

112TH CONGRESS
1ST SESSION

S. 1819

To amend the Older Americans Act of 1965 to improve programs and services.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 2011

Mr. KOHL (for himself and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Older Americans Act of 1965 to improve programs and services.

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.**

4 This Act may be cited as the “Strengthening Services
5 for America’s Seniors Act”.

6 **SEC. 2. STANDARDIZED ASSESSMENT OF NEEDS OF FAMILY**
7 **CAREGIVERS.**

8 (a) IN GENERAL.—Section 373 (42 U.S.C. 3030s–
9 1) is amended—

1 (1) by redesignating subsections (b) through (g)
2 as subsections (c) through (h), respectively;

3 (2) in subsection (d), as so redesignated, by
4 striking “subsection (b)” and inserting “subsection
5 (c)”;

6 (3) in subsection (e), as so redesignated, by
7 striking “subsection (b)” and inserting “subsection
8 (c)”;

9 (4) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) ASSESSMENT PROGRAM OF NEEDS OF FAMILY
12 CAREGIVERS.—

13 “(1) IN GENERAL.—The Assistant Secretary
14 may make grants to States to establish a program,
15 in accordance with the program requirements de-
16 scribed in paragraph (5), to assess the needs of fam-
17 ily caregivers for targeted support services described
18 in paragraph (5)(C).

19 “(2) APPLICATION BY STATES.—Each State
20 seeking a grant under this subsection shall submit
21 an application to the Assistant Secretary at such
22 time, in such manner, and containing such informa-
23 tion and assurances as the Assistant Secretary de-
24 termines appropriate.

1 “(3) GRANT AMOUNT.—The amount of a grant
2 to a State under this subsection shall be determined
3 according to such methodology as the Assistant Sec-
4 retary determines appropriate.

5 “(4) PROGRAM ADMINISTRATION.—A State re-
6 ceiving a grant under this subsection may enter into
7 an agreement with area agencies on aging in the
8 State, or an Aging and Disability Resource Center
9 in the State, to administer the program, using such
10 grant funds.

11 “(5) PROGRAM REQUIREMENTS.—

12 “(A) STANDARDIZED ASSESSMENT.—As-
13 sessments under a program established under
14 paragraph (1)—

15 “(i) shall be conducted by social work-
16 ers, care managers, nurses, or other appro-
17 priate professionals; and

18 “(ii)(I) shall be conducted with a
19 standardized instrument to identify family
20 caregiver needs; and

21 “(II) in a State in which an area
22 agency on aging or an Aging and Dis-
23 ability Resource Center is using such an
24 instrument on the date of enactment of the
25 Strengthening Services for America’s Sen-

1 iors Act, may continue to be conducted
2 with that instrument.

3 “(B) QUESTIONNAIRE.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), assessments under a program estab-
6 lished as described in paragraph (1) shall
7 include asking the family caregiver relevant
8 questions in order to determine whether
9 the family caregiver would benefit from
10 any targeted support services described in
11 subparagraph (C).

12 “(ii) COMPLETION ON A VOLUNTARY
13 BASIS.—The answering of questions under
14 clause (i) by a family caregiver shall be on
15 a voluntary basis.

16 “(iii) ADDRESSING DIVERSE CARE-
17 GIVER NEEDS AND PREFERENCES.—The
18 questionnaire under this subparagraph
19 shall be designed in a manner that ac-
20 counts for, and aims to ascertain, the vary-
21 ing needs and preferences of family care-
22 givers, based on the range of their capabili-
23 ties, caregiving experience, and other rel-
24 evant personal characteristics and cir-
25 cumstances.

1 “(C) TARGETED SUPPORT SERVICES DE-
2 SCRIBED.—The following targeted support serv-
3 ices are described in this subparagraph:

4 “(i) Information and assistance (in-
5 cluding brochures and online resources for
6 researching a disease or disability or for
7 learning and managing a regular
8 caregiving role, new technologies that can
9 assist family caregivers, and practical as-
10 sistance for locating services).

