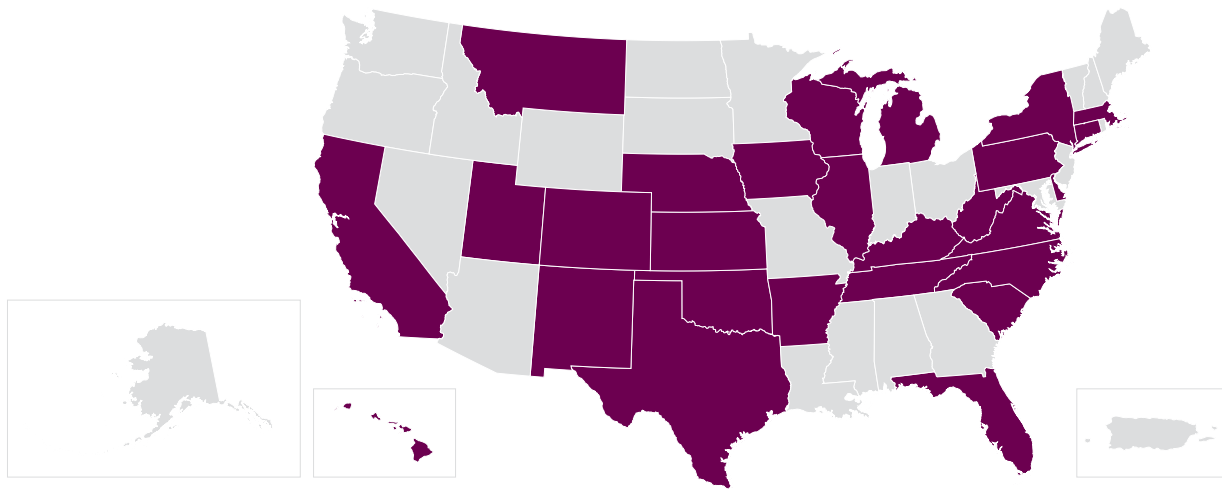


# Elder Justice Policy Highlights

MARCH 2021 – AUGUST 2021

The elder justice legislation found in this document was elicited and finalized from the National Center on Elder Abuse (NCEA) Listserv and independent websites in August 2021. The compilation is intended to reflect highlights across the nation and does not include all legislation related to elder justice. However, updates will be sent biannually and states are encouraged to send updates on significant legislative action to the [National Center on Elder Abuse](#). This document reflects activity in 27 states and highlights at the federal level.



## STATES

### Arkansas

#### ARKANSAS HB 1061

[VIEW ONLINE](#)

Approved on March 10, 2021, this measure creates the “No Patient Left Alone Act.” It establishes that a patient in a healthcare facility (including long-term care facilities) be allowed at least one support person who is permitted to be physically present with the patient on a daily basis at reasonable times throughout his or her hospitalization, visit to the office of a healthcare professional, or institutionalization. It also establishes that a long-term care facility shall allow compassionate care visitation as needed by the resident to alleviate physical or mental distress. Compassionate care visitation shall continue even if the infection rate in the county in which the long-term care facility is located is high. However, a long-term care facility shall identify one or more ways to allow a compassionate care visitation, including personal contact, that minimize the risk of infection to the resident and other residents. A long-term care facility that fails to facilitate compassionate care visitation without adequate justification related to clinical necessity or resident safety may be in violation of 42 C.F.R. 483.10(f)(4), as it existed on January 1, 2021. Additionally under the act, a clergy member or lay person offering religious or spiritual support may be physically present with a patient to pray with or offer spiritual support for the patient while the patient receives care in a healthcare facility. The act is declared as an emergency and is effective immediately.

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



EMAIL: [ncea-info@aoa.hhs.gov](mailto:ncea-info@aoa.hhs.gov)



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

## California

### CALIFORNIA AB 135

[▶ VIEW ONLINE](#)

Enacted on July 16, 2021, this legislation makes necessary changes to implement human services related provisions of the Budget Act of 2021. Provisions affecting older adults include the creation of the Long-Term Care Patient Representative Program and the Office of the Long-Term Care Patient Representative in the Department of Aging to provide patient representatives to protect the rights of nursing home residents. This will require the program to assign a public patient representative if no family member or friend is available to serve in that capacity. It will also expand the age of eligibility for the Adult Protective Services program from 65 years old to 60 years old, alter the definition of "adult protective services," and make other changes to definitions under the act. Additionally, it will require the Department of Social Services to convene a workgroup to develop recommendations to create or establish a statewide adult protective services case management system.

