



Summary of S. 192: The Older Americans Act Reauthorization Act of 2016

Sponsor: Alexander (R-TN)

March 29, 2016

The Older Americans Act (OAA), originally enacted in 1965, supports a wide range of social services and programs for people aged 60 or older. Congress has reauthorized and amended the OAA numerous times since it was first enacted in 1965. In the 114th Congress, the Senate introduced a bipartisan bill to reauthorize the OAA for a three-year period. The Older Americans Act Reauthorization Act of 2015 (S.192) was introduced Jan. 20, 2015, and would authorize appropriations for most OAA programs through FY2018. S. 192 passed the Senate without amendment on July 16, 2015, and was subsequently referred to the House Committee on Education and the Workforce. The House approved a bipartisan House Amendment of S. 192 on March 21, 2016. The measure now awaits presidential approval. The following is a summary of the amended language:

Section	Issue	Summary of Provisions
Sec. 1	Short Title	States the short title of the bill as Old Americans Act Reauthorization Act of 2015.
Sec. 2	Definitions	Amends definitions in Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) as follows: <ul style="list-style-type: none">▪ Replaces the term “abuse” with a new definition and would add a new term and definition for “adult protective services.”▪ Amends the definition of “Aging and Disability Resource Center” and “elder justice,” and it would establish that the term “exploitation” also includes “financial exploitation.”▪ It amends the definition of “disease prevention and health promotion services” to include oral health as part of routine health screening.
Sec. 3	Administration on Aging	Best Practices <ul style="list-style-type: none">▪ Establishes the Administration on Aging (AOA)ⁱ as the chief federal agency advocating for older people.▪ Adds new requirements directing the AOA director of the Office of LTC Ombudsman Programs to collect and analyze best practices related to responding to elder abuse, neglect and exploitation in long-term care (LTC) facilities, and to publish a report reflecting their findings.▪ Adds new requirements on the AOA to coordinate with the heads of state adult protective services programs and the director of the Office of LTC Ombudsman Programs as they develop objectives, priorities, policy and a long-term plan for continuous quality improvement of a multi-disciplinary elder justice system in the U.S., and provide federal leadership to support state efforts in carrying out elder justice programs and activities. Technical Assistance and Training <ul style="list-style-type: none">▪ Amends the function of the AOA to include the term “health and economic” in requiring the AOA to<ol style="list-style-type: none">1. Assist in the establishment of programs designed to meet the health and economic needs of older individuals, and2. Prepare, publish, and disseminate educational materials dealing with the “health and economics” welfare of older individuals.▪ Specifically directs AOA to collaborate with the Health Resources and Services Administration (HRSA)ⁱⁱ as they coordinate national plans for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the objectives related to aging.▪ To improve the delivery of services to the elderly in rural areas the AOA is directed to:<ol style="list-style-type: none">1. Provide information, best practices, and technical assistance to states, AAA, and service providers, and2. Identify model programs.

