



AMERICAN BAR ASSOCIATION

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STATEMENT

of

JOSEPH D. O'CONNOR

Chair

AMERICAN BAR ASSOCIATION COMMISSION ON LAW AND AGING

on behalf of the

AMERICAN BAR ASSOCIATION

submitted to the

**SUBCOMMITTEE ON CRIME, TERRORISM
AND HOMELAND SECURITY**

of the

HOUSE JUDICIARY COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

on the subject of

H.R. 1783, the Elder Justice Act

April 17, 2008

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to present the views of the American Bar Association on H. R. 1783, the “Elder Justice Act.”

The American Bar Association commends the Crime, Terrorism and Homeland Security Subcommittee of the House Judiciary Committee for holding this hearing on the Elder Justice Act. The Committee has before it a tremendous opportunity to address in a strong bipartisan way the growing national problem of elder abuse, neglect and exploitation – a domestic and institutional tragedy that causes serious harm to between 500,000 and 5 million individuals each year. The American Bar Association strongly supports enactment of this legislation. No current federal law adequately and comprehensively addresses issues of elder abuse, neglect, and exploitation, and there are very limited resources available to those in the field directly dealing with these issues.

The Elder Justice Act would create an infrastructure and provide resources needed to develop and implement a nationally coordinated strategy in collaboration with the states to make elder justice a reality. As elder justice is central to any viable notion of the rule of law and social justice, American Bar Association policy “supports efforts to improve the response of the federal, state, territorial and local governments and of the criminal and civil justice systems to elder abuse, neglect and exploitation” through, among other things, the creation of “a nationwide structure for raising public awareness; supporting research, training and technical assistance; funding critical services; and coordinating local, territorial, state, and national resources.” Enactment of the Elder Justice Act can make that goal a reality.

It is also important to stress how these steps at the federal level really do have an impact on preventing elder abuse and helping victims of elder abuse. We can tell you that, over the last fifteen years, American Bar Association staff have heard and read the stories of hundreds, if not thousands, of victims and caring family members who have sought assistance. Too many of those people were angry and frustrated at their inability to get help from adult protective services or law enforcement agencies, prosecutors, civil lawyers, the courts, and other local and state

government agencies, or they felt that the “help” they received was counter-productive. Their stories demonstrate that the law-related provisions of the act, which the American Bar Association supports, would only improve the quality of justice currently provided to older persons who have been abused, neglected or exploited.

The victim advocacy grants in the act that would support training about elder abuse of “health care, social, and protective services providers, law enforcement, fiduciaries (including guardians), judges and court personnel, and victim advocates” would decrease the likelihood of common situations like these: the older person whose assets were stolen by a guardian or agent under a power of attorney who is told that “it’s a civil legal problem, not a crime”; or the niece who suspects that her aunt is being financially exploited by a caregiver and subsequently learns that her suspicions were determined to be baseless after her aunt was interviewed *while the alleged perpetrator sat next to her*.

Legal assistance for older persons would enable them to protect their retirement savings from the “new best friend” or to have legal representation if they face eviction because a grandchild is making methamphetamine in the home. Grants to support hiring and training of prosecutors and provide resources to their offices would reduce the number of victims who are told that elder abuse just isn’t a priority. Studies of model state laws and practices would enable state legislators to more easily and effectively strengthen their laws protecting older persons from abuse.

The American Bar Association encourages your subcommittee to quickly approve H.R. 1783. We especially support the law-related provisions that are in the House bill and not in the Senate version of the legislation, S. 1070. If passed by the House, we will urge a conference committee to include the law-related provisions in any final bill. The serious problems faced daily by victims cannot be fixed unless the justice system is given the resources it needs to effectively address those problems.

Again, we thank you for weighing the need to move forward with the Elder Justice Act.

Thank you for giving me this opportunity to submit the American Bar Association's views to you on this important subject.