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The Elder Justice Act: Background and Issues for Congress

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SUMMARY

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The Elder Justice Act: Background and Issues for Congress

Elder abuse is a complex issue. As such, it often leads to calls for a multifaceted policy response that combines public health interventions, social services programs, and law enforcement. 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 Elder Justice Act is intended to provide a coordinated federal response to elder abuse by emphasizing various public health and social service approaches to prevent, detect, and treat abuse. The Elder Justice Act is Congress's first attempt at comprehensive legislation to address abuse, neglect, and exploitation of the elderly at the federal level.

Elder Justice Provisions

Enactment of the Elder Justice Act under the ACA contained certain public health and social services approaches to the prevention, detection, and treatment of elder abuse, primarily under the Department of Health and Human Services (HHS) authorities and administration. The elder justice provisions enacted under the ACA did not fully incorporate the comprehensive multidisciplinary policy approach (public health, social services, and criminal justice) envisioned in earlier versions of introduced legislation. Unlike earlier versions of the Elder Justice Act, which included a multidisciplinary approach that incorporated criminal justice provisions, the Elder Justice Act enacted under ACA did not include a criminal justice response for addressing the prevention, detection, and prosecution of elder abuse crimes under the Department of Justice (DOJ). With enactment of the Elder Justice Act under the ACA, criminal justice provisions were introduced as separate stand-alone legislation in subsequent Congresses. On October 18, 2017, the Elder Abuse Prevention and Prosecution Act of 2017 (EAPPA; P.L. 115-70) was signed into law establishing certain DOJ requirements with respect to investigating and prosecuting elder abuse crimes and enforcing elder abuse laws. In addition, Section 501 of P.L. 115-70 amended the Elder Justice Act to authorize certain court-appointed guardianship oversight activities under Adult Protective Services (APS) demonstration grants.

Federal Funding for Elder Justice Activities

The authorizations of appropriations for most Elder Justice Act activities expired on September 30, 2014. However, Congress continues to appropriate some funding for authorized activities. To date, most programs and activities authorized under the Elder Justice Act have either not received funding since enactment or have not received funding at their previously authorized levels. For FY2020, the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), provided $14.0 million in discretionary appropriations under the Elder Rights Support Activities line item appropriation within the Administration for Community Living's (ACL's) Aging and Disability Services Programs budget authority, of which $12.0 million is for the Elder Justice and Adult Protective Services program. ACL funding under the Elder Justice and Adult Protective Services program is also used for activities authorized under Older Americans Act (OAA) Sections 411 and 751. FY2020 funding of $12.0 million for the Elder Justice and Adult Protective Services program was the same as the FY2019 funding level.

Topics Covered in This Report

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

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Elder abuse is gaining attention as a public policy issue in the United States. Although the extent of such abuse is largely unknown, some studies indicate that it is prevalent and that many incidents of abuse are never reported.[1] A 2010 study of the extent of elder abuse in the United States found that 11% of individuals aged 60 and older residing in the community reported some type of abuse in the past year.[2] A 2008 study found that 9% of community-residing older adults aged 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.[3]

Studies such as these likely underestimate the full extent of elder abuse because 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 (see text box "What is Elder Abuse?"). In addition, incidents of elder abuse may go unreported, as older individuals may be reluctant to report abuse by an individual they rely upon for their personal care and well-being.[4] The physical and emotional effects of elder abuse can have lasting effects and may lead to disability or even premature death.[5] Moreover, research indicates that there is an association between victims who have physical and cognitive impairments, as well as inadequate social supports, and an increased risk of elder abuse.[6]

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."[7]

Elder abuse and neglect may occur in domestic or institutional settings, as described below.

- *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 (e.g., a spouse, sibling, child, friend, or caregiver).
- *Institutional* elder abuse generally refers to any of the following types of mistreatment occurring in residential facilities (e.g., a nursing facility, assisted living facility, group home, board and care facility, or foster home) 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:[8]

[1] National Center on Elder Abuse, *Statistics and Data*, https://ncea.acl.gov/What-We-Do/Research/Statistics-and-Data.aspx#prevalence.

[2] 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).

[3] 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).