		<ul style="list-style-type: none"> ▪ With regard to in-home based LTC, the AOA is directed to develop, in consultation with states and national organizations, a consumer-friendly tool to assist older individuals and their families in choosing home and community-based services, with a particular focus on ways for consumers to assess how providers protect the health, safety, welfare, and rights. ▪ Directs AOA to implement in all states Aging and Disability Resource Centersⁱⁱⁱ, the provision of information and referrals regarding available home and community-based services for people who are at risk for residing in, or who reside in, institutional settings, so that the people have a choice to remain in or to return to the community. ▪ Directs the assistant secretary to ensure that programs in the act include appropriate training in the prevention of abuse, neglect, and exploitation and provisions of services that address elder justice^{iv} and the exploitation of older adults. ▪ Authorizes the appropriation of: <ol style="list-style-type: none"> 1. \$40,063,000 for each of the fiscal years (FY) 2017, 2018, and 2019, 2. Relating to the National Eldercare Locator Service^v, \$2,088,758 for FY 2017, \$2,132,440 for FY 2018, and \$1,983,922 for FY 2019, and \$372,196,069 for FY 2019.
Sec. 4	State and Community Programs on Aging	<p>Grants for State and Community Programs on Aging^{vi}</p> <ul style="list-style-type: none"> ▪ The bill would authorize the appropriation of such sums as necessary for each of FY2016 through FY2018 for OAA Title III Part B, Supportive Services; Part C, Subpart 1, Congregate Nutrition Services; Part C, Subpart 2, Home-Delivered Nutrition Services; and Part D, Disease Prevention and Health Promotion. It would also authorize the appropriations of \$187 million for each of FYs 2016 through 2018 for Part E, National Family Caregiver Support Program. ▪ Statutory Funding Formula Allocations—The bill would change the statutory funding allocation for OAA Title III, Parts B, C, and D, which allocate funding to supportive services, congregate nutrition, home-delivered nutrition and preventive services. It would retain the same state and territory minimum amounts allotted under current law and the same population-based formula factor (aged 60 and over), but would reduce state and U.S. territory hold harmless amounts (currently referenced to FY2006 funding levels) by 1% from the previous fiscal year as follows: <ol style="list-style-type: none"> 1. For FY2016, no state would receive less than 99% of the annual amount allotted to the state in FY2015. 2. For FY2017, no state would receive less than 99% of the annual amount allotted to the state in FY2016. 3. For FY2018, no state would receive less than 99% of the annual amount allotted to the state in FY2017. 4. For FY2019, and each subsequent fiscal year, no state would receive less than 100% of the annual amount allotted to the state in FY2018. <p>State Area Plans</p> <ul style="list-style-type: none"> ▪ Requires state area agency on aging (AAA) plans to include the establishment, maintenance, modernization or construction of multipurpose senior centers (including a plan to use the skills and services of older people in paid and unpaid work, including multigenerational and older person to older person work), ▪ The plan must also provide that the AAA will, in coordination with the state agency and with the state agency responsible for elder abuse prevention services, increase public awareness of elder abuse, neglect and exploitation, and remove barriers to education, prevention, investigation and treatment of elder abuse neglect, and exploitation as appropriate. ▪ Adds language that permits the AAA, in cooperation with government officials, state agencies, tribal organizations, or local entities, to make recommendations to government officials in the planning and service area and the state on protection from elder abuse, neglect, and exploitation. <p>Supportive Services and Senior Centers Program</p> <ul style="list-style-type: none"> ▪ Support Services—Adds to the list of supportive services that may be offered under state and community grant programs on aging as follows: <ol style="list-style-type: none"> 1. referral, 2. chronic condition self-care management, or

- 3. falls prevention services, and
- **Health Screenings**—Adds mental and behavioral health, falls prevention services screening, and screening for elder abuse, neglect, and exploitation as part of the “health screenings” that may be funded by these grants under state and community programs.
- Directs the assistant secretary to permit the use of grant funding to states for the purpose of modernization of facilities that serve as multipurpose senior centers, as well as their construction.
- Urges AAA to pursue opportunities for the development of intergenerational shared site models for programs or projects to more efficiently and effectively deliver services.
- Adds a definition of “adult child with a disability” as meaning a child who—
 1. is age 18 or older;
 2. is financially dependent on an older individual who is a parent of the child; and
 3. has a disability.

Nutrition Services^{vii}

- Adds a new requirement that states that establish and operate a nutrition project within their programs for the aging must encourage the use of locally grown foods in the program, and identify potential partnerships and contracts with local producers and providers of locally grown foods.
- Replaces the term “solicit” with “utilize” in requiring the state to ensure that a nutrition project “utilize” the expertise of a dietician or other individuals with equivalent education and training in nutrition science, or an individual with comparable expertise.
- **Nutrition Service Incentive Program**—Authorizes the appropriations of \$164,055,664 for FY 2017, \$167,486,502 for FY 2018, and \$170,917,349 for FY 2019 for the Nutrition Service Incentive Program (NSIP).
- **Home Delivered Nutrition Services Program**—Amends language pertaining to the description of **nutrition projects for older individuals** permitting canned, or fresh foods and, as appropriate, supplemental foods, and additional meals that the recipient of a grant or contract elects to provide.

Evidence-Based Disease Prevention and Health Promotion Services Program

- Amends the title of this section by inserting the term evidence-based before the word disease.
- Changes the focus of the use of grants for the purpose of prevention and health promotion services to evidence-based disease prevention and health promotion services information.

National Caregiver Support Program

- Provides for new definitions as follows:
 1. Replaces the definition of “child” (which currently includes an individual with a disability) with separate definitions of the terms “child” and “individual with a disability.”
 2. **Child**—The term “child” would mean an individual who is not more than 18 years of age.
 3. **Individual With a Disability**.—The term “individual with a disability” means a person with a disability, according to the definition in the Americans with Disabilities Act (ADA), who is not less than age 18 and not more than age 59.
 4. **Older Relative Caregiver**.—Replaces the term “grandparent or older individual who is a relative caregiver” with the term “older relative caregiver.” The term “older relative caregiver” means a caregiver who—
 - (A) (i) is age 55 or older; and
 - (ii) lives with, is the informal provider of in-home and community care to, and is the primary caregiver for, a child or an individual with a disability;
 - (B) in the case of a caregiver for a child—

