

116TH CONGRESS
2D SESSION

S. _____

To provide nursing homes with resources for responding to the COVID–19 public health emergency to protect the health and safety of residents and workers, to reauthorize funding for programs under the Elder Justice Act of 2009, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Mr. DAINES, and Ms. MCSALLY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide nursing homes with resources for responding to the COVID–19 public health emergency to protect the health and safety of residents and workers, to reauthorize funding for programs under the Elder Justice Act of 2009, and for other purposes.

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 “Emergency Support for Nursing Homes and Elder Jus-
6 tice Reform Act of 2020”.

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.
- Sec. 3. Providing resources for personal protective equipment and testing.
- Sec. 4. Promoting transparency about COVID–19-related cases and fatalities and staffing levels in long-term care facilities.
- Sec. 5. Establishing strike teams.
- Sec. 6. Promoting identification and reporting of potential abuse or neglect in long-term care facilities.
- Sec. 7. Promoting quality of life of long-term care facility residents through televisitation.
- Sec. 8. Upgrading nursing home compare and the Five-Star rating system.
- Sec. 9. Enhancing Federal oversight of nursing homes participating in Medicare or Medicaid.
- Sec. 10. Continuing funding for programs to prevent and prosecute elder abuse and neglect.
- Sec. 11. Increasing resources to investigate abuse or neglect and extend services to victims.
- Sec. 12. Protecting Americans with dementia.
- Sec. 13. Reducing racial and ethnic disparities in long-term care facilities.
- Sec. 14. Establishing reciprocity with Drug Enforcement Administration to address improper prescribing of controlled substances.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) COVID–19 PUBLIC HEALTH EMERGENCY
 6 PERIOD.—The term “COVID–19 public health emer-
 7 gency period” means the period beginning on the
 8 first day of the emergency period defined in para-
 9 graph (1)(B) of section 1135(g) of the Social Secu-
 10 rity Act (42 U.S.C. 1320b-5(g)) and ending on the
 11 last day of the calendar quarter in which the last
 12 day of such emergency period occurs.

13 (2) INDIAN TRIBE.—The term “Indian tribe”
 14 has the meaning given that term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 5304).

3 (3) LONG-TERM CARE FACILITY.—The term
4 “long-term care facility” has the meaning given that
5 term in section 2011(15) of the Social Security Act
6 (42 U.S.C. 1397j(15)).

7 (4) NURSING FACILITY.—The term “nursing
8 facility” has the meaning given that term in section
9 1919(a) of the Social Security Act (42 U.S.C.
10 1396r(a)).

11 (5) PARTICIPATING PROVIDER.—The term
12 “participating provider” means a skilled nursing fa-
13 cility or a nursing facility that has been assigned a
14 national provider identifier number by the Secretary
15 and has executed an agreement to participate in the
16 Medicare program established under title XVIII of
17 the Social Security Act (42 U.S.C. 1395 et seq.) or
18 the Medicaid program established under title XIX of
19 such Act (42 U.S.C. 1396 et seq.).

20 (6) SECRETARY.—The term “Secretary” means
21 the Secretary of Health and Human Services.

22 (7) SKILLED NURSING FACILITY.—The term
23 “skilled nursing facility” has the meaning given that
24 term in section 1819(a) of the Social Security Act
25 (42 U.S.C. 1395i–3(a)).

1 (8) STATE.—Except as otherwise provided, the
2 term “State” has the meaning given such term for
3 purposes of title XIX of the Social Security Act (42
4 U.S.C. 1396 et seq.).

5 (9) TRIBAL ORGANIZATION.—The term “tribal
6 organization” has the meaning given that term in
7 section 4 of the Indian Self-Determination and Edu-
8 cation Assistance Act (25 U.S.C. 5304).

9 (10) OTHER TERMS.—Each other term has the
10 meaning given the term for purposes of subtitle B
11 of title XX of the Social Security Act (42 U.S.C.
12 1397j et seq.).

13 **SEC. 3. PROVIDING RESOURCES FOR PERSONAL PROTEC-**
14 **TIVE EQUIPMENT AND TESTING.**

15 (a) IN GENERAL.—A portion of any payments re-
16 ceived or funds made available on or after July 1, 2020,
17 for responding to the public health or fiscal impacts re-
18 lated to the Coronavirus Disease (COVID–19) under Fed-
19 eral legislation enacted on or after that date which pri-
20 marily makes appropriations for the coronavirus response
21 and related activities, shall be used for the purposes de-
22 scribed in subsection (b), notwithstanding the original
23 purpose for which the amounts were appropriated to make
24 such payments or funds available, or any other provision
25 of law restricting the use of such payments or funds.

1 (b) PURPOSES DESCRIBED.—The purposes described
2 in this subsection are the following:

3 (1) To establish and maintain a supply of per-
4 sonal protective equipment at a level that is suffi-
5 cient, as determined by the Centers for Disease Con-
6 trol and Prevention, in collaboration with the Sec-
7 retary and the Administrator of the Federal Emer-
8 gency Management Agency, to provide for the safety
9 of—

10 (A) personnel employed by participating
11 providers and long-term care facilities, includ-
12 ing licensed assisted living or residential care
13 facilities, during the COVID–19 public health
14 emergency period; and

15 (B) State survey agency personnel who
16 conduct audits or investigations of participating
17 providers and long-term care facilities, includ-
18 ing licensed assisted living or residential care
19 facilities, during the COVID–19 public health
20 emergency period.

21 (2) To provide regular COVID–19 testing for
22 personnel and residents of participating providers
23 and long-term care facilities, including licensed as-
24 sisted living or residential care facilities, (at no cost
25 to such personnel and residents) at a level that is

1 sufficient, based on the needs of the locality and its
2 circumstances, as determined by the Director of the
3 Centers for Disease Control and Prevention, in col-
4 laboration with the Secretary and the Administrator
5 of the Federal Emergency Management Agency, to
6 provide for the safety of such personnel and resi-
7 dents. A State shall provide such testing during the
8 90-day period that begins on the date on which the
9 Secretary, after consultation with the Director of the
10 Centers for Disease Control and Prevention, deter-
11 mines the State is able to conduct such testing at
12 such level and notifies the State of the date on
13 which the testing period is to start.