[4] Centers for Disease Control and Prevention, *Understanding Elder Abuse: Fact Sheet*, Division of Violence and Prevention, National Center for Injury Prevention and Control, 2016, http://www.cdc.gov/violenceprevention/pdf/em-factsheet-a.pdf.

[5] Lachs M.S., C.S. Williams, S. O'Brien, et al., "The Mortality of Elder Mistreatment," *Journal of the American Medical Association*, vol. 280 (1998).

[6] 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.

[7] 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).

[8] National Center on Elder Abuse (NCEA), *Frequently Asked Questions*, Administration on Aging, https://ncea.acl.gov/

- *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 nonverbal acts.
- *Sexual abuse* is nonconsensual 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 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.
- *Self-neglect* is behavior that threatens a person's own health or safety, including refusal or failure to provide himself/herself with adequate food, water, clothing, shelter, personal hygiene, or medication.[9] Self-neglect is often considered distinct from elder abuse—the distinction being that self-neglect is a form of violence a person inflicts upon himself or herself (self-directed violence), whereas elder abuse is violence inflicted by another individual (interpersonal violence). Self-neglect may co-occur alongside or be triggered by elder abuse. However, research indicates that self-neglect prevention strategies differ from elder abuse prevention strategies.

Because elder abuse is a complex issue, it often leads to calls for a multifaceted policy response combining public health initiatives, social services programs, and criminal law enforcement to address abusive behavior. In response to 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).[10] The Elder Justice Act was enacted to provide a coordinated federal response to elder abuse by emphasizing various public health and social service approaches to prevent, detect, and treat such abuse. The act 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,[11] and domestic violence, under the Violence Against Women Act.[12]

As with other grant programs authorized under the ACA, the 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 are subject to the annual appropriations process. Agencies have implemented some elder justice programs and activities 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.[13]

FAQ.aspx; Krug, Etienne G., et al., eds. *World Report on Violence and Health: Chapter 5, Abuse of the Elderly*, 2002.

[9] 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.

[10] §6703(a) through (c) of ACA (P.L. 111-148).

[11] For more information on the Child Abuse Prevention and Treatment Act, see CRS Report R43458, *Child Welfare: An Overview of Federal Programs and Their Current Funding*.

[12] For more information on the Violence Against Women Act, see CRS Report R45410, *The Violence Against Women Act (VAWA): Historical Overview, Funding, and Reauthorization*.

[13] The Budget Control Act of 2011 (BCA; P.L. 112-25) included provisions authorizing increases in the debt limit, as well as provisions designed to reduce the federal deficit. One way the BCA seeks to reduce deficits is by establishing discretionary spending caps, which limit the amount of money that can be provided through the annual appropriations

The extent of elder abuse has the potential to grow in scope as the older population continues to increase in size, and as individuals live longer post-retirement. In 2018, an estimated 16.0% of the total U.S. population was aged 65 and older (about one in every six Americans).[14] The U.S. Census Bureau projects that by 2040 one in every five Americans, or 21.6% of the U.S. population, will be age 65 or older.[15] 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 the ACA and any administrative efforts related to implementation and funding, and describes several issues for Congress with respect to the act's potential reauthorization.

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 Section 6703(a) of ACA [42 U.S.C. §1397j].

Legislative History of the Elder Justice Act

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 toward addressing elder abuse, including authorizing federal assistance to state Adult Protective Services (APS) programs through the Social Services Block Grant (SSBG) program. In addition, Congress amended 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) under Title VII, Vulnerable Elder Rights Protection Activities. Provisions regarding elder justice were also incorporated under Title VII in the OAA reauthorization of 2006 (P.L. 109-365).[16]

In 2002, the 107th Congress first introduced comprehensive legislation to address elder abuse incorporating public health, social services, and criminal justice provisions under the Elder Justice Act (S. 2933). After that, Elder Justice Act legislation was reintroduced in subsequent Congresses with Senate Finance Committee action on the public health and social services provisions of the bill in the 108th, 109th, and 110th Congresses.[17] The Elder Justice Act of 2009 (S.

process for each of the next 10 fiscal years. For a more detailed explanation of the BCA, see CRS Report R44874, *The Budget Control Act: Frequently Asked Questions*.