		<p>(i) is the grandparent, step-grandparent, or other relative (other than the parent) by blood, marriage, or adoption, of the child;</p> <p>(ii) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregivers of the child; and</p> <p>(iii) has a legal relationship to the child, such as legal custody, adoption, or guardianship, or is raising the child informally; and</p> <p>(C) in the case of a caregiver for an individual with a disability, is the parent, grandparent, or other relative by blood, marriage, or adoption, of the individual with a disability.”</p>
Sec. 5	Activities for Health, Independence and Longevity	<p>Grant Programs</p> <ul style="list-style-type: none"> ▪ Provides for continued support for program integrity initiatives concerning the Medicare program that train senior volunteers to prevent and identify health care fraud and abuse. ▪ Authorizes the appropriations of funding for: <ul style="list-style-type: none"> 1. Aging network support activities, \$6,216,054 for FY 2017, \$6,346,048 for FY 2018, and \$6,476,043 for FY 2019, and 2. Elder rights support activities, \$10,856,828 for FY 2017, \$11,083,873 for FY 2018, and \$11,310,919 for FY 2019. ▪ Amends requirements for legal assistance demonstration and support projects for older individuals to require that the assistant secretary make grants or enter into contracts with “nonprofit organizations” experienced in providing support and technical assistance on a nationwide basis to certain specified entities and other organizations interested in the legal rights of older individuals instead of (as currently) “national nonprofit organizations” with experience. ▪ The bill would repeal certain grant programs under Title IV of the act. Specifically, it would repeal grants for Section 415 (Computer Training), Section 419 (Multidisciplinary Centers and Multidisciplinary Systems), and Section 421 (Ombudsman and Advocacy Demonstration Projects).
Sec. 6	Amendments to Community Service Senior Opportunities Act	<p>Older American Community Service Employment Program</p> <ul style="list-style-type: none"> ▪ The bill would authorize the appropriation of such sums as necessary for each of FY2016 through FY2018 for the Community Service Employment for Older Americans Program^{viii} under Title V of the act.
Sec. 8	Vulnerable Elder Rights Protection Activities	<p>Authorization of Appropriations</p> <ul style="list-style-type: none"> ▪ Authorizes the appropriations of \$16,280,630 for FY 2017, \$16, 621, 101 for FY 2018, and \$16,961,573 for FY 2019. ▪ Other Programs—There are authorized to be appropriated to carry out chapters 3^{ix} and 4, \$4,891,876 for FY 2017, \$4,994,178 for FY 2018, and \$5,096,480 for FY 2019.” ▪ Ombudsman Definitions ▪ Amends the definition of the term “resident” to include any individual who resides in a LTC facility, instead of (as currently) an “older individual.” It would eliminate explicit reference to “older” individuals, which would allow residents of any age who reside in LTC facilities to receive Ombudsman Program services, including investigating and resolving complaints. <p>Ombudsman Programs</p> <ul style="list-style-type: none"> ▪ Amends language describing the characteristics of the individual acting as the ombudsman by clarifying that the ombudsman will be responsible for the management, including the fiscal management, of the office. ▪ Amends the statutory language pertaining to the functions of the ombudsman in the identification, investigation, and resolution of complaints by clarifying that the ombudsman’s role includes advocating for residents unable to communicate their own wishes. ▪ Clarifies that the ombudsman may continue to serve residents who are transitioning from LTC facility to a home care setting. <p>State Long-term Care (LTC) Ombudsman Programs</p> <p><i>Establishment</i></p> <ul style="list-style-type: none"> ▪ Program Fiscal Management—Adds to the responsibility of the ombudsman who heads the Office of the State LTC Ombudsman, the responsibility of management, including the fiscal management of the office.

- **Complaint Resolution**—Clarifies that an ombudsman must identify, investigate, and resolve complaints made by, or on behalf of resident, including residents with limited or no decision-making capacity and who have no known legal representative, and if the resident is unable to communicate consent for the ombudsman to work on a complaint, the ombudsman must seek evidence to indicate what outcome the resident would have communicated (and, in the absence of evidence to the contrary, shall assume that the resident wishes to have the residents’ health, safety, welfare and rights protected) and must work to accomplish that outcome.
- Directs the ombudsman to, when feasible, continue to carry out the functions of the program on behalf of residents transitioning from a LTC facility to a home care setting.
- **Duties**—Amends language pertaining to the **duties of an individual designated by the ombudsman**, will:
 1. actively encourage, and assist in the development of **resident and family councils**, and
 2. identify, investigate, and **resolve complaints** that are made by or on behalf of residents with limited or no decision-making capacity and who have no known legal representative, and if the a resident is unable to communicate consent for an ombudsman to work on a complaint directly involving the resident, the ombudsman must seek evidence to indicate what outcome the resident would have communicated (and, in the absence of evidence to the contrary, will assume that the resident wishes to have the residents’ health, safety, welfare and rights protected) and will work to accomplish that outcome.