## Colorado

### COLORADO SB21-118

[▶ VIEW ONLINE](#)

Approved on June 17, 2021, this act creates an alternative response pilot program (pilot) that a participating county department can utilize when it receives a report, related to an at-risk adult, of mistreatment or self-neglect (report), and the report has identified the risk as lower risk, as defined by rules promulgated by the state department of human services (state department). This is a change from current law which allows for only one type of response for a county department of human or social services, regardless of the level of risk reported. The state department shall select a maximum of 15 rural and urban county departments to participate in the pilot. Upon receipt of a report, a participating county department will not make a finding nor will it be required to complete unannounced initial in-person interviews, so long as the report has identified the risk as lower risk, as defined by rule of the state department. If, upon further review, the participating county department determines the situation is more severe, it shall revert to the process that is currently set forth in law for investigating a report. The state department shall contract with a third-party evaluator to evaluate the pilot's success or failure, including a consideration of the pilot's effectiveness in achieving outcomes over a 2-year period.

## COLORADO HB21-1123

[▶ VIEW ONLINE](#)

Signed by the governor on May 7, 2021, this act authorizes the department of human services (state department) to disclose the results of a CAPS check (a check of the Colorado Adult Protective Services data system) to determine whether an applicant has been substantiated of physical abuse, sexual abuse, caretaker neglect, or exploitation of an at-risk adult without a court order to: 1) a health oversight agency within the department of regulatory agencies (DORA), or a regulator within such a health oversight agency, for the purpose of a regulatory investigation; or 2) the court if an individual is petitioning the court for conservatorship or guardianship of an at-risk adult. It also requires the court to request a CAPS check to ascertain whether a potential guardian or conservator has been substantiated of mistreatment of an at-risk adult. Within 7 calendar days after the date of the court's request, if the person has been substantiated in a case of mistreatment of an at-risk adult, the state department shall provide the court with information concerning the mistreatment, unless the finding was expunged through a successful appeal. The act also requires the state department to notify a health oversight agency within 10 calendar days after a substantiated finding of mistreatment by a professional regulated by DORA. It also establishes that a person who may be appointed as a conservator or guardian of an at-risk adult who knowingly provides inaccurate information to the court for a CAPS check commits a class 1 misdemeanor.

## Connecticut

### CONNECTICUT HB 6458

[▶ VIEW ONLINE](#)

Approved on June 28, 2021, this act expands eligibility for the local option Elderly Tax Freeze Program by decreasing the program's minimum age requirement from 70 to 65 years. Additionally, the act establishes a 10-member task force to study ways to protect seniors from fraud. The task force must report its findings and recommendations to the Aging and Human Services committees by January 1, 2022. The task force terminates on that date, or the date it submits the report, whichever is later. Lastly, it makes technical and conforming changes.

### CONNECTICUT SB 763

[▶ VIEW ONLINE](#)

Signed by the governor on July 6, 2021, this act adds paratransit vehicle drivers to the list of mandated reporters who must report to the Department of

Social Services (DSS) when they have reasonable cause to suspect that an elderly person needs protective services or has been abused, neglected, exploited, or abandoned. A paratransit vehicle is a motor bus, taxicab, or other motor vehicle in livery service that is (1) operated under a Department of Transportation certificate or by a transit district and (2) on call or on demand or used to transport passengers for hire. By law, mandated reporters must report to DSS within 72 hours, and those who fail to do so are subject to a fine of up to \$500. Intentional failure to report is a class C misdemeanor for the first offense and a class A misdemeanor for subsequent offenses. The act also makes technical changes.

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**CONNECTICUT SB 817**[!\[\]\(c507f772dba2b921f86777f01218e570\_img.jpg\) VIEW ONLINE](#)

Enacted on May 13, 2021, this measure establishes a 14-member statewide senior center working group to develop a coordinated plan for senior centers and municipal services for seniors. It also requires the Commission on Women, Children, Seniors, Equity, and Opportunity, within available appropriations, to assist senior centers and assign or appoint necessary personnel to do so. The act also expands the scope of the state's Community Response Education Program to include resources for community programs and education on senior sexual assault and abuse safety, prevention, and risk reduction. This program, within available appropriations, offers certain resources to neighborhoods and municipalities that are notified that a registered sex offender is living there or plans to do so. Lastly, the act makes technical changes.

