that address federal coordination of elder abuse and administration of new grant activities, as well as certain protections for residents of long-term care facilities, and other specified studies.[13] The following describes these provisions in greater detail.

## Elder Justice Provisions

Several of the Elder Justice provisions enacted under the ACA amended the Social Security Act (SSA) which incorporated Elder Justice into a renamed Title XX entitled *Block Grants to States for Social Services and Elder Justice*. The ACA subsequently reorganized the structure of SSA Title XX, by placing previously existing sections (i.e., Sections 2001-2007) under a new Subtitle A, *Block Grants to States for Social Services*, and adding a new Subtitle B, *Elder Justice*.

### National Coordination of Elder Justice Activities and Research

Several SSA Elder Justice provisions address federal coordination and research activities. Specifically, SSA Title XX, Subtitle B establishes an Elder Justice Coordinating Council and an Advisory Board on Elder Abuse, Neglect, and Exploitation. It also addresses research protections and awards grants to establish and operate stationary and mobile forensic centers. These provisions and any administrative or other actions to implement authorized programs or activities are further described below.[14]

#### *Elder Justice Coordinating Council*

The Elder Justice Act established the Elder Justice Coordinating Council at HHS. The Council includes the HHS Secretary as chair and the U.S. Attorney General as a permanent member, as well as the head of each federal department or agency, identified by the chair, as having administrative responsibility or administering programs related to elder abuse, neglect, and exploitation.[15] The Council is required to submit a report to the appropriate committees of

[13] §6703(a) through (c) of the ACA.

[14] Prior to Part I, new Subtitle B begins with Sections 2011 (Definitions) and 2012 (General Provisions), which are not discussed here.

[15] The Elder Justice Coordinating Council members include heads of the following departments and agencies: U.S. Department of Health and Human Services (Chair), Consumer Financial Protection Bureau, Corporation for National and Community Service, U.S. Department of Housing and Urban Development, U.S. Department of Justice, U.S. Department of Labor, U.S. Department of the Treasury, U.S. Department of Veterans Affairs, U.S. Postal Inspection Service, U.S. Securities and Exchange Commission, Federal Trade Commission, and the Social Security Administration.

Congress within two years of enactment and every two years thereafter that describes its activities and challenges; and make recommendations for legislation, model laws, and other actions deemed appropriate.[16] There are authorized to be appropriated such sums as necessary to carry out the Council's functions. (See report section entitled "Authorizations of Appropriations" for further appropriations information.)

On Oct. 11, 2012, the HHS Secretary convened the inaugural meeting of the Elder Justice Coordinating Council. The Council is a permanent group, anticipated to meet twice a year. The HHS Secretary has assigned responsibility for implementing the Council to the Administration for Community Living (ACL). The work of the Council is supported by a staff-level Elder Justice Interagency Working Group also led by ACL which was established prior to ACA. Since the inaugural meeting, the Council has convened several times. During these meetings Elder Justice Interagency Working Group members presented proposals for federal action and a summary of steps for federal involvement in the prevention, detection, and prosecution of elder abuse. The working group also coordinated a report of federal activities in elder justice since 2010.[17] At the May 2014 meeting the Council agreed to a set of eight recommendations for increased federal involvement in addressing elder abuse (see text box "Elder Justice Coordinating Council: Recommendations for Increased Federal Involvement in Elder Abuse").

### *Advisory Board on Elder Abuse, Neglect, and Exploitation*

The Advisory Board on Elder Abuse, Neglect, and Exploitation is established to create a short- and long-term multidisciplinary plan for development of the field of elder justice and make recommendations to the Elder Justice Coordinating Council. The Advisory Board must be composed of 27 members from the general public appointed by the Secretary and must have experience and expertise in prevention of elder abuse, neglect, and exploitation. The Advisory Board is required to submit a report to the Elder Justice Coordinating Council and the appropriate committees of Congress within 18 months of enactment and annually thereafter that contains information on the status of federal, state, and local elder justice activities; and makes specified recommendations. There are authorized to be appropriated such sums as necessary to carry out the functions of the Advisory Board. On July 14, 2010, HHS published a notice establishing the Advisory Board;[18] however, no subsequent public announcement by HHS has been made about Board appointments or activities. (See report section entitled "Authorizations of Appropriations" for further appropriations information.)

### *Research Protections*

The HHS Secretary is required to promulgate guidelines to assist researchers working in the areas of elder abuse, neglect, and exploitation with issues relating to human research subject protections. For the purposes of the application of certain specified federal regulations to research conducted under this subpart it defines "legally authorized representative" to mean, unless otherwise provided by law, the individual, or judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person. No public

[16] On June 22, 2015, HHS submitted the *Elder Justice Coordinating Council 2012-2014 Report to Congress*, as required, http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/EJCC/docs/EJCC-2012-2014-report-to-congress.pdf.

[17] For a copy of the report, a list of EJCC members, and information on EJCC meetings and proposals, see http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/EJCC/.

[18] U.S. Department of Health and Human Services, "Establishment of the Advisory Board on Elder Abuse, Neglect, and Exploitation," *75 Federal Register 40838*, July 14, 2010.

information on the status of guidance promulgated by HHS Secretary was found. (See report section "Authorizations of Appropriations" for further appropriations information.)

**Elder Justice Coordinating Council: Recommendations for Increased Federal Involvement in Elder Abuse**

1. Support the Investigation and Prosecution of Elder Abuse Cases—Support the investigation and prosecution of elder abuse, neglect, and financial exploitation cases by providing training and resources to federal, state, and local investigators and prosecutors.