11 “(ii) Individual counseling (including
12 advice and consultation sessions to bolster
13 emotional support for the family caregiver
14 to make well-informed decisions about how
15 to cope with caregiver strain).

16 “(iii) Support groups, including
17 groups which provide help for family care-
18 givers to—

19 “(I) locate a support group either
20 locally or online to share experiences
21 and reduce isolation;

22 “(II) make well-informed
23 caregiving decisions; and

24 “(III) reduce isolation.

1 “(iv) Education and training (includ-
2 ing workshops and other resources avail-
3 able with information about stress manage-
4 ment, self-care to maintain good physical
5 and mental health, understanding and
6 communicating with individuals with de-
7 mentia, medication management, normal
8 aging processes, change in disease and dis-
9 ability, the role of assistive technologies,
10 and other relevant topics).

11 “(v) Respite care and emergency
12 back-up services (including short-term in-
13 home care services that gives the family
14 caregiver a break from providing such
15 care).

16 “(vi) Chore services (such as house
17 cleaning) to assist the individual receiving
18 care.

19 “(vii) Personal care (including outside
20 help) to assist the individual receiving care.

21 “(viii) Legal and financial planning
22 and consultation (including advice and
23 counseling regarding long-term care plan-
24 ning, estate planning, powers of attorney,
25 community property laws, tax advice, em-

1 ployment leave advice, advance directives,
2 and end-of-life care).

3 “(ix) Transportation (including trans-
4 portation to medical appointments) to as-
5 sist the individual receiving care.

6 “(x) Other targeted support services,
7 as determined appropriate by the State
8 agency and approved by the Assistant Sec-
9 retary.

10 “(D) REFERRALS.—In the case where a
11 questionnaire completed by a family caregiver
12 under subparagraph (B) indicates that the fam-
13 ily caregiver would benefit from 1 or more of
14 the targeted support services described in sub-
15 paragraph (C), the agency administering the
16 program shall provide referrals to the family
17 caregiver for State, local, and private-sector
18 caregiver programs and other resources that
19 provide such targeted support services to such
20 caregivers.

21 “(E) TARGETING AND TIMING OF ASSESS-
22 MENTS.—Assessments under the program es-
23 tablished under paragraph (1) may be con-
24 ducted—

1 “(i) when an individual who is being
2 assisted by a family caregiver transitions
3 from one care setting to another;

4 “(ii) upon referral from a social work-
5 er, care manager, nurse, physician, or
6 other appropriate professional; or

7 “(iii) according to circumstances de-
8 termined by the State and approved by the
9 Assistant Secretary.

10 “(F) COORDINATION WITH OTHER ASSESS-
11 MENT.—Assessments under the program estab-
12 lished under paragraph (1) may be conducted
13 separately or as part of, or in conjunction with,
14 eligibility or other routine assessments of an in-
15 dividual who is being (or is going to be) as-
16 sisted by a family caregiver.

17 “(G) FOLLOWUP SERVICES.—As the As-
18 sistant Secretary determines appropriate, a
19 State with a program described in paragraph
20 (1) shall conduct followup activities with care-
21 givers who have participated in an assessment
22 to determine the status of the caregiver and
23 whether services were provided.

24 “(H) REPORTING REQUIREMENT.—Each
25 State with a program described in paragraph

1 (1) shall periodically submit to the Assistant
 2 Secretary a report containing information on
 3 the number of caregivers assessed under the
 4 program, information on the number of refer-
 5 rals made for targeted support services under
 6 the program (disaggregated by type of service),
 7 demographic information on caregivers assessed
 8 under the program, and other information re-
 9 quired by the Assistant Secretary.”.

