

Elder Abuse Prevention

Elder Justice Act Becomes Law, But Victory Is Only Partial

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The **Elder Justice Act** (EJA) was enacted and signed into law (P.L. 111-148) by President Obama on March 23, 2010, as part of the health care reform bill (H.R. 3590) known as the **Patient Protection and Affordable Care Act**.

The EJA authorizes:

- ◆ an Elder Justice Coordinating Council to make recommendations within two years to the Secretary of Health and Human Services (HHS) on the coordination of activities of federal, state, local, and private agencies and entities relating to elder abuse, neglect, and exploitation;
- ◆ \$400 million over four years in dedicated funding for Adult Protective Services (APS);
- ◆ \$100 million for state demonstration grants to test a variety of methods to detect and prevent elder abuse;
- ◆ \$26 million for the establishment and support of Elder Abuse, Neglect and Exploitation Forensic Centers to develop forensic expertise and provide services relating to elder abuse, neglect, and exploitation;
- ◆ \$32.5 million in grants to support the Long-Term Care Ombudsman Program (LTCOP) and an additional \$40 million in training programs for national organizations and state long-term care ombudsman programs; and
- ◆ \$67.5 million in grants to enhance long-term care staffing through training and recruitment and incentives for individuals seeking or maintaining employment in long-term care, either in a facility or a community-based long-term care entity.

The EJA is the first comprehensive national legislation enacted on elder abuse and its enactment is cause for celebration. But the victory is only partial for two reasons:

- ◆ First, no funding has yet been appropriated to support the important provisions enacted through the EJA.
- ◆ Second, the EJA does not contain the justice-related provisions that were part of the original EJA bill introduced in the Senate in 2002 during the 107th Congress, and in some subsequent sessions of Congress. These provisions recognized that elder abuse is a multifaceted problem that often requires the involvement and intervention of the criminal and civil justice systems to meet the needs of victims and provided funding to support those systems in myriad ways.

Advocates must continue their efforts to obtain appropriations for the EJA provisions so that they are not just hollow words. And to truly move toward a comprehensive approach to preventing, recognizing, and responding to elder abuse, advocates must also continue to call for enactment of provisions that support the justice system's role in addressing this problem. The **Elder Abuse Victims Act of 2009** (EAVA) could help in accomplishing the second goal as that bill contains the justice-related provisions that were part of the original EJA bill. The EAVA (H.R. 448), introduced by Rep. Sestak (D-PA7), was passed by the House of Representatives on February 11, 2009, and then referred to the Senate. Senator Kohl (D-WI) introduced an identical companion bill (S. 1821, also known as EAVA) on October 21, 2009. If authorized and funded, the EAVA would support:

- ◆ a study of model state laws and practices, including provisions related to definitions, mandatory reporting, evidentiary rules, immediate reporting of nursing home deaths, the role of bank personnel in reporting, and fiduciaries, including guardianship;
- ◆ victim advocacy grants to fund training, technical assistance, policy development, multidisciplinary coordination, and other types of support to local prosecutors and courts handling elder justice-related cases, including specially designated elder justice positions or units in local prosecutors' offices and local courts, and the creation of a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation to advise and support local prosecutors and courts nationwide in the pursuit of these cases;
- ◆ grants to eligible entities to provide training, technical assistance, multidisciplinary coordi-

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nation, policy development, and other types of support to state prosecutors and courts, employees of state attorneys general, and Medicaid Fraud Control Units handling elder justice-related matters;

- ◆ grants to eligible entities to provide training, technical assistance, multidisciplinary coordination, policy development, and other types of support to police, sheriffs, detectives, public safety officers, corrections personnel, and other first responders who handle elder justice-related matters for the purpose of funding specially-designated elder justice positions or units designed to support first responders in elder justice matters; and
- ◆ a three-year grant program to be known as the Elder Serve Victim Grant Program to be administered through the DOJ Office for Victims of Crime for the purpose of establishing programs to facilitate and coordinate services for victims of elder abuse.

Pursuant to its policy on elder abuse, the American Bar Association supported the enactment of the EJA and supports the enactment of the EAVA.

For more information on elder abuse prevention, visit the ABA Commission on Law and Aging Web page, www.abanet.org/aging.