14 (c) STANDARDS AND GUIDANCE.—Not later than 30
15 days after the date of enactment of this Act, the Director
16 of the Centers for Disease Control and Prevention, in col-
17 laboration with the Secretary and the Administrator of the
18 Federal Emergency Management Agency, shall issue de-
19 tailed guidance to States on compliance with the require-
20 ments of this section as it relates to participating pro-
21 viders and long-term care facilities, including licensed as-
22 sisted living or residential care facilities.

1 **SEC. 4. PROMOTING TRANSPARENCY ABOUT COVID-19-RE-**
2 **LATED CASES AND FATALITIES AND STAFF-**
3 **ING LEVELS IN LONG-TERM CARE FACILI-**
4 **TIES.**

5 (a) COLLECTION AND REPORTING OF STAFFING
6 DATA BY PARTICIPATING PROVIDERS.—The Secretary
7 shall develop a plan for ensuring that participating pro-
8 viders shall resume compliance with the requirement,
9 under section 1128I(g) of the Social Security Act (42
10 U.S.C. 1320a–7j(g)), to electronically submit direct care
11 staffing information based on payroll and other auditable
12 data (including measures to ensure that the submitted
13 data includes direct care staffing information for the en-
14 tire duration of the emergency period).

15 (b) COLLECTION AND REPORTING OF DATA RE-
16 LATED TO COVID-19 BY PARTICIPATING PROVIDERS
17 AND LONG-TERM CARE FACILITIES.—

18 (1) IN GENERAL.—

19 (A) REPORTING OF COVID-19 CASES AND
20 FATALITIES BY PARTICIPATING PROVIDERS AND
21 LONG-TERM CARE FACILITIES.—The Secretary
22 shall ensure that participating providers and
23 long-term care facilities report all suspected and
24 confirmed cases of COVID-19 among personnel
25 and residents of the provider or facility, all
26 COVID-19-related fatalities among personnel

1 and residents of the provider or facility, and all
2 fatalities among personnel and residents of the
3 provider or facility, whether related to COVID-
4 19 or unrelated to COVID-19, for the period
5 beginning on January 1, 2020, to the Sec-
6 retary.

7 (B) TIMING AND MANNER OF REPORT-
8 ING.—Such data shall be reported to the Sec-
9 retary by participating providers and long-term
10 care facilities in a format and manner that is
11 consistent with any data that the Secretary has
12 directed participating providers to furnish to
13 the Centers for Disease Control and Prevention
14 on or after May 8, 2020, and, beginning on the
15 date that is 15 days after the date of enactment
16 of this Act, shall be collected and reported to
17 the Secretary by participating providers and
18 long-term care facilities on a daily basis.

19 (C) PUBLICATION OF DATA.—Not later
20 than 15 days after the date of enactment of
21 this Act, the Secretary shall make the data col-
22 lected under this paragraph publicly available
23 and shall update such data on a daily basis.

24 (2) COLLECTION AND REPORTING OF DEMO-
25 GRAPHIC DATA.—The Secretary shall post the fol-

1 lowing information with respect to participating pro-
2 viders and long-term care facilities on the official
3 internet website of the Federal Government for
4 Medicare beneficiaries (commonly referred to as the
5 “Nursing Home Compare” Medicare website) (or a
6 successor website) aggregated by State:

7 (A) The age, gender, race, ethnicity, dis-
8 ability, and preferred language of the residents
9 of participating providers with suspected or
10 confirmed COVID–19 infections.

11 (B) With respect to residents of partici-
12 pating providers and long-term care facilities
13 who died on or after January 1, 2020, the age,
14 gender, race, ethnicity, disability, and preferred
15 language of—

16 (i) all of such residents; and

17 (ii) all of such residents whose deaths
18 are related to COVID–19.

19 (3) CONFIDENTIALITY.—Any information re-
20 ported under this subsection that is made available
21 to the public shall be made so available in a manner
22 that protects the identity of residents of partici-
23 pating providers and long-term care facilities.

1 **SEC. 5. ESTABLISHING STRIKE TEAMS.**

2 (a) IN GENERAL.—A portion of any payments re-
3 ceived or funds made available on or after July 1, 2020,
4 for responding to the public health or fiscal impacts re-
5 lated to the Coronavirus Disease (COVID–19) under Fed-
6 eral legislation enacted on or after that date which pri-
7 marily makes appropriations for the coronavirus response
8 and related activities, shall be used to establish and sup-
9 port the operation of statewide or regional strike teams
10 that meet the requirements of subsection (b) to respond
11 to COVID–19-related crises in participating providers,
12 notwithstanding the original purpose for which the
13 amounts were appropriated to make such payments or
14 funds available, or any other provision of law restricting
15 the use of such payments or funds.

16 (b) STRIKE TEAM REQUIREMENTS.—The require-
17 ments of this section with respect to a strike team of a
18 State are the following:

19 (1) Strike teams may include assessment, test-
20 ing, and clinical teams, and the State shall establish
21 a mission for each such team by written directive,
22 which may include performing medical examinations,
23 conducting COVID–19 testing, and assisting partici-
24 pating providers with the implementation of quar-
25 antine, isolation, or disinfection procedures.

1 (2) Each strike team shall be comprised of indi-
2 viduals who have relevant skills, qualifications, and
3 experience to serve as members of 1 or more of the
4 assessment, testing, and clinical teams described in
5 paragraph (1), such as employees of the State or
6 any of its political subdivisions, members of the mili-
7 tia on State activity duty, members of COVID-19
8 response teams sent to the State by the Secretary,
9 or other individuals designated by the State agency
10 with primary responsibility for promoting resident
11 and employee safety in participating providers.

12 (3) Strike teams and members of such teams
13 shall be subject to the State's oversight and direc-
14 tion and team members shall receive a State-issued
15 letter of authorization describing—

16 (A) the individual's designation to serve on
17 1 or more teams under an emergency proclama-
18 tion;

19 (B) the mission of the team;

20 (C) the authority of the individual to per-
21 form the team mission on the State's behalf;

22 (D) the individual's authority to access
23 places, persons, and materials necessary for the
24 team member's performance of the team's mis-
25 sion; and

1 (E) the requirement that team members
2 maintain the confidentiality of patient informa-
3 tion shared with such individuals by the facility.