10 (b) STANDARDIZED ASSESSMENT OF NEEDS OF IN-
 11 FORMAL CAREGIVERS.—Section 202 (42 U.S.C. 3012) is
 12 amended—

13 (1) in subsection (b)(8)—

14 (A) in subparagraph (D), by striking
 15 “and”;

16 (B) in subparagraph (E), inserting “and”
 17 after the semicolon at the end; and

18 (C) by adding at the end the following:

19 “(F) which may carry out the informal
 20 caregiver assessment program described in sub-
 21 section (g);”; and

22 (2) by adding at the end the following:

23 “(g) STANDARDIZED ASSESSMENT OF NEEDS OF IN-
 24 FORMAL CAREGIVERS.—

1 “(1) IN GENERAL.—Aging and Disability Re-
2 source Centers implemented under subsection (b)(8)
3 may carry out an assessment program with respect
4 to informal caregivers and care recipients. Such as-
5 sessment program shall be modeled on the family
6 caregiver assessment program established under sec-
7 tion 373(b).

8 “(2) DEFINITIONS.—For purposes of an infor-
9 mal caregiver assessment carried out in accordance
10 with paragraph (1), the following definitions shall
11 apply:

12 “(A) CARE RECIPIENT.—The term ‘care
13 recipient’ means—

14 “(i) an older individual;

15 “(ii) an individual with a disability; or

16 “(iii) an individual with a special
17 need.

18 “(B) INDIVIDUAL WITH A SPECIAL
19 NEED.—The term ‘individual with a special
20 need’ means an individual who requires care or
21 supervision to—

22 “(i) meet the individual’s basic needs;

23 “(ii) prevent physical self-injury or in-
24 jury to others; or

1 “(iii) avoid placement in an institu-
2 tional facility.

3 “(C) INFORMAL CAREGIVER.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), the term ‘informal caregiver’ means an
6 adult family member, or another indi-
7 vidual, who is an informal provider of in-
8 home and community care to a care recipi-
9 ent.

10 “(ii) ALTERNATE DEFINITION.—A
11 State that has a State law with an alter-
12 nate definition of the term ‘informal care-
13 giver’ for purposes of a program described
14 in paragraph (1) may use that definition
15 (with respect to caregivers for care recipi-
16 ents) for purposes of provisions of this Act
17 that relate to that program, if such alter-
18 native definition is broader than the defini-
19 tion in clause (i), and subject to approval
20 by the Assistant Secretary.”.

21 (c) CONFORMING AMENDMENT.—Section 631(b) (42
22 U.S.C. 3057k–11(b)) is amended by striking “subsections
23 (c), (d), and (e)” and inserting “subsections (d), (e), and
24 (f)”.

1 **SEC. 3. ADVISORY COMMITTEE TO ASSESS, COORDINATE,**
2 **AND IMPROVE LEGAL ASSISTANCE ACTIVI-**
3 **TIES.**

4 (a) IN GENERAL.—Title II of the Older Americans
5 Act of 1965 is amended—

6 (1) in section 215(j) (42 U.S.C. 3020e–1(j)), by
7 striking “section 216” and inserting “section 217”;

8 (2) by redesignating section 216 (42 U.S.C.
9 3020f) as section 217; and

10 (3) by inserting after section 215 (42 U.S.C.
11 3020e–1) the following:

12 **“SEC. 216. ADVISORY COMMITTEE TO ASSESS, COORDI-**
13 **NATE, AND IMPROVE LEGAL ASSISTANCE AC-**
14 **TIVITIES.**

15 “(a) ESTABLISHMENT.—There is established an Ad-
16 visory Committee to Assess, Coordinate, and Improve
17 Legal Assistance Activities (referred to in this section as
18 the ‘Committee’).

