

## OAA 2006 Reauthorization -- Senate Bill, S. 3570

### Very Quick and Dirty Analysis of Senate Bill (S. 3570) for Changes/Implications for Legal Services and Developers

By: Penny Hommel, The Center for Social Gerontology, July 13, 2006

#### Explanation:

Senate Bill, S. 3570 is addressed here. A similar piece was issued earlier on House Bill, H.R. 5293.

I've made notes below indicating whether provisions in the Senate and House bills are the same, similar, or different.

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 Senate Bill, S. 3570.

#### 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

### Senate Bill S. 3570 -- Older Americans Act Amendments of 2006

Passed unanimously by Senate Health, Education, Labor and Pensions  
(HELP) Committee, June 28, 2006  
Floor vote not scheduled as of 7/13/06

HELP Committee Chair, Sen. Mike Enzi's Press Release of 6/28/06 lists the following as Key Provisions of S. 3570. It will --

- Create a National Center on Senior Benefits Outreach and Enrollment to help educate eligible older individuals on the benefits of enrolling in Federal and State programs;
- Create an Office of Elder Abuse Prevention and Services to carry out elder justice programs;
- Reduce the eligibility age of a grandparent or relative caregiver caring for a child from 60 to 55, and expand on the definition of children eligible to receive these services;
- Encourage the creation of innovative models that allow individuals to remain in their home as they age;
- Allow an individual with Alzheimer's disease, who is 50 years of age or older, coverage under the caregiver support program;
- Encourage mental health screening in attempt to create awareness of the disease and reduce the stigma attached to the disease;

- Encourage communities to prepare for the influx of the baby boom generation;
- Focus on consumer-driven care and empowerment of the individual when planning for their long-term care needs.

### Penny's quick analysis of Senate Bill, S. 3570

#### Overall:

- Reauthorization period is for five years, from FY 2007 through 2011. (House period is the same.)
- Targeting provisions throughout the Senate Bill add "older individuals with limited English proficiency" to groups to be particularly targeted (House Bill does the same.)

#### Title 1 -- Purpose and Definitions

- *No change in Declaration of Objectives for the Act. (Same in House Bill)*
- No change in the definition of legal assistance at 42 USC §3002(31) -- remains advice and representation to elders in social and economic need, etc. **(Sec. 2)** (same in House Bill though House re-orders / re-numbers definitions.)
- *Definitions that are expanded or added to §3002 in S. 3570 include for example: exploitation, neglect, self-neglect, Aging and Disability Resource Center, at risk for institutional placement, long-term care, self-directed care, state system of long term care. (Sec. 2)* (Quite similar, though some differences in House Bill)

#### Title II -- Administration 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)** (Same in House Bill)
- *(some other Title II provisions in the Senate bill:*
  - *adds new subsection (e) at the end of §3011 authorizing the Secretary to establish or designate within AoA an Office of elder Abuse Prevention and Services. (Sec. 3)* (similar to House Bill);
  - *calls for the Assistant Secretary to provide TA and support for outreach and benefits enrollment assistance and, in cooperation with Federal agency partners to make a grant or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment (§3012(a)(20) (Sec. 4)* (similar to House Bill);
  - *puts a focus in data collection requirements on home & community based (HCB) long term care (§3012(a)(26)(D)) (Sec. 4)* (same as House Bill);
  - *rewrites § 3012(b) calling on Ass't Secretary to promote development and implementation of comprehensive, coordinated systems for providing long term care in home and community based settings in collaboration with other Federal agencies and departments (Sec. 4)* (same as House Bill)

- *does not change requirements re Outcome Measures (§3012(f)) (Sec. 4) (same as House Bill);*
- *adds new subsection (c) to 3013 calling on Secretary, in collaboration with the Secretary of Housing and Urban Development and other Federal officials to establish an interagency coordinating committee for coordination of agencies re aging issues, particularly issues related to demographic changes and housing needs (Sec. 5) (Not in House Bill);*
- *does not change required report to Congress by AoA (§3018); however names of Congressional Committees are updated (Sec. 8) (same as House Bill)*
- *there is a revised provision (§3020c) regarding grant or contract recipients under the Act entering into agreements with profit making organizations, or under which individuals may voluntarily pay at their own private expense for services based on fair market value (Sec. 9). I've not had time to study it and am not certain of its meaning. (same as House Bill)*

### 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)** (same as House Bill).
- 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, though language describing access services is expanded **(Sec. 17)** (same as House Bill).
- No change in Area plan section 3026 regarding waivers for funding priority services, though subsection was re-designated from (b) to (c) **(Sec. 17)** (same as House Bill).
- No change in Area plan section (3026 that prohibits AAAs from requiring info on legal assistance that violates confidentiality though subsection was re-designated from (d) to (e) **(Sec. 17)** (same as House Bill, but House does not re-designate).
- No change in State plan requirement that states specify a minimum % to be spent on legal assistance and other priority services (3027(a)(2) **(Sec. 18)** (same as House Bill).
- No change in 3027(a)(11) describing State Plan requirements for selecting legal providers and other requirements re legal assistance **(Sec. 18)** (same as House Bill).
- No change in 3027(a)(13) re State Plan requirement that states have a developer **(Sec. 18)** (same as House Bill).
- No change in 3027(f) forbidding states to require confidential information on legal assistance **(Sec. 18)** (same as House Bill).
- No change in 3030c-2(a)(2) forbidding cost sharing for legal assistance, ombudsmen, etc. **(Sec. 21)** (same as House Bill).
- Proposed change in 3030c-2(b)(1) could open the door for more high pressure in soliciting voluntary contributions. Senate bill adds new language to the end of 3030c-2(b)(1) which allows voluntary contributions to be solicited for all services if the method of solicitation is noncoercive. The added language is: "*Such*

*contributions shall be encouraged for individuals whose self-declared income is at or above 200 percent of the poverty line, at contribution levels based on the actual cost of services."* **(Sec. 21)** (House Bill uses 125% of poverty and language differs somewhat.)