2. Enhance Services to Elder Abuse Victims—Support and protect elder abuse victims by improving identification of elder abuse and enhancing response and outreach to victims.

3. Develop a National Adult Protective Services (APS) System—Develop a national APS system based upon standardized data collection and a core set of service provision standards and best practices.

4. Develop a Federal Elder Justice Research Agenda—Establish a coordinated research agenda across federal agencies to identify best practices for prevention of and intervention in elder abuse and elder financial exploitation.

5. Develop a Broad-Based Public Awareness Campaign—Develop a comprehensive, strategic, and broad-based national public awareness campaign, with clear and consistent messaging to raise awareness and understanding of elder abuse, neglect, and exploitation.

6. Cross-disciplinary Training on Elder Abuse—Develop training to educate stakeholders across multiple sectors and disciplines on preventing, detecting, intervening in, and responding to elder abuse, neglect, and exploitation.

7. Combat Elder Financial Exploitation, including Abuse by Fiduciaries—Prevent, detect, and respond to elder financial exploitation through federal enforcement activities, policy initiatives, coordination, oversight and education, and by collaborating with industry to enhance fraud detection and provide resources for victims.

8. Improve Screening for Dementia and Cognitive Capacity, Financial Capacity, and Financial Exploitation—Improve the ability of APS and first responders to screen for diminished capacity, diminished financial capacity, and vulnerability to or victimization of financial exploitation.

**Source:** Administration for Community Living, *Eight (8) Recommendations from the Elder Justice Coordinating Council for Increased Federal Involvement in Addressing Elder Abuse*, May 2014, http://aoa.gov/AoARoot/AoA_Programs/Elder_Rights/EJCC/docs/Eight_Recommendations_for_Increased_Federal_Involvement.pdf.

### *Authorizations of Appropriations*

To carry out the above functions of the Elder Justice Coordinating Council, (SSA Section 2021), Advisory Board on Elder Abuse, Neglect, and Exploitation (SSA Section 2022), and research protection guidelines for human subjects (SSA Section 2023) a new SSA Section 2024, *Authorization of Appropriations*, authorizes to be appropriated $6.5 million for FY2011, and $7.0 million for each of FY2012 through FY2014. To date, Congress has not provided discretionary funding for these activities through the annual appropriations process. However, the Elder Justice Coordinating Council has convened several times, as previously mentioned.

### *Elder Abuse, Neglect, Exploitation Forensic Centers*

SSA Elder Justice provisions also added a section regarding establishment and support of elder abuse, neglect, and exploitation forensic centers. This provision requires the HHS Secretary, in consultation with the U.S. Attorney General, to award grants to eligible entities to establish and operate both stationary and mobile forensic centers and to develop forensic expertise pertaining to elder abuse, neglect, and exploitation. It authorizes to be appropriated $4 million for FY2011, $6 million for FY2012, and $8 million for each of FY2013 and FY2014 to carry out these activities.

To date, Congress has not provided discretionary funding for these activities through the annual appropriations process.

**Elder Abuse: Multi-Disciplinary Teams**

A number of collaborative community models exist to address elder abuse, including Multi-Disciplinary Teams (MDTs). One example of an MDT is the elder abuse forensic center model which brings together a team of professionals in health care, social services, and criminal justice (e.g., law enforcement, attorneys, and victim advocates). In this context, forensic science involves utilizing elder abuse experts from different disciplines to investigate and resolve cases of abuse or neglect. Developed out of a need to integrate services that have been historically fragmented and difficult to navigate, the MDT model is an entity that can bridge these different disciplines by employing a full-time staff, conducting regular face-to-face meetings to review cases of abuse and neglect, engaging in problem-solving, and facilitating recommended actions. Team members, who may either work for the organizing entity or a participating organization, may conduct joint visits, trainings, and engage in frequent and ongoing collaboration and consultation. Other MDT approaches address specific kinds of abuse (e.g., financial abuse) or serve as medical response teams that perform certain tasks (e.g., psychological or medical assessments).

**Sources:** Cafaro Shneider, Diana, Laura Mosqueda, Erika Falk, et al., "Elder Abuse Forensic Centers," *Journal of Elder Abuse & Neglect*, vol. 22 (2010); Navarro, Adria E., K. H. Wilber, J. Yonashiro, et al., "Do We Really Need Another Meeting? Lessons From the Los Angeles County Elder Abuse Forensic Center," *The Gerontologist*, vol. 50 (2010); Twomey, Mary S., Glenda Jackson, Heidi Li, et al., "The Successes and Challenges of Seven Multidisciplinary Teams," *Journal of Elder Abuse & Neglect*, vol. 22 (2010); Consumer Financial Protection Bureau, *Report and Recommendations: Fighting Elder Financial Exploitation through Community Networks*, Office of Older Americans, August 2016; Consumer Financial Protection Bureau, *A Resource Guide for Elder Financial Exploitation Prevention and Response Networks*, Office of Older Americans, August 2016.

## Programs to Promote Elder Justice

SSA Elder Justice provisions establish several grant programs and other activities to promote elder justice through various enhancements to the workforce and electronic health record technology, grants to adult protective services programs and training for long-term care ombudsman, among other activities. These provisions are described below.

### *Enhancement of Long-Term Care*

The Elder Justice Act required the HHS Secretary, in coordination with the Secretary of Labor, to carry out activities that provide incentives for individuals to train for, seek, and maintain employment providing direct care in long-term care (LTC). In doing so, the HHS Secretary is required to award grants to eligible entities to conduct programs that offer direct care employees continuing training and varying levels of certification.