4 (4) The State may, at any time, disband any
5 strike team and rescind the letter of authorization
6 for any team member.

7 (5) A team and team member may not use the
8 letter of authorization described in paragraph (3) for
9 any purpose except in connection with the team's
10 mission of acting in good faith to promote resident
11 and employee safety in participating providers in
12 which COVID-19 is confirmed to be present.

13 (6) The State shall establish protocols and pro-
14 cedures for requesting the assistance of a strike
15 team established under this section and any other
16 procedures deemed necessary for the team's oper-
17 ation.

18 (7) If a strike team finds consistent quality of
19 care deficiencies with respect to a participating pro-
20 vider and such deficiencies immediately jeopardize
21 the health or safety of residents of the participating
22 provider, the team shall, within 18 hours of making
23 such finding, alert the State survey agency (which
24 may take immediate enforcement action to remove
25 the jeopardy and correct the deficiencies through the

1 remedies specified in section 1819(h)(2)(B)(iii) or
2 1919(h)(2)(A)(iii) of the Social Security Act (42
3 U.S.C. 1395i-3(h)(2)(B)(iii), 1396r(h)(2)(A)(iii)),
4 the long-term care ombudsman of the State, and the
5 Medicaid fraud control unit of such State).

6 **SEC. 6. PROMOTING IDENTIFICATION AND REPORTING OF**
7 **POTENTIAL ABUSE OR NEGLECT IN LONG-**
8 **TERM CARE FACILITIES.**

9 (a) USE OF CLAIMS DATA TO IDENTIFY INSTANCES
10 OF POTENTIAL ABUSE OR NEGLECT IN FACILITIES.—
11 Section 1128I of the Social Security Act (42 U.S.C.
12 1320a-7j) is amended by adding at the end the following
13 new subsection:

14 “(i) USE OF CLAIMS DATA TO IDENTIFY INSTANCES
15 OF POTENTIAL ABUSE OR NEGLECT.—

16 “(1) COMPILATION OF CODES.—Not later than
17 1 year after the date of the enactment of this sub-
18 section, the Secretary, in collaboration with the In-
19 spector General of the Department of Health and
20 Human Services, shall—

21 “(A) compile a comprehensive list of diag-
22 nosis codes that may indicate potential physical
23 or sexual abuse or neglect of the elderly; and

24 “(B) develop a plan for reliance on data
25 from claims under titles XVIII and XIX that

1 contain 1 or more of those codes, for the pur-
2 pose of identifying instances of potential phys-
3 ical or sexual abuse or neglect in facilities re-
4 ceiving reimbursement under such titles.

5 “(2) AVAILABILITY TO STATES.—Not later than
6 2 years after the date of the enactment of this sub-
7 section, the Secretary shall make such claims data
8 available to State survey agencies to help verify com-
9 pliance with Federal and State mandatory reporting
10 laws.”.

11 (b) REQUIRED TRAINING ON SIGNS AND SYMPTOMS
12 OF POTENTIAL ABUSE OR NEGLECT.—Section 1128I of
13 the Social Security Act (42 U.S.C. 1320a–7j), as amended
14 by subsection (a), is amended by adding at the end the
15 following new subsection:

16 “(j) REQUIRED TRAINING ON SIGNS AND SYMPTOM
17 OF POTENTIAL ABUSE OR NEGLECT.—Beginning not
18 later than 1 year after the date of the enactment of this
19 subsection, a facility shall ensure that any staff of the fa-
20 cility who provide direct care (as defined in section 2011)
21 to residents of the facility receive training on the signs
22 and symptoms of potential abuse or neglect of the elder-
23 ly.”.

1 (c) EVALUATION AND REPORT ON PROTOCOLS TO
2 ENCOURAGE PROMPT REPORTING OF SUSPECTED INCI-
3 DENTS OF POTENTIAL ABUSE OR NEGLECT.—

4 (1) EVALUATION AND IMPLEMENTATION OF
5 PROTOCOLS.—The Secretary, in collaboration with
6 the Attorney General, shall evaluate the effectiveness
7 of current protocols and, if warranted, recommend
8 and implement improvements in those protocols, to
9 encourage prompt reporting of suspected incidents of
10 potential abuse or neglect to the appropriate law en-
11 forcement officials or adult protective services office,
12 by State and Federal surveyors of Medicare and
13 Medicaid covered entities.

14 (2) REPORT.—Not later than 180 days after
15 the completion of the evaluation under paragraph
16 (1), the Secretary shall submit to Congress a report
17 containing the results of such evaluation, together
18 with recommendations for improvements, including
19 such legislation and administrative action as the
20 Secretary determines appropriate.

21 (d) ISSUANCE OF GUIDANCE TO DETER SOCIAL
22 MEDIA ABUSE IN FACILITIES.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, the Secretary
25 shall—

1 (A) update guidance, and, as necessary,
2 issue new guidance to clarify for State survey
3 and certification agencies the requirements ap-
4 plicable to facilities (as defined in section 483.5
5 of title 42, Code of Federal Regulations (or any
6 successor regulations)) under part 483 of title
7 42, Code of Federal Regulations (or any suc-
8 cessor regulations), to protect resident privacy
9 and prohibit mental abuse or exploitation, spe-
10 cifically as it relates to exploitative photo-
11 graphs, audio and video recordings, and posting
12 or sharing of such photographs or recordings on
13 social media networks or through multimedia
14 messages; and

15 (B) establish procedures to ensure that
16 violations of the safety and privacy require-
17 ments applicable to facilities (as so defined)
18 under part 483 of title 42, Code of Federal
19 Regulations (or any successor regulations),
20 which prohibit misuse of photographs, audio
21 and video recordings, and the inappropriate
22 posting or sharing of such photographs or re-
23 cordings on social media networks or through
24 multimedia messages, are reported by State
25 survey agencies to law enforcement agencies,

1 adult protective service agencies, and other rel-
2 evant agencies and that such violations are re-
3 corded and tracked in the Automated Survey
4 Processing Environment (“ASPEN”) and the
5 ASPEN Complaints/Incident Tracking System
6 (“ACTS”).

7 (2) CLARIFICATION.—The guidance issued
8 under paragraph (1) shall clarify that enforcement
9 penalties do not apply to the posting or sharing of
10 such photographs or recordings that occurred solely
11 for the purpose of documenting and promptly report-
12 ing, to the appropriate authorities, a case of abuse
13 in a facility.