Procedures for Access

- **Directs states to ensure that representatives of the ombudsman will:**
 1. have private and unimpeded access to LTC facilities and residents, and
 2. have appropriate access to review all files, records, and other information concerning a resident if the resident is unable to communicate consent to the review and has no legal representative, or access to the files and records, and information as is necessary to investigate a complaint.
- **Health Oversight Agency**—For the purpose of this section, the language amends the **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**^x (including regulations issued under the section). The ombudsman and a representative of the office will be considered a “health oversight agency,” so that release of residents’ individually identifiable health information to the ombudsman or representative is not precluded in cases in which the requirements of the HIPAA provisions are otherwise met.

Disclosures

- **Establish Procedures for Disclosure of Information**—Directs the state agency to establish procedures for the disclosure by the ombudsman or local ombudsman entities of files, records, and other information maintained by the program.
- Directs states to ensure that the ombudsman may disclose information needed in order to best serve residents with limited or no decisions making capacity who have no known legal representative and are **unable to communicate consent**, in order for the ombudsman to carry out the functions and duties of investigating and resolving complaints.

Conflict of Interest

- The measure would require the state agency to ensure that no individual, or member or an immediate family of an individual, involved in the designation of the Ombudsman, or the designation of a local ombudsman entity or representative, is subject to a conflict of interest.
- Inserts **new conflict of interest requirements** on state agencies as follows”
 1. **State agencies must ensure** that no person, or member of the immediate family of a person, involved in the designation of the ombudsman (whether by appointment or otherwise) or the designation of an entity designated to investigate and resolve resident complaints, is subject to a conflict of interest,

2. **State agencies must ensure** that no officer or employee of the state ombudsman, or representative of the local ombudsman entity, or member of the immediate family of the officer, employee, or representative is subject to a conflict of interest, and
3. **States must ensure that the ombudsman.–**
 - (i) doesn't have a direct involvement in the licensing or certification of a LTC facility or of a provider of a LTC service;
 - (ii) doesn't have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a LTC facility or a LTC service;
 - (iii) is not employed by, or participating in the management of, a LTC facility or a related organization, and has not been employed by a facility or organization within one year before the date of the determination involved;
 - (iv) doesn't receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a LTC facility;
 - (v) doesn't have management responsibility for, or operate under the supervision of an individual with management responsibility for, adult protective services (APS); and
 - (vi) doesn't serve as a guardian or in another fiduciary capacity for residents of LTC facilities in an official capacity (as opposed to serving as a guardian or fiduciary for a family member, in a personal capacity).
 - **Organizational Conflict of Interest.**
 1. The state agency must comply with all provisions in a case in which the Office of the State Ombudsman poses an organizational conflict of interest, including a situation in which the office is placed in an organization that—
 - (i) is responsible for licensing, certifying, or surveying LTC services in the state;
 - (ii) is an association (or an affiliate of such an association) of LTC facilities, or of any other residential facilities for older individuals;
 - (iii) provides LTC services, including under public program funding arrangements ;
 - (iv) provides LTC case management;
 - (v) sets rates for LTC services;
 - (vi) provides APS;
 - (vii) is responsible for eligibility determinations for the Medicaid program;
 - (viii) conducts preadmission screening for placements in facilities; or
 - (ix) makes decisions regarding admission or discharge of individuals to or from these facilities.
 - **Identifying, Removing, and Remediating Organizational Conflict.**
 1. Clarifies that a state agency may not operate an ombudsman program or carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization, in the case in which there is an organizational conflict of interest unless the conflict of interest has been—
 - (I) identified by the state agency;
 - (II) disclosed by the state agency to the Assistant Secretary in writing; and
 - (III) remedied in accordance with the provisions in this act.
 - When a potential or actual organizational conflict of interest involving the Ombudsman is disclosed or reported to the Assistant Secretary in writing by any person or entity, the Assistant Secretary will require that the state agency to—
 1. remove the conflict; or
 2. submit, and obtain the approval for, an adequate remedial plan that indicates how the Ombudsman will be unencumbered in fulfilling all of their functions.

Miscellaneous Requirements

- **Training Requirements**—Directs the state agency to require the Ombudsman or a designee to participate in training provided by the National Ombudsman Resource Center^{xi}.