The act further authorized the HHS Secretary to make grants to LTC facilities for specified activities that would assist such entities in offsetting costs related to purchasing, leasing, developing, and implementing certified electronic health records (EHR) technology designed to improve patient safety and reduce adverse events and health care complications resulting from medication errors. This section also requires the Secretary to adopt electronic standards for the exchange of clinical data by LTC facilities and, within 10 years of enactment, to have in place procedures to accept the optional electronic submission of clinical data by LTC facilities pursuant to such standards. The standards adopted must be compatible with standards established under current law, as specified, and with general health information technology standards.

The section authorizes to be appropriated $20.0 million for FY2011, $17.5 million for FY2012, and $15.0 million for each of FY2013 and FY2014 to carry out the activities under this section.

To date, Congress has not provided discretionary funding for these activities through the annual appropriations process.

### *Adult Protective Service Functions and Grant Program*

Adult Protective Services (APS) programs are social services programs established through legislation enacted in all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. APS programs serve seniors and adults with disabilities by offering a system for reporting and investigating abuse as well as providing social services to assist victims. State APS laws vary in the age of eligibility for APS assistance, definition of abuse, types of abuse covered, classification of the abuse as criminal or civil, mandatory reporting requirements, investigative procedures, and remedies for abuse. Prior to enactment of the Elder Justice Act, there was no dedicated federal funding authority for state APS programs. However, some states have used federal funding provided under the OAA and the Social Services Block Grant program to supplement state and local funding for APS programs.

Several SSA Elder Justice provisions addressed federal funding and additional resources for state APS programs. Specifically, SSA Title XX requires the HHS Secretary to ensure that the Department (1) provides authorized funding to state and local APS offices that investigate reports of elder abuse, neglect, and exploitation; (2) collects and disseminates data in coordination with DOJ; (3) develops and disseminates information on best practices regarding, and provides training on, carrying out APS; (4) conducts research related to the provision of APS; and (5) provides technical assistance to states and other entities that provide or fund APS. To carry out these functions, the section authorizes to be appropriated $3.0 million for FY2011 and $4 million for each of FY2012 through FY2014. Congress provided $4.0 million in discretionary funding for FY2015 and $8.0 million for FY2016 through the annual appropriations process for these activities.[19]

The HHS Secretary is also required to establish two grant programs. The first are grants to enhance APS programs provided by states and local governments. The second are grants to states for APS demonstration programs. Annual grants awarded to states to enhance APS programs are to be distributed to states based on a formula. For each of FY2011 through FY2014, the section authorizes to be appropriated $100.0 million for annual grants to enhance APS programs and $25.0 million for the APS demonstration grants. To date, Congress has not provided discretionary funding for these activities through the annual appropriations process.

### *Long-Term Care Ombudsman Program Grants and Training*

The Long-Term Care (LTC) Ombudsman Program is a consumer advocacy program that aims to improve the quality of care, as well as the quality of life, for residents in long-term care settings by investigating and resolving complaints made by, or on behalf of, such residents. Established under Title VII of the Older Americans Act (OAA), the Administration on Aging (AoA) within the Administration for Community Living (ACL) under HHS administers the nationwide program. As of 2010, there were 53 state LTC Ombudsman Programs operating in all 50 states, the District of Columbia, Guam, and Puerto Rico, and 578 local programs. States and territories

[19] FY2016 funding was allocated under the Elder Rights Support Activities line item appropriation, which totaled $11.874 million for such activities, of which $8.0 million is for Elder Justice/Adult Protective Services activities to provide competitive grants to states to test and evaluate innovative approaches to preventing and responding to elder abuse. Funding under this initiative may also be used for activities authorized under OAA Sections 411 and 751. Cite CJ.

receive an annual allotment for ombudsman activities based on a statutory funding formula.[20] For FY2015, the total appropriated funding for the LTC Ombudsman Program was $15.9 million.[21]

SSA Elder Justice provisions require the HHS Secretary to award grants to eligible entities with relevant expertise and experience in abuse and neglect in LTC facilities or state LTC ombudsman programs to (1) improve the capacity of state LTC ombudsman programs to respond to and resolve abuse and neglect complaints; (2) conduct pilot programs with state or local LTC ombudsman offices; and (3) provide support for such state LTC ombudsman programs and such pilot programs. It authorizes to be appropriated $5 million for FY2011, $7.5 million for FY2012, and $10 million for each of FY2013 and FY2014. The section also requires the Secretary to establish programs to provide and improve ombudsman training with respect to elder abuse, neglect, and exploitation for national organizations and state LTC ombudsman programs. It authorizes to be appropriated $10 million for each of FY2011 through FY2014. To date, Congress has not provided discretionary funding for these activities through the annual appropriations process.

## Protecting Residents of Long-Term Care Facilities

Provisions enacted under the Elder Justice Act establish (1) a National Training Institute for Surveyors and grants to state survey agencies; and (2) requirements for reporting crimes in federally funded LTC facilities.[22]

### National Training Institute for Surveyors

As specified under SSA Titles XVIII (Medicare) and XIX (Medicaid), each state has a licensing and certification agency that inspects long-term care facilities that participate in Medicare and/or Medicaid. These state agencies conduct standard surveys, extended surveys and, under certain circumstances, impose remedies for noncompliance. The surveys they conduct examine both the facility's processes for delivering care and the outcomes of residents' care to ensure the minimum standards are met. CMS' Survey & Certification Group provides some instruction and training to state and federal surveyors through classroom and web-based training applications.[23]

The Elder Justice Act requires the HHS Secretary to enter into a contract to establish and operate the National Training Institute for federal and state surveyors to carry out specified activities that provide and improve training of surveyors investigating allegations of abuse, neglect, and misappropriation of property in programs and LTC facilities that receive payments under Medicare or Medicaid. It authorizes to be appropriated $12 million for the period of FY2011 through FY2014 to carry out these activities. The HHS Secretary is also required to award grants to state survey agencies that perform surveys of Medicare or Medicaid participating facilities to design and implement complaint investigation systems. It authorizes $5 million for each of FY2011 through FY2014 to carry out these activities. To date, Congress has not provided discretionary funding for these activities through the annual appropriations process.

