

115TH CONGRESS
1ST SESSION

S. 178

AN ACT

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,*

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

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

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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 2017

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.

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.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the terms “abuse”, “adult protective serv-
9 ices”, “elder”, “elder justice”, “exploitation”, “law

enforcement”, and “neglect” have the meanings given those terms in section 2011 of the Social Security Act (42 U.S.C. 1397j);

(2) the term “elder abuse” includes abuse, neglect, and exploitation of an elder; and

(3) the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

TITLE I—SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE

SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE.

(a) SUPPORT AND ASSISTANCE.—

(1) ELDER JUSTICE COORDINATORS.—The Attorney General shall designate in each Federal judicial district not less than one Assistant United States Attorney to serve as the Elder Justice Coordinator for the district, who, in addition to any other responsibilities, shall be responsible for—

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

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

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

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

7 (2) INVESTIGATIVE SUPPORT.—The Attorney
8 General, in consultation with the Director of the
9 Federal Bureau of Investigation, shall, with respect
10 to crimes relating to elder abuse, ensure the imple-
11 mentation of a regular and comprehensive training
12 program to train agents of the Federal Bureau of
13 Investigation in the investigation and prosecution of
14 such crimes and the enforcement of laws related to
15 elder abuse, which shall include—

16 (A) specialized strategies for commu-
17 nicating with and assisting elder abuse victims;
18 and

19 (B) relevant forensic training relating to
20 elder abuse.

21 (3) RESOURCE GROUP.—The Attorney General,
22 through the Executive Office for United States At-
23 torneys, shall ensure the operation of a resource
24 group to facilitate the sharing of knowledge, experi-
25 ence, sample pleadings and other case documents,

1 training materials, and any other resources to assist
2 prosecutors throughout the United States in pur-
3 suing cases relating to elder abuse.

4 (4) DESIGNATED ELDER JUSTICE WORKING
5 GROUP OR SUBCOMMITTEE TO THE ATTORNEY GEN-
6 ERAL'S ADVISORY COMMITTEE OF UNITED STATES
7 ATTORNEYS.—Not later than 60 days after the date
8 of enactment of this Act, the Attorney General, in
9 consultation with the Director of the Executive Of-
10 fice for United States Attorneys, shall establish a
11 subcommittee or working group to the Attorney
12 General's Advisory Committee of United States At-
13 torneys, as established under section 0.10 of title 28,
14 Code of Federal Regulations, or any successor there-
15 to, for the purposes of advising the Attorney General
16 on policies of the Department of Justice relating to
17 elder abuse.

18 (b) DEPARTMENT OF JUSTICE ELDER JUSTICE CO-
19 ORDINATOR.—Not later than 60 days after the date of en-
20 actment of this Act, the Attorney General shall designate
21 an Elder Justice Coordinator within the Department of
22 Justice who, in addition to any other responsibilities, shall
23 be responsible for—

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

4 (2) evaluating training models to determine
5 best practices and creating or compiling and making
6 publicly available replication guides and training ma-
7 terials for law enforcement officers, prosecutors,
8 judges, emergency responders, individuals working in
9 victim services, adult protective services, social serv-
10 ices, and public safety, medical personnel, mental
11 health personnel, financial services personnel, and
12 any other individuals whose work may bring them in
13 contact with elder abuse regarding how to—

14 (A) conduct investigations in elder abuse
15 cases;

16 (B) address evidentiary issues and other
17 legal issues; and

18 (C) appropriately assess, respond to, and
19 interact with victims and witnesses in elder
20 abuse cases, including in administrative, civil,
21 and criminal judicial proceedings; and

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

1 (c) FEDERAL TRADE COMMISSION.—

2 (1) FEDERAL TRADE COMMISSION ELDER JUSTICE COORDINATOR.—Not later than 60 days after
3 the date of enactment of this Act, the Chairman of
4 the Federal Trade Commission shall designate within the Bureau of Consumer Protection of the Federal Trade Commission an Elder Justice Coordinator who, in addition to any other responsibilities,
5 shall be responsible for—
6

7 (A) coordinating and supporting the enforcement and consumer education efforts and
8 policy activities of the Federal Trade Commission on elder justice issues; and
9

10 (B) serving as, or ensuring the availability of, a central point of contact for individuals,
11 units of local government, States, and other Federal agencies on matters relating to the enforcement and consumer education efforts and
12 policy activities of the Federal Trade Commission on elder justice issues.
13

14 (2) REPORTS TO CONGRESS.—Not later than 1
15 year after the date of enactment of this Act, and
16 once every year thereafter, the Chairman of the Federal Trade Commission and the Attorney General
17 shall each submit to the Committee on the Judiciary
18
19
20
21
22
23
24
25

1 of the Senate and the Committee on the Judiciary
2 of the House of Representatives a report detailing
3 the enforcement actions taken by the Federal Trade
4 Commission and the Department of Justice, respec-
5 tively, over the preceding year in each case in which
6 not less than one victim was an elder or that in-
7 volved a financial scheme or scam that was either
8 targeted directly toward or largely affected elders,
9 including—

10 (A) the name of the district where the case
11 originated;

12 (B) the style of the case, including the case
13 name and number;

14 (C) a description of the scheme or scam;
15 and

16 (D) the outcome of the case.