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**CONNECTICUT SB 973**[!\[\]\(a03a7eb2f4046e1d3c76772003e549ea\_img.jpg\) VIEW ONLINE](#)

Signed by the governor on July 13, 2021, this act requires state agencies to inform the state long-term care ombudsman and Commission on Women, Children, Seniors, Equity and Opportunity executive director about legislative proposals or new or revised regulations on long-term care facility living and care conditions. They must do this within three days after submitting a proposal to the legislature or posting a notice of intent on the eRegulations System proposing a regulation. For proposed regulations, other than those that are emergency or technical, the act requires the ombudsman and executive director to immediately inform the Statewide Coalition of Presidents of Residents Councils and family councils that the agency is required to hold a public hearing upon the request of at least 15 people within 14 days after the notice of intent is posted on the eRegulations

System. It requires state agencies and legislative committees of cognizance to accept testimony in a manner and format that provides for the greatest input from resident and family council members, when it is practicable and permissible under the agency's or committee's rules. Under the act, this includes remote testimony via audio or audio-video technology. The act also requires any state task force on long-term care facility care or living conditions that is appointed by the legislature or a state agency to include as members, representatives of (1) resident councils; (2) family councils; and (3) the chairpersons and ranking members of the Aging Committee, or their designees. The task force chairperson must schedule meetings in a way that provides for the greatest input from resident and family council members, in a similar manner as described above.

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**CONNECTICUT SB 975**[!\[\]\(5361750c22c4e047a52f4eac1ec2d4cc\_img.jpg\) VIEW ONLINE](#)

Approved on June 16, 2021, this legislation affirms that residents of long-term care facilities have the right to treat their living quarters as their homes and have the same rights as all other state residents, including the right to use technology of their choice for purposes, including, but not limited to, virtual visitation and file grievances for violations of their rights.

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**CONNECTICUT HB 6634**[!\[\]\(0d5ec72f61334709c3fc9450209b754f\_img.jpg\) VIEW ONLINE](#)

Signed by the governor on June 24, 2021, this act allows long-term care facility residents, or their representatives, to designate a primary and a secondary "essential support person" who may visit the resident despite general visitation restrictions for other visitors. The act applies to residents in nursing homes and managed residential communities that provide assisted living services. The act also requires the Department of Public Health (DPH) commissioner to establish a statewide policy for visiting long-term care residents. If there is a declared public health emergency, the commissioner must establish visitation requirements that incorporate a resident's need for essential support from an essential support person and other visitors. By law, the State Long-Term Care Ombudsman's duties include providing services to protect the health, safety, welfare, and rights of long-term care facility residents. The act specifies that this includes services designed to address the impact of socialization, visitation, and the role of essential support persons on the residents' health, safety, and well-being.

## Delaware

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### DELAWARE SB 84

[▶ VIEW ONLINE](#)

Approved on June 3, 2021, this act elevates medication diversion out of the definition of abuse for the sake of clarity and is not intended to change existing reporting obligations for facilities under Subchapter III of Chapter 11 of Title 16 of the Delaware Code. The measure ensures reporting requirements are triggered for facilities and hospitals covered by Subchapter III if medication diversion occurs in the facilities or hospitals. Reporting is essential to the Department of Justice's ability to prosecute and recommend treatment, when appropriate, for the person committing medication diversion. The act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including standardizing the order of words in the phrase "abuse, neglect, mistreatment, financial exploitation, or medication diversion" to ensure consistency. Medication diversion poses a threat to patient and resident safety in long-term care facilities, psychiatric facilities, nursing facilities, and hospitals. Risks include patients and residents receiving inadequate pain relief, exposure to infectious diseases from contaminated needles and drugs, and potentially unsafe care. The sooner medication diversion is reported, the sooner interventions can be made to protect the health and safety of a patient or resident and to provide drug treatment or other help to a healthcare worker.

## Florida

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### FLORIDA HB 441

[▶ VIEW ONLINE](#)

Approved by the governor on June 4, 2021, this legislation establishes an elder-focused dispute resolution process as an alternative to proceedings in court to resolve disputes relating to an elder. The process focuses on the elder's wants, needs, and best interests to protect and preserve the elder's exercisable rights by recognizing that every elder, including those whose capacity is being questioned, has unique needs, interests, and differing abilities. It also provides an option for the court to appoint a qualified eldercaring coordinator who would assist in resolving disputes.

