

Calendar No. 635

114TH CONGRESS
2D SESSION**S. 3270**

To prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

 IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. GRASSLEY (for himself, Mr. BLUMENTHAL, Mr. CORNYN, Ms. KLOBUCHAR, Mr. RUBIO, Mr. BENNET, Mrs. FEINSTEIN, Mr. LEAHY, Mr. DURBIN, Mr. TILLIS, and Ms. AYOTTE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 20, 2016

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 ~~“Elder Abuse Prevention and Prosecution Act”.~~

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—SUPPORTING FEDERAL CASES INVOLVING ELDER
 JUSTICE

Sec. 101. Supporting Federal cases involving elder justice.

TITLE II—IMPROVED DATA COLLECTION AND FEDERAL
 COORDINATION

Sec. 201. Establishment of best practices for local, State, and Federal data col-
 lection.

Sec. 202. Effective interagency coordination and Federal data collection.

TITLE III—ENHANCED VICTIM ASSISTANCE TO ELDER ABUSE
 SURVIVORS

Sec. 301. Sense of the Senate.

Sec. 302. Report.

TITLE IV—ROBERT MATAVA ELDER ABUSE PROSECUTION ACT
 OF 2016

Sec. 401. Short title.

Sec. 402. Enhanced penalty for telemarketing and email marketing fraud di-
 rected at elders.

Sec. 403. Training and technical assistance for States.

Sec. 404. Interstate initiatives.

3 **SEC. 2. DEFINITIONS.**

4 In this Act—

5 (1) the terms “abuse”, “elder justice”, “exploit-
 6 tation”, “law enforcement”, and “neglect” have the
 7 meanings given those terms in section 2011 of the
 8 Social Security Act (42 U.S.C. 1397j);

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

10 (A) means such services provided to adults
 11 as specified by the Secretary of Health and
 12 Human Services; and

13 (B) includes services such as—

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

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

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

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

12 ~~(3)~~ the term “elder” means an individual who
13 is 60 years of age or older;

14 ~~(4)~~ the term “elder abuse” includes abuse, ne-
15 glect, and exploitation of an elder; and

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

20 **TITLE I—SUPPORTING FEDERAL**
21 **CASES INVOLVING ELDER**
22 **JUSTICE**

23 **SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER**
24 **JUSTICE.**

25 (a) **SUPPORT AND ASSISTANCE.—**

1 (1) ELDER JUSTICE COORDINATORS.—The At-
2 torney General shall designate in each Federal judi-
3 cial district not less than one Assistant United
4 States Attorney to serve as the Elder Justice Coor-
5 dinator for the district, who, in addition to any other
6 responsibilities, shall be responsible for—

7 (A) serving as the legal counsel for the
8 Federal judicial district on matters relating to
9 elder abuse;

10 (B) prosecuting, or assisting in the pros-
11 ecution of, elder abuse cases;

12 (C) conducting public outreach and aware-
13 ness activities relating to elder abuse; and

14 (D) ensuring the collection of data re-
15 quired to be collected under section 202.

16 (2) INVESTIGATIVE SUPPORT.—The Attorney
17 General, in consultation with the Director of the
18 Federal Bureau of Investigation, shall, with respect
19 to crimes relating to elder abuse, ensure the imple-
20 mentation of a regular and comprehensive training
21 program to train agents of the Federal Bureau of
22 Investigation in the investigation and prosecution of
23 such crimes and the enforcement of laws related to
24 elder abuse, which shall include—

1 (A) specialized strategies for commu-
2 nicating with and assisting elder abuse victims;
3 and

4 (B) relevant forensic training relating to
5 elder abuse.

6 (3) RESOURCE GROUP.—The Attorney General,
7 through the Executive Office for United States At-
8 torneys, shall ensure the operation of a resource
9 group to facilitate the sharing of knowledge, experi-
10 ence, sample pleadings and other case documents,
11 training materials, and any other resources to assist
12 prosecutors throughout the United States in pur-
13 suing cases relating to elder abuse.

14 (4) DESIGNATED ELDER JUSTICE WORKING
15 GROUP OR SUBCOMMITTEE TO THE ATTORNEY GEN-
16 ERAL'S ADVISORY COMMITTEE OF UNITED STATES
17 ATTORNEYS.—Not later than 60 days after enact-
18 ment of this Act, the Attorney General, in consulta-
19 tion with the Director of the Executive Office for
20 United States Attorneys, shall establish a sub-
21 committee or working group to the Attorney Gen-
22 eral's Advisory Committee of United States Attor-
23 neys, as established under section 0.10 of title 28,
24 Code of Federal Regulations, or any successor there-
25 to, for the purposes of advising the Attorney General

1 on policies of the Department of Justice relating to
2 elder abuse.

3 ~~(b) DEPARTMENT OF JUSTICE ELDER JUSTICE CO-~~
4 ~~ORDINATOR.—~~Not later than 60 days after the date of en-
5 actment of this Act, the Attorney General shall designate
6 an Elder Justice Coordinator within the Department of
7 Justice who, in addition to any other responsibilities, shall
8 be responsible for—

9 (1) ~~coordinating and supporting the law en-~~
10 ~~forcement efforts and policy activities for the De-~~
11 ~~partment of Justice on elder justice issues;~~

12 (2) ~~evaluating training models to determine~~
13 ~~best practices and creating or compiling and making~~
14 ~~publicly available replication guides and training ma-~~
15 ~~terials for law enforcement officers, prosecutors,~~
16 ~~judges, emergency responders, individuals working in~~
17 ~~victim services, adult protective services, social serv-~~
18 ~~ices, and public safety, medical personnel, mental~~
19 ~~health personnel, financial services personnel, and~~
20 ~~any other individuals whose work may bring them in~~
21 ~~contact with elder abuse regarding how to—~~

22 (A) ~~conduct investigations in elder abuse~~
23 ~~eases;~~

24 (B) ~~address evidentiary issues and other~~
25 ~~legal issues; and~~

1 (C) appropriately assess, respond to, and
 2 interact with victims and witnesses in elder
 3 abuse cases, including in administrative, civil,
 4 and criminal judicial proceedings; and

5 (3) carrying out such other duties as the Attor-
 6 ney General determines necessary in connection with
 7 enhancing the understanding, prevention, and detec-
 8 tion of, and response to, elder abuse.