[14] CRS estimate based on U.S Census Bureau, Older Americans Month, "Population and Housing Estimates," https://www.census.gov/newsroom/stories/2020/older-americans.html.

[15] U.S. Census Bureau, 2017 National Population Projections Tables: Main Series, "Table 2. Projected age and sex composition of the population," https://www.census.gov/data/tables/2017/demo/popproj/2017-summary-tables.html.

[16] 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 the 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 developing and implementing elder justice activities under Title VII of OAA.

[17] 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).

795) was introduced in the 111th Congress and only included the public health and social services approaches to the issue. 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).

The elder justice provisions enacted under the ACA did not fully incorporate the comprehensive multidisciplinary approach (public health, social services, and criminal justice) envisioned in earlier versions of introduced legislation. Enactment of the Elder Justice Act under the ACA contained certain public health and social services approaches to the prevention, detection, and treatment of elder abuse, primarily under the Department of Health and Human Services' (HHS) authorities and administration. Unlike earlier versions of the Elder Justice Act, which included a multidisciplinary approach, the act did not include a criminal justice response for addressing the prevention, detection, and prosecution of elder abuse crimes under the Department of Justice (DOJ). With the enactment of the Elder Justice Act under the ACA, criminal justice provisions were subsequently introduced as separate stand-alone legislation in subsequent Congresses with legislative activity in the 115th Congress.[18] On October 18, 2017, the Elder Abuse Prevention and Prosecution Act of 2017 (EAPPA; P.L. 115-70), was signed into law establishing certain DOJ requirements with respect to investigating and prosecuting elder abuse crimes and enforcing elder abuse laws.[19] In addition, Section 501 of P.L. 115-70 amended the Elder Justice Act (Section 2042(c) of the SSA) to authorize certain court-appointed guardianship oversight activities under APS demonstration grants.

Thus far, in the 116th Congress, no bills have been introduced in to reauthorize the Elder Justice Act.[20]

Elder Justice Act Provisions

The Elder Justice Act provisions enacted under the ACA and amended under EAPPA authorize entities and programs that address the federal coordination of elder abuse and the administration of new grant activities, as well as certain protections for residents of long-term care facilities, and other specified studies.[21] The following sections describe these provisions in greater detail.

Elder Justice Act Provisions Under the Social Security Act

Several of the Elder Justice Act provisions 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 under a new Subtitle A, Block Grants to States for Social Services, and adding a new Subtitle B, Elder Justice.

[18] 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.

[19] For more information on the Elder Abuse Prevention and Prosecution Act of 2017 (EAPPA; P.L. 115-70), see https://www.justice.gov/elderjustice/eappa. Further discussion of the provision under the Elder Abuse Prevention and Prosecution Act, P.L. 115-70, is beyond the scope of this report.

[20] Elder Justice Act reauthorization bills were introduced by Rep. Peter King in the 114th Congress (H.R. 988) and 115th Congress (H.R. 2639).

[21] §6703(a) through (c) of the ACA.

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 described below.[22]

Elder Justice Coordinating Council

The Elder Justice Act established the Elder Justice Coordinating Council at HHS (SSA §2021). 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 for administering programs related to elder abuse, neglect, and exploitation.[23] The council is required to submit a report to the appropriate committees of Congress within two years of enactment and every two years thereafter that describes its activities and challenges. The council is also required to make recommendations for legislation, model laws, and other actions deemed appropriate.[24] Such sums as necessary are authorized to be appropriated to carry out the council's functions.[25] (See the "Authorizations of Appropriations" section of this report for further information.)

On October 11, 2012, the HHS Secretary convened the inaugural meeting of the Elder Justice Coordinating Council. The council is a permanent group, expected to meet twice a year. The HHS Secretary 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.[26] 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"). More recent meetings have focused on the opioid crisis and elder abuse and elder justice concerns faced by rural and tribal communities.

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

[23] 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.

[24] On June 22, 2015, HHS submitted the *Elder Justice Coordinating Council 2012-2014 Report to Congress*, as required, https://acl.gov/sites/default/files/programs/2016-09/EJCC-2012-2014-report-to-congress.pdf.

