

Calendar No. 393

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-182 }

STOP SENIOR SCAMS ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 149



DECEMBER 19, 2019.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

99-010

WASHINGTON : 2019

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

ROGER F. WICKER, Mississippi, *Chairman*

| | |
|-------------------------------------|---------------------------------|
| JOHN THUNE, South Dakota | MARIA CANTWELL, Washington |
| ROY BLUNT, Missouri | AMY KLOBUCHAR, Minnesota |
| TED CRUZ, Texas | RICHARD BLUMENTHAL, Connecticut |
| DEB FISCHER, Nebraska | BRIAN SCHATZ, Hawaii |
| JERRY MORAN, Kansas | EDWARD J. MARKEY, Massachusetts |
| DAN SULLIVAN, Alaska | TOM UDALL, New Mexico |
| CORY GARDNER, Colorado | GARY C. PETERS, Michigan |
| MARSHA BLACKBURN, Tennessee | TAMMY BALDWIN, Wisconsin |
| SHELLEY MOORE CAPITO, West Virginia | TAMMY DUCKWORTH, Illinois |
| MIKE LEE, Utah | JON TESTER, Montana |
| RON JOHNSON, Wisconsin | KYRSTEN SINEMA, Arizona |
| TODD C. YOUNG, Indiana | JACKY ROSEN, Nevada |
| RICK SCOTT, Florida | |

JOHN KEAST, *Staff Director*

DAVID STRICKLAND, *Minority Staff Director*

Calendar No. 393

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 116-182

STOP SENIOR SCAMS ACT

DECEMBER 19, 2019.—Ordered to be printed

Mr. WICKER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 149]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 149) to establish a Senior Scams Prevention Advisory Council, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

S. 149 would establish a Federal advisory group called the Senior Scams Prevention Advisory Council (Advisory Council) that would charge the Federal Trade Commission (FTC) with bringing together relevant government officials, industry representatives, and advocates to collect and develop educational materials for retailers, financial institutions, and wire-transfer companies to use in preventing scams that affect seniors.

BACKGROUND AND NEEDS

Seniors, aged 65 years and older, number over 43 million and are the fastest growing segment of the U.S. population.¹ The Federal Bureau of Investigation (FBI) estimates that older Americans are

¹The U.S. Census Bureau projects the senior population in 2050 to be 83.7 million, almost double the estimated population in 2012. The Bureau also estimates that by 2030, 20 percent of the U.S. population will be over age 65, compared to 13 percent in 2010 and 9.8 percent in 1970. Jennifer Ortman, Victoria Velkoff, and Howard Hogan, *An Aging Nation: The Older Population in the United States*, U.S. Department of Commerce, Census Bureau, 2014, P25-1140 (<https://www.census.gov/content/dam/Census/library/publications/2014/demo/p25-1140.pdf>) (accessed September 4, 2019).

less likely to report fraud because they are embarrassed, don't know who to report it to, or don't know that they have been defrauded.² The average higher net worth of older Americans makes them attractive targets for criminals.³ Fraud aimed at seniors ranges from Medicare medical device fraud, where the elderly are prescribed unneeded devices, to grandparent schemes, where fraudsters call a senior and pretend to be their grandchild in need of wired emergency funds to bail them out of jail or some other dire situation.⁴ Statistics measuring the financial cost of fraud targeting seniors range from \$2.9 billion to \$12.46 billion.⁵

In the past few years fraudsters have begun to increasingly request that payment come in the form of gift or money reload cards, specifically by requiring that the senior victim provide the fraudster with the personal identification number (PIN) off the back of the gift or money reload card.⁶ By obtaining the PIN, scammers can immediately get the money that has been loaded onto the card.