9 (c) FEDERAL TRADE COMMISSION.—

10 (1) FEDERAL TRADE COMMISSION ELDER JUS-
 11 TICE COORDINATOR.—Not later than 60 days after
 12 the date of enactment of this Act, the Chairman of
 13 the Federal Trade Commission shall designate with-
 14 in the Bureau of Consumer Protection of the Fed-
 15 eral Trade Commission an Elder Justice Coordi-
 16 nator who, in addition to any other responsibilities,
 17 shall be responsible for—

18 (A) coordinating and supporting the en-
 19 forcement and consumer education efforts and
 20 policy activities of the Federal Trade Commis-
 21 sion on elder justice issues; and

22 (B) serving as, or ensuring the availability
 23 of, a central point of contact for individuals,
 24 units of local government, States, and other
 25 Federal agencies on matters relating to the en-

1 enforcement and consumer education efforts and
2 policy activities of the Federal Trade Commis-
3 sion on elder justice issues.

4 (2) REPORT TO CONGRESS.—Not later than 1
5 year after the date of enactment of this Act, and
6 once every year thereafter, the Chairman of the Fed-
7 eral Trade Commission shall submit to the Com-
8 mittee on the Judiciary of the Senate and the Com-
9 mittee on the Judiciary of the House of Representa-
10 tives a report detailing the enforcement actions
11 taken by the Federal Trade Commission over the
12 preceding year in each case in which not less than
13 one victim was an elder or that involved a financial
14 scheme or scam that was either targeted directly to-
15 ward or largely affected elders, including—

16 (A) the name of the district where the case
17 originated;

18 (B) the style of the case, including the case
19 name and number;

20 (C) a description of the scheme or scam;
21 and

22 (D) the outcome of the case.

23 (d) USE OF APPROPRIATED FUNDS.—No additional
24 funds are authorized to be appropriated to carry out this
25 section.

1 **TITLE II—IMPROVED DATA COL-**
2 **LECTION AND FEDERAL CO-**
3 **ORDINATION**

4 **SEC. 201. ESTABLISHMENT OF BEST PRACTICES FOR**
5 **LOCAL, STATE, AND FEDERAL DATA COLLEC-**
6 **TION.**

7 (a) **IN GENERAL.**—The Attorney General, in con-
8 sultation with Federal, State, and local law enforcement
9 agencies, shall—

10 (1) establish best practices for data collection to
11 focus on elder abuse; and

12 (2) provide technical assistance to State, local,
13 and tribal governments in adopting the best prac-
14 tices established under paragraph (1).

15 (b) **DEADLINE.**—Not later than 1 year after the date
16 of enactment of this Act, the Attorney General shall pub-
17 lish the best practices established under subsection (a)(1)
18 on the website of the Department of Justice in a publicly
19 accessible manner.

20 (c) **LIMITATION.**—Nothing in this section shall be
21 construed to require or obligate compliance with the best
22 practices established under subsection (a)(1).

1 **SEC. 202. EFFECTIVE INTERAGENCY COORDINATION AND**
2 **FEDERAL DATA COLLECTION.**

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

6 (1) collect from Federal law enforcement agen-
7 cies and Federal prosecutor offices statistical data
8 related to elder abuse cases, including cases or inves-
9 tigation where one or more victims were elders, or
10 the case or investigation involved a financial scheme
11 or scam that was either targeted directly toward or
12 largely affected elders; and

13 (2) publish on the website of the Department of
14 Justice in a publicly accessible manner—

15 (A) a summary of the data collected under
16 paragraph (1); and

17 (B) recommendations for collecting addi-
18 tional data relating to elder abuse, including
19 recommendations for ways to improve data re-
20 porting across Federal, State, and local agen-
21 cies.

22 (b) **REQUIREMENT.**—The data collected under sub-
23 section (a)(1) shall include—

24 (1) the total number of investigations initiated
25 by Federal law enforcement agencies and Federal
26 prosecutor offices related to elder abuse;

1 (2) the total number and types of elder abuse
2 cases filed in Federal courts; and

3 ~~(3) for each case described in paragraph (2)—~~

4 (A) the name of the district where the case
5 originated;

6 (B) the style of the case, including the case
7 name and number;

8 (C) a description of the act or acts giving
9 rise to the elder abuse;

10 (D) in the case of a scheme or scam, a de-
11 scription of such scheme or scam giving rise to
12 the elder abuse;

13 (E) information about each alleged pepe-
14 trator of the elder abuse; and

15 (F) the outcome of the case.

16 (e) HHS REQUIREMENT.—The Secretary of Health
17 and Human Services shall, on an annual basis, provide
18 to the Attorney General statistical data collected by the
19 Secretary relating to elder abuse cases investigated by
20 adult protective services, which shall be included in the
21 summary published under subsection (a)(2).

22 (d) PROHIBITION ON INDIVIDUAL DATA.—None of
23 the information reported under this section shall include
24 specific individual identifiable data.

1 **TITLE III—ENHANCED VICTIM**
2 **ASSISTANCE TO ELDER**
3 **ABUSE SURVIVORS**

4 **SEC. 301. SENSE OF THE SENATE.**

5 (a) FINDINGS.—The Senate finds the following:

6 (1) The vast majority of cases of abuse, neglect,
7 and exploitation of older adults in the United States
8 go unidentified and unreported.