14 **SEC. 7. PROMOTING QUALITY OF LIFE OF LONG-TERM**
15 **CARE FACILITY RESIDENTS THROUGH TELE-**
16 **VISITATION.**

17 (a) PROMOTING TELEVISITATION FOR RESIDENTS.—

18 (1) IN GENERAL.—Sections 1819(c)(3) and
19 1919(e)(3) of the Social Security Act (42 U.S.C.
20 1395i–3(e)(3), 1396r(c)(3)) are each amended—

21 (A) in subparagraph (D), by striking
22 “and” at the end;

23 (B) in subparagraph (E), by striking the
24 period and inserting “; and”; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(F) provide for access to telecommuni-
4 cations devices and use of the internet, includ-
5 ing assistance from facility staff in the use of
6 such technology, if necessary or requested by
7 the resident or a family member, to support
8 telecommunication, including but not limited to
9 audio, visual, text communication, video-
10 conference, and two-way audio/video options, by
11 residents of such facility with family members
12 and other individuals.”.

13 (2) ACCESS DURING COVID-19 PUBLIC HEALTH
14 EMERGENCY PERIOD.—

15 (A) IN GENERAL.—Not later than 30 days
16 after the date of enactment of this Act, the Sec-
17 retary shall take steps necessary to ensure that
18 the residents of each participating provider and
19 licensed assisted living or residential care facil-
20 ity have access to telecommunications devices
21 and use of the internet (to the extent prac-
22 ticable), including assistance from facility staff
23 in the use of such technology, if necessary or
24 requested by the resident or a family member,
25 to support telecommunication, including but not

1 limited to audio, visual, text communication,
2 videoconference and two-way audio/video op-
3 tions, by residents of such provider or facility
4 with family members and other individuals.

5 (B) REQUIREMENTS.—In taking such
6 steps, the Secretary shall address—

7 (i) notification to residents, family
8 members, and other individuals of access
9 to television described in subparagraph
10 (A);

11 (ii) how such a provider or facility will
12 ensure or enable installation and access to
13 a device purchased by, or for the use or
14 benefit of, individual residents; and

15 (iii) operational issues and steps to
16 avoid unnecessary barriers to the timely
17 deployment of such television.

18 (b) FUNDING.—A participating provider may use a
19 portion of any emergency funding that the provider re-
20 ceives (prior to and after the date of enactment of this
21 Act) from the Secretary related to the COVID–19 public
22 health emergency period to purchase any technology, in-
23 cluding telecommunications devices and internet service,
24 or any other items or services as necessary to implement
25 the television described in the provisions of, and

1 amendments made by, subsection (a), notwithstanding any
2 other provision of law restricting the use of such funding.

3 **SEC. 8. UPGRADING NURSING HOME COMPARE AND THE**
4 **FIVE-STAR RATING SYSTEM.**

5 (a) COMPREHENSIVE REVIEW OF FIVE-STAR QUAL-
6 ITY RATING SYSTEM.—Sections 1819 and 1919 of the So-
7 cial Security Act (42 U.S.C. 1395i–3, 1396r) are each
8 amended—

9 (1) by redesignating subsection (j) as sub-
10 section (k); and

11 (2) by inserting after subsection (i) the fol-
12 lowing new subsection:

13 “(j) COMPREHENSIVE REVIEW AND MODIFICATION
14 OF FIVE-STAR QUALITY RATING SYSTEM.—

15 “(1) IN GENERAL.—The Secretary shall con-
16 duct a comprehensive review of the system main-
17 tained by the Secretary to measure and publicly re-
18 port the quality of skilled nursing facilities and nurs-
19 ing facilities (commonly referred to as the ‘Five-Star
20 Quality Rating System’).

21 “(2) TIMING.—The Secretary shall conduct
22 such review not later than 1 year after the end of
23 the COVID–19 public health emergency period and
24 shall implement modifications to the Five-Star Qual-
25 ity Rating System (or its successor system) not later

1 than 180 days after the release of the report that is
2 required under paragraph (4).

3 “(3) REQUIREMENTS.—The review of the sys-
4 tem under this subsection shall include an evaluation
5 of the relative weight accorded to each of the fol-
6 lowing:

7 “(A) The adequacy of the facility’s proce-
8 dures for preventing and reporting infection.

9 “(B) The adequacy of the facility’s proce-
10 dures for preventing and reporting incidents of
11 abuse, neglect, mistreatment, or exploitation of
12 residents of the facility.

13 “(C) Deficiencies identified in the facility’s
14 most recent standard survey and the extent to
15 which the facility corrected such deficiencies
16 since the date of the most recent survey.

17 “(D) The number, type, severity, and out-
18 come of substantiated complaints.

19 “(E) The number of adjudicated instances
20 of criminal violations by a facility or the em-
21 ployees of a facility.

22 “(F) The number of civil monetary pen-
23 alties levied against the facility, employees, con-
24 tractors, and other agents of the facility.

1 “(G) Selected quality measures (such as
2 the percentages of long-stay residents who expe-
3 rience pressure ulcers, are physically restrained,
4 experience falls with major injury, or received
5 antipsychotic medication).

6 “(H) Whether a facility is connected to an
7 assisted living facility and whether such facili-
8 ties should be rated separately from facilities
9 that are standalone skilled nursing facilities or
10 nursing facilities.

11 “(I) Other items determined appropriate
12 by the Secretary.

13 “(4) REPORT.—Not later than 180 days after
14 the completion of the review under paragraph (1),
15 the Secretary shall submit to the Committee on Fi-
16 nance of the Senate and the Committee on Ways
17 and Means of the House of Representatives a final
18 report that includes such findings and recommenda-
19 tions as the Secretary considers appropriate based
20 on the review, including recommended actions to be
21 taken to implement the specific recommendations in
22 such report.

23 “(5) CONSULTATION.—In conducting such re-
24 view and implementing modifications of the system,

1 the Secretary shall consult with each of the fol-
2 lowing:

3 “(A) State long-term care ombudsman pro-
4 grams.

5 “(B) Adult protective services agencies.

