

The Elder Justice Act

Summary of

S.1070 -- introduced 3/29/07 by Sen. Orrin Hatch [UT]

H.R.1783 -- introduced 3/29/07 by Rep Rahm Emanuel [IL]

Amends the Social Security Act (SSA) to establish an Elder Justice program under title XX (Block Grants to States for Social Services).

The Act:

- For the first time, coordinates efforts and develops leadership at the national level by creating within the Office of the Secretary of Health and Human Services (HHS) an Elder Justice Coordinating Council (EJCC) to foster coordination throughout the federal government on elder abuse issues.
- Establishes the Advisory Board to the EJCC of experts on elder abuse, neglect and exploitation that will make an annual report with recommendations on the status of Federal, State, and local public and private elder justice activities.
- Directs the Secretary to award grants to establish forensic centers to develop forensic expertise for the purpose of improving the capacity of geriatric health care professionals and law enforcement to collect forensic evidence relating to determinations of elder abuse, neglect, or exploitation.
- With respect to long-term care facilities, the Act directs the Secretary of HHS to:
 - ◇ Make grants to enhance training, recruitment, and retention of staff in long-term care (LTC) facilities.
 - ◇ Make grants to LTC facilities to improve management practices that will promote retention of individuals and promote the provision of high quality care.
 - ◇ Make grants to LTC facilities to offset the costs clinical health care informatics systems designed to improve patient safety and reduce adverse events and health care complications resulting from medication errors.
 - ◇ Include, as part of the information provided on the ‘Nursing Home Compare’ Medicare website,
 - the number of adjudicated instances of criminal violations by a nursing facility or crimes committed by an employee of a nursing facility.
 - a consumer rights information page on evaluating and choosing a nursing home, and information about the survey process, consumer rights, and ombudsman services.
 - ◇ Develop uniform open health information technology standards for LTC facilities.
 - ◇ Contract with an entity to establish and operate a National Training Institute for Federal and State surveyors to improve their ability to investigate allegations of resident abuse, neglect, and misappropriation of property.
 - ◇ Make grants to State LTC survey agencies to improve their capacity to respond to complaints effectively and timely.

- With respect to Adult Protective Services (APS) functions, requires the Secretary to:
 - ◊ Provide authorized funding to State and local APS under an annual grants program designed to enhance APS.
 - ◊ Collect and disseminate data annually relating to the abuse, exploitation, and neglect of elders in coordination with the Department of Justice.
 - ◊ Provide training and develop and disseminate information on best practices .
 - ◊ Conduct research related to the provision of APS.
 - ◊ Provide technical assistance to States and other entities that provide or fund APS.

- With respect to state long-term care ombudsmen program, requires the Secretary to:
 - ◊ Make grants to eligible entities to: (1) improve the capacity of state LTC ombudsman programs to respond to and resolve abuse and neglect complaints; and (2) conduct pilot programs with state or local LTC ombudsman offices.
 - ◊ Establish programs to provide and improve ombudsman training for national organizations and state LTC ombudsman programs.

- Requires each individual owner, operator, employee, manager, agent, or contractor of an LTC facility receiving certain federal support to:
 - ◊ Report to the Secretary and local law enforcement entities any reasonable suspicion of crimes occurring in such facility.
 - ◊ Comply with enhanced prohibitions against retaliation for reporting suspected criminal acts.
 - ◊ Notify the Secretary and the appropriate state regulatory agency of a facility's impending closure, as well as a plan for the transfer and adequate relocation of facility residents.

- Directs the Secretary to study and report to the EJCC and appropriate congressional committees on establishing a national nurse aide registry.

- Requires the Secretary to report to Congress on the pilot program for national and state background checks on direct patient access employees of LTC facilities that was authorized by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. [Note: a separate bill by Sen. Kohl would require background checks by all LTC facilities]

- Requires the secretary to conduct a study, in consultation with appropriate government agencies and private sector organizations, on establishing a national nurse aide registry.

H.R. 1783 also includes the following provisions not included in S. 1070:

- Directs the Attorney General/Department of Justice to:
 - ◊ Study and report to the EJCC, the Advisory Board, and Congress on state laws and practices relating to elder abuse, neglect, and exploitation.

- ◇ Develop objectives, priorities, policies and a long-term plan for elder justice programs relating to prevention, detection, raining, treatment, evaluation, intervention, research and improvement of the elder justice system.
 - ◇ Award grants to eligible entities to study the special needs of victims of elder abuse, neglect, and exploitation.
 - ◇ Award grants to local prosecutors handling elder justice-related cases for training, technical assistance, policy development, multidisciplinary coordination, and other types of support, including— (1) funding specially designated elder justice positions or units; or (2) funding the creation of a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation to advise and support local prosecutors nationwide in their pursuit of cases involving elder abuse, neglect, and exploitation.
 - ◇ Award grant to State prosecutors, State Attorneys General Offices and Medicaid Fraud Control Units handling elder justice-related cases for training, technical assistance, policy development, multidisciplinary coordination and other types of support.
 - ◇ Establish procedures to ensure resources are dedicated to investigating and prosecuting cases related to elder justice.
 - ◇ Award grants, in consultation with HHS, for training, technical assistance, policy development, multidisciplinary coordination and other types of support to front line responders who handle elder justice-related cases, including police, sheriffs, detectives, public safety officers, and corrections personnel.
 - ◇ Reserve a portion of the funds appropriated under each program in this title to conduct validated evaluations of the effectiveness of the activities funded.
- Amends the Internal Revenue Code to create a long-term care facility worker employment tax credit.

The Senate bill authorizes approximately \$148 million a year in total. The House bill authorizes about \$30 million more per year due to the Department of Justice provisions.

Another House Bill H.R. 5352, introduced by Rep. Sestak of Pennsylvania, includes only the Department of Justice provisions plus the requirements for establishing an Elder Justice Coordinating Council and Advisory board.

The full House Judiciary Committee approved the Act on June 11, 2008, with a few amendments including: one to make clarifications and technical changes; two amendments related to expanding efforts at combating telemarketing and internet fraud; and one to reauthorize and expand the Alzheimer's Missing Patient Alert program.