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### FLORIDA HB 1041

[▶ VIEW ONLINE](#)

Approved by the governor on June 29, 2021, this legislation adds offenses concerning elderly persons and disabled adults to the authority of the

Office of Statewide Prosecution. It provides that a person convicted of abuse, neglect, or exploitation of elderly person or disabled adult is not qualified to act as personal representative. It also provides for forfeiture of specified benefits of persons who have engaged in conduct concerning elderly persons or disabled adults and provides that persons who have engaged in abuse or neglect may still retain inheritance or survivorship interest if the victim executes the specified instrument. It also provides that a beneficiary of a trust may not benefit under the trust if the person was convicted of certain offenses involving elderly persons or disabled adults. It provides a defense to certain violations and provides criminal penalties. It specifies additional conduct that constitutes abuse or exploitation of an elderly person or disabled adult. It also revises provisions concerning injunctions for protection and provides for the extension of ex parte temporary injunctions.

## Hawaii

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### HAWAII HB 490 HD2 SD1

[▶ VIEW ONLINE](#)

Enacted on July 2, 2021, this measure lowers the age at which enhanced penalties apply for crimes against seniors from 62 to 60. It also makes the commission of certain criminal offenses against a senior's person or property applicable if the perpetrator knows or reasonably should know the senior victim's age.

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### HAWAII HB 940 HD2 SD1

[▶ VIEW ONLINE](#)

Approved by the governor on June 21, 2021, this measure requires any agent, broker-dealer, investment adviser representative, investment adviser, or person who serves in a supervisory or compliance capacity for a broker dealer or an investment adviser to report suspected financial exploitation of elders and vulnerable adults. It also provides immunity for good faith reporting and authorizes the delay of disbursements and transactions in situations of suspected financial exploitation.

## Illinois

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### ILLINOIS HB 3147

[▶ VIEW ONLINE](#)

Enacted on August 16, 2021, this measure amends the Nursing Home Care Act and the Hospital Licensing Act by providing that upon request, long-term care facilities and hospitals shall make every reasonable effort to facilitate at least one phone call or video call between a resident or patient and a family

member of the resident or patient each day during a pandemic or other public health emergency.

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#### **ILLINOIS HB 0032**

 [VIEW ONLINE](#)

Approved on August 6, 2021, this law amends provisions of the Illinois Act on the Aging concerning home-delivered meal services to Illinois residents who qualify under the federal Older Americans Act. It provides that, on an annual basis, each recipient of home-delivered meals shall receive a fact sheet developed by the Department on Aging with a current list of toll-free numbers to access information on various health conditions, elder abuse, and programs for persons 60 years of age and older. The fact sheet shall be written in a language that the client understands, if possible.

### **Iowa**

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#### **IOWA HF 839**

 [VIEW ONLINE](#)

Signed by the governor on May 20, 2021, this act authorizes broker-dealers, investment advisers, and qualified individuals to notify the Commissioner of Insurance if they reasonably believe exploitation of an adult has occurred, been attempted, or is being attempted. Dealers, advisers, and individuals are immune from liability imposed as a result of the notification, or for any failure to alert the adult of the notification. The act allows dealers, advisers, and individuals to notify a permissible third party if they reasonably believe exploitation of an adult has occurred, been attempted, or is being attempted. Dealers, advisers, and individuals are immune from liability imposed as a result of the notification. The Act requires a dealer, adviser, or individual to initiate an internal review of a requested transaction if they reasonably believe the transaction will likely contribute to the exploitation of an adult. The Act permits a dealer or adviser to delay a transaction from an adult's account, or an account on which an adult is a beneficiary, if steps enumerated in the act are followed. Dealers and advisers are immune from liability imposed as a result of the delay. The act requires dealers or advisers to provide training to individuals related to identifying exploitation of adults and to privacy and confidentiality requirements. It also requires dealers and advisers to provide the commissioner with records relevant to investigations of exploitation of adults in certain circumstances. The records are considered confidential. Lastly, it requires the Insurance Division of the Department of Commerce to submit

an annual report to the Governor and the General Assembly on the number of notifications the division received related to exploitation of adults in the preceding calendar year, and the amount of time the division devoted to investigating the exploitation of adults.

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#### **IOWA SF 450**

 [VIEW ONLINE](#)

Signed by the governor on April 30, 2021, this legislation provides that a caretaker who intentionally or recklessly commits dependent adult abuse which resulted in the death of a dependent adult is guilty of murder in the second degree.