[20] For more information on OAA funding formulas see, CRS Report RS22549, *Older Americans Act: Funding Formulas*.

[21] Personal communication from Steve Hagy, Director, Office of Budget and Finance, Administration for Community Living, U.S. Department of Health and Human Services, January 13, 2015.

[22] ACA Section 6703(b).

[23] Centers for Medicare and Medicaid Services, *Survey & Certification – Surveyor Training*, http://cms.hhs.gov/Medicare/Provider-Enrollment-and-Certification/SurveyorTraining/index.html.

### Reporting to Law Enforcement of Crimes Occurring in Federally Funded Long-Term Care Facilities

The Elder Justice Act amended SSA Title XI, Part A by adding a new Section 1150B, requiring the reporting of crimes occurring in LTC facilities that receive at least $10,000 in federal funds during the preceding year. It requires owners, operators, employees, managers, agents, or contractors of nursing facilities (covered individuals) to report any reasonable suspicion of a crime (as defined by the law of the applicable political subdivision) against a resident or individual receiving care from the facility to the appropriate entities. Failure to report suspicion of a crime would result in a civil monetary penalty and the Secretary may make a determination to exclude the covered individual from participation in any federal health care program. If an individual is classified as an "excluded individual," a LTC facility that employs that person is not eligible to receive federal funds under the SSA.

Section 1150B also requires applicable nursing facilities to annually notify covered individuals that they are required to report any reasonable suspicion of a crime to the appropriate entities. It prohibits a LTC facility from retaliating against an employee for making a report. If retaliation occurs, the LTC facility may be subject to a civil money penalty or the HHS Secretary may exclude them from participation in any federal health care program for a period of two years, or both. In addition, each LTC facility is required to post conspicuously, in an appropriate location, a sign specifying the rights of employees under this section.

In June 2011, CMS issued guidance to state survey agency directors describing the regulations related to the reporting of reasonable suspicion of a crime in applicable nursing facilities and provided responses to frequently asked questions.[24] A 2014 report by the HHS Office of Inspector General found that 61% of nursing facilities (9,487 facilities) had documentation to support meeting both reporting requirements: (1) to annually notify covered individuals of their obligation to report reasonable suspicion of crime, and (2) to clearly post a sign specifying the rights of employees to make such reports.[25]

## National Nurse Aide Registry

Nurse aides generally work in nursing facilities under the direction of a nurse and provide the majority of direct care to residents, helping with activities of daily living (ADLs) (i.e., eating, bathing, dressing, toileting, transferring, and mobility). They may also provide health-related and other housekeeping tasks such as administering medications, checking vital signs, assisting with medical equipment such as oxygen or a ventilator, making a resident's bed, or cleaning a resident's room. However, the scope of work performed by nurse aides can vary according to state licensing requirements and the provider.

Federal regulations require each state and DC to establish and maintain a nurse aide registry of individuals who have completed training and are registered to work as nurse aides in that state.[26] State-based nurse aide registries also must include individuals who have been prohibited from employment as nurse aides in LTC facilities due to substantiated findings of abuse, neglect, or

[24] CMS, *Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC): Section 1150B of the Social Security Act*, S&C: 11-30-NH, June 17, 2011 (revised January 201, 2012), see http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/SCLetter11_30.pdf.

[25] HHS, Office of Inspector General, *Nursing Facilities' Compliance with Federal Regulations for Reporting Allegations of Abuse of Neglect*, OEI-07-00010, August 2014.

[26] 42 C.F.R. §483.156.

misappropriation of property. Nurse aide registries are utilized by LTC providers to conduct background checks on potential employees as LTC facilities are required to check their state nurse aide registry and other state-based registries that are believed to include information on the potential employee. Such databases can be an effective resource in identifying individuals with a history of abuse.

The HHS Secretary is required, in consultation with appropriate government agencies and private sector organizations, to conduct a study on establishing a national nurse aide registry.[27] No later than 18 months after the date of enactment, the Secretary is required to submit a report to the Elder Justice Coordinating Council and appropriate congressional committees containing the findings and recommendations of the study. It authorizes to be appropriated such sums as necessary to carry these activities, with funding for the study not to exceed $500,000. To date, Congress has not provided discretionary funding for this activity through the annual appropriations process and no study has been completed or report submitted to these entities.

# Funding for Elder Justice Activities

To date, most programs and activities authorized under the Elder Justice Act have not received funding.[28] For the first time, Congress appropriated $4 million for Elder Justice/Adult Protective Services activities in FY2015. Another $8 million was appropriated for these activities in FY2016. Prior to these annual appropriations, the President's budget request in each of fiscal years 2012 through 2014 requested funding for adult protective services grants. However, Congress did not provide discretionary funding for this activity through the annual appropriations process in these years.

