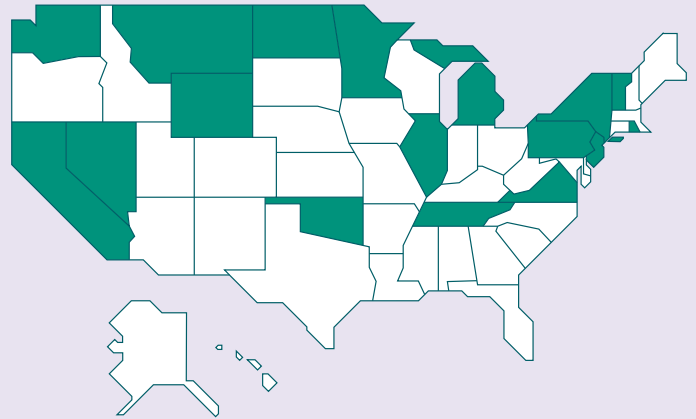


# Elder Justice Policy Highlights

SEPTEMBER 2022 – FEBRUARY 2023

The NCEA's biannual elder justice policy compilation surveys national and state legislation for the period of September 2022 through February 2023. This update includes federal and state elder justice legislative activity. Policy highlights are classified below as Enacted Legislation and Pending Legislation.



## Topic Index

The following themes were identified:

Consumer Information and Education: [California AB 48](#), [California SB 290](#), [Michigan HB 6473](#), [New York SB 1730](#)

Definitions of Elder Abuse: [Montana SB 34](#), [Washington SB 5115](#)

Financial Exploitation: [H.R. 500](#), [California SB 278](#), [California AB 386](#), [California SB 975](#), [Nevada SB 61](#), [New York A 4177](#), [North Dakota SB 2325](#), [Wyoming SF 0024](#)

General: [H.R. 2617](#), [New York S 4517](#), [New York SB 1730](#), [Oklahoma HB 2741](#), [Oklahoma HB 2753](#)

Guardianship/Conservatorship: [California AB 1663](#), [Virginia HB 2027](#)

Information-sharing between Agencies: [California SB 1054](#), [Pennsylvania SB 137](#), [Washington SB 5370](#)

Investigation: [Minnesota SF 33](#), [Tennessee HB 704](#), [Vermont H 171](#)

Long-Term Care/Healthcare Facilities: [California AB 48](#), [Michigan HB 6473](#), [New Jersey A 4543](#), [Rhode Island HB 5355](#), [Virginia HB 1446](#)

Reporting Suspected Abuse: [Illinois SB 1826](#), [Montana SB 34](#), [New Jersey A 4543](#), [New York A 4177](#), [Wyoming SF 0024](#)

Have questions or want to share some news or legislation with us?



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ONLINE: [ncea.acl.gov](http://ncea.acl.gov)

## Enacted Legislation

### NATIONAL

#### H.R. 2617

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Enacted on December 29, 2022, the omnibus appropriations bill funds federal programs through the end of September 2023. This legislation authorized \$15 million in funding to Adult Protective Services (APS) formula grants. This marks the first time that APS formula grants were funded through the regular appropriations process. Funding for APS formula grants for the previous fiscal year was provided through the American Rescue Plan Act of 2021. This legislation also provided an increase of \$2 million for the long-term care ombudsman program for fiscal year 2023.

### STATES

#### California

##### California SB 975

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Approved by the Governor on September 30, 2022, this measure recognizes that in financial elder abuse cases, family members and other trusted individuals might use coercion or fraud to indebt older relatives. The measure allows an alleged debtor to bring an action or claim against an alleged creditor to establish that the alleged creditor's claim arises from a coerced debt, as specified in the legislation. If an alleged debtor establishes that a claim arises from a coerced debt, the measure entitles that alleged debtor to specified relief, including an injunction restraining the creditor from holding or attempting to hold the alleged debtor personally liable on the claim, or from enforcing a judgment related to the claim.