17 (d) USE OF APPROPRIATED FUNDS.—No additional
18 funds are authorized to be appropriated to carry out this
19 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, other agencies as appropriate, and Federal
8 prosecutors' offices statistical data related to elder
9 abuse cases, including cases or investigations where
10 one or more victims were elders, or the case or in-
11 vestigation involved a financial scheme or scam that
12 was either targeted directly toward or largely af-
13 fected elders; and

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

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

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

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

25 (1) the total number of investigations initiated
26 by Federal law enforcement agencies, other agencies

1 as appropriate, and Federal prosecutors' offices re-
2 lated to elder abuse;

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

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

6 (A) the name of the district where the case
7 originated;

8 (B) the style of the case, including the case
9 name and number;

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

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

15 (E) information about each alleged perpe-
16 trator of the elder abuse; and

17 (F) the outcome of the case.

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

1 (d) PROHIBITION ON INDIVIDUAL DATA.—None of
 2 the information reported under this section shall include
 3 specific individually identifiable data.

4 **TITLE III—ENHANCED VICTIM**
 5 **ASSISTANCE TO ELDER**
 6 **ABUSE SURVIVORS**

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

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

9 (1) The vast majority of cases of abuse, neglect,
 10 and exploitation of older adults in the United States
 11 go unidentified and unreported.

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

15 (3) Elder abuse, neglect, and exploitation have
 16 no boundaries and cross all racial, social, class, gen-
 17 der, and geographic lines.

18 (4) Older adults who are abused are 3 times
 19 more likely to die earlier than older adults of the
 20 same age who are not abused.

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

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

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

5 (2) to combat this affront to America's older
6 adults, we must do everything possible to both sup-
7 port victims of elder abuse and prevent the abuse
8 from occurring in the first place; and

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

14 **SEC. 302. REPORT.**

15 (a) IN GENERAL.—Not later than 1 year after the
16 date on which the collection of statistical data under sec-
17 tion 202(a)(1) begins and once each year thereafter, the
18 Director of the Office for Victims of Crime shall submit
19 a report to the Committee on the Judiciary of the Senate
20 and the Committee on the Judiciary of the House of Rep-
21 resentatives that addresses, to the extent data are avail-
22 able, the nature, extent, and amount of funding under the
23 Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.)
24 for victims of crime who are elders.

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

3 (1) an analysis of victims’ assistance, victims’
4 compensation, and discretionary grants under which
5 elder abuse victims (including elder victims of finan-
6 cial abuse, financial exploitation, and fraud) received
7 assistance; and

8 (2) recommendations for improving services for
9 victims of elder abuse.

10 **TITLE IV—ROBERT MATAVA**
11 **ELDER ABUSE PROSECUTION**
12 **ACT OF 2017**

13 **SEC. 401. SHORT TITLE.**

14 This title may be cited as the “Robert Matava Elder
15 Abuse Prosecution Act of 2017”.

16 **SEC. 402. ENHANCED PENALTY FOR TELEMARKETING AND**
17 **EMAIL MARKETING FRAUD DIRECTED AT EL-**
18 **DERS.**

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

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

24 (2) by striking section 2325 and inserting the
25 following:

1 **“§ 2325. Definition**

2 “In this chapter, the term ‘telemarketing or email
3 marketing’—

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

6 “(A) purchases of goods or services;

7 “(B) participation in a contest or sweep-
8 stakes;

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

11 “(D) investment for financial profit;

12 “(E) participation in a business oppor-
13 tunity;

14 “(F) commitment to a loan; or

15 “(G) participation in a fraudulent medical
16 study, research study, or pilot study,

17 by use of one or more interstate telephone calls,
18 emails, text messages, or electronic instant messages
19 initiated either by a person who is conducting the
20 plan, program, promotion, or campaign or by a pro-
21 spective purchaser or contest or sweepstakes partici-
22 pant or charitable contributor, donor, or investor;
23 and

24 “(2) does not include the solicitation through
25 the posting, publication, or mailing of a catalog or
26 brochure that—

1 “(A) contains a written description or il-
2 lustration of the goods, services, or other oppor-
3 tunities being offered;

4 “(B) includes the business address of the
5 solicitor;

6 “(C) includes multiple pages of written
7 material or illustration; and

8 “(D) has been issued not less frequently
9 than once a year,

10 if the person making the solicitation does not solicit
11 customers by telephone, email, text message, or elec-
12 tronic instant message, but only receives interstate
13 telephone calls, emails, text messages, or electronic
14 instant messages initiated by customers in response
15 to the written materials, whether in hard copy or
16 digital format, and in response to those interstate
17 telephone calls, emails, text messages, or electronic
18 instant messages does not conduct further solici-
19 tation.”;

20 (3) in section 2326, in the matter preceding
21 paragraph (1)—

22 (A) by striking “or 1344” and inserting
23 “1344, or 1347 or section 1128B of the Social
24 Security Act (42 U.S.C. 1320a–7b)”;

1 (B) by inserting “or email marketing”
 2 after “telemarketing”; and
 3 (4) by adding at the end the following:

4 **“§ 2328. Mandatory forfeiture**

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

9 “(1) any property, real or personal, constituting
 10 or traceable to gross proceeds obtained from such of-
 11 fense; and

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

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

21 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

1 (2) The table of sections for chapter 113A of
 2 title 18, United States Code, is amended by insert-
 3 ing after the item relating to section 2327 the fol-
 4 lowing:

“2328. Mandatory forfeiture.”.