6 “(C) Consumer advocacy and other non-
7 profit organizations whose mission is to pro-
8 mote the health, safety, and well being of older
9 Americans.

10 “(D) Provider stakeholder groups.

11 “(E) Statewide provider agencies and ad-
12 vocacy groups with relevant expertise.

13 “(F) Any other representatives of pro-
14 grams or groups the Secretary determines ap-
15 propriate.

16 “(6) COVID–19 PUBLIC HEALTH EMERGENCY
17 PERIOD.—In this subsection, the term ‘COVID–19
18 public health emergency period’ means the period
19 beginning on the first day of the emergency period
20 defined in paragraph (1)(B) of section 1135(g) and
21 ending on the last day of the calendar quarter in
22 which the last day of such emergency period oc-
23 curs.”.

24 (b) TRANSPARENCY.—The Secretary shall publicly
25 report data, at least quarterly, regarding each State’s en-

1 enforcement actions with respect to deficiencies or statutory
2 violations that have been reported to the Centers for Medi-
3 care & Medicaid Services, corrective actions, if any, that
4 were recommended to resolve such deficiencies or statu-
5 tory violations, and the status of implementation of each
6 such recommended corrective action by the participating
7 provider involved.

8 (c) FUNDING.—The Secretary shall transfer to the
9 Centers for Medicare & Medicaid Services Program Man-
10 agement Account, from the Federal Hospital Insurance
11 Trust Fund established under section 1817 of the Social
12 Security Act (42 U.S.C. 1395i) a one-time allocation of
13 \$20,000,000, to be used to carry out sections 1819(j) and
14 1919(j) of the Social Security Act (42 U.S.C. 1395i–3,
15 1396r) (as added by subsection (a)) and subsection (b).
16 The amount shall be available on the date of the enact-
17 ment of this Act and shall remain available until expended.

18 **SEC. 9. ENHANCING FEDERAL OVERSIGHT OF NURSING**
19 **HOMES PARTICIPATING IN MEDICARE OR**
20 **MEDICAID.**

21 (a) IDENTIFICATION OF FACILITIES INCLUDED IN,
22 OR CANDIDATES FOR, THE SPECIAL FOCUS FACILITY
23 PROGRAM.—Not later than 60 days after the date of en-
24 actment of this Act, the Secretary shall publish the fol-
25 lowing lists on the official internet website of the Federal

1 Government for Medicare beneficiaries (commonly re-
2 ferred to as the “Nursing Home Compare” Medicare
3 website) (or a successor website):

4 (1) A list of all participating providers that are
5 included in the special focus facility program con-
6 ducted under sections 1819(f)(8) and 1919(f)(10) of
7 the Social Security Act (42 U.S.C. 1395i–3(f)(8),
8 1396r(f)(10)).

9 (2) A list of all participating providers that
10 have been identified as candidates for such program,
11 based on the most recent survey of the facility.

12 (b) REGULARLY PUBLISHED UPDATES.—The Sec-
13 retary shall publish periodic updates of the lists published
14 under subsection (a) no less often than once every 30 days.

15 (c) DATA COLLECTION.—To the extent that the Sec-
16 retary maintains a system to collect certification defi-
17 ciencies and licensure violations relating to participating
18 providers (such as the Automated Survey Processing Envi-
19 ronment “ASPEN” or a successor system), the Secretary
20 shall develop methods to separately track reports of con-
21 firmed incidents of abuse or neglect in such providers on
22 survey forms through such system.

23 (d) GUIDANCE ON THE MEANING OF TERMS.—Not
24 later than 18 months after the date of enactment of this
25 Act, the Secretary, after consultation with staff of partici-

1 pating providers and other long-term care facilities that
2 receive provider payments under the Medicare or Medicaid
3 programs, shall issue guidance for such participating pro-
4 viders and other long-term care facilities to clarify the
5 meaning of certain terms, such as “suspicious”, “injuries
6 of unknown source”, and “mistreatment”, when used in
7 the statutory and regulatory requirements for such pro-
8 viders relating to reporting and tracking incidents of
9 abuse, sexual abuse, neglect, mistreatment, or exploitation
10 of residents of such providers by facility staff, including
11 on social media.

12 **SEC. 10. CONTINUING FUNDING FOR PROGRAMS TO PRE-**
13 **VENT AND PROSECUTE ELDER ABUSE AND**
14 **NEGLECT.**

15 (a) LONG-TERM CARE OMBUDSMAN PROGRAM
16 GRANTS AND TRAINING.—Section 2043 of the Social Se-
17 curity Act (42 U.S.C. 1397m–2) is amended—

18 (1) in subsection (a)(2)—

19 (A) in subparagraph (B), by striking
20 “and” after the semicolon;

21 (B) in subparagraph (C), by striking the
22 period at the end and inserting “; and”; and

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

24 “(D) for each of fiscal years 2020 through
25 2023, \$12,000,000.”; and

1 (2) in subsection (b)(2), by inserting before the
2 period the following: “, and for each of fiscal years
3 2020 through 2023, \$12,000,000”.

4 (b) ELDER ABUSE, NEGLECT, AND EXPLOITATION
5 FORENSIC CENTERS.—Section 2031(f) of the Social Secu-
6 rity Act (42 U.S.C. 1397l(f)) is amended—

7 (1) in paragraph (2), by striking “and” after
8 the semicolon;

9 (2) in paragraph (3), by striking the period at
10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(4) for each of fiscal years 2020 through
13 2023, \$10,000,000.”.

14 (c) ELDER JUSTICE COORDINATING COUNCIL.—

15 (1) MEMBERSHIP.—Section 2021(b)(1) of the
16 Social Security Act (42 U.S.C. 1397k(b)(1)) is
17 amended—

18 (A) by redesignating subparagraph (C) as
19 subparagraph (D); and

20 (B) by inserting after subparagraph (B),
21 the following:

22 “(C) The Administrator of the Federal
23 Emergency Management Agency.”.

24 (2) DUTIES.—Section 2021(f)(1) of such Act
25 (42 U.S.C. 1397k(f)(1)) is amended by inserting

1 “the Federal Emergency Management Agency,”
2 after “Justice,”.