		<ul style="list-style-type: none"> ▪ Data Submission Requirements—Directs states to submit data on elder abuse, neglect, and exploitation to the AOA or another databased as specified by the assistant secretary. <p><i>State Elder Abuse, Neglect, and Exploitation System</i></p> <ul style="list-style-type: none"> ▪ Directs states to promote the development of an elder abuse, neglect, and exploitation system that includes, throughout the state, in connection with the enforcement of related laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation, and includes the use of forensic specialist, and programs and arrangements that protect against financial exploitation. ▪ Also directs states to use allotments to support multidisciplinary elder justice activities that include supporting and studying innovative practices in communities to develop partnerships across disciplines for the prevention, investigation, and prosecution of abuse, neglect, and exploitation.
Sec. 9	Behavioral Health	<ul style="list-style-type: none"> ▪ The measure amends certain sections of the act (§102, Definitions; §201, Establishment of AOA; §202, Functions of the Assistant Secretary; and §321, Supportive Services and Senior Centers) to include the term “behavioral” to specified provisions that address mental health to read “mental and behavioral” health.
Sec. 10	Guidance on Serving Holocaust Survivors	<ul style="list-style-type: none"> ▪ Requires AOA officials to work with stakeholders to provide guidance and best practices to states with regards to serving Holocaust survivors. ▪ The guidance must include how certain providers, such as nutrition services providers, transportation service providers, LTC ombudsman, and supportive services providers may address the specified needs of Holocaust survivors under the act.

NCSL State Federal Relations staff contacts: Joy Johnson Wilson, federal affairs counsel, Health and Human Services policy director or Rachel B. Morgan RN, BSN, senior committee director, Health Human Services Committee.

ⁱ The Administration on Aging (AOA) is the principal agency of the U.S Department of Health and Human Services designated to carry out the provisions of the [Older Americans Act of 1965 \(OAA\)](#), as amended (42 U.S.C.A. § 3001 et seq.). The OAA promotes the well-being of older individuals by providing services and programs designed to help them live independently in their homes and communities. The Act also empowers the federal government to distribute funds to the states for supportive services for individuals over the age of 60.

ⁱⁱ The **Health Resources and Services Administration (HRSA)** is an agency of the U.S. Department of Health and Human Services, is the primary federal agency for improving health and achieving health equity through access to quality services, a skilled health workforce and innovative programs. HRSA's programs provide health care to people who are geographically isolated, economically or medically vulnerable. [<http://www.hrsa.gov/index.html>]

ⁱⁱⁱ The **Aging and Disability Resource Center** makes information on a resources available to states and communities. [<http://www.adrc-tae.acl.gov/tiki-index.php?page=HomePage>] 54 states and territories have received AOA/CMS ADRC grant funding since 2003. A brief summary of the programs is available on this web page.

^{iv} **National Center on Elder Abuse/ Administration on Aging**— <http://www.ncea.aoa.gov/>

^v The **National Eldercare Locator Service** [<http://www.eldercare.gov/Eldercare.NET/Public/Index.aspx>] The Eldercare Locator, a public service of the Administration on Aging, U.S. Department of Health and Human Services, is a nationwide service that connects older Americans and their caregivers with information on senior services.

^{vi} http://www.acl.gov/About_ACL/Allocations/OAA.aspx

^{vii} **Elderly Nutrition Programs** http://www.acl.gov/NewsRoom/Publications/docs/Elderly_Nutrition_Programs_1.pdf

^{viii} The Senior Community Service Employment Program is a community service and work-based job training program for older Americans. Authorized by the OAA, the program provides training for low-income, unemployed seniors. Participants also have access to employment assistance through American Job Centers. [<https://www.doleta.gov/Seniors/>]

^{ix} For functions and contracts related to Ombudsman Programs.

^x **Health Insurance Portability and Accountability Act of 1996**— the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, included Administrative Simplification provisions that required HHS to adopt national standards for electronic health care transactions and code sets, unique health identifiers, and security. [<http://www.hhs.gov/hipaa/for-professionals/index.html>]

^{xi} The **National Long-Term Care Ombudsman Resource Center** [<http://ltombudsman.org/>] provides support, technical assistance and training to the 53 State Long-Term Care Ombudsman Programs and their statewide networks of almost 600 regional (local) programs. The Center's objectives are to enhance the skills, knowledge, and management capacity of the State programs to enable them to handle residents' complaints and represent resident interests (individual and systemic advocacy). Funded by the AOA, the Center is operated by [Consumer Voice](#), The National Consumer Voice for Quality Long-Term Care, in cooperation with the [National Association of States United for Aging and Disabilities](#) (NASUAD).