### **Kansas**

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#### **KANSAS HB 2114**

 [VIEW ONLINE](#)

Approved by the governor on April 21, 2021, this measure establishes the Kansas Senior Care Task Force. The task force will study a range of topics including the provision of care for seniors in the state of Kansas who suffer from Alzheimer's disease, dementia or other age-related mental health conditions, the administration of antipsychotic medications to adult care home residents, the safeguards to prevent abuse, neglect and exploitation of seniors in the state of Kansas, adult care home surveys and fines, the funding and implementation of the Kansas senior care act, and senior daycare resources.

### **Maryland**

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#### **MARYLAND SB 327**

 [VIEW ONLINE](#)

Enacted on May 18, 2021, the Maryland Safe Act establishes a civil cause of action that a financially exploited susceptible adult or older adult may bring against a financial exploiter of the susceptible or older adult. The cause of action authorized under the measure survives the death of the susceptible or older adult and is in addition to and cumulative with any other criminal or administrative claims, legal or equitable cause of action, and other remedies available to the susceptible or older adult. It includes additional provisions specifying individuals and entities who may bring a cause of action on the susceptible or older adult's behalf, damages and relief that may be awarded, and a statute of limitations for this cause of action. The measure applies prospectively to causes of action arising on or after October 1, 2021.

## Montana

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### **MONTANA SB 31** [VIEW ONLINE](#)

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Signed by the governor on March 1, 2021, this legislation requires consideration of less restrictive alternatives in adult guardianship proceedings. The measure defines “less restrictive alternative” as an approach to meeting a person’s needs that restricts fewer rights of the person than would the appointment of a guardian. The term includes supported decision making, appropriate technological assistance, and appointment of a representative payee.

## Nebraska

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### **NEBRASKA LB 297** [VIEW ONLINE](#)

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Enacted on March 31, 2021, the “Nebraska Protection of Vulnerable Adults from Financial Exploitation Act” establishes that if a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is occurring or being attempted, the qualified person may notify the designated agencies and may notify a third party previously designated by the eligible adult or any person allowed to receive notification. The measure authorizes a broker-dealer or investment adviser to delay a transaction or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if the broker-dealer or investment adviser reasonably suspects financial exploitation. The measure provides immunity for qualified individuals that act in good faith.

## New Mexico

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### **NEW MEXICO HB 234** [VIEW ONLINE](#)

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Approved on April 8, 2021, this legislation authorizes the Developmental Disabilities Planning Council (DDPC) Office of Guardianship (OOG) to recruit and train volunteer court visitors and establishes a court visitor pilot program managed by the judiciary to monitor guardianship cases. The bill requires OOG to conduct annual comprehensive service reviews and other monitoring activities of its service providers to ensure protected persons served by OOG are receiving appropriate, high quality services. The bill also requires the head of the Office of Guardianship to be an attorney licensed in New Mexico and requires OOG to publish an annual report. The bill requires consideration of less restrictive options and alternatives to

guardianship. The bill requires the courts to forward all conservatorship annual reports of the Office of the State Auditor. Finally, the bill establishes a Working Interdisciplinary Network of Guardianship Stakeholders (WINGS program).

## New York

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### **NEW YORK S6528** [VIEW ONLINE](#)

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Approved on July 1, 2021, this measure establishes an elder abuse enhanced multidisciplinary team program under the office for the aging consisting of professionals for complex cases of elder abuse, including financial exploitation, physical abuse, psychological abuse, sexual abuse, and neglect.

## Oklahoma

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### **OKLAHOMA HB 2544** [VIEW ONLINE](#)

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Enacted on April 21, 2021, this measure provides that a person convicted of abuse of a vulnerable adult must serve eighty-five percent (85%) of any sentence of imprisonment imposed. Previous language was limited to abuse of vulnerable adults who reside in a nursing home. This measure removes that specific language to include all vulnerable adults as defined in statute. It also amends the language for this offense under the violent crimes statute to match.

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### **OKLAHOMA SB 198** [VIEW ONLINE](#)

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Enacted on April 21, 2021, this measure requires exploration of less restrictive alternatives to guardianship, including supported decision-making, and requires court orders of guardianship to state that less restrictive options have been attempted. Guardianship for incapacitated persons shall be designed to encourage the development of self-reliance and independence, used as is necessary to promote the well-being of person and property, and ordered only to the extent required by the actual limitations of the person.