[25] Authorizations of appropriations language are indefinite; that is, they do not specify a year and therefore do not expire.

[26] For a copy of the report, a list of EJCC members, and information on EJCC meetings and proposals, see https://acl.gov/programs/elder-justice/elder-justice-coordinating-council-ejcc.

Elder Justice Coordinating Council: Recommendations for Increased Federal Involvement in Elder Abuse[27]

- 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.
- 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.
- Develop a National Adult Protective Services (APS) System—Develop a national APS system based on standardized data collection and a core set of service provision standards and best practices.
- Develop a Federal Elder Justice Research Agenda—Establish a coordinated research agenda across federal agencies to identify best practices for the prevention of and intervention in elder abuse and elder financial exploitation.
- 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.
- 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.
- 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.
- 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 by financial exploitation.

Advisory Board on Elder Abuse, Neglect, and Exploitation

The Advisory Board on Elder Abuse, Neglect, and Exploitation (SSA §2022) is established to create a short- and long-term multidisciplinary plan for development of the field of elder justice and to 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 that makes specified recommendations. Such sums as necessary are authorized to be appropriated to carry out the functions of the Advisory Board.[28] On July 14, 2010, HHS published a notice establishing the Advisory Board;[29] however, no subsequent public announcement by HHS has been made about board appointments or activities. (See the "Authorizations of Appropriations" section of this report for further information.)

[27] Administration for Community Living, *Eight Recommendations from the Elder Justice Coordinating Council for Increased Federal Involvement in Addressing Elder Abuse*, May 2014, https://acl.gov/sites/default/files/programs/2016-09/Eight_Recommendations_for_Increased_Federal_Involvement.pdf.

[28] Authorizations of appropriations language are indefinite; that is, they do not specify a year and therefore do not expire.

[29] 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.

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 (SSA §2023). 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 information on the status of guidance promulgated by HHS Secretary was found. (See the "Authorizations of Appropriations" section of this report for further information.)

Authorizations of Appropriations

To carry out the above functions of the Elder Justice Coordinating Council (SSA §2021), the Advisory Board on Elder Abuse, Neglect, and Exploitation (SSA §2022), and research protection guidelines for human subjects (SSA §2023), a new SSA Section 2024, Authorization of Appropriations, authorized 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, as previously mentioned, the Elder Justice Coordinating Council has convened several times since 2012.

Elder Abuse, Neglect, Exploitation Forensic Centers

SSA elder justice provisions also added a provision regarding the establishment and support of elder abuse, neglect, and exploitation forensic centers (SSA §2031). 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 authorized 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.

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 ombudsmen, among other activities. These provisions are described below.

Enhancement of Long-Term Care

Under SSA Section 2041, 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) facilities. 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 help such entities offset 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 authorized 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 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, no dedicated federal funding authority was available 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 Section 2042(a) 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 authorized to be appropriated $3.0 million for FY2011 and $4 million for each of FY2012 through FY2014.

The HHS Secretary is also required to establish two grant programs. The first are grants to enhance APS services provided by states and local governments under SSA Section 2042(b). Annual grants awarded to states to enhance APS are to be distributed to states based on a formula. For each of FY2011 through FY2014, it authorized to be appropriated $100.0 million for annual grants to enhance APS programs. To date, Congress has not provided discretionary funding for these activities through the annual appropriations process.

The second grant program are grants to states (and high courts of states, as amended by P.L. 115-70) for APS demonstration programs under SSA Section 2042(c). Grant funds may be used for a variety of activities, such as methods to detect or prevent elder abuse (e.g., training modules and training in abuse forensics to enhance detection), methods that focus on financial exploitation, and activities to address guardianship and conservatorship proceedings (see text box entitled "Guardianship and Conservatorship"). For each of FY2011 through FY2014, it authorized to be appropriated $25.0 million for APS demonstration grants.

Although Congress has not explicitly provided discretionary funding for these activities through the annual appropriations process, beginning in FY2015, Congress provided discretionary funding more generally for Elder Justice and Adult Protective Services through the annual

appropriations process.[30] ACL has used this funding for data collection activities, technical assistance to state APS programs, and to award discretionary grants to states to enhance APS services (see the "Funding for Elder Justice Activities" section of this report).