9 (2) Not less than \$2,900,000,000 is taken from
10 older adults each year due to financial abuse and ex-
11 ploitation.

12 (3) Elder abuse, neglect, and exploitation have
13 no boundaries and cross all racial, social, class, gen-
14 der, and geographic lines.

15 (4) Older adults who are abused are 3 times
16 more likely to die earlier than older adults of the
17 same age who are not abused.

18 (5) Up to half of all older adults with dementia
19 will experience abuse.

20 (b) SENSE OF THE SENATE.—It is the sense of the
21 Senate that —

22 (1) elder abuse involves the exploitation of po-
23 tentially vulnerable individuals with devastating
24 physical, mental, emotional, and financial con-
25 sequences to the victims and their loved ones;

1 (2) to combat this affront to America's seniors;
2 we must do everything possible to both support vic-
3 tims of elder abuse and prevent the abuse from oc-
4 ccurring in the first place; and

5 (3) the Senate supports a multipronged ap-
6 proach to prevent elder abuse and exploitation, pro-
7 tect the victims of elder abuse and exploitation from
8 further harm, and bring the perpetrators of such
9 crimes to justice.

10 **SEC. 302. REPORT.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of this Act, the Director of the Office
13 for Victims of Crime shall submit a report to the Com-
14 mittee on the Judiciary of the Senate and the Committee
15 on the Judiciary of the House of Representatives that ad-
16 dresses, to the extent data is available, the nature, extent,
17 and amount of funding under the Victims of Crime Act
18 of 1984 (42 U.S.C. 10601 et seq.) for victims of crime
19 who are elders.

20 (b) CONTENTS.—The report required under sub-
21 section (a) shall include—

22 (1) an analysis of victims' assistance, victims'
23 compensation, and discretionary grants under which
24 elder abuse victims (including elder victims of finan-

1 eial abuse, financial exploitation, and fraud) received
 2 assistance; and

3 ~~(2)~~ recommendations for improving services for
 4 victims of elder abuse.

5 **TITLE IV—ROBERT MATAVA**
 6 **ELDER ABUSE PROSECUTION**
 7 **ACT OF 2016**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Robert Matava Elder
 10 Abuse Prosecution Act of 2016”.

11 **SEC. 402. ENHANCED PENALTY FOR TELEMARKETING AND**
 12 **EMAIL MARKETING FRAUD DIRECTED AT EL-**
 13 **DERS.**

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

16 (1) in the chapter heading, by inserting “**AND**
 17 **EMAIL MARKETING**” after “**TELE-**
 18 **MARKETING**”;

19 (2) by striking section 2325 and inserting the
 20 following:

21 **“§ 2325. Definition**

22 “In this chapter, the term ‘telemarketing or email
 23 marketing’—

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

1 “(A) purchases of goods or services;

2 “(B) participation in a contest or sweep-
3 stakes;

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

6 “(D) investment for financial profit;

7 “(E) participation in a business oppor-
8 tunity;

9 “(F) commitment to a loan; or

10 “(G) participation in a fraudulent medical
11 study, research study, or pilot study, by use of
12 one or more interstate telephone calls, emails,
13 text messages, or electronic instant messages
14 initiated either by a person who is conducting
15 the plan, program, promotion, or campaign or
16 by a prospective purchaser or contest or sweep-
17 stakes participant or charitable contributor,
18 donor, or investor; and

19 “(2) does not include the solicitation through
20 the posting, publication, or mailing of a catalog or
21 brochure that—

22 “(A) contains a written description or il-
23 lustration of the goods, services, or other oppor-
24 tunities being offered;

1 “(B) includes the business address of the
2 solicitor;

3 “(C) includes multiple pages of written
4 material or illustration; and

5 “(D) has been issued not less frequently
6 than once a year; if the person making the so-
7 licitation does not solicit customers by tele-
8 phone, email, text message, or electronic instant
9 message, but only receives interstate telephone
10 calls, emails, text messages, or electronic in-
11 stant messages initiated by customers in re-
12 sponse to the written materials, whether in
13 hard copy or digital format, and in response to
14 those interstate telephone calls, emails, text
15 messages, or electronic instant messages does
16 not conduct further solicitation.”;

17 (3) in section 2326, in the matter preceding
18 paragraph (1)—

19 (A) by striking “or 1344” and inserting
20 “1344, or 1347 or section 1128B of the Social
21 Security Act (42 U.S.C. 1320a–7b)”;

22 (B) by inserting “or email marketing”
23 after “telemarketing”; and

24 (4) by adding at the end the following:

1 **“§ 2328. Mandatory forfeiture**

2 “(a) IN GENERAL.—The court, in imposing sentence
3 on a person who is convicted of any offense for which an
4 enhanced penalty is provided under section 2326, shall
5 order that the defendant forfeit to the United States—

6 “(1) any property, real or personal, constituting
7 or traceable to gross proceeds obtained from such of-
8 fense; and

9 “(2) any equipment, software, or other tech-
10 nology used or intended to be used to commit or to
11 facilitate the commission of such offense.

