

OAA 2006 Reauthorization -- House Bill

Very Quick and Dirty Analysis of House Bill (H.R. 5293) for Changes/Implications for Legal Services and Developers

By: Penny Hommel, The Center for Social Gerontology, July 11, 2006

Explanation:

House Bill is addressed here. A similar piece will follow shortly on the Senate Bill.

Notes in Roman relate directly to legal services/ developers provisions.

Notes in Italics do not relate directly to LS/developers, but may be of interest.

(Sec. #) refers to the Section number in the House Bills

Caveat and Please contact me with changes:

This is truly a quick analysis. Likely, I've missed some things and may have mis-read some of the amending language. **If you find mistakes or see things that need to be added, please let me know** so we can revise and re-issue. Contact me at: phommel@tcs.org

House Bill H.R. 5293 -- Senior Independence Act

Approved without opposition by House Education & the Workforce Committee, May 2006

Approved without dissent by US House of Representatives June 21, 2006

The House Committee's Summary of the Bill lists as highlights that it --

- Promotes home and community-based supports to help older persons avoid institutional care
- Strengthens Health and Nutrition Initiatives
- Improves Educational and volunteer services
- Increases Federal, State and Local Coordination
- Safeguards Employment-Based Training for Older Americans

Penny's quick analysis of HR 5293

Overall:

Targeting provisions throughout the House Bill add "older individuals with limited English proficiency" to groups to be particularly targeted

Title 1 -- Purpose and Definitions

- *No change in Declaration of Objectives for the Act.*
- No change in the definition of legal assistance--still advice and representation to elders in social and economic need, etc. (however HR 5293 re-numbers, so would become §3002(30) rather than 3002 (31) (**Sec. 2**)

- *(other definitions: there are a # of new or revised definitions for example: exploitation, neglect, elder justice, self directed care, self neglect (Sec. 2)*

Title II -- Adm. on Aging and Assistant Secretary

- No change in requirements for AoA to develop job description for developers and guidelines for AAAs in selecting and evaluating legal providers §3012(a)(22), (23) **(Sec. 4)**
- *(some other Title II provisions in the House bill:*
- *adds new provision re designating responsibility for elder abuse prevention and services within AoA (Sec. 3);*
- *calls for TA, support and establishing a National Center on Senior Benefits Outreach and Enrollment (Sec. 4);*
 - *puts a focus in data collection requirements on home & community based (HCB) care (Sec. 4);*
 - *adds provisions re individuals at risk of institutional placement and provision of HCB long term care (Sec. 4)*
 - *does not change requirements re Outcome Measures (§3012(f) (Sec. 4);*
 - *does not change required report to Congress by AoA (§3018); however names of Congressional Committees are updated (Sec. 8)*
 - *there is a revised provision regarding private pay relationships (Sec. 9). I've not had time to study it and am not certain of its meaning.*

Title III -- Grants for State & Community Programs.

Part A -- General Provisions

- No change in 3023(c)(2) which specifies that grants made under Part B may be used for delivery of legal assistance **(Sec. 14)**.
- No change in area plan section (3026(a)(2)) requiring AAAs to provide an "adequate proportion" of IIIB \$ for 3 priority services -- access, in home, and legal assistance **(Sec. 16)**
- No change in Area plan section (3026(d)) that prohibits AAAs from requiring info on legal assistance that violates confidentiality **(Sec. 16)**
- No change in state plan requirement that state specify a minimum % to be spent on legal assistance and other priority services (3027(a)(2) **(Sec. 17)**
- No change in 3027(a)(11) describing State Plan requirements for selecting legal providers and other requirements re legal assistance **(Sec. 17)**
- No change in 3027(a)(13) re state Plan requirement that states have a developer **(Sec. 17)**
- No change in 3030c-2(a)(2) forbidding cost sharing for legal assistance, ombudsmen, etc. **(Sec. 20)**
- Proposed change in 3030c-2(b)(1) could open the door for more high pressure in soliciting voluntary contributions. Current language is: *"Voluntary contributions shall be allowed and may be solicited ... provided that the method of solicitation is noncoercive.* Proposed language would read: *"Voluntary contributions shall be allowed and may be solicited ... and such contributions shall be encouraged for individuals whose self-declared income is at or above 125 percent of the poverty line*

and may be requested at contribution levels based on the actual cost of services, if the method of solicitation is noncoercive." (Sec. 20)

- Proposed change in 3030c-2(b)(4)(E) would strengthen requirement that AAAs ensure that all service providers use contributions to expand the service for which they were given. Current language reads: "(E) use all collected contributions to expand the service for which the contributions were given." Proposed language would add after "given": "*and to supplement (not supplant) funds received under this Act.*" (Sec. 20)
- *Other provisions add focus and requirements for such things as state and area agencies doing more on home and community based care, planning for the large increase in numbers of elders in the population, use of trained volunteers, and providing that furnishing of services under the Act is consistent with self-directed care. (Sec. 15-19)*

Title III, Part B -- Supportive Services and Senior Centers Program

- No change in 3030d(a)(6) allowing the use of IIIB funds for legal assistance and indicating the role of legal assistance in guardianship cases as representation of individuals who are wards (or are allegedly incapacitated), and of older individuals who seek to become guardians only if other adequate representation is unavailable. (Sec. 21)

Title III, Part D -- Disease Prevention and Health Promotion

- *House Bill would add a provision (c) to 3030m that says: "(c) the Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where seniors congregate." (Sec. 28) We don't know, but this could include working on methods for smoke free environments.*

Title III, Part E -- National Family Caregiver Support Program

- *3030s(1) broadens the definition of "child" for purposes of Caregiver Support to go beyond "who is not more than 18 years of age," by adding "or who is an individual with a disability." (Sec. 29)*
- *3030s(2) broadens the definition of "Family caregiver" to include not only care providers for "older individuals," but adds "or an individual with Alzheimer's disease or related disorder with neurological and organic brain dysfunction" (Sec. 29)*
- *3030s(3) is broadened to define "grandparent/relative caregiver" as someone who is "55 years of age or older" rather than "60" as in the past. (Sec. 29)*

Title IV -- Training, Research & Discretionary Projects

- No change in 3030i - Demonstration and support projects for legal assistance which includes grants for a national legal assistance support system and for support to demo projects to expand or improve delivery of legal assistance.

Title V -- Older American Community Service Employment Program

- *The House Bill re-writes Title V, but I don't have time to study it to identify differences from current Title V (Sec. 38)*

Title VII -- Vulnerable Elder Rights Protection Activities

- No change in 3058d State Plan Requirements re Elder Rights Plan (**Sec. 40-42**)
- No change in 3058d(b) re prohibition on state/state agency requiring confidential information re legal assistance. (**Sec. 40-42**)
- No change in 3058j describing State legal assistance development requirements. (**Sec. 40-42**)
- *Addition to 3058i(b) on use of allotments for abuse prevention to include "providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals" (Sec. 42)*