Guardianship and Conservatorship[31]

Subject to state law, a court may appoint a guardian who is responsible for making all decisions—including legal, financial, and health decisions—for an individual, or a conservator who makes financial decisions regarding an individual's property. In general, guardians are appointed by a state court based on a determination by a judge or other official that an individual lacks the capacity to make decisions regarding their personal health, welfare, or property. According to a 2016 Government Accountability Office (GAO) report, states and local courts have primary responsibility over the guardianship and conservatorship process. While the federal government does not regulate or directly support such programs, federal programs and activities may provide indirect support to state programs.

The Elder Abuse Prevention and Prosecution Act of 2017 (EAPPA; P.L. 115-70) amended the APS demonstration grant authority under SSA §2042(c) to allow authorized funds to be used for activities related to guardianship and conservatorship proceedings. Specifically, it authorized the awarding of state demonstration grants to the highest courts of states to assess adult guardianship and conservatorship proceedings and to implement changes deemed necessary from such assessments. Such changes may include background checks for all potential guardians and conservators, as well as implementing electronic systems to simplify the guardianship and conservatorship process and to better enable courts to identify and detect fraud and exploitation. In awarding grants to state courts for demonstration programs, the HHS Secretary is required to consider the recommendations of the U.S. Attorney General and the State Justice Institute. Grantees are required to collaborate with the state-level agency on aging and the APS agency in conducting the demonstration program. To date, HHS not provided grant funding to state courts for these activities.

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 2018, there were 53 state LTC Ombudsman Programs operating in all 50 states, the District of Columbia, Guam, and Puerto Rico, and 523 local programs.[32] States and territories receive an annual allotment for ombudsman activities based on a statutory funding formula.[33] For FY2020, the total appropriated funding for the LTC Ombudsman Program was $17.9 million.[34]

SSA Section 2043 requires 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

[30] The Further Consolidated Appropriations Act, 2020 (P.L. 116-94), provided $14.0 million in discretionary appropriations for FY2020 under the Elder Rights Support Activities line item appropriation within ACL's Aging and Disability Services Programs budget authority, of which $12.0 million is for the Elder Justice and Adult Protective Services program. ACL Funding under the Elder Justice and Adult Protective Services may also be used for activities authorized under OAA Sections 411 and 751.

[31] GAO, *Elder Abuse: The Extent of Abuse by Guardians Is Unknown, but Some Measures Exist to Help Protect Older Adults*, GAO-17-33, November 2016, https://www.gao.gov/assets/690/681088.pdf.

[32] ACL, *Long-Term Care Ombudsman Program*, https://ltcombudsman.org/about/about-ombudsman; ACL, *AGing Independence and Disability Program Portal, Data-at-A-Glance, National Ombudsman Reporting System (NORS)*, 2018 data, https://agid.acl.gov/DataGlance/NORS/.

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

[34] Personal communication from Steve Hagy, Director, Office of Budget and Finance, Administration for Community Living, U.S. Department of Health and Human Services, January 10, 2020.

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 authorized 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 authorized 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.[35]

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 and extended surveys and, under certain circumstances, impose remedies for noncompliance. The surveys they conduct examine both a facility's processes for delivering care and the outcomes of residents' care to ensure that minimum standards are met. CMS's Survey & Certification Group provides some instruction and training to state and federal surveyors through classroom and web-based training applications.[36]

The Elder Justice Act requires the HHS Secretary to establish and operate the National Training Institute for federal and state surveyors to carry out specified activities that provide and improve the training of surveyors who investigate allegations of abuse, neglect, and misappropriation of property in programs and LTC facilities that receive payments under Medicare or Medicaid. It authorized 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 authorized $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.

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 SSA Section 1150B, requiring the reporting of crimes occurring in LTC facilities that receive at least $10,000 in federal funds during the preceding year. The section requires owners, operators, employees, managers, agents, and 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

[35] ACA Section 6703(b).

[36] CMS, *Survey & Certification – Surveyor Training*, http://cms.hhs.gov/Medicare/Provider-Enrollment-and-Certification/SurveyorTraining/index.html.

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.