5 **SEC. 403. TRAINING AND TECHNICAL ASSISTANCE FOR**
 6 **STATES.**

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

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

18 (A) physical, sexual, and psychological
 19 abuse of elders;

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

22 (C) neglect of elders; and

23 (2) assessing, addressing, and mitigating the
 24 physical and psychological trauma to victims of elder
 25 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 NICATION.—The Executive Director of the State Justice
13 Institute, in consultation with State or local adult protec-
14 tive services, aging, social, and human services and law
15 enforcement agencies, nationally recognized nonprofit as-
16 sociations with expertise in data sharing among criminal
17 justice agencies and familiarity with the issues raised in
18 elder abuse cases, and the Secretary of Health and
19 Human Services, shall submit to Congress legislative pro-
20 posals relating to the facilitation of interstate agreements
21 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 (D), the following new subparagraph:

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

guardianship and conservatorship proceedings, including the appointment and the monitoring of the performance of court-appointed guardians and conservators, and to implement changes deemed necessary as a result of the assessments such as mandating background checks for all potential guardians and conservators, and implementing systems to enable the annual accountings and other required conservatorship and guardianship filings to be completed, filed, and reviewed electronically in order to simplify the filing process for conservators and guardians and better enable courts to identify discrepancies and detect fraud and the exploitation of protected persons; or”;

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

(4) by inserting after paragraph (2), the following new paragraph:

“(3) REQUIREMENTS FOR COURT-APPOINTED GUARDIANSHIP OVERSIGHT DEMONSTRATION PROGRAMS.—

“(A) AWARD OF GRANTS.—In awarding grants to the highest courts of States for demonstration programs described in paragraph

(2)(E), the Secretary shall consider the recommendations of the Attorney General and the State Justice Institute, as established by section 203 of the State Justice Institute Act of 1984 (42 U.S.C. 10702).

“(B) COLLABORATION.—The highest court of a State awarded a grant to conduct a demonstration program described in paragraph (2)(E) shall collaborate with the State Unit on Aging for the State and the Adult Protective Services agency for the State in conducting the demonstration program.”;

(5) in paragraph (4) (as redesignated by paragraph (3) of this section), by inserting “(and, in the case of demonstration programs described in paragraph (2)(E), the highest court of a State)” after “a State”; and

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

SEC. 502. GAO REPORTS.

(a) ELDER JUSTICE RECOMMENDATIONS.—Not later than 18 months after the date of enactment of this Act,

1 the Comptroller General of the United States shall review
2 existing Federal programs and initiatives in the Federal
3 criminal justice system relevant to elder justice and shall
4 submit to Congress—

5 (1) a report on such programs and initiatives;
6 and

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

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

15 (1) Federal Government efforts to monitor—

16 (A) the exploitation of older adults of the
17 United States in global drug trafficking
18 schemes and other international criminal enter-
19 prises;

20 (B) the extent to which exploitation of
21 older adults of the United States by inter-
22 national criminal enterprises has resulted in the
23 incarceration of these citizens of the United
24 States in foreign countries; and

1 (C) the total annual number of elder abuse
2 cases pending in the United States; and
3 (2) the results of intervention by the United
4 States with foreign officials on behalf of citizens of
5 the United States who are elder abuse victims in
6 international criminal enterprises.

7 **SEC. 503. OUTREACH TO STATE AND LOCAL LAW ENFORCE-**
8 **MENT AGENCIES.**

9 The Attorney General shall submit to the Committee
10 on the Judiciary of the Senate and the Committee on the
11 Judiciary of the House of Representatives a report on ef-
12 forts by the Department of Justice to conduct outreach
13 to State and local law enforcement agencies on the process
14 for collaborating with the Federal Government for the
15 purpose of investigating and prosecuting interstate and
16 international elder financial exploitation cases.

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

18 The Attorney General shall publish model power of
19 attorney legislation for the purpose of preventing elder
20 abuse.

21 **SEC. 505. BEST PRACTICES AND MODEL LEGISLATION FOR**
22 **GUARDIANSHIP PROCEEDINGS.**

23 The Attorney General shall publish best practices for
24 improving guardianship proceedings and model legislation

- 1 relating to guardianship proceedings for the purpose of
- 2 preventing elder abuse.

Passed the Senate August 1, 2017.

Attest:

Secretary.

115TH CONGRESS
1ST Session

S. 178

AN ACT

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