12 “(b) PROCEDURES.—The procedures set forth in sec-
13 tion 413 of the Controlled Substances Act (21 U.S.C.
14 853), other than subsection (d) of that section, and in
15 Rule 32.2 of the Federal Rules of Criminal Procedure,
16 shall apply to all stages of a criminal forfeiture proceeding
17 under this section.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) The table of chapters at the beginning of
20 part I of title 18, United States Code, is amended
21 by striking the item relating to chapter 113A and
22 inserting the following:

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

23 (2) The table of sections for chapter 113A of
24 title 18, United States Code, is amended by insert-

1 ing after the item relating to section ~~2327~~ the fol-
 2 lowing:

~~“2328. Mandatory forfeiture.”.~~

3 **SEC. 403. TRAINING AND TECHNICAL ASSISTANCE FOR**
 4 **STATES.**

5 The Attorney General, in consultation with the Sec-
 6 retary of Health and Human Services and in coordination
 7 with the Elder Justice Coordinating Council (established
 8 under section 2021 of the Social Security Act (42 U.S.C.
 9 1397k)), shall create, compile, evaluate, and disseminate
 10 materials and information, and provide the necessary
 11 training and technical assistance, to assist States and
 12 units of local government in—

13 (1) investigating, prosecuting, pursuing, pre-
 14 venting, understanding, and mitigating the impact
 15 of—

16 (A) physical, sexual, and psychological
 17 abuse of elders;

18 (B) exploitation of elders, including finan-
 19 cial abuse and scams targeting elders; and

20 (C) neglect of elders; and

21 (2) assessing, addressing, and mitigating the
 22 physical and psychological trauma to victims of elder
 23 abuse.

1 **SEC. 404. INTERSTATE INITIATIVES.**

2 (a) **INTERSTATE AGREEMENTS AND COMPACTS.**—

3 The consent of Congress is given to any two or more
4 States (acting through State agencies with jurisdiction
5 over adult protective services) to enter into agreements or
6 compacts for cooperative effort and mutual assistance—

7 (1) in promoting the safety and well-being of el-
8 ders; and

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

11 (b) **RECOMMENDATIONS ON INTERSTATE COMMU-**

12 **UNICATION.**—The Executive Director of the State Justice
13 Institute, in consultation with State or local aging, social,
14 and human services and law enforcement agencies, nation-
15 ally recognized nonprofit associations with expertise in
16 data sharing among criminal justice agencies and famili-
17 arity with the issues raised in elder abuse cases, and the
18 Secretary of Health and Human Services, shall submit to
19 Congress legislative proposals relating to the facilitation
20 of interstate agreements and compacts.

21 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

22 (a) **SHORT TITLE.**—*This Act may be cited as the*
23 *“Elder Abuse Prevention and Prosecution Act”.*

24 (b) **TABLE OF CONTENTS.**—*The table of contents for*
25 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE

Sec. 101. Supporting Federal cases involving elder justice.

TITLE II—IMPROVED DATA COLLECTION AND FEDERAL COORDINATION

Sec. 201. Establishment of best practices for local, State, and Federal data collection.

Sec. 202. Effective interagency coordination and Federal data collection.

TITLE III—ENHANCED VICTIM ASSISTANCE TO ELDER ABUSE SURVIVORS

Sec. 301. Sense of the Senate.

Sec. 302. Report.

TITLE IV—ROBERT MATAVA ELDER ABUSE PROSECUTION ACT OF 2016

Sec. 401. Short title.

Sec. 402. Enhanced penalty for telemarketing and email marketing fraud directed at elders.

Sec. 403. Training and technical assistance for States.

Sec. 404. Interstate initiatives.

TITLE V—MISCELLANEOUS

Sec. 501. Court-appointed guardianship oversight activities under the Elder Justice Act of 2009.

Sec. 502. GAO reports.

Sec. 503. Outreach to State and local law enforcement agencies.

Sec. 504. Model power of attorney legislation.

Sec. 505. Best practices and model legislation for guardianship proceedings.

1 SEC. 2. DEFINITIONS.

2 *In this Act—*

3 (1) the terms “abuse”, “adult protective serv-
4 ices”, “elder”, “elder justice”, “exploitation”, “law en-
5 forcement”, and “neglect” have the meanings given
6 those terms in section 2011 of the Social Security Act
7 (42 U.S.C. 1397j);

8 (2) the term “elder abuse” includes abuse, ne-
9 glect, and exploitation of an elder; and

1 (3) *the term “State” means each of the several*
 2 *States of the United States, the District of Columbia,*
 3 *the Commonwealth of Puerto Rico, and any other ter-*
 4 *ritory or possession of the United States.*

5 **TITLE I—SUPPORTING FEDERAL**
 6 **CASES INVOLVING ELDER**
 7 **JUSTICE**

8 **SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER**
 9 **JUSTICE.**

10 (a) *SUPPORT AND ASSISTANCE.—*

11 (1) *ELDER JUSTICE COORDINATORS.—The Attor-*
 12 *ney General shall designate in each Federal judicial*
 13 *district not less than one Assistant United States At-*
 14 *torney to serve as the Elder Justice Coordinator for*
 15 *the district, who, in addition to any other responsibil-*
 16 *ities, shall be responsible for—*

17 (A) *serving as the legal counsel for the Fed-*
 18 *eral judicial district on matters relating to elder*
 19 *abuse;*

20 (B) *prosecuting, or assisting in the prosecu-*
 21 *tion of, elder abuse cases;*

22 (C) *conducting public outreach and aware-*
 23 *ness activities relating to elder abuse; and*

24 (D) *ensuring the collection of data required*
 25 *to be collected under section 202.*

1 (2) *INVESTIGATIVE SUPPORT.*—*The Attorney*
2 *General, in consultation with the Director of the Fed-*
3 *eral Bureau of Investigation, shall, with respect to*
4 *crimes relating to elder abuse, ensure the implementa-*
5 *tion of a regular and comprehensive training pro-*
6 *gram to train agents of the Federal Bureau of Inves-*
7 *tigation in the investigation and prosecution of such*
8 *crimes and the enforcement of laws related to elder*
9 *abuse, which shall include—*

10 (A) *specialized strategies for communicating*
11 *with and assisting elder abuse victims; and*

12 (B) *relevant forensic training relating to*
13 *elder abuse.*

14 (3) *RESOURCE GROUP.*—*The Attorney General,*
15 *through the Executive Office for United States Attor-*
16 *neys, shall ensure the operation of a resource group*
17 *to facilitate the sharing of knowledge, experience,*
18 *sample pleadings and other case documents, training*
19 *materials, and any other resources to assist prosecu-*
20 *tors throughout the United States in pursuing cases*
21 *relating to elder abuse.*