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 an LTC facility from retaliating against an employee for making a report. If retaliation occurs, the LTC facility may be subject to a civil monetary penalty, or the HHS Secretary may exclude the facility 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.[37] 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.[38]

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). Nurse aides may also provide health-related and other housekeeping tasks, such as administering medications, checking vital signs, assisting with medical equipment, 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.[39] 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 misappropriation of property. LTC providers use nurse aide registries 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 might contain information on a 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.[40] 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

[37] 42 C.F.R. 483.12, Freedom from abuse, neglect, and exploitation (references SSA Section 1150B); 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 20, 2012), see http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/SCLetter11_30.pdf.

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

[39] 42 C.F.R. §483.156.

[40] ACA §6703(c).

findings and recommendations of the study. The Elder Justice Act authorizes to be appropriated such sums as necessary to carry out 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

Although the authorizations of appropriations for most Elder Justice Act activities expired on September 30, 2014, Congress continues to appropriate some funding for authorized activities. However, to date, most programs and activities authorized under the Elder Justice Act either have not received funding since enactment or have not received funding at their previously authorized levels.[41] For FY2020, the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), provided $14.0 million in discretionary appropriations under the Elder Rights Support Activities line item appropriation within ACL's Aging and Disability Services programs budget authority, of which $12.0 million is for the Elder Justice and Adult Protective Services program. ACL funding under the Elder Justice and Adult Protective Services program is also used for activities authorized under OAA Sections 411 and 751. Funding of $12.0 million for FY2020 was provided at the same FY2019 funding level (see **Table 1**).

Table 1. Funding for Elder Justice Activities for FY2012-FY2020

($ in millions)

	FY 2012[a]	FY 2013[b]	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Elder Justice/ Adult Protective Services	$6.0	$2.0	—	$4.0	$8.0	$10.0	$12.0	$12.0	$12.0

Source: FY2012 to FY2020 Labor-Health and Human Services (HHS)-Education Appropriations Acts and accompanying report and explanatory statement language available at the CRS appropriations status table; various HHS, Administration on Aging (AOA) and Administration for Community Living (ACL) budget documents, including budget justifications (FY2013 and FY2021), and operating plans for FY2012 through FY2013.

a. FY2012 appropriated amounts to the Public Health and Prevention Fund (PPHF) transferred to ACL; amounts are the final year funding amounts after rescissions, sequestration, and transfers.

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

Prior to Congress funding elder justice activities through the annual discretionary appropriations process, some activities received funds transferred from mandatory appropriations within the Prevention and Public Health Fund (PPHF). Under the ACA, Congress provided the PPHF with a permanent annual appropriation.[42] 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

[41] 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)*.

[42] ACA §4002; 42 U.S.C. §300u-11.

each new fiscal year.[43] 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). 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 the "National Adult Maltreatment Reporting System" section of this report). No PPHF funds were transferred to ACL for elder justice activities for FY2014 or subsequent fiscal years.

In FY2015, for the first time, Congress appropriated $4 million for Elder Justice/Adult Protective Services activities through the annual discretionary appropriations process. Another $8 million was appropriated for these activities in FY2016 and $10.0 million in FY2017. For each of fiscal years 2018 through 2020, Congress appropriated $12 million for elder justice activities. The following section describe selected elder justice programs, projects, and activities that have been funded.

Elder Abuse Prevention Intervention Demonstrations

In FY2013, ACL awarded five grants to states and tribal organizations for an evaluation of the state grantees under the Elder Abuse Prevention Interventions Program.[44] 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 multidisciplinary 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.[45]

Elder Justice Innovation Grants

In FY2016, ACL established the Elder Justice Innovation Grants program, which funded eight competitive grants to various entities (e.g., higher education institutions, nonprofit organizations, local government entities) to increase knowledge about effective ways to address the 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.[46] In FY2017, ACL awarded another five grants to higher-education institutions and nonprofit organizations to help state APS programs assess the cognitive decision-making capacity of their clients and to develop curriculum and training on integrating elements of trauma-informed care. Other grant awards provided legal assistance and access to community-based services to older adults who have experienced maltreatment.

[43] CRS Report R44796, *The ACA Prevention and Public Health Fund: In Brief*.