The FTC has taken steps to research and create a report on the amount of losses attributed to this type of scam, finding there were \$40 million in losses through gift and money reload card scams in 2017.⁷ Specifically, the FTC noted that fraudsters are directing their victims to purchase gift or money reload cards from well-known retailers like Walmart, Target, Walgreens, and Apple iTunes.⁸

Some companies have begun to take measures to prevent gift or money reload card scams on seniors and others. For example, Walmart has put policies in place to help guard against this type of fraud by training store associates to be aware of the ongoing scam.⁹

The FTC has an ongoing consumer education campaign called Pass It On, an initiative to educate seniors and organizations about common fraud schemes.¹⁰ Pass It On helps seniors avoid common scams by encouraging older adults to talk to their family, friends,

²“Common Fraud Schemes: Fraud Against Seniors,” Scams and Safety, U.S. Department of Justice, FBI (<https://www.fbi.gov/scams-and-safety/common-fraud-schemes/seniors>) (accessed September 4, 2019).

³In 2015, the median net worth for households headed by seniors was approximately \$201,500. (The cited table has been moved or is no longer available on the U.S. Census Bureau's website.) “Wealth, Asset Ownership, & Debt of Households: 2015,” Explore Data, Tables, Income and Poverty, U.S. Department of Commerce, Census Bureau (https://www.census.gov/programs-surveys/demo/tables/wealth/2015/wealth-asset-ownership/wealth_tables_cy2015.xlsx) (accessed June 28, 2019).

⁴Stacey Colino, “Don't Fall Victim to the Grandparents Scam,” Scams and Fraud, AARP, April 18, 2018 (<https://www.aarp.org/money/scams-fraud/info-2018/grandparent-scam-scenarios.html>).

⁵True Link Financial Services. “The True Link Report on Elder Financial Abuse 2015.” San Francisco, CA: True link Financial Advisors, 2015.

⁶Emma Fletcher, “Scammers increasingly demand payment by gift card,” Enforcement, Data and Visualizations, FTC, October 16, 2018 (<https://www.ftc.gov/news-events/blogs/data-spotlight/2018/10/scammers-increasingly-demand-payment-gift-card>).

⁷Id. FTC, Consumer Sentinel Network Data Book 2017 (https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2017/consumer_sentinel_data_book_2017.pdf) (accessed September 4, 2019).

⁸Tamara Lytle, “Give Gift Cards to Friends and Family—Not Fraudsters,” AARP, November 7, 2019 (<http://www.aarp.org/money/scams-fraud/info-2019/prevent-gift-card-fraud.html>) (accessed December 12, 2019).

⁹Julie Watts, “Retailers' Efforts to Stop Gift Card Scams Often Fall Short,” News, Consumer, CBS San Francisco, April 29, 2018 (<http://sanfrancisco.cbslocal.com/2018/04/29/could-stores-gift-card-imposter-scams/>).

¹⁰FTC, “Pass It On,” Consumer Information (<https://www.ftc.gov/PassItOn>) (accessed September 4, 2019).

and neighbors about fraudulent schemes.¹¹ Since launching Pass It On in July 2014, the FTC has received requests for more than 250,000 copies of the materials from organizations in 49 States.

Additionally, the FTC partners with organizations such as the AARP to provide education and counseling to seniors that have been affected by fraud. Through this program, the FTC refers consumers over the age of 60 who have called the FTC's Consumer Response Center with complaints about fraud, to peer counselors that provide support to those who have been targeted.

The FTC also participates in the Elder Justice Coordinating Council (Council), an organization composed of 12 Federal agencies that meet regularly to coordinate activities related to elder abuse, neglect, and exploitation.¹² Every 2 years, the Council provides a report to Congress with recommendations on how to best address these abuses. The Council's most recent report contained eight recommendations for increased Federal involvement in addressing these issues, including a recommendation that agencies develop public awareness campaigns to assist in preventing elder abuse, including fraud targeting older Americans.¹³

SUMMARY OF PROVISIONS

S. 149 would establish a Senior Scams Prevention Advisory Council (Advisory Council). The membership of the Advisory Council would include representatives of the FTC, the Department of the Treasury, the Attorney General, the Consumer Financial Protection Bureau, industry sectors including retail, telecommunications, and financial services, consumer and senior advocacy groups, and other interested entities. The Advisory Council would be tasked with studying existing and creating new educational materials to guide businesses and employees in identifying and preventing scams that effect seniors. The Chairman of the FTC would make such materials publicly available and encourage their use and distribution.