22 (4) *DESIGNATED ELDER JUSTICE WORKING*
23 *GROUP OR SUBCOMMITTEE TO THE ATTORNEY GEN-*
24 *ERAL'S ADVISORY COMMITTEE OF UNITED STATES AT-*
25 *TORNEYS.*—*Not later than 60 days after the date of*

1 *enactment of this Act, the Attorney General, in con-*
2 *sultation with the Director of the Executive Office for*
3 *United States Attorneys, shall establish a sub-*
4 *committee or working group to the Attorney General's*
5 *Advisory Committee of United States Attorneys, as*
6 *established under section 0.10 of title 28, Code of Fed-*
7 *eral Regulations, or any successor thereto, for the pur-*
8 *poses of advising the Attorney General on policies of*
9 *the Department of Justice relating to elder abuse.*

10 *(b) DEPARTMENT OF JUSTICE ELDER JUSTICE COOR-*
11 *DINATOR.—Not later than 60 days after the date of enact-*
12 *ment of this Act, the Attorney General shall designate an*
13 *Elder Justice Coordinator within the Department of Justice*
14 *who, in addition to any other responsibilities, shall be re-*
15 *sponsible for—*

16 *(1) coordinating and supporting the law enforce-*
17 *ment efforts and policy activities for the Department*
18 *of Justice on elder justice issues;*

19 *(2) evaluating training models to determine best*
20 *practices and creating or compiling and making pub-*
21 *licly available replication guides and training mate-*
22 *rials for law enforcement officers, prosecutors, judges,*
23 *emergency responders, individuals working in victim*
24 *services, adult protective services, social services, and*
25 *public safety, medical personnel, mental health per-*

1 *sonnel, financial services personnel, and any other in-*
2 *dividuals whose work may bring them in contact with*
3 *elder abuse regarding how to—*

4 *(A) conduct investigations in elder abuse*
5 *cases;*

6 *(B) address evidentiary issues and other*
7 *legal issues; and*

8 *(C) appropriately assess, respond to, and*
9 *interact with victims and witnesses in elder*
10 *abuse cases, including in administrative, civil,*
11 *and criminal judicial proceedings; and*

12 *(3) carrying out such other duties as the Attor-*
13 *ney General determines necessary in connection with*
14 *enhancing the understanding, prevention, and detec-*
15 *tion of, and response to, elder abuse.*

16 *(c) FEDERAL TRADE COMMISSION.—*

17 *(1) FEDERAL TRADE COMMISSION ELDER JUS-*
18 *TICE COORDINATOR.—Not later than 60 days after the*
19 *date of enactment of this Act, the Chairman of the*
20 *Federal Trade Commission shall designate within the*
21 *Bureau of Consumer Protection of the Federal Trade*
22 *Commission an Elder Justice Coordinator who, in*
23 *addition to any other responsibilities, shall be respon-*
24 *sible for—*

1 (A) coordinating and supporting the en-
2 forcement and consumer education efforts and
3 policy activities of the Federal Trade Commis-
4 sion on elder justice issues; and

5 (B) serving as, or ensuring the availability
6 of, a central point of contact for individuals,
7 units of local government, States, and other Fed-
8 eral agencies on matters relating to the enforce-
9 ment and consumer education efforts and policy
10 activities of the Federal Trade Commission on
11 elder justice issues.

12 (2) *REPORTS TO CONGRESS.*—Not later than 1
13 year after the date of enactment of this Act, and once
14 every year thereafter, the Chairman of the Federal
15 Trade Commission and the Attorney General shall
16 each submit to the Committee on the Judiciary of the
17 Senate and the Committee on the Judiciary of the
18 House of Representatives a report detailing the en-
19 forcement actions taken by the Federal Trade Com-
20 mission and the Department of Justice, respectively,
21 over the preceding year in each case in which not less
22 than one victim was an elder or that involved a fi-
23 nancial scheme or scam that was either targeted di-
24 rectly toward or largely affected elders, including—

1 (A) the name of the district where the case
2 originated;

3 (B) the style of the case, including the case
4 name and number;

5 (C) a description of the scheme or scam;
6 and

7 (D) the outcome of the case.

8 (d) *USE OF APPROPRIATED FUNDS.*—No additional
9 funds are authorized to be appropriated to carry out this
10 section.

11 **TITLE II—IMPROVED DATA COL-**
12 **LECTION AND FEDERAL CO-**
13 **ORDINATION**

14 **SEC. 201. ESTABLISHMENT OF BEST PRACTICES FOR LOCAL,**
15 **STATE, AND FEDERAL DATA COLLECTION.**

16 (a) *IN GENERAL.*—The Attorney General, in consulta-
17 tion with Federal, State, and local law enforcement agen-
18 cies, shall—

19 (1) establish best practices for data collection to
20 focus on elder abuse; and

21 (2) provide technical assistance to State, local,
22 and tribal governments in adopting the best practices
23 established under paragraph (1).