[44] Hafford, C., and K. Nguyen, *An Evaluation of AOA's Program to Prevent Elder Abuse: Final Report*, NORC at the University of Chicago, Prepared for Office of Disability, Aging and Long-Term Care Policy Office of the Assistant Secretary for Planning and Evaluation U.S. Department of Health and Human Services, August 1, 2016, https://aspe.hhs.gov/pdf-report/evaluation-aoas-program-prevent-elder-abuse-final-report.

[45] 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.

[46] For more information, see Administration for Community Living, https://acl.gov/programs/elder-justice/elder-justice-innovation-grants-0.

Multi-Disciplinary Teams[47]

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 elder abuse experts from different disciplines investigating and resolving 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 can bridge 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 work for either the organizing entity or a participating organization, may conduct joint visits and 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).

National Adult Maltreatment Reporting System (NAMRS)

The National Adult Maltreatment Reporting System (NAMRS) is 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.[48] Although the system is still early in its development, the data collected is used to report national statistics on the policies and practices of state APS agencies. NAMRS gathers case-level data on client and perpetrator characteristics; 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 are collected annually. The first year of NAMRS reporting was FY2016; as of FY2018, all states, the District of Columbia, and U.S. territories voluntarily participate.[49]

Development of the National Adult Maltreatment Report System[50]

In FY2013, $2.0 million was transferred to ACL from the PPHF for elder justice activities. Through an interagency agreement between ACL and HHS's 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

[47] Cafaro Schneider, 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.

[48] For further information and annual NAMRS reports for FY2016 through FY2018, see Administration for Community Living, *National Adult Maltreatment Reporting System (NAMRS)*, http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/NAMRS/index.aspx.

[49] G. Aurelien, G., M. Beatrice, J. Cannizzo, et al., *Adult Maltreatment Data Report 2018*. Administration for Community Living, U.S. Department of Health and Human Services, 2019.

[50] For further information and links to the two-part final report, see *Administration for Community Living, National Adult Maltreatment Reporting System (NAMRS) Background*, https://acl.gov/programs/elder-justice/national-adult-maltreatment-reporting-system-namrs-background.

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.

Other Adult Protective Services Activities

In addition, starting in FY2015 funding has been awarded to 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.[51] To further assist state APS programs, ACL has 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. In addition, training and assistance on NAMRS is provided to states through APS TARC.[52]

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.[53] Most elder justice programs and activities have yet to receive funding through the annual congressional appropriations process, thereby limiting the Administration's response to implementation. In addition, the authorizations of appropriations for most Elder Justice Act provisions expired on September 30, 2014 (see **Table A-1** for information on specific Elder Justice Act authorizations of appropriations).

In considering the 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 repeal existing authorities, as well as to authorize new programs or activities. While Elder Justice Act legislation enacted as part of ACA primarily sought to address incidents of abuse in domestic settings, two reports published in 2019 by the HHS Office of Inspector General and GAO have focused attention on abuse in institutional settings such as nursing homes.[54] Congress may choose to focus greater attention on prevention and detection of abuse in such settings.

Congress may also 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 ombudsmen. As authorized, these programs have different committees of jurisdiction responsible for program authorization and oversight.

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[51] For more information, see Administration for Community Living, *State Grants to Enhance Adult Protective Services*, https://acl.gov/programs/elder-justice/state-grants-enhance-adult-protective-services; for FY2019 grant funding, see award announcement at https://acl.gov/news-and-events/announcements/acl-elder-justice-grants-strengthen-legal-assistance-programs-aps.

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

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

[54] HHS, OIG, *Incidents of Potential Abuse and Neglect at Skilled Nursing Facilities Were Not Always Reported and Investigated*, June 2019, https://oig.hhs.gov/oas/reports/region1/11600509.pdf; GAO, *Nursing Homes: Improved Oversight Needed to Better Protect Residents from Abuse*, June 2019, https://www.gao.gov/assets/700/699721.pdf.

In the context of these actions, policymakers may look to existing federal administrative or oversight activities for areas of continued legislative emphasis.