3 (d) ADULT PROTECTIVE SERVICES FUNCTIONS AND
4 GRANT PROGRAMS.—Section 2042 of the Social Security
5 Act (42 U.S.C. 1397m–1) is amended—

6 (1) in subsection (a)(2), by striking
7 “\$3,000,000” and all that follows through the pe-
8 riod and inserting “\$5,000,000 for each of fiscal
9 years 2020 through 2023.”;

10 (2) in subsection (b)(5), by striking
11 “\$100,000,000” and all that follows through the pe-
12 riod and inserting “\$120,000,000 for each of fiscal
13 years 2020 through 2023.”; and

14 (3) in subsection (c)(6), by striking
15 “\$25,000,000” and all that follows through the pe-
16 riod and inserting “\$30,000,000 for each of fiscal
17 years 2020 through 2023.”.

18 (e) TECHNICAL AMENDMENT.—Section 2011(12)(A)
19 of the Social Security Act (42 U.S.C. 1397j(12)(A)) is
20 amended by striking “450b” and inserting “5304”.

1 **SEC. 11. INCREASING RESOURCES TO INVESTIGATE ABUSE**
2 **OR NEGLECT AND EXTEND SERVICES TO VIC-**
3 **TIMS.**

4 (a) **FUNDING FOR ADULT PROTECTIVE SERVICES**
5 **DURING THE COVID-19 PUBLIC HEALTH EMER-**
6 **GENCY.—**

7 (1) **IN GENERAL.—**A total of \$60,000,000 of
8 the amounts appropriated to make payments or
9 funds available on or after July 1, 2020, for re-
10 sponding to the public health or fiscal impacts re-
11 lated to the Coronavirus Disease (COVID-19) under
12 Federal legislation enacted on or after that date
13 which primarily makes appropriations for the
14 coronavirus response and related activities, shall be
15 transferred and made available to the Secretary to
16 make direct payments under this subsection to the
17 agency of each State with primary responsibility for
18 adult protective services and to tribally operated
19 adult protective services agencies, notwithstanding
20 the original purpose for which the amounts were ap-
21 propriated to make such payments or funds avail-
22 able, or any other provision of law restricting the
23 use of such payments or funds.

24 (2) **PAYMENTS.—**

1 (A) IN GENERAL.—From the funds trans-
2 ferred and made available under paragraph (1),
3 the Secretary shall—

4 (i) reserve 3 percent of such funds for
5 making payments to tribally operated adult
6 protective services agencies in such man-
7 ner, and based on such information, as the
8 Secretary shall specify; and

9 (ii) make allotments to States from
10 the remainder of such funds (after the ap-
11 plication of clause (i)), in the same manner
12 as amounts are allotted to States for fiscal
13 year 2020 under section 2003(b) of the
14 Social Security Act (42 U.S.C. 1397b(b)).

15 (B) DIRECT PAYMENTS.—The Secretary
16 shall make direct payment from the amounts
17 reserved under subparagraph (A) to tribally op-
18 erated adult protective services agencies and
19 from the amounts allotted under that subpara-
20 graph to the agency of each State with primary
21 responsibility for adult protective services.

22 (3) OTHER REQUIREMENTS.—

23 (A) NO MATCH.—No cash or in-kind
24 matching requirement shall apply to the pay-
25 ments made under this subsection.

1 (B) DEADLINE.—The Secretary shall make
2 the payments required under this subsection
3 not later than 60 days after the date on which
4 funds are transferred and made available under
5 paragraph (1).

6 (C) USE OF FUNDS.—Each agency that re-
7 ceives funds from a payment made under this
8 subsection shall use the funds to provide adult
9 protective services during the COVID–19 public
10 health emergency period.

11 (D) PROHIBITION.—No funds from a pay-
12 ment made under this subsection shall be used
13 to satisfy any requirement of a federally funded
14 program relating to State or local matching
15 funds or in-kind contributions.

16 (4) DEFINITIONS.—In this subsection:

17 (A) ADULT PROTECTIVE SERVICES.—The
18 term “adult protective services” has the mean-
19 ing given that term in section 2011(2) of the
20 Social Security Act (42 U.S.C. 1397j(2)).

21 (B) INDIAN COUNTRY.—The term “Indian
22 country” has the meaning given that term in
23 section 1151 of title 18, United States Code.

24 (C) STATE.—The term “State” has the
25 meaning given that term in section 1101(a)(1)

1 of the Social Security Act (42 U.S.C.
2 1301(a)(1)) for purposes of title XX of such
3 Act.

4 (D) TRIBALLY OPERATED ADULT PROTEC-
5 TIVE SERVICES AGENCY.—The term “tribally
6 operated adult protective services agency”
7 means an agency of the recognized governing
8 body of any Indian or Alaska Native Tribe,
9 band, Nation, pueblo, village, community, com-
10 ponent band, or component reservation, individ-
11 ually identified (including parenthetically) in
12 the list published most recently as of the date
13 of enactment of this Act pursuant to section
14 104 of the Federally Recognized Indian Tribe
15 List Act of 1994 (25 U.S.C. 5131) whose pri-
16 mary purpose is to protect any vulnerable adult
17 who is the victim of an alleged or substantiated
18 incident of abuse, neglect, or exploitation in In-
19 dian Country.

20 (b) AUTHORITY FOR TRANSFERS FROM THE CRIME
21 VICTIMS FUND.—Section 1402(d)(3) of the Victims of
22 Crime Act of 1984 (34 U.S.C. 20101(d)(3)) is amended
23 by adding at the end the following:

24 “(C)(i) Notwithstanding subparagraph
25 (B), the Director may use not more than 3 per-

1 cent of the amount to be distributed from the
2 Fund under this paragraph in a particular fis-
3 cal year to provide and improve services for vic-
4 tims of elder abuse, neglect, or exploitation by
5 a department or agency of the Federal Govern-
6 ment other than the Department of Justice.”.