Despite the lack of discretionary appropriations, in FY2012 and FY2013 some elder justice activities received funds transferred from mandatory appropriations to the Prevention and Public Health Fund (PPHF; see **Table 1**). Under the ACA, Congress provided the PPHF with a permanent annual appropriation.[29] PPHF funds are to be transferred by the HHS Secretary for prevention, wellness, and public health activities and are available on October 1, the beginning of each new fiscal year.[30]

[27] ACA Section 6703(c).

[28] The ACA reauthorized funding for numerous existing discretionary programs administered by HHS. The ACA also created many new discretionary programs, including those authorized under the Elder Justice Act, and provided for each an authorization of appropriations. While most of those existing discretionary programs continue to receive an annual discretionary appropriation, albeit at levels below the amounts authorized by the law, few of the new grant programs authorized under the ACA have received any discretionary funding. For more information see CRS Report R41390, *Discretionary Spending Under the Affordable Care Act (ACA)*, coordinated by C. Stephen Redhead.

[29] ACA Section 4002; 42 U.S.C. §300u-11.

[30] For more information about the Prevention and Public Health Fund (PPHF) see Appendix C of CRS Report R43304, *Public Health Service Agencies: Overview and Funding (FY2010-FY2016)*, coordinated by C. Stephen Redhead and Agata Dabrowska.

**Table 1. Funding for Elder Justice Activities for FY2012-FY2016**

($ in millions)

| | FY2012[a] | FY2013[b] | FY2014 | FY2015 | FY2016 |
|---|---|---|---|---|---|
| Elder Justice/Adult Protective Services | $6.0 | $2.0 | — | $4.0 | $8.0 |

**Source:** For FY2012 to FY2013, HHS, ACL, *Fiscal Year 2014 Justification of Estimates for Appropriations Committees*, April 10, 2013, http://www.acl.gov/About_ACL/Budget/docs/FY2014_ACL_CJ.pdf; For FY2014, HHS, ACL, *Fiscal Year 2015 Justification of Estimates for Appropriations Committees*, http://acl.gov/About_ACL/Budget/docs/FY_2015_ACL_CJ.pdf; For FY2015 and FY2016, HHS, ACL, *Fiscal Year 2017 Justification of Estimates for Appropriations Committees*, http://www.acl.gov/About_ACL/Budget/docs/FY_2017_ACL_CJ.pdf.

a. FY2012 appropriated amounts to the Public Health and Prevention Fund (PPHF) transferred to ACL; amounts reflect the 0.189% rescission required by P.L. 112-74, Division F, Sec. 527.

b. FY2013 appropriated amounts to the PPHF transferred to ACL; amounts are the final year funding amounts after rescissions, sequestration, and transfers.

For FY2012, the HHS Secretary transferred $6.0 million to ACL from the PPHF for new grants to states and tribes to test elder abuse prevention strategies (authorized under SSA Section 2042 and OAA Section 751). ACL awarded grants to states, tribal organizations, and for an evaluation of the state grantees under the Elder Abuse Prevention Interventions Program. Projects included using forensic accountants to prevent elder financial exploitation, increasing medication adherence to prevent elder self-neglect, and developing screening tools to identify elder abuse. In addition to grants to states, three tribal organizations received grant funding for the development of a multi-disciplinary team to address elder abuse in Indian Country; development and testing of culturally appropriate evidence based screening tools; and culturally appropriate train-the-trainer modules to improve skills on addressing and intervening with elder abuse issues.[31]

For FY2013, $2.0 million was transferred to ACL from the PPHF for elder justice activities which funded development of the National Adult Maltreatment Report System (see text box below). No PPHF or other funds were transferred to ACL for elder justice activities for FY2014 or subsequent fiscal years.

[31] Administration for Community Living, *Protecting American's Seniors: The Elder Abuse Prevention Interventions Program*, at http://acl.gov/NewsRoom/Publications/docs/Protecting_Americas_Seniors-%20The_%20Elder_%20Abuse_%20Prevention_%20Interventions_%20Program.pdf.

**National Adult Maltreatment Reporting System (NAMRS)**

For FY2013, $2.0 million was transferred to ACL from the PPHF for elder justice activities. Through an interagency agreement between ACL and HHS' Office of the Assistant Secretary for Planning and Evaluation (ASPE), funds were used to design, develop and pilot the National Adult Maltreatment Reporting System (NAMRS). Nine states—Colorado, Georgia, Illinois, Maine, Massachusetts, Missouri, Montana, Pennsylvania, and Texas—participated in a pilot of the data system. The project team also had a multiagency steering committee with representatives from ACL, ASPE, DOJ, and the Centers for Disease Control and Prevention (CDC). In addition, the National Center on Elder Abuse and the National Adult Protective Services Association provided consulting expertise. States and stakeholders also provided input into project planning. Based on the pilot, further refinement to the reporting system was made after consideration of project team suggestions and team recommendations with respect to full implementation and participation of all states and U.S. territories in NAMRS.

NAMRS will be the first data system of its kind to collect national data on abuse and exploitation of older adults and adults with disabilities as reported to state APS agencies. Data will be used to report national statistics on the policies and practices of state APS agencies as well as characteristics of clients and perpetrators of maltreatment; types of maltreatment allegations and related findings; risk and protective factors associated with clients; services received or identified; and client outcomes, based upon the knowledge available to APS agencies. State participation in NAMRS is voluntary and data will be collected annually. NAMRS data elements, specifications, and definitions are in the final stages of review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The Training and assistance will be provided to states through the National APS Technical Assistance Resource Center.

**Source:** Administration for Community Living, Administration on Aging, National Adult Maltreatment Reporting System (NAMRS) http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/NAMRS/index.aspx.