19 “(b) MEMBERSHIP.—

20 “(1) COMPOSITION.—The Committee shall be
21 composed of 9 members—

22 “(A) with expertise with existing State
23 legal assistance development programs carried
24 out under section 731 and providers of State
25 legal assistance under subtitle B of title III and
26 title IV; and

1 “(B) of whom—

2 “(i) 6 individuals shall be appointed
3 by the Assistant Secretary—

4 “(I) 1 of whom shall be a con-
5 sumer advocate;

6 “(II) 1 of whom shall be a pro-
7 fessional advocate from a State agen-
8 cy or State Legal Services Developer;
9 and

10 “(III) 4 of whom shall be rep-
11 resentatives from collaborating organi-
12 zations under the National Legal Re-
13 source Center of the Administration;
14 and

15 “(ii) 3 individuals shall be appointed
16 by the Comptroller General of the United
17 States.

18 “(2) DATE.—The appointments of the members
19 of the Committee shall be made not later than 9
20 months after the date of enactment of the Strength-
21 ening Services for America’s Seniors Act.

22 “(3) PERIOD OF APPOINTMENT; VACANCIES.—
23 Members shall be appointed for the life of the Com-
24 mittee. Any vacancy in the Committee shall not af-

1 fect its powers, but shall be filled in the same man-
2 ner as the original appointment.

3 “(4) CHAIRPERSON AND VICE CHAIRPERSON.—
4 The Committee shall select a Chairperson and Vice
5 Chairperson from among its members.

6 “(c) INITIAL MEETING.—The Committee shall hold
7 its first meeting not later than 9 months after the date
8 of enactment of the Strengthening Services for America’s
9 Seniors Act.

10 “(d) DUTIES OF THE COMMITTEE.—

11 “(1) DEFINITION.—In this subsection, the term
12 ‘assistance activities’ includes—

13 “(A) legal assistance made available to
14 older individuals in social or economic need
15 under this Act;

16 “(B) activities of the National Legal Re-
17 source Center carried out under section 420(a);

18 “(C) State legal assistance developer ac-
19 tivities carried out under section 731; and

20 “(D) any other directly related activity or
21 program as determined appropriate by the As-
22 sistant Secretary.

23 “(2) STUDY.—

1 “(A) IN GENERAL.—The Committee shall
2 design, implement, and analyze results of a
3 study of—

4 “(i) the extent to which State leader-
5 ship is provided through the State legal as-
6 sistance developer in States to enhance the
7 coordination and effectiveness of legal as-
8 sistance activities across the State;

9 “(ii) the extent to which—

10 “(I) there is data collection and
11 reporting of information by legal as-
12 sistance providers in States;

13 “(II) there is uniform statewide
14 reporting among States; and

15 “(III) the value and impact of
16 services provided is being captured at
17 the State or local level; and

18 “(iii) the mechanisms to organize and
19 promote legal assistance development and
20 services to best meet the needs of older in-
21 dividuals with greatest social and economic
22 need.

23 “(B) CONSIDERATIONS.—In carrying out
24 subparagraph (A)(i), particular attention shall
25 be given to—

1 “(i) State leadership on targeting limited legal resources to older individuals in
2 greatest social and economic need; and

3 “(ii) State leadership on establishing
4 priority legal issue areas in accordance
5 with section 307(a)(11)(E).

6 “(3) RECOMMENDATIONS.—After completion
7 and analysis of study results under paragraph (2),
8 the Committee shall develop recommendations for
9 the establishment of guidelines for—
10 the establishment of guidelines for—

11 “(A) enhancing the leadership capacity of
12 the State legal assistance developers to carry
13 out statewide coordinated legal assistance service delivery, with particular focus on enhancing
14 leadership capacity to—
15 leadership capacity to—

16 “(i) target limited legal resources to
17 older individuals in greatest social and economic need; and

18 “(ii) establish priority legal issue
19 areas in accord with priorities set forth in
20 section 307(a)(11)(E);

21 “(B) developing a uniform national data
22 collection system to be implemented in all
23 States on legal assistance development and
24 services; and
25 services; and

1 “(C) identifying mechanisms for organizing
2 and promoting legal assistance activities to pro-
3 vide the highest quality, impact, and effective-
4 ness to older individuals with the greatest social
5 and economic need.