LEGISLATIVE HISTORY

S. 149 was introduced on January 16, 2019, by Senator Casey (for himself and Senator Moran) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senator Tester is an additional cosponsor. On July 10, 2019, the Committee met in open Executive Session and, by voice vote, or-

¹¹FTC, "Pass It On: New FTC Education Campaign Encourages Older Consumers to Share Their Knowledge to Help Fight Fraud," News and Events, Bureau of Consumer Protection, February 25, 2015 (<https://www.ftc.gov/news-events/press-releases/2014/09/pass-it-new-ftc-education-campaign-encourages-older-consumers>).

¹²The Elder Justice Coordinating Council is chaired by the Department of Health and Human Services and its membership includes the Consumer Financial Protection Bureau, the Corporation for National and Community Service, the Federal Trade Commission, the Social Security Administration, the Department of Agriculture, the Department of Housing and Urban Development, the Department of the Interior, the Department of Justice, the Department of Labor, the Department of the Treasury, the Department of Veterans Affairs, the Postal Inspection Service, and the Securities and Exchange Commission. See Elder Justice Coordinating Council Membership List, Elder Justice Coordinating Council, Membership List (Administration for Community Living) (https://acl.gov/sites/default/files/programs/2019-03/3.%20EJCC_Member_List.docx) (accessed September 4, 2019).

¹³Elder Justice Coordinating Council, Eight (8) Recommendations for Increased Federal Involvement in Addressing Elder Abuse, Neglect, and Exploitation (Administration for Community Living, 2014) (https://acl.gov/sites/default/files/programs/2016-09/Eight_Recommendations_for_Increased_Federal_Involvement.pdf) (accessed May 2014).

dered the bill reported favorably with an amendment (in the nature of a substitute).

In the 115th Congress, a substantially similar bill, S. 3522, the Senior Scams Prevention Act, was introduced on September 27, 2018, by Senator Casey (for himself and Senator Moran) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. No action was taken on S. 3522 by the Committee.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

| S. 149, Stop Senior Scams Act | | | |
|---|---------------|-------------------------------------|---------------|
| As ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 10, 2019 | | | |
| By Fiscal Year, Millions of Dollars | 2019 | 2019-2024 | 2019-2029 |
| Direct Spending (Outlays) | 0 | * | * |
| Revenues | 0 | * | * |
| Deficit Effect | 0 | * | * |
| Spending Subject to Appropriation (Outlays) | 0 | 1 | not estimated |
| Statutory pay-as-you-go procedures apply? | Yes | Mandate Effects | |
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030? | < \$5 billion | Contains intergovernmental mandate? | No |
| | | Contains private-sector mandate? | No |
| * = between -\$500,000 and \$500,000. | | | |

S. 149 would establish an interagency advisory group, led by the Federal Trade Commission (FTC), to study strategies to prevent financial retailers, financial services companies, and wire transfer companies from perpetrating fraud on senior citizens. The group would consult with industry leaders, trade associations, and non-profit organizations to identify best practices and create model materials that industry and government agencies could use to decrease such fraud. The FTC would report to the Congress each year on the group's activities. The advisory group would disband five years after enactment.

Using information from some of the affected agencies, CBO estimates that convening the advisory group would cost \$1 million over the 2019–2024 period. Such spending would be subject to the availability of appropriated funds and would cover administrative costs incurred by member agencies—including the FTC, the Department of the Treasury, the Financial Crimes Enforcement Network, and the Department of Justice—that are funded through discretionary appropriations.

Enacting the bill would increase direct spending by the Consumer Financial Protection Bureau (CFPB) and the Federal De-

posit Insurance Corporation (FDIC) and also would reduce revenues from the Federal Reserve.

Using information from those agencies, CBO estimates the following budgetary effects:

- The CFBP would spend less than \$500,000 over five years to participate in the advisory group,
- Net spending by the FDCI would be negligible because the FDIC is authorized to collect premiums from the financial institutions it regulates to offset its costs, and
- Costs incurred by the Federal Reserve would reduce remittances to the Treasury, which are recorded in the budget at revenues, by less than \$500,000 over the 2020–2024 period.