Federal Funding and 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.[55] However, similar to EJA, funding under the OAA for such activities has 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."[56] Although 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 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 complicated by variation in state statutory definitions of elder abuse, which makes 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 that the HHS Secretary conduct a pilot study to collect, compile, and disseminate APS administrative data.[57] To this end, ACL has used Elder Justice Act funding to design, develop, and implement the National Adult Maltreatment Reporting System (NAMRS). Title II of the Elder Abuse Prevention and Prosecution Act (EAPPA, P.L. 115-70) requires the U.S. Attorney General, in consultation with local, state, and federal entities, to establish best practices for elder abuse data collection and, in consultation with the HHS Secretary, to annually engage in certain interagency federal data collection efforts.[58] Policymakers may have a continued interest in these initiatives and in further funding efforts to continue these data collection activities.

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,

[55] 42 U.S.C. 3011.

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

[57] Ibid.

[58] DOJ, EAPPA Data Overview and Data Collection Recommendations for State and Local Law Enforcement, https://www.justice.gov/elderjustice/eappa.

such as health professionals, law enforcement and legal services agencies, social workers, clergy, and community organizations."[59] 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 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 in the broader context of domestic social policy to address the complex issue of elder abuse. As a federal legislative response, the Elder Justice Act may best serve as a catalyst for further federal coordination and action that can focus greater public awareness and attention on 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."[60] 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.[61]

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 help policymakers address areas where service delivery is either fragmented, lacks sufficient resources, or both. According to stakeholders, there are numerous challenges in responding to elder abuse, including lack of coordination, data, and resources.[62] Addressing these challenges could help develop an informed strategic and coordinated federal response.

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[59] 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.

[60] U.S. Government Accountability Office, *Stronger Federal Leadership Could Enhance National Response to Elder Abuse*, GAO-11-208, March 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.

[61] 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.

[62] Ibid.

Appendix A. Elder Justice Act: Authorizations of Appropriations

Table A-1 provides a section-by-section list of 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 §2021	Elder Justice Coordinating Council	Such sums as necessary (no years specified), see also new SSA Section 2024 below
6703(a)	SSA §2022	Advisory Board on Elder Abuse, Neglect, and Exploitation	Such sums as necessary (no years specified), see also new SSA Section 2024 below
6703(a)	SSA §2024	Authorization of appropriations	$6.5 million for FY2011, and $7.0 million for each of FY2012 through FY2014
6703(a)	SSA §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 §2041(a)	Incentives for LTC staffing	For new SSA Section 2041: $20 million for FY2011, $17.5 million for FY2012, and $15 million for each of FY2013 and FY2014
6703(a)	SSA §2041(b)	Certified EHR technology grant program	See above authorization of appropriations for SSA Section 2041
6703(a)	SSA §2041(c)	Standards for transactions involving clinical data by LTC facilities	See above authorization of appropriations for SSA Section 2041
6703(a)	SSA §2042(a)	Adult protective service functions	$3 million for FY2011, and $4 million for each of FY2012 through FY2014
6703(a)	SSA §2042(b)	Grants to enhance provision of adult protective services	$100 million for each of FY2011 through FY2014
6703(a)	SSA §2042(c)	Adult protective services demonstration grants	$25 million for each of FY2011 through FY2014
6703(a)	SSA §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 §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
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 resources on topics such as financial exploitation, emotional abuse, the mistreatment of LGBT elders, and the abuse of people with dementia. Some of the resources are available in multiple languages.

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

  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/

  A collection of statistics, prevention strategies for practitioners, and the consumer "Fast Facts" sheet on "Preventing Elder Abuse."

- *Elder Abuse* (National Library of Medicine)
  https://medlineplus.gov/elderabuse.html

  A compilation of consumer resources and journal articles on 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 "Find Help Near You" state and local directory for reporting elder abuse), prosecutors (including sample federal and state pleadings and elder justice statutes), and researchers (including curated selections of research articles and an Elder Abuse Prevention and Prosecution Act [EAPPA] data overview).

- Consumer Financial Protection Bureau (CFPB)
  http://www.consumerfinance.gov/

  A compilation of 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.

- *Statute Compilations* (U.S. House of Representatives, Office of the Legislative Counsel)
  https://www.govinfo.gov/app/collection/comps/p

  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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