6 “(4) REPORT.—Not later than 1 years after the
7 date of the establishment of the Committee, the
8 Committee shall submit to the President, Congress,
9 and the Assistant Secretary a report that contains
10 a detailed statement of the findings and conclusions
11 of the Committee, together with the recommenda-
12 tions described in paragraph (3).

13 “(e) DUTIES OF THE ASSISTANT SECRETARY.—Not
14 later than 180 days after receiving the report described
15 in subsection (d)(4), the Assistant Secretary shall issue
16 regulations or guidance, taking into consideration the rec-
17 ommendations described in subsection (d)(3).

18 “(f) POWERS.—

19 “(1) INFORMATION FROM FEDERAL AGEN-
20 CIES.—The Committee may secure directly from any
21 Federal department or agency such information as
22 the Committee considers necessary to carry out the
23 provisions of this section. Upon request of the Com-
24 mittee, the head of such department or agency shall
25 furnish such information to the Committee.

1 “(2) POSTAL SERVICES.—The Committee may
2 use the United States mails in the same manner and
3 under the same conditions as other departments and
4 agencies of the Federal Government.

5 “(g) PERSONNEL AND ADMINISTRATION.—

6 “(1) TRAVEL EXPENSES.—The members of the
7 Committee shall not receive compensation for the
8 performance of services for the Committee, but shall
9 be allowed travel expenses, including per diem in lieu
10 of subsistence, at rates authorized for employees of
11 agencies under subchapter I of chapter 57 of title 5,
12 United States Code, while away from their homes or
13 regular places of business in the performance of
14 services for the Committee. Notwithstanding section
15 1342 of title 31, United States Code, the Secretary
16 may accept the voluntary and uncompensated serv-
17 ices of members of the Committee.

18 “(2) DETAIL OF GOVERNMENT EMPLOYEES.—
19 Any Federal Government employee may be detailed
20 to the Committee without reimbursement, and such
21 detail shall be without interruption or loss of civil
22 service status or privilege.

23 “(3) ADMINISTRATIVE AND SUPPORT SERV-
24 ICES.—The Assistant Secretary shall provide admin-
25 istrative and support services to the Committee.

1 “(4) PROCUREMENT OF TEMPORARY AND
 2 INTERMITTENT SERVICES.—The Chairman of the
 3 Committee may procure temporary and intermittent
 4 services under section 3109(b) of title 5, United
 5 States Code, at rates for individuals that do not ex-
 6 ceed the daily equivalent of the annual rate of basic
 7 pay prescribed for level V of the Executive Schedule
 8 under section 5316 of such title.

9 “(h) EXEMPTION FROM TERMINATION REQUIRE-
 10 MENTS.—Section 14 of the Federal Advisory Committee
 11 Act shall not apply to the Committee.”.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 13 217 of the Older Americans Act of 1965, as redesignated
 14 by subsection (a), is amended by adding at the end the
 15 following:

16 “(d) ADVISORY COMMITTEE TO ASSESS, COORDI-
 17 NATE, AND IMPROVE LEGAL ASSISTANCE ACTIVITIES.—
 18 There is authorized to be appropriated to carry out section
 19 216, \$300,000 for fiscal year 2012.”.

20 **SEC. 4. IMPROVING THE STATE LONG-TERM CARE OMBUDS-**
 21 **MAN PROGRAMS.**

22 (a) NATIONAL OMBUDSMAN RESOURCE CENTER.—
 23 Section 202(a)(18)(B) of the Older Americans Act of
 24 1965 (42 U.S.C. 3012(a)(18)(B)) is amended by striking
 25 “make available” and all that follows and inserting “re-

1 serve and provide, for the funding of the National Om-
 2 budsman Resource Center (which may include enabling
 3 the center to collaborate and participate with the Centers
 4 for Medicare & Medicaid Services in providing training for
 5 State survey agencies with an agreement in effect under
 6 section 1864 of the Social Security Act (42 U.S.C.
 7 1395aa) or, in the case of States without such an agency,
 8 work with the Administrator for the Centers for Medicare
 9 & Medicaid Services to improve the investigative processes
 10 used by the center to address complaints by residents of
 11 long-term care facilities)—