The CBO staff contact for this estimate is David Hughes. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The bill does not authorize any new regulations and would not subject any individuals or businesses to new regulations.

ECONOMIC IMPACT

S. 149, as reported, is not expected to have a negative economic impact.

PRIVACY

The reported bill would have no impact on the personal privacy of individuals.

PAPERWORK

This bill would require the FTC to release a report with materials and recommendations made by the advisory council to reduce scams targeted against seniors and to also release any gathered information not included in the report.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the bill may be cited as the “Stop Senior Scams Act”.

Section 2. Senior Scams Prevention Advisory Group

This section would establish the Senior Scams Prevention Advisory Group (Advisory Group) composed of: the Chairman of the FTC, the Secretary of Treasury, the Attorney General, the Director of the Bureau of Consumer Financial Protection, a member of the Board of Governors of the Federal Reserve System, a prudential regulator (as defined in 12 U.S.C. 5481), the Director of the Financial Crimes Enforcement Network, and any other agency or entity as determined by the Chairman of the FTC.

Additionally, the Chairman of the FTC is required to select representatives from the following: (1) retail, (2) gift card, (3) telecommunications, (4) wire-transfer services, (5) senior peer advocates, (6) consumer advocacy organizations, (7) financial services, (8) and prepaid cards. The Chairman of the FTC would also have the authority to appoint any other Federal, State, or local agency, industry representative, consumer advocate, or entity, as appropriate.

This section also would require the Advisory Group to do the following: (1) collect information on the existence and use of such materials; (2) examine ways that retailers, financial institutions, and wire-transfer companies can better educate the public on senior scams; (3) and create model materials, best practices guidance, and recommendations for these businesses to help protect seniors from scams.

The bill also requires the FTC to make such guidance and model materials publicly available. Under the bill, the advisory group would expire after 5 years.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

ELDER ABUSE PREVENTION AND PROSECUTION ACT

[34 U.S.C. 21711(e)(2)]

**TITLE I—SUPPORTING FEDERAL CASES
INVOLVING ELDER JUSTICE**

SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE.

(a) * * *

(c) FEDERAL TRADE COMMISSION.—

(1) FEDERAL TRADE COMMISSION ELDER JUSTICE COORDINATOR.—Not later than 60 days after the date of enactment of this Act, the Chairman of the Federal Trade Commission shall designate within the Bureau of Consumer Protection of the Federal Trade Commission an Elder Justice Coordinator who, in addition to any other responsibilities, shall be responsible for—

(A) coordinating and supporting the enforcement and consumer education efforts and policy activities of the Federal Trade Commission on elder justice issues; and

(B) serving as, or ensuring the availability of, a central point of contact for individuals, units of local government, States, and other Federal agencies on matters relating to the enforcement and consumer education efforts and policy activities of the Federal Trade Commission on elder justice issues.

(2) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and once every year thereafter, the Chairman of the Federal Trade Commission and the Attorney General shall each submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report detailing the enforcement actions taken by the Federal Trade Commission and the Department of Justice, respectively, over the preceding year in each case in which not less than one victim was an elder or that involved a financial scheme or scam that was either targeted directly toward or largely affected elders, including—

(A) the name of the district where the case originated;

(B) the style of the case, including the case name and number;

(C) a description of the scheme or scam; **[and]**

(D) the outcome of the case~~[""]~~; and

(E) for the Federal Trade Commission, in relevant years, information on—

(i) the newly created materials, guidance, or recommendations of the Senior Scams Prevention Advisory Group established under section 2 of the Stop Senior Scams Act, and any relevant views or considerations made by members of the Advisory Group that were not included in the Advisory Group's model materials or considered an official recommendation by the Advisory Group;

(ii) the Senior Scams Prevention Advisory Group's findings about senior scams and industry educational materials and programs; and

(iii) any recommendations on ways stakeholders can continue to work together to reduce scams affecting seniors.

(d) USE OF APPROPRIATED FUNDS.—No additional funds are authorized to be appropriated to carry out this section.

* * * * *