##### California SB 1054

[View Online](#)

Enacted on September 23, 2022, this legislation authorizes Adult Protective Services (APS) or child welfare agency employees to disclose information to each other for the purpose of multidisciplinary teamwork in the prevention, intervention, management, or treatment of child abuse/neglect or the abuse or neglect of an elder/dependent adult. It also adds APS personnel to the definitions of "multidisciplinary personnel" and "child abuse multidisciplinary team." This measure addresses information gaps and enables coordination when dealing with cases of elder and child abuse.

## California AB 1663

[View Online](#)

Approved by the Governor on September 30, 2022, this measure revises how probate conservatorships are investigated, established, and terminated. This law requires documented consideration of less restrictive alternatives to conservatorship and creates a supported decision-making system to be delivered through self-help centers in every county court. The law emphasizes the proposed conservatee's preferences in the outcome of a conservatorship proceeding and makes it easier to terminate a conservatorship. The legislation also creates a new definition of "adult with a disability," adding older individuals with cognitive impairments, Alzheimer's disease, and dementia to the definition of disabled adults who can object to their proposed conservatorship or request its termination.

## Minnesota

### Minnesota SF 33

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Effective February 8, 2023, this measure appropriates \$2,021,000 in fiscal year 2024 and \$2,021,000 in fiscal year 2025 from the general fund to the Office of the Attorney General, to provide needed legal services to prosecute violent crimes and crimes that financially harm consumers and businesses. This appropriation will be used to hire seven full-time attorneys and two full-time legal assistants to enable the Attorney General to enforce the criminal laws of the state, to respond to the unmet needs of counties, and to provide necessary assistance to county prosecution of serious offenses.

## Montana

### Montana SB 34

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Approved by the Governor on February 16, 2023, this measure changes the terminology

of "an older person or a developmentally disabled person" to "vulnerable adult" in the context of unfair or deceptive acts. It adds that a person is guilty of an offense if the person purposely or knowingly: a) gives false information to any APS representative, county attorney, or law enforcement officer for the purpose of implicating another person; (b) reports to APS, the county attorney, or law enforcement authorities an offense or other incident within the person's concern knowing that it did not occur; or (c) pretends to furnish APS, the county attorney, or law enforcement authorities with information relating to an offense or incident when the person has no information relating to the alleged offense.

## Wyoming

### Wyoming SF 0024

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Passed on February 15, 2023, this measure requires qualified individuals of financial institutions, as detailed in the legislation, to report suspected financial exploitation of a vulnerable adult. The financial institution would assess the suspected financial exploitation and, if warranted, submit a report to the Department of Family Services. The financial institution would also be authorized to notify a third party and place a hold on any transaction that involves an account of a vulnerable adult or that contains the vulnerable adult's assets or property, if financial exploitation is suspected. The measure provides immunity for qualified individuals, as detailed in the legislation. The measure also requires a financial institution to provide, on request, access to relevant records to the Department of Family Services, a law enforcement agency, or a district attorney's office, either as part of a report to, or at the request of one of these entities, in accordance with an investigation.

# Pending Legislation

## NATIONAL

The **Elder Justice Reauthorization and Modernization Act** was not enacted during the last Congress, but proponents intend to renew their efforts to secure reauthorization of the Elder Justice Act and obtain increased funding for elder justice programs.

### H.R. 500

[View Online](#)

Passed by the House on January 30, 2023, the Financial Exploitation Prevention Act of 2023 authorizes open-end investment companies to comply with certain procedures to respond to suspected financial exploitation. (Open-end investment management companies offer securities in pooled investment vehicles such as mutual funds.) Companies may delay the redemption of a security for up to 15 days, if they reasonably believe the redemption involves the financial exploitation of an individual age 65 or older, or an individual age 18 or older who is unable to protect their own interests. Additionally, the Securities and Exchange Commission would make legislative and regulatory recommendations to address financial exploitation. The measure is awaiting passage by the Senate.