24 (b) *DEADLINE.*—Not later than 1 year after the date
25 of enactment of this Act, the Attorney General shall publish

1 *the best practices established under subsection (a)(1) on the*
2 *website of the Department of Justice in a publicly accessible*
3 *manner.*

4 *(c) LIMITATION.—Nothing in this section shall be con-*
5 *strued to require or obligate compliance with the best prac-*
6 *tices established under subsection (a)(1).*

7 **SEC. 202. EFFECTIVE INTERAGENCY COORDINATION AND**
8 **FEDERAL DATA COLLECTION.**

9 *(a) IN GENERAL.—The Attorney General, in consulta-*
10 *tion with the Secretary of Health and Human Services*
11 *shall, on an annual basis—*

12 *(1) collect from Federal law enforcement agen-*
13 *cies, other agencies as appropriate, and Federal pros-*
14 *ecutors' offices statistical data related to elder abuse*
15 *cases, including cases or investigations where one or*
16 *more victims were elders, or the case or investigation*
17 *involved a financial scheme or scam that was either*
18 *targeted directly toward or largely affected elders; and*

19 *(2) publish on the website of the Department of*
20 *Justice in a publicly accessible manner—*

21 *(A) a summary of the data collected under*
22 *paragraph (1); and*

23 *(B) recommendations for collecting addi-*
24 *tional data relating to elder abuse, including rec-*

1 *ommendations for ways to improve data report-*
2 *ing across Federal, State, and local agencies.*

3 **(b) REQUIREMENT.**—*The data collected under sub-*
4 *section (a)(1) shall include—*

5 *(1) the total number of investigations initiated*
6 *by Federal law enforcement agencies, other agencies*
7 *as appropriate, and Federal prosecutors' offices re-*
8 *lated to elder abuse;*

9 *(2) the total number and types of elder abuse*
10 *cases filed in Federal courts; and*

11 *(3) for each case described in paragraph (2)—*

12 *(A) the name of the district where the case*
13 *originated;*

14 *(B) the style of the case, including the case*
15 *name and number;*

16 *(C) a description of the act or acts giving*
17 *rise to the elder abuse;*

18 *(D) in the case of a scheme or scam, a de-*
19 *scription of such scheme or scam giving rise to*
20 *the elder abuse;*

21 *(E) information about each alleged perpe-*
22 *trator of the elder abuse; and*

23 *(F) the outcome of the case.*

24 **(c) HHS REQUIREMENT.**—*The Secretary of Health*
25 *and Human Services shall, on an annual basis, provide to*

1 *the Attorney General statistical data collected by the Sec-*
 2 *retary relating to elder abuse cases investigated by adult*
 3 *protective services, which shall be included in the summary*
 4 *published under subsection (a)(2).*

5 *(d) PROHIBITION ON INDIVIDUAL DATA.—None of the*
 6 *information reported under this section shall include spe-*
 7 *cific individual identifiable data.*

8 **TITLE III—ENHANCED VICTIM**
 9 **ASSISTANCE TO ELDER**
 10 **ABUSE SURVIVORS**

11 **SEC. 301. SENSE OF THE SENATE.**

12 *(a) FINDINGS.—The Senate finds the following:*

13 *(1) The vast majority of cases of abuse, neglect,*
 14 *and exploitation of older adults in the United States*
 15 *go unidentified and unreported.*

16 *(2) Not less than \$2,900,000,000 is taken from*
 17 *older adults each year due to financial abuse and ex-*
 18 *ploitation.*

19 *(3) Elder abuse, neglect, and exploitation have*
 20 *no boundaries and cross all racial, social, class, gen-*
 21 *der, and geographic lines.*

22 *(4) Older adults who are abused are 3 times*
 23 *more likely to die earlier than older adults of the*
 24 *same age who are not abused.*

1 (5) *Up to half of all older adults with dementia*
 2 *will experience abuse.*

3 (b) *SENSE OF THE SENATE.—It is the sense of the Sen-*
 4 *ate that—*

5 (1) *elder abuse involves the exploitation of poten-*
 6 *tially vulnerable individuals with devastating phys-*
 7 *ical, mental, emotional, and financial consequences to*
 8 *the victims and their loved ones;*

9 (2) *to combat this affront to America’s older*
 10 *adults, we must do everything possible to both support*
 11 *victims of elder abuse and prevent the abuse from oc-*
 12 *curring in the first place; and*

13 (3) *the Senate supports a multipronged ap-*
 14 *proach to prevent elder abuse and exploitation, pro-*
 15 *tect the victims of elder abuse and exploitation from*
 16 *further harm, and bring the perpetrators of such*
 17 *crimes to justice.*

18 **SEC. 302. REPORT.**

19 (a) *IN GENERAL.—Not later than 1 year after the date*
 20 *on which the collection of statistical data under section*
 21 *202(a)(1) begins and once each year thereafter, the Director*
 22 *of the Office for Victims of Crime shall submit a report to*
 23 *the Committee on the Judiciary of the Senate and the Com-*
 24 *mittee on the Judiciary of the House of Representatives that*
 25 *addresses, to the extent data are available, the nature, ex-*

1 tent, and amount of funding under the Victims of Crime
 2 Act of 1984 (42 U.S.C. 10601 et seq.) for victims of crime
 3 who are elders.

4 (b) CONTENTS.—The report required under subsection
 5 (a) shall include—

6 (1) an analysis of victims' assistance, victims'
 7 compensation, and discretionary grants under which
 8 elder abuse victims (including elder victims of finan-
 9 cial abuse, financial exploitation, and fraud) received
 10 assistance; and

11 (2) recommendations for improving services for
 12 victims of elder abuse.

13 **TITLE IV—ROBERT MATAVA**
 14 **ELDER ABUSE PROSECUTION**
 15 **ACT OF 2016**

16 **SEC. 401. SHORT TITLE.**

17 This title may be cited as the “Robert Matava Elder
 18 Abuse Prosecution Act of 2016”.

19 **SEC. 402. ENHANCED PENALTY FOR TELEMARKETING AND**
 20 **EMAIL MARKETING FRAUD DIRECTED AT EL-**
 21 **DERS.**

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

1 (1) *in the chapter heading, by inserting “**AND***
 2 ***EMAIL MARKETING***” after “***TELE-***
 3 ***MARKETING***”;

4 (2) *by striking section 2325 and inserting the*
 5 *following:*

6 **“§ 2325. Definition**

7 *“In this chapter, the term ‘telemarketing or email mar-*
 8 *keting’—*

9 *“(1) means a plan, program, promotion, or cam-*
 10 *paign that is conducted to induce—*