7 **SEC. 12. PROTECTING AMERICANS WITH DEMENTIA.**

8 (a) ALZHEIMER’S DISEASE BEST PRACTICES AND
9 REPORTING.—

10 (1) ADDRESSING ALZHEIMER’S DISEASE IN
11 BEST PRACTICES.—

12 (A) IN GENERAL.—Section 101(b) of the
13 Elder Abuse Prevention and Prosecution Act
14 (34 U.S.C. 21711(b)) is amended—

15 (i) by redesignating subparagraphs
16 (A), (B), and (C) of paragraph (2) as
17 clauses (i), (ii), and (iii), respectively, and
18 adjusting the margin accordingly;

19 (ii) by redesignating paragraphs (1),
20 (2), and (3) as subparagraphs (A), (B),
21 and (C), respectively, and adjusting the
22 margin accordingly;

23 (iii) by striking “Not later than” and
24 inserting the following:

25 “(1) IN GENERAL.—Not later than”;

1 (iv) in paragraph (1)(B), as so reded-
2 ignated—

3 (I) in clause (ii), by inserting “,
4 including witnesses who have Alz-
5 heimer’s disease and related demen-
6 tias” after “other legal issues”; and

7 (II) in clause (iii), by striking
8 “elder abuse cases,” and inserting
9 “elder abuse cases (including victims
10 and witnesses who have Alzheimer’s
11 disease and related dementias),”; and

12 (v) by adding at the end the following:

13 “(2) TRAINING MATERIALS.—

14 “(A) IN GENERAL.—In creating or com-
15 piling replication guides and training materials
16 under paragraph (1)(B), the Elder Justice Co-
17 ordinator shall consult with the Secretary of
18 Health and Human Services, State, local, and
19 Tribal adult protective services, aging, social,
20 and human services agencies, Federal, State,
21 local, and Tribal law enforcement agencies, and
22 nationally recognized nonprofit associations
23 with relevant expertise, as appropriate.

24 “(B) UPDATING.—The Elder Justice Coor-
25 dinator shall—

1 “(i) review the best practices identi-
2 fied and replication guides and training
3 materials created or compiled under para-
4 graph (1)(B) to determine if the replica-
5 tion guides or training materials require
6 updating; and

7 “(ii) perform any necessary updating
8 of the replication guides or training mate-
9 rials.”.

10 (B) APPLICABILITY.—The amendments
11 made by subparagraph (A) shall—

12 (i) take effect on the date of enact-
13 ment of this Act; and

14 (ii) apply on and after the date that
15 is 1 year after the date of enactment of
16 this Act.

17 (2) REPORT ON OUTREACH.—

18 (A) IN GENERAL.—Section 101(c)(2) of
19 the Elder Abuse Prevention and Prosecution
20 Act (34 U.S.C. 21711(c)(2)) is amended—

21 (i) by redesignating subparagraphs
22 (A) through (D) as clauses (i) through
23 (iv), respectively, and adjusting the margin
24 accordingly;

1 (ii) by striking “a report detailing”
2 and inserting the following: “a report—
3 “(A) detailing”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(B) with respect to the report by the At-
7 torney General, including a link to the publicly
8 available best practices identified under sub-
9 section (b)(1)(B) and the replication guides and
10 training materials created or compiled under
11 such subsection.”.

12 (B) APPLICABILITY.—The amendments
13 made by subparagraph (A) shall apply with re-
14 spect to the report under section 101(e)(2) of
15 the Elder Abuse Prevention and Prosecution
16 Act (34 U.S.C. 21711(e)(2)) submitted during
17 the second year beginning after the date of en-
18 actment of this Act, and each year thereafter.

19 (b) PROMOTING ACCOUNTABILITY OF COURT-AP-
20 POINTED GUARDIANS.—Section 2042(c) of the Social Se-
21 curity Act (42 U.S.C. 1397m–1(c)) is amended—

22 (1) in paragraph (1), by striking “paragraph
23 (2)(E)” and inserting “subparagraphs (E), (F), (G),
24 and (H) of paragraph (2)”;

25 (2) in paragraph (2)—

1 (A) in the matter preceding subparagraph

2 (A)—

3 (i) by striking “Funds” and inserting

4 “Subject to paragraph (7), funds”; and

5 (ii) by striking “subparagraph (E)”

6 and inserting “subparagraphs (E), (F),

7 (G), and (H)”;

8 (B) in subparagraph (E), by striking “or”

9 at the end;

10 (C) by redesignating subparagraph (F) as

11 subparagraph (I); and

12 (D) by inserting after subparagraph (E)

13 the following new paragraphs:

14 “(F) methods to assess State guardianship

15 statistics such as the creation of State data-

16 bases to collect information about the number

17 and characteristics of guardianship arrange-

18 ments, guardians, and individuals subject to

19 guardianship;

20 “(G) the use of trained court visitors to

21 improve court administration of guardianship

22 arrangements, including the appointment and

23 oversight of guardians;

24 “(H) methods for collecting, storing, and

25 making available to the appropriate individuals,

1 organizations, and entities information on pro-
2 spective, current, and previously appointed
3 guardians, which may include—

4 “(i) contact and identifying informa-
5 tion;

6 “(ii) information relating to back-
7 ground check investigations;

8 “(iii) court decisions regarding peti-
9 tions for appointment as a guardian, in-
10 cluding the rationale for such decisions;
11 and

12 “(iv) information relating to the cause
13 for removal of the guardian or termination
14 of the guardianship arrangement; or”;

15 (3) in paragraph (4), by striking “paragraph
16 (2)(E)” and inserting “subparagraphs (E), (F), (G),
17 and (H) of paragraph (2)”;

18 (4) in paragraph (5), by striking “paragraph
19 (2)(E)” each place it appears and inserting “sub-
20 paragraphs (E), (F), (G), and (H) of paragraph
21 (2)”;

22 (5) by adding at the end the following new
23 paragraph:

24 “(7) ENSURING DEMONSTRATION PROGRAM
25 FUNDING FOR THE HIGHEST COURTS OF STATES.—

1 demographics of residents and caregivers of such facilities,
2 particularly with respect to residents and caregivers of
3 such facilities who are members of racial or ethnic minor-
4 ity groups.

5 (c) ADMINISTRATION.—

6 (1) CHAIRPERSON.—The Secretary shall serve
7 as the chairperson of the task force. The Surgeon
8 General shall serve as the vice chairperson.

9 (2) STAFF.—The task force shall have 2 full-
10 time staff members.

11 (3) MEETINGS.—The task force shall convene
12 at least monthly, with the first meeting to occur
13 within 60 days after the enactment of this Act.