## STATES

### California

#### California AB 48

[View Online](#)

Introduced on December 5, 2022, this measure would expand residents' rights in skilled nursing facilities and intermediate care facilities to include the right to receive information material to an individual's informed consent decision to accept or refuse psychotherapeutic drugs. This bill would add the right to be free from psychotherapeutic drugs used for the purpose of resident discipline, convenience, or chemical restraint, except in an emergency that threatens to cause immediate injury to the resident or others. The measure also requires facility staff to verify that a resident's health record contain a signed consent form before initiating treatment with psychotherapeutic drugs. Within 6 months after the consent form is signed, and every 6 months thereafter, the facility would be required to provide written notice to the resident and their

representative of any recommended dosage adjustments and the resident's right to revoke consent. The willful or repeated violation of these provisions would be punishable as a misdemeanor. The bill would require the standardized informed consent form to be available to skilled nursing facilities and intermediate care facilities by December 31, 2024. This measure would also require the State Department of Public Health to inspect for compliance with these requirements. The bill was referred to the Assembly Committee on Health and Assembly Judiciary Committee on January 26, 2023.

#### California SB 278

[View Online](#)

Introduced on February 1, 2023, this measure would amend the Elder Abuse and Dependent Adult Civil Protection Act. The Act currently addresses that a person or entity has committed financial exploitation if the person or entity takes, secretes, appropriates, obtains, or retains the

property. This measure adds that persons who assist in any of these actions, knowing that this conduct is likely to be harmful to the elder or dependent adult, have also committed financial exploitation.

### **California SB 290**

[View Online](#)

Introduced on February 2, 2023, this measure expands existing legislation requiring state and local law enforcement agencies to provide, upon request, one copy of all incident report face sheets, one copy of all incident reports, or both, to a victim, or the representative of a victim, of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult. This bill would also require the state or local law enforcement agency to make available to a victim or representative, any accompanying or related photographs, digital recordings, and other digital evidence. The time limit to request the documentation would be extended from 2 years to 5 years.

### **California AB 386**

[View Online](#)

Introduced on February 2, 2023, this measure would amend the California Right to Financial Privacy Act. APS would be added to the list of entities that can request a bank, credit union, or savings association to furnish a statement setting forth certain information with respect to a customer account, when investigating the financial abuse of an elder or dependent adult that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association in this state. It would also expand the reports eligible for such a certification to include an elder or dependent adult abuse report. The bill would extend the coverage period to 90 days before, and up to 360 days following, the date of occurrence.

## **Illinois**

### **Illinois SB 1826**

[View Online](#)

Introduced on February 9, 2023, this bill would amend the Adult Protective Services Act by adding that any person may report information about the suspicious death of an eligible adult. It would also provide that if a mandated reporter suspects that the death of an eligible adult is the result of abuse or neglect, the matter shall be reported for subsequent referral to the appropriate law enforcement agency and coroner or medical examiner. It would also prohibit employers from discriminating against any employee who reports information concerning the suspicious death of an eligible adult.

## **Michigan**

### **Michigan HB 6473**

[View Online](#)

Introduced November 9, 2022, this measure would require nursing homes and all other health facilities or agencies providing medical services to display pamphlets, outlining the procedure for filing a complaint with the Department of Consumer and Industry Services. The complaint form would include a telephone number for oral complaints, and simple instructions on how to file a complaint with the nursing home, the Department, the state long-term care ombudsman, the Michigan Protection and Advocacy Service, Inc., and the Health Care Fraud Unit of the Office of Attorney General. A nursing home would be required to conspicuously display and make available multiple copies of the pamphlet and complaint form at each public entrance, in the patient waiting areas, or in other common areas that are easily accessible to nursing home residents and their visitors. The information would also be provided to residents and their surrogate decision makers.

## Nevada

### Nevada SB 61

[View Online](#)

Introduced on November 16, 2022, this bill would establish that the holding of an account in joint tenancy does not, in and of itself, convey legal ownership to the holders of the account. The measure would also establish that the deposits and proceeds of the account do not preclude any of those persons from being prosecuted for a crime involving the theft of any deposits or proceeds of the account, regardless of when the intent to commit the crime arose. The bill was read for the first time in the Senate on February 6, 2023.