- 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. 21)** (same as House Bill).
- *Other provisions in Title III, Part A would add focus and add 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; disaster preparedness/relief; implementation by the States of Aging and Disability Resource Centers; and providing that furnishing of services under the Act is consistent with self-directed care.* **(Sec. 16-20)** (Similar in House Bill)

#### 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. 22)** (same as House Bill).

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

- *Senate 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. 29)** *We don't know, but this could include working on methods for smoke free environments.* (same as House Bill).

#### 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 an adult child with mental retardation or a related developmental disability." And a new 3030s(2) adds a definition of "developmental disability" **(Sec. 30)** (House Bill differs. It adds "or who is an individual with a disability.")*
- *3030s(2) (re-designated as (3)) 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 a related disorder with neurological and organic brain dysfunction who is 50 years of age or older." **(Sec. 30)** (Similar, but House does not say "who is 50 years of age or older"*
- *3030s(3) (re-designated as (4)) is broadened to define "grandparent/relative caregiver" as someone who is "55 years of age or older" rather than "60" as in the*

*current Act (same as House Bill). and adds "adoption" as way a grandparent may be related to care recipient. (Sec. 30) (House Bill does not add "adoption.")*

- *3030s-1(b)(3) is expanded in S. 3570 to include support services for caregivers to "assist the caregivers in the areas of health, nutrition, and financial literacy ..." (same as House Bill). And language is added to 3030s-1(c)(2) specifying that "In providing services for family caregivers ... the State shall give priority for services to family caregivers who provide care for older individuals." (Sec. 31) (Not in House Bill).*

#### Title IV -- Training, Research & Discretionary Projects

- No change in 3032i - 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. (same as House Bill).
- *S. 3570 adds several new areas and revises other areas for Title IV Training, Research, and Discretionary Projects. These include for example: Planning activities to prepare communities for the aging of the population (Sec. 33 & 37 (similar in House Bill); Revised description of TA and Innovation to improve transportation for older persons (Sec. 36) (Not in House Bill).; Revised description of demol/research projects for multi- generational activities which adds "civic engagement activities" (Sec. 38) (Not in House Bill); Multidisciplinary Health Services in Communities with focus on mental health screening and treatment (Sec. 40) (differs from House Bill); and a substantial new section on Community Innovations for Aging in Place (Sec. 41) (Not in House bill).*

#### Title V -- Older American Community Service Employment Program

- *The Senate Bill makes some changes in Title V, but I don't have time to study them. (Sec. 44) For more on Title V issues in the reauthorization, go to the section of the Senior Services America site on Title V at <http://www.seniorserviceamerica.org/news/futureofscsep.html> For additional information on Title V, go to the Easter Seals site on the OAA at [http://www.easterseals.com/site/PageServer?pagename=OPA\\_Older\\_Americans\\_Act\\_Issue\\_Page](http://www.easterseals.com/site/PageServer?pagename=OPA_Older_Americans_Act_Issue_Page)*

#### Title VII -- Vulnerable Elder Rights Protection Activities

- No change in 3058d State Plan Requirements re Elder Rights Plan (Sec. 50) (Same in House Bill.)
- No change in 3058d(b) re prohibition on state/state agency requiring confidential information re legal assistance. (Sec. 50) (Same in House Bill.)
- No change in 3058j describing State legal assistance development requirements. (Sec. 50-51) (Same in House Bill.)
- *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. 51) (Same in House Bill.)*

- *Senate Bill, S. 3570 includes a lengthy new section on elder justice programs/elder abuse, neglect, and exploitation. (Sec. 53) It is proposed to be inserted as a new Subtitle B which would follow Chapter 4 (State Legal Assistance Development, §3058j) of Subtitle A of Title VII. It includes: (Not in House Bill.)*
  - *a Definitions section (Sec. 751) which includes "State Legal Assistance Developer"*
  - *a section 752 on "State and Tribal Grants to Strengthen Long-Term Care and Provide Assistance for Elder Justice Programs under which the Assistant Secretary may award grants to States and Indian tribes, and a State or Indian tribe that receives a grant may use the funds to award grants to, among other things, "encourage the establishment of eligible partnerships to develop collaborative and innovative approaches to improve the quality of, including preventing abuse, neglect, and exploitation in, long-term care." And the meaning of "eligible partnership" is specified as "a multidisciplinary community partnership consisting of eligible entities or appropriate individuals, such as a partnership consisting of representatives in a community of nursing facility providers, State legal assistance developers, advocates for residents of long term care facilities, State Long-Term Care Ombudsmen ... and other eligible entities and appropriate individuals."*
  - *a Section 753 on collection of Uniform National Data on Elder Abuse, Neglect, and Exploitation.*