14 (d) REPORTING AND RECOMMENDATIONS.—

15 (1) MONTHLY REPORTS.—Not later than 45
16 days after the 1st meeting of the task force, and
17 monthly thereafter, the task force shall submit to
18 Congress and the Federal Emergency Management
19 Agency a report that includes—

20 (A) recommended methodologies for im-
21 proving Federal data collection on resident out-
22 comes in long term care facilities with dis-
23 proportionately high rates of admission of indi-
24 viduals who are members of racial or ethnic mi-
25 nority groups;

1 (B) the identification of long-term care fa-
2 cilities evidencing racial or ethnic disparities in
3 psychotropic drug usage, infection prevention
4 and control deficiencies, hospitalization rates,
5 infectious disease rates, injury rates, abuse
6 rates, neglect rates, fatality rates, and any ad-
7 ditional areas, as determined by the task force
8 based on available public health data (or, if no
9 such data are available, on the basis of such
10 other publicly available data or information as
11 the task force may determine);

12 (C) the identification of factors, including
13 Federal and State policies, that have contrib-
14 uted to racial or ethnic health disparities in
15 resident outcomes in long term care facilities,
16 and actions Congress (and if appropriate, other
17 entities) can take to address these factors; and

18 (D) recommendations for best practices to
19 promote improvements in long-term care facili-
20 ties evidencing racial or ethnic disparities in
21 psychotropic drug usage, infection prevention
22 and control deficiencies, hospitalization rates,
23 infectious disease rates, injury rates, abuse and
24 neglect rates, fatality rates, or any additional
25 areas determined by the task force.

1 (2) CONSULTATION WITH INDIAN TRIBES.—In
2 submitting reports and recommendations under this
3 subsection, the task force shall consult with Indian
4 Tribes and Tribal organizations.

5 (3) SUNSET.—The task force shall terminate on
6 December 31, 2021.

7 **SEC. 14. ESTABLISHING RECIPROCITY WITH DRUG EN-**
8 **FORCEMENT ADMINISTRATION TO ADDRESS**
9 **IMPROPER PRESCRIBING OF CONTROLLED**
10 **SUBSTANCES.**

11 (a) NOTIFICATION OF THE ATTORNEY GENERAL BY
12 THE SECRETARY OF HEALTH AND HUMAN SERVICES IN
13 CASES OF IMPROPER PRESCRIBING OF CONTROLLED
14 SUBSTANCES.—

15 (1) IN GENERAL.—Section 1866(j) of the Social
16 Security Act (42 U.S.C. 1395cc(j)) is amended by
17 adding at the end the following new paragraph:

18 “(10) NOTIFICATION OF ATTORNEY GEN-
19 ERAL.—

20 “(A) IN GENERAL.—If the Secretary
21 makes a determination described in subpara-
22 graph (B) with respect to improper prescribing
23 of a controlled substance (as defined in section
24 102(6) of the Controlled Substances Act), the

1 Secretary shall notify the Attorney General in
2 accordance with subparagraph (C).

3 “(B) DETERMINATION BY SECRETARY.—A
4 determination described in this subparagraph is
5 a determination by the Secretary under
6 which—

7 “(i) the enrollment of a provider of
8 services or supplier under this title is re-
9 voked, based in whole or in part on a find-
10 ing by the Secretary under section
11 424.535(a)(14) of title 42, Code of Federal
12 Regulations (or any successor regulation),
13 as applied to improper prescribing of con-
14 trolled substances; or

15 “(ii) a provider of services or supplier
16 is placed on the preclusion list as defined
17 under sections 422.2 and 423.100 of such
18 title 42 (or any successor regulation),
19 based in whole or in part on a finding by
20 the Secretary that such provider or sup-
21 plier has engaged in conduct, in connection
22 with prescribing of controlled substances,
23 that would be considered improper pre-
24 scribing under such section

1 424.535(a)(14), if the provider of services
2 or supplier were enrolled under this title.

3 “(C) NOTIFICATION.—If the Secretary re-
4 vokes an enrollment or makes a preclusion list
5 placement as described in subparagraph (B),
6 the Secretary shall notify the Attorney General
7 of such revocation or placement, no later than
8 30 days after—

9 “(i) the affirmation of such Secre-
10 tarial action, in response to a request for
11 reconsideration by the provider of services
12 or supplier involved under section
13 424.545(a) or part 498 of such title 42, as
14 applicable (or any successor regulations);
15 or

16 “(ii) absent such a request for recon-
17 sideration, expiration of the time period
18 during which such a request may be filed.

19 “(D) SUBSEQUENT NOTIFICATION.—In the
20 case that a revocation of enrollment or a pre-
21 clusion list placement as described in subpara-
22 graph (B) is reversed under proceedings subse-
23 quent to the appropriate notification under sub-
24 paragraph (C), the Secretary shall inform the
25 Attorney General of such reversal (and as appli-

1 cable, reinstatement of such enrollment or re-
2 moval from the preclusion list).”.

3 (2) TECHNICAL CORRECTION TO CITATION FOR
4 APPEALS PROVISION.—Section 1866(j)(5)(B) of the
5 Social Security Act (42 U.S.C. 1395cc(j)(5)(B)) is
6 amended by striking “paragraph (7)” and inserting
7 “paragraph (9)”.

8 (b) REVOCATION OF REGISTRATION UNDER THE
9 CONTROLLED SUBSTANCES ACT.—Section 304 of the
10 Controlled Substances Act (21 U.S.C. 824) is amended
11 by adding at the end the following:

12 “(h)(1) Upon receipt of a notification from the Sec-
13 retary under section 1866(j)(10)(C) of the Social Security
14 Act (42 U.S.C. 1395cc(j)(10)(C)) of a determination of
15 the Secretary to revoke an enrollment or make a pre-
16 clusion list placement, the Attorney General shall revoke
17 the registration granted under section 303 of this Act of
18 the registrant that is the subject of such revocation or
19 placement.

20 “(2) After revocation of a registration under para-
21 graph (1), if the Attorney General receives information
22 from the Secretary under section 1866(j)(10)(D) of the
23 Social Security Act (42 U.S.C. 1395cc(j)(10)(D)) that the
24 determination of the Secretary described in paragraph (1)
25 has been reversed, the Attorney General may reverse the

- 1 revocation of the registration if the Attorney General de-
- 2 termines such reversal is appropriate.”.