11 *“(A) purchases of goods or services;*

12 *“(B) participation in a contest or sweep-*
 13 *stakes;*

14 *“(C) a charitable contribution, donation, or*
 15 *gift of money or any other thing of value;*

16 *“(D) investment for financial profit;*

17 *“(E) participation in a business oppor-*
 18 *tunity;*

19 *“(F) commitment to a loan; or*

20 *“(G) participation in a fraudulent medical*
 21 *study, research study, or pilot study,*

22 *by use of 1 or more interstate telephone calls, emails,*
 23 *text messages, or electronic instant messages initiated*
 24 *either by a person who is conducting the plan, pro-*
 25 *gram, promotion, or campaign or by a prospective*

1 *purchaser or contest or sweepstakes participant or*
2 *charitable contributor, donor, or investor; and*

3 *“(2) does not include the solicitation through the*
4 *posting, publication, or mailing of a catalog or bro-*
5 *chure that—*

6 *“(A) contains a written description or illus-*
7 *tration of the goods, services, or other opportuni-*
8 *ties being offered;*

9 *“(B) includes the business address of the so-*
10 *licitor;*

11 *“(C) includes multiple pages of written ma-*
12 *terial or illustration; and*

13 *“(D) has been issued not less frequently*
14 *than once a year,*

15 *if the person making the solicitation does not solicit*
16 *customers by telephone, email, text message, or elec-*
17 *tronic instant message, but only receives interstate*
18 *telephone calls, emails, text messages, or electronic in-*
19 *stant messages initiated by customers in response to*
20 *the written materials, whether in hard copy or digital*
21 *format, and in response to those interstate telephone*
22 *calls, emails, text messages, or electronic instant mes-*
23 *sages does not conduct further solicitation.”;*

24 *(3) in section 2326, in the matter preceding*
25 *paragraph (1)—*

1 (A) by striking “or 1344” and inserting
2 “1344, or 1347 or section 1128B of the Social
3 Security Act (42 U.S.C. 1320a–7b)”; and

4 (B) by inserting “or email marketing” after
5 “telemarketing”; and

6 (4) by adding at the end the following:

7 **“§ 2328. Mandatory forfeiture**

8 “(a) *IN GENERAL.*—The court, in imposing sentence
9 on a person who is convicted of any offense for which an
10 enhanced penalty is provided under section 2326, shall
11 order that the defendant forfeit to the United States—

12 “(1) any property, real or personal, constituting
13 or traceable to gross proceeds obtained from such of-
14 fense; and

15 “(2) any equipment, software, or other tech-
16 nology used or intended to be used to commit or to
17 facilitate the commission of such offense.

18 “(b) *PROCEDURES.*—The procedures set forth in sec-
19 tion 413 of the Controlled Substances Act (21 U.S.C. 853),
20 other than subsection (d) of that section, and in Rule 32.2
21 of the Federal Rules of Criminal Procedure, shall apply to
22 all stages of a criminal forfeiture proceeding under this sec-
23 tion.”.

24 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

1 (1) *The table of chapters at the beginning of part*
 2 *I of title 18, United States Code, is amended by strik-*
 3 *ing the item relating to chapter 113A and inserting*
 4 *the following:*

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

5 (2) *The table of sections for chapter 113A of title*
 6 *18, United States Code, is amended by inserting after*
 7 *the item relating to section 2327 the following:*

“2328. Mandatory forfeiture.”.

8 **SEC. 403. TRAINING AND TECHNICAL ASSISTANCE FOR**
 9 **STATES.**

10 *The Attorney General, in consultation with the Sec-*
 11 *retary of Health and Human Services and in coordination*
 12 *with the Elder Justice Coordinating Council (established*
 13 *under section 2021 of the Social Security Act (42 U.S.C.*
 14 *1397k)), shall create, compile, evaluate, and disseminate*
 15 *materials and information, and provide the necessary*
 16 *training and technical assistance, to assist States and units*
 17 *of local government in—*

18 (1) *investigating, prosecuting, pursuing, pre-*
 19 *venting, understanding, and mitigating the impact*
 20 *of—*

21 (A) *physical, sexual, and psychological*
 22 *abuse of elders;*

23 (B) *exploitation of elders, including finan-*
 24 *cial abuse and scams targeting elders; and*

1 (C) neglect of elders; and
2 (2) assessing, addressing, and mitigating the
3 physical and psychological trauma to victims of elder
4 abuse.

5 **SEC. 404. INTERSTATE INITIATIVES.**

6 (a) *INTERSTATE AGREEMENTS AND COMPACTS.*—The
7 consent of Congress is given to any two or more States (act-
8 ing through State agencies with jurisdiction over adult pro-
9 tective services) to enter into agreements or compacts for
10 cooperative effort and mutual assistance—

11 (1) in promoting the safety and well-being of el-
12 ders; and

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

15 (b) *RECOMMENDATIONS ON INTERSTATE COMMUNICA-*
16 *TION.*—The Executive Director of the State Justice Insti-
17 tute, in consultation with State or local adult protective
18 services, aging, social, and human services and law enforce-
19 ment agencies, nationally recognized nonprofit associations
20 with expertise in data sharing among criminal justice agen-
21 cies and familiarity with the issues raised in elder abuse
22 cases, and the Secretary of Health and Human Services,
23 shall submit to Congress legislative proposals relating to the
24 facilitation of interstate agreements and compacts.