To further assist state APS programs, ACL has also established the National Adult Protective Services Technical Assistance Resource Center (APS TARC) as well as Voluntary Consensus Guidelines for State APS Systems. These initiatives provide some assistance to states in developing efficient and effective state APS programs.[32] In addition, in FY2015 and FY2016 funding was awarded to 24 state grantees to address innovations and improvements in the practice, services, data collection, and reporting under the State Grants to Enhance Adult Protective Services demonstration grant program.[33] In FY2016, ACL established the Elder Justice Innovation Grants program, which funded eight competitive grants to various entities (e.g., higher education institutions, non-profit organizations, local government entities) to increase knowledge about effective ways to address prevention or intervention of abuse, neglect, and exploitation of older adults. Grants were awarded for forensic center innovation, to address abuse in Indian Country, to address abuse in guardianship, and to understand self-neglect.[34]

For FY2017, the President's budget requested $10 million in discretionary funding for Elder Justice/Adult Protective Services, which would be used to fund implementation of a nationwide Adult Protective Services data system, research, and evaluation activities. The 2017 budget request did not specify an intended transfer of funding from the PPHF to ACL for elder justice activities.[35] For FY2017, the Senate Appropriations Committee recommended $10.0 million for the Elder Justice Initiative in its FY2017 Departments of Labor, Health and Human Services, and

[32] For more information, see Administration for Community Living, *Elder Justice & Adult Protective Services*, https://aoa.acl.gov/AoA_Programs/Elder_Rights/index.aspx.

[33] For more information, see Administration for Community Living, Administration on Aging, *State Grants to Enhance Adult Protective Services*, https://aoa.acl.gov/AoA_Programs/Elder_Rights/APS/state-grants.aspx.

[34] For more information, see Administration for Community Living, Administration on Aging, *Elder Justice Innovation* Grants, https://aoa.acl.gov/AoA_Programs/Elder_Rights/APS/state-grants.aspx.

[35] HHS, ACL, *Fiscal Year 2017 Justification of Estimates for Appropriations Committees*, http://www.acl.gov/About_ACL/Budget/docs/FY_2017_ACL_CJ.pdf.

Education, and Related Agencies (LHHS) appropriations bill.[36] The House Appropriations Committee recommended $8.0 million in its FY2017 LHHS appropriations bill.[37] Neither House nor Senate floor consideration of the bill occurred in the 114th Congress. Since the start of the fiscal year (October 1, 2016), funding for LHHS programs and activities has been provided by two continuing resolutions (CR; P.L. 114-223 and P.L. 114-254). The second FY2017 CR provides continuing appropriations for LHHS appropriations through April 28, 2017, or until full year appropriations are enacted.[38]

# Issues for Congress

The ACA created several new discretionary programs, including those authorized under the Elder Justice Act, and provided for each an authorization of appropriations.[39] Most elder justice programs and activities have yet to receive funding through the annual congressional appropriations process limiting the administration's response to implementation. It is also anticipated that the 115th Congress will consider legislation to change the ACA.[40] While opposition to the law has primarily focused on changes to the private health insurance market and the expansion of the Medicaid program, the ACA included other health-related provisions such as those enacted under the Elder Justice Act. A broad repeal of the law could have a wide range of effects on the health care system, including eliminating federal authority to address prevention, detection, and treatment for elder abuse.

In addition, the authorizations of appropriations for most Elder Justice Act provisions expired on September 30, 2014 (see **Table A-1** of **Appendix A** for information on specific Elder Justice Act authorizations of appropriations). In the 114th Congress, Representative Peter King introduced the Elder Justice Reauthorization Act (H.R. 988), which would have extended the authorizations of appropriations under the act through FY2019. The bill was referred to the House Ways and Means, Energy and Commerce, Judiciary, and Education and the Workforce Committees and saw no further action.

In considering reauthorization of the Elder Justice Act, Congress faces a decision whether or not to extend the authorizations of appropriations associated with existing programs and activities. Some policymakers may consider new language to modify or delete existing authorities as well as authorize new programs or activities. Congress may also want to consider the relationship between Elder Justice Act authorities and other similar or related authorities in other statutes. For example, the OAA establishes the LTC Ombudsman Program, administered by AoA within ACL. The Elder Justice Act authorizes grants under the Social Security Act to improve capacity and provide assistance to state LTC Ombudsman Programs as well as provide training to ombudsman. As authorized these programs have different committees of jurisdiction responsible for program authorization and oversight.

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[36] U.S. Congress, Senate Committee on Appropriations, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 2017, (report to accompany S. 3040), 114th Cong., 2nd sess., June 9, 2106, S.Rept. 114-274 (Washington: GPO, 2016), p. 147.

[37] U.S. Congress, House Committee on Appropriations, *Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 2017*, 114th Cong., 2nd sess., July 22, 2016, H.Rept. 114-699 (Washington: GPO, 2016), p. 196.

[38] For further information about FY2017 Labor-HHS-Education Appropriations, see CRS Report R44478, *FY2017 Labor-HHS-Education Appropriations: Status and Issues*.

[39] For further information, see CRS Report R41390, *Discretionary Spending Under the Affordable Care Act (ACA)*.

[40] CRS Report R43289, *Legislative Actions to Repeal, Defund, or Delay the Affordable Care Act*.

In the context of these actions, policymakers may look to existing state and federal administrative activities for areas of continued legislative emphasis. A discussion of selected issues follows.