12 “(i) for fiscal year 2012, not less than
 13 \$2,000,000; and

14 “(ii) for each subsequent fiscal year,
 15 not less than the sum of—

16 “(I) \$100,000; and

17 “(II) the amount made available
 18 under this subparagraph for the fiscal
 19 year preceding the year for which the
 20 sum is determined;”.

21 (b) FUNCTIONS OF PROGRAM.—

22 (1) PRIVATE AND UNIMPEDED ACCESS TO OM-
 23 BUDSMAN SERVICES.—Section 712(b)(1)(A) of the
 24 Older Americans Act of 1965 (42 U.S.C.

1 3058g(b)(1)(A)) is amended by striking “access”
2 and inserting “private and unimpeded access”.

3 (2) OMBUDSMAN DEVELOPMENT OF RESIDENT
4 AND FAMILY COUNCILS.—Section 712(a)(3)(H)(iii)
5 of such Act (42 U.S.C. 3058g(a)(3)(H)(iii)) is
6 amended by striking “provide technical support for”
7 and inserting “actively encourage and assist in”.

8 (3) LOCAL ENTITY DEVELOPMENT OF RESI-
9 DENT AND FAMILY COUNCILS.—Section
10 712(a)(5)(B)(vi) of such Act (42 U.S.C.
11 3058g(a)(5)(B)(vi)) is amended by striking “sup-
12 port” and inserting “actively encourage and assist
13 in”.

14 (c) OMBUDSMAN AUTHORITY WITH RESPECT TO
15 HIPAA.—Section 712(b) of the Older Americans Act of
16 1965 (42 U.S.C. 3058g(b)) is amended—

17 (1) in paragraph (1)(B)(i) by striking “the
18 medical and social records of a” and inserting “all
19 records concerning a”; and

20 (2) by adding at the end the following:

21 “(3) For purposes of section 264(c) of the Health In-
22 surance Portability and Accountability Act of 1996 (in-
23 cluding regulations issued under that section) (42 U.S.C.
24 1320d–2 note), the Ombudsman and a representative of
25 the Office shall be considered a ‘health oversight agency,’

1 so that release of residents' individually identifiable health
2 information to the Ombudsman or representative is not
3 precluded in cases in which the requirements of clause (i)
4 or (ii) of paragraph (1)(B) are otherwise met.”.

5 (d) DISCLOSURE AND CONFIDENTIALITY.—Section
6 712(d) of the Older Americans Act of 1965 (42 U.S.C.
7 3058g(d)) is amended—

8 (1) in paragraph (1), by striking “files” and in-
9 sserting “information”; and

10 (2) in paragraph (2)—

11 (A) in the paragraph heading, by striking
12 “IDENTITY OF COMPLAINANT OR RESIDENT”
13 and inserting “PROCEDURES”;

14 (B) in subparagraph (A)—

15 (i) by striking “files or records” the
16 first place it appears and inserting “infor-
17 mation (including files or records)”;

18 (ii) by striking “disclose” and all that
19 follows and inserting “disclose such infor-
20 mation);”;

21 (C) in subparagraph (B)—

22 (i) in the matter preceding clause (i),
23 by striking “files or records” and inserting
24 “information”; and

1 (ii) in clause (iii), by striking the pe-
2 riod and inserting “; and”; and
3 (D) by adding at the end the following:
4 “(C) require that the Ombudsman and
5 each representative of the Office hold in strict
6 confidence all communications with individuals
7 seeking assistance under this Act, and take all
8 reasonable steps to safeguard the confidentiality
9 of information provided to the Ombudsman or
10 a representative of the Office under this title by
11 a complainant or resident.”.

○