TITLE V—MISCELLANEOUS**SEC. 501. COURT-APPOINTED GUARDIANSHIP OVERSIGHT
ACTIVITIES UNDER THE ELDER JUSTICE ACT
OF 2009.**

Section 2042(c) of the Social Security Act (42 U.S.C. 1397m–1(c)) is amended—

(1) in paragraph (1), by inserting “(and, in the case of demonstration programs described in paragraph (2)(E), to the highest courts of States)” after “States”;

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting “(and the highest courts of States, in the case of demonstration programs described in subparagraph (E))” after “local units of government”;

(B) in subparagraph (D), by striking “or” after the semicolon;

(C) by redesignating subparagraph (E) as subparagraph (F); and

(D) by inserting after subparagraph (E), the following new subparagraph:

“(E) subject to paragraph (3), programs to assess the fairness, effectiveness, timeliness, safety, integrity, and accessibility of adult guardian-

1 *ship and conservatorship proceedings, including*
2 *the appointment and the monitoring of the per-*
3 *formance of court-appointed guardians and con-*
4 *servators, and to implement changes deemed nec-*
5 *essary as a result of the assessments such as*
6 *mandating background checks for all potential*
7 *guardians and conservators, and implementing*
8 *systems to enable the annual accountings and*
9 *other required conservatorship and guardianship*
10 *filings to be completed, filed, and reviewed elec-*
11 *tronically in order to simplify the filing process*
12 *for conservators and guardians and better enable*
13 *courts to identify discrepancies and detect fraud*
14 *and the exploitation of protected persons; or”;*

15 *(3) by redesignating paragraphs (3), (4), and (5)*
16 *as paragraphs (4), (5), and (6), respectively;*

17 *(4) by inserting after paragraph (2), the fol-*
18 *lowing new paragraph:*

19 “(3) *REQUIREMENTS FOR COURT-APPOINTED*
20 *GUARDIANSHIP OVERSIGHT DEMONSTRATION PRO-*
21 *GRAMS.—*

22 “(A) *AWARD OF GRANTS.—In awarding*
23 *grants to the highest courts of States for dem-*
24 *onstration programs described in paragraph*
25 *(2)(E), the Secretary shall consider the rec-*

1 *ommendations of the Attorney General and the*
 2 *State Justice Institute, as established by section*
 3 *203 of the State Justice Institute Act of 1984 (42*
 4 *U.S.C. 10702).*

5 “(B) *COLLABORATION.*—*The highest court*
 6 *of a State awarded a grant to conduct a dem-*
 7 *onstration program described in paragraph*
 8 *(2)(E) shall collaborate with the State Unit on*
 9 *Aging for the State and the Adult Protective*
 10 *Services agency for the State in conducting the*
 11 *demonstration program.”;*

12 (5) *in paragraph (4) (as redesignated by para-*
 13 *graph (3) of this section), by inserting “(and, in the*
 14 *case of demonstration programs described in para-*
 15 *graph (2)(E), the highest court of a State)” after “a*
 16 *State”;* and

17 (6) *in paragraph (5) (as so redesignated), by in-*
 18 *serting “(or, in the case of demonstration programs*
 19 *described in paragraph (2)(E), the highest court of a*
 20 *State)” after “State” each place it appears.*

21 **SEC. 502. GAO REPORTS.**

22 (a) *ELDER JUSTICE RECOMMENDATIONS.*—*Not later*
 23 *than 18 months after the date of enactment of this Act, the*
 24 *Comptroller General of the United States shall review exist-*
 25 *ing Federal programs and initiatives in the Federal crimi-*

1 *nal justice system relevant to elder justice and shall submit*
2 *to Congress—*

3 *(1) a report on such programs and initiatives;*

4 *and*

5 *(2) any recommendations the Comptroller Gen-*
6 *eral determines are appropriate to improve elder jus-*
7 *tice in the United States.*

8 *(b) REPORT ON ELDER ABUSE AND INTERNATIONAL*
9 *CRIMINAL ENTERPRISES.—Not later than 18 months after*
10 *the date of enactment of this Act, the Comptroller General*
11 *of the United States shall submit to Congress a report on—*

12 *(1) the extent to which older adults of the United*
13 *States are being exploited in global drug trafficking*
14 *schemes and other international criminal enterprises;*

15 *(2) the extent to which the exploitation of older*
16 *adults of the United States by international criminal*
17 *enterprises has resulted in the incarceration of these*
18 *citizens of the United States in foreign court systems,*
19 *including a description of the total number of such*
20 *cases pending in foreign court systems; and*

21 *(3) whether, and to what extent, the Federal*
22 *Government has intervened with foreign officials on*
23 *behalf of citizens of the United States who are elder*
24 *abuse victims in international criminal enterprises,*

1 including a description, to the extent such data is
2 available, of—

3 (A) the total annual number of elder abuse
4 cases pending in the United States and foreign
5 court systems; and

6 (B) the total annual number of citizens of
7 the United States who are over the age of 60
8 years and who are incarcerated overseas as a re-
9 sult of their exploitation in global drug traf-
10 ficking schemes or other international criminal
11 enterprises.

12 **SEC. 503. OUTREACH TO STATE AND LOCAL LAW ENFORCE-**
13 **MENT AGENCIES.**

14 The Attorney General shall submit to the Committee
15 on the Judiciary of the Senate and the Committee on the
16 Judiciary of the House of Representatives a report on efforts
17 by the Department of Justice to conduct outreach to State
18 and local law enforcement agencies on the process for col-
19 laborating with the Federal Government for the purpose of
20 investigating and prosecuting interstate and international
21 elder financial exploitation cases.

22 **SEC. 504. MODEL POWER OF ATTORNEY LEGISLATION.**

23 The Attorney General shall publish model power of at-
24 torney legislation for the purpose of preventing elder abuse.

1 **SEC. 505. BEST PRACTICES AND MODEL LEGISLATION FOR**
2 **GUARDIANSHIP PROCEEDINGS.**

3 *The Attorney General shall publish best practices for*
4 *improving guardianship proceedings and model legislation*
5 *relating to guardianship proceedings for the purpose of pre-*
6 *venting elder abuse.*

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114TH CONGRESS
2^D SESSION
S. 3270

A BILL

To prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

SEPTEMBER 20, 2016

Reported with an amendment