## Federal Leadership

Congress first appropriated dedicated funding for Elder Justice activities in FY2015. This investment has been critical to the development of a national APS data collection system and the development of evidence-based research and programs. In addition, ACL has provided leadership in establishing federal resources for state APS systems, including the National APS Resource Center and voluntary consensus guidelines for state APS systems. However, the lack of full federal funding as authorized in the act has hampered the ability of the federal government to further its role in addressing the prevention, detection, and treatment of elder abuse. The OAA first called attention to the importance of federal leadership in the area of elder justice. Under the OAA, the AOA has primary responsibility for federal leadership in carrying out elder justice activities.[41] However, similar to EJA, funding under the OAA for such activities has also been limited. According to GAO, the Elder Justice Act "reaffirmed the importance of federal leadership of elder justice activities and provides a vehicle for establishing and implementing national priorities in this area." While the Elder Justice Coordinating Committee has appointed members and convened several times, an Advisory Board on Elder Abuse, Neglect, and Exploitation tasked to put forth a plan to develop the field of elder abuse has yet to be established. Further federal efforts to develop objectives, priorities, policy, and a long-term planning on these issues may be limited by available funding.

## Elder Abuse Data Collection

Federal efforts to collect data on elder abuse at the national level are compounded by variation in state statutory definitions of elder abuse that make it difficult to identify actions that constitute elder abuse, and by the absence of a uniform reporting system across states. A 2011 GAO report recommended the HHS Secretary conduct a pilot study to collect, compile, and disseminate APS administrative data.[42] To this end, ACL has utilized Elder Justice Act funding to design, develop, and pilot test the National Adult Maltreatment Reporting System (NAMRS). Policymakers may have a continued interest in this initiative and further funding efforts to expand data collection activities to all states based on findings and recommendations from the administration.

## Elder Abuse Prevention

According to ACL, "most communities do not have comprehensive elder abuse prevention efforts that engage a broad set of individuals and institutions that can play a role in combating abuse, such as health professionals, law enforcement and legal services agencies, social workers, clergy, and community organizations."[43] To implement the Elder Justice Act, the ACL funded several grants to states and tribal organizations that test interventions designed to prevent elder abuse, neglect, and exploitation. These multidisciplinary models draw on prevention strategies from other family violence prevention programs and can assist in developing the evidence base for more widespread dissemination. ACL has invested in an evaluation of such grants. Based on

[41] 42 U.S.C. 3011.

[42] Ibid.

[43] Administration for Community Living, *Protecting American's Seniors: The Elder Abuse Prevention Interventions Program*, at http://acl.gov/NewsRoom/Publications/docs/Protecting_Americas_Seniors-%20The_%20Elder_%20Abuse_%20Prevention_%20Interventions_%20Program.pdf.

findings from research, such initiatives could be disseminated more broadly to other states and entities through federally funded websites such as the National Center for Elder Abuse, federal technical assistance, and further funding opportunities.

# Concluding Observations

The Elder Justice Act represents one set of policies that exist in the broader context of domestic social policy to address the complex issue that is elder abuse. That is, as a federal legislative response, the Elder Justice Act may best serve as a catalyst for further federal coordination and action that can bring about greater public awareness and attention to the needs of a growing, and potentially vulnerable, aging population. According to GAO, the Elder Justice Act "provides a vehicle for setting national priorities and establishing a comprehensive, multidisciplinary elder justice system in this country."[44] Such a response touches on a range of domestic policy programs and issues that are not specific to one congressional committee's jurisdiction or area of expertise. Furthermore, congressional oversight into federal administration, implementation, and related activities must rely on different committees of jurisdiction as well as the experience of select committees such as the Senate Special Committee on Aging. According to subject matter experts, elder abuse is not an easy problem to address as it is

> a complex cluster of distinct but related phenomena involving health, legal, social service, financial, public safety, aging, disability, protective services, and victim services, aging services, policy, research, education, and human rights issues. It therefore requires a coordinated multidisciplinary, multi-agency, and multi-system response.[45]

Achieving such a response will likely require congressional interest in overseeing the range of elder justice programs and activities that currently exist across federal agencies. In addition, further research may assist policymakers to address areas where service delivery is either fragmented or lacks sufficient resources, or both. According to stakeholders, there are numerous challenges in responding to elder abuse, including lack of coordination, data, and resources.[46] Addressing these challenges could assist in developing an informed strategic and coordinated federal response.

[44] U.S. Government Accountability Office, *Stronger Federal Leadership Could Enhance National Response to Elder Abuse*, GAO-11-208, Mar 2, 2011, http://www.gao.gov/assets/320/316224.pdf; U.S. Government Accountability Office, *Survey of Adult Protective Services Program Administrators* (GAO-11-129SP, March 2011), an E-supplement to GAO-11-208, GAO-11-129SP, Mar 2, 2011, http://www.gao.gov/products/GAO-11-129SP.

[45] Connolly, Marie-Therese, B. Brandl, R. Breckman, *The Elder Justice Roadmap: A Stakeholders Initiative to Respond to an Emerging Health, Justice, Financial and Social Crisis*, 2014.

[46] Ibid.

# Appendix A. Elder Justice Act: Authorizations of Appropriations

**Table A-1** provides a section-by-section list of those Elder Justice Act provisions with an authorization of appropriations.