## New Jersey

### New Jersey A 4543

[View Online](#)

Introduced on September 22, 2022, this bill would increase the fine for a person required to report suspected abuse or exploitation of an institutionalized elderly person, who fails to make a report. It would also increase the fine for the facility that employs the person. The measure would increase the fine for the person from not more than \$500 to not more than \$1,500, and the fine for the facility from not more than \$2,500 to not more than \$5,000.

## New York

### New York S 4517

[View Online](#)

Introduced on February 9, 2023, this measure would establish the elder abuse shelter aftercare demonstration program to provide management services, financial counseling, and mental health services at the conclusion of the discharge process.

### New York A 4177

[View Online](#)

Introduced on February 10, 2023, this legislation would require the superintendent

of the Department of Financial Services to develop guidelines relating to reporting suspected financial exploitation. The measure provides that a third party who reports suspected financial abuse shall have immunity from civil or criminal liability.

### New York SB 1730

[View Online](#)

Introduced on January 13, 2023, this measure would require the Office for the Aging to develop and provide elder abuse prevention training to senior service centers and contractors in consultation with the Office of Children and Family Services. This bill also requires educational sessions for guests and members of senior centers.

## North Dakota

### North Dakota SB 2325

[View Online](#)

Passed by the Senate on February 3, 2023, this bill would create a restitution fund in the state treasury for qualifying adult victims of securities law violations. Under this legislation, the commissioner would deposit up to one million dollars per biennium from the treasury's revenue into the fund. The measure provides eligibility criteria for restitution assistance including specific jurisdiction and application requirements. This measure is pending passage by the House.

## Oklahoma

### Oklahoma HB 2741

[View Online](#)

Introduced on February 6, 2023, this legislation would enact the State Elder Exploitation and Abuse Act, to protect the rights of incapacitated adults and vulnerable adults. The act would allow incapacitated persons and vulnerable adults who lack capacity to pursue claims against persons who neglect, exploit, or abuse them. The district court would

encourage self-reliance and independence of incapacitated persons and vulnerable adults, and make appointive and other orders only to the extent necessitated by the mental and adaptive limitations of the incapacitated person. A person who has committed neglect or financial neglect against a vulnerable adult would be liable for actual and punitive damages. The court would authorize the vulnerable adult and their legal representative, access to financial, legal, mental health, and physical health records of the vulnerable adult. The district court would also be authorized to issue a restraining order or other injunctive relief to prohibit any further violation of this act.

### **Oklahoma HB 2753**

[View Online](#)

Passed by the House on March 7, 2023, this measure would amend existing legislation related to elder abuse, and would authorize the Office of the Attorney General to maintain a Vulnerable Adult Abuse, Neglect and Exploitation registry, available to the public electronically, and updated quarterly. The registry would be comprised of individuals who have been found guilty by a court of law or entered a plea of nolo contendere to a charge of abuse, neglect, or exploitation of a vulnerable adult. The registry would include the full name of the individual, information necessary to identify the individual, a description of the findings of abuse, neglect, or exploitation by a court of law, and the date the individual was listed on the registry. The measure is pending passage by the Senate.

## **Pennsylvania**

### **Pennsylvania SB 137**

[View Online](#)

Introduced on January 19, 2023, this measure would amend the Telemarketer Registration Act by adding a section on investigation, enforcement and reporting.

The measure would require quarterly communication between the Attorney General and the Department of Aging to ensure that consumers aged 60 years and above are informed about preventing potential patterns of financial exploitation. The Attorney General would communicate to the Secretary of Aging about relevant investigations. The Attorney General and the Secretary of Aging would work to determine the most effective manner to share information, while ensuring adherence to rules of confidentiality. The bill was referred to the Senate Appropriations Committee on March 8, 2023.