**Table A-1. Elder Justice Act: Authorizations of Appropriations**

| ACA Section | Statutory Authority | Provision | Authorization of Appropriations |
|---|---|---|---|
| 6703(a) | SSA Sec. 2021 | Elder Justice Coordinating Council | Such sums as necessary (no years specified), see also new SSA Sec. 2024 below |
| 6703(a) | SSA Sec. 2022 | Advisory Board on Elder Abuse, Neglect, and Exploitation | Such sums as necessary (no years specified), see also new SSA Sec. 2024 below |
| 6703(a) | SSA Sec. 2024 | Authorization of appropriations | $6.5 million for FY2011, and $7.0 million for each of FY2012 through FY2014 |
| 6703(a) | SSA Sec. 2031 | Forensic centers and expertise | $4 million for FY2011, $6 million for FY2012, and $8 million for each of FY2013 and FY2014 |
| 6703(a) | SSA Sec. 2041(a) | Incentives for LTC staffing | For new SSA Sec. 2041: $20 million for FY2011, $17.5 million for FY2012, and $15 million for each of FY2013 and FY2014 |
| 6703(a) | SSA Sec. 2041(b) | Certified EHR technology grant program | See above authorization of appropriations for SSA Sec. 2041 |
| 6703(a) | SSA Sec. 2041(c) | Standards for transactions involving clinical data by LTC facilities | See above authorization of appropriations for SSA Sec. 2041 |
| 6703(a) | SSA Sec. 2042(a) | Adult protective service functions | $3 million for FY2011, and $4 million for each of FY2012 through FY2014 |
| 6703(a) | SSA Sec. 2042(b) | Grants to enhance provision of adult protective services | $100 million for each of FY2011 through FY2014 |
| 6703(a) | SSA Sec. 2042(c) | Adult protective services demonstration grants | $25 million for each of FY2011 through FY2014 |
| 6703(a) | SSA Sec. 2043(a) | Long-term care ombudsman program grants | $5 million for FY2011, $7.5 million for FY2012, and $10 million for each of FY2013 and FY2014 |
| 6703(a) | SSA Sec. 2043(b) | Ombudsman training programs | $10 million for each of FY2011 through FY2014 |
| 6703(b) | New authority | National Training Institute for Surveyors | $12 million for the period of FY2011 through FY2014 |

| ACA Section | Statutory Authority | Provision | Authorization of Appropriations |
|---|---|---|---|
| 6703(b) | New authority | Grants to state survey agencies | $5 million for each of FY2011 through FY2014 |
| 6703(c) | New authority | National nurse aide registry study and report | Such sums as necessary (no years specified) to carry out these activities, with funding not to exceed $500,000 |

**Source:** Table prepared by the Congressional Research Service based on the text of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended).

**Notes:** EHR = Electronic Health Records; LTC = Long-Term Care; SSA = Social Security Act.

# Appendix B. Elder Justice Resources

The resources below provide further information on elder justice issues.

- *National Center on Elder Abuse* (U.S. Administration on Aging)
  https://ncea.acl.gov/

  The National Center on Elder Abuse (NCEA) compiles and publishes resources for policymakers, consumers, researchers, and social service, justice, and health care workers on elder abuse and neglect. The website includes frequently asked questions and research briefs on topics such as the mistreatment of LGBT elders and the abuse of people with dementia.

- *State Resources* (National Center on Elder Abuse)
  https://ncea.acl.gov/resources/state.html

  A directory of state hotlines and agencies for reporting suspected elder abuse, neglect, or exploitation. If the situation is serious, threatening, or dangerous, constituents should call 911 or the local police for immediate help. This directory also lists state laws, agencies, and statistics related to elder abuse and neglect.

- *Elder Abuse* (Centers for Disease Control and Prevention)
  http://www.cdc.gov/violenceprevention/elderabuse/

  Includes statistics, prevention strategies for practitioners, and the consumer fact sheet "Understanding Elder Abuse."

- Elder Justice Initiative (U.S. Department of Justice)
  http://www.justice.gov/elderjustice/

  A collection of elder justice resources for victims and families (including a state and local directory for reporting elder abuse), prosecutors (including sample federal pleadings and corporate integrity agreements, state pleadings, and elder justice statutes), and researchers (including a bibliographic database of elder justice article summaries).

- Consumer Financial Protection Bureau (CFPB)

http://www.consumerfinance.gov/

  Provides consumer tools, education resources, data, and other research to protect consumers in the financial marketplace, and includes information for older Americans and prevention of financial exploitation.

- *Key Issues: Elder Abuse* (U.S. Government Accountability Office)
  http://www.gao.gov/key_issues/elder_abuse/issue_summary

  A summary of types of elder abuse, and diagrams of federal agency missions and responsibilities to combat elder financial exploitation. Click the "Key Reports" tab for GAO reports on elder justice issues.

- *Participating Federal Departments and Agencies: Mission Statements and Agency Activities Relevant to Elder Justice* (Elder Justice Interagency Working Group, May 2013)
  https://aoa.acl.gov/AoA_Programs/Elder_Rights/EJCC/docs/AgencyDescriptions.pdf

  Describes federal elder justice programs, initiatives, web pages, and other activities within the U.S. Department of Health and Human Services, the U.S. Department of

Justice, the Consumer Financial Protection Bureau, the Federal Trade Commission, the Social Security Administration, the U.S. Department of Housing and Urban Development, the U.S. Department of the Treasury, the U.S. Postal Inspection Service, and the U.S. Securities and Exchange Commission.

- *Statute Compilations* (U.S. House of Representatives, Office of the Legislative Counsel)
  http://legcounsel.house.gov/HOLC/Resources/comps_alpha.html

  The statutory text of the Elder Justice Act appears at Title VI, Subtitle H, Sections 6701 through 6703 of the Patient Protection and Affordable Care Act, which is listed under "P" on this web page.

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