## **Rhode Island**

### **Rhode Island HB 5355**

[View Online](#)

Introduced on February 3, 2023, this measure would allow for the use of electronic monitoring of a resident's room within a nursing home or assisted living facility, provided that the resident or resident's representative, as well as the resident's roommate or roommate's representative, consent to such electronic monitoring in writing.

## **Tennessee**

### **Tennessee HB 704**

[View Online](#)

Passed by the Senate on February 13, 2023, this measure would expand the duties of the Medicaid Fraud Control Unit of the Tennessee Bureau of Investigation to include investigation of complaints of abuse, neglect, and financial exploitation of Medicaid recipients in any setting. It would also allow the director of the Tennessee Bureau of Investigation to create new divisions within the bureau as necessary. The measure is pending passage by the House.

## Vermont

### Vermont H 171

[View Online](#)

Introduced on February 3, 2023, this measure would amend generally the statutory authority for investigating allegations of abuse, neglect, and exploitation of vulnerable adults. The bill would refine the definitions of abuse, neglect and exploitation of vulnerable adults, and reword the description of individuals who shall report suspected cases. The processes of assessment, investigation and documentation by the Department of Disabilities, Aging and Independent Living would be amended. The process by which a person's name is added to the Adult Abuse Registry would be amended along with the process for disclosure of Registry information. Administrative Review processes would be established. APS would have access to financial, medical and psychological records relevant to an investigation. Penalties for a mandated reporter failing to make a required report would be increased.

## Virginia

### Virginia HB 1446

[View Online](#)

Passed by the House on January 31, 2023, and the Senate on February 15, 2023, this bill would set nursing staffing requirements for certified nursing facilities, impose administrative sanctions on a certified nursing facility that does not comply with the staffing requirements, and provide for exemptions to the administrative sanctions under certain circumstances. The measure is pending approval by the Governor.

### Virginia HB 2027

[View Online](#)

Passed by the Senate on February 22, 2023, and passed by the House on February 23, 2023, this bill would provide that a

guardian shall not restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship, unless such restriction is reasonable to prevent physical, mental, or emotional harm to or financial exploitation. The bill would require that the guardian provide written notice to any restricted person stating: 1) the nature and terms of the restriction; 2) the reasons why the guardian believes the restriction is necessary; and 3) how the restricted person may challenge such restriction in court. The bill provides a procedure by which an incapacitated person or a person whose communication, visits, or interaction with an incapacitated person has been restricted may challenge the restriction in court.

## Washington

### Washington SB 5115

[View Online](#)

Introduced January 9, 2023, this measure would clarify what constitutes mental abuse of vulnerable adults. The definition would be modified to include an action by an agent under power of attorney to unreasonably confine a vulnerable adult to a care facility.

### Washington SB 5370

[View Online](#)

Passed by the Senate on February 28, 2023, this bill would establish that the Department of Social and Health Services (DSHS) and law enforcement must share information contained in reports and findings of abandonment, abuse, financial exploitation, and neglect of vulnerable adults, with each other. The bill defines what information may be shared. DSHS would be prohibited from disclosing information about a specifically named vulnerable adult under specific circumstances, as detailed in the legislation. The measure would also modify the definition of mandated



reporter to include an employee of Department of Children, Youth and Families, an operator of certified residential services and supports agency, or an employee of a facility or certified residential services and supports agency. The bill would also authorize the DSHS secretary to examine and obtain records of autopsies or postmortems.

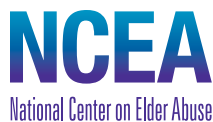
## Legislation Tracked in Specific Topic Areas

The following links provide additional information on legislative activity relevant to guardianship and financial exploitation.

Guardianship: [American Bar Association, Commission on Law and Aging](#)

Independent Financial Advisors and Firms: [The Financial Services Institute \(FSI\)](#) tracks and supports legislation in each state that provides protection and mandated reporting for independent financial advisors and firms when they suspect financial exploitation, as well as the ability to temporarily hold account transactions and support investigation efforts.

Financial Exploitation: [National Conference of State Legislatures](#)



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