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### **OKLAHOMA HB 1877** [VIEW ONLINE](#)

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Enacted on April 19, 2021, this legislation creates a new procedure for an assisted living center when a resident is prescribed an antipsychotic drug. The center will ensure a resident is assessed at least quarterly for effectiveness and possible side effects and the results shall be documented and provided to the resident or their representative. The center will also ensure the resident care staff

understand potential benefits and side effects of the medication. Additionally, the assisted living center will document the rationale for use and describe the condition that indicates administration, monitor the use of the drugs for potential harm to the resident, and document the results of the monitoring when prescribed on an as-needed basis.

## Pennsylvania

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**PENNSYLVANIA HB 1431**  [VIEW ONLINE](#)

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Approved by the governor on June 30, 2021, this measure amends Title 18 to establish abuse of social media by employees who post pictures of care dependent individuals without permission and categorizes the crime as a misdemeanor of the third degree.

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**PENNSYLVANIA HB 1429**  [VIEW ONLINE](#)

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Enacted on June 30, 2021, this measure amends Title 18 to give the Attorney General's office concurrent jurisdiction to investigate individuals who use their position of trust to financially exploit older adults and care-dependent people.

## South Carolina

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**SOUTH CAROLINA S425**  [VIEW ONLINE](#)

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Enacted on May 18, 2021, this legislation authorizes financial institutions to decline certain transaction requests in cases of the suspected financial exploitation of vulnerable adults. It also authorizes financial representatives of certain clients, including vulnerable adults, to notify the department of social services and the office of the attorney general in the event of a suspected financial exploitation to provide certain protections for good faith reporting, and for other purposes. It also adds certain records provided to the division regarding suspected financial exploitation of vulnerable adults.

## Tennessee

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**TENNESSEE SB 304**  [VIEW ONLINE](#)

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Signed by the governor on May 18, 2021, this measure recreates the elder abuse task force, which was terminated and dissolved January 15, 2021. The task force will be made up of the executive director of the commission on aging and disability, select health and finance commissioners, a district attorney general, the director of the

Tennessee bureau of investigation, and select representatives of the health and finance fields. The task force is required to: assess the current status of elders and other vulnerable adults covered by the Tennessee Adult Protection Act related to financial exploitation; examine the existing barriers, services, and resources addressing the needs of these elder persons and vulnerable adults; and develop recommendations to address problems associated with the financial exploitation of these elder persons and vulnerable adults.

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**TENNESSEE SB 1228**  [VIEW ONLINE](#)

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Signed by the governor on May 25, 2021, the "Safe Seniors Act of 2021" makes changes to present law concerning criminal offenses against the elderly and vulnerable adults. Specifically, the measure replaces "fondling" with "sexual contact" as a type of action that constitutes sexual exploitation when committed upon or in the presence of an elderly or vulnerable adult, without that adult's effective consent, for purposes of sexual gratification. It also authorizes a court to order that sentences run consecutively if the court finds by a preponderance of the evidence that the defendant is convicted of two or more offenses involving sexual exploitation of an elderly or vulnerable adult. The measure adds having knowledge that a victim is a vulnerable adult to the list of factors used to establish whether a person committed the offense of rape and aggravated rape. It also requires adult protective services to provide to the district attorney general, upon request, the names of individuals obtained in the course of an adult protective services investigation that have information relevant to a criminal investigation of alleged conduct involving an elderly or vulnerable adult victim. The measure confers the circuit, general sessions, and chancery courts jurisdiction over proceedings arising relative to offenses against elderly and vulnerable adults.

## Texas

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**TEXAS HB 1156**  [VIEW ONLINE](#)

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Signed by the governor on June 9, 2021, this legislation makes it a criminal offense to knowingly engage in the financial abuse of an elderly individual, which would be someone 65 years old or older. The measure provides definitions for financial exploitation. Punishments for the offense would be based on the value of the property taken, appropriated, obtained, retained, or used.

## Utah

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### UTAH HB 218

[▶ VIEW ONLINE](#)

Signed by the governor on March 23, 2021, this measure provides exceptions to the reporting requirement for suspected abuse, neglect, or exploitation of a vulnerable adult. It clarifies that the physician-patient privilege does not excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult or constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding. It also requires Adult Protective Services to file a complaint in certain circumstances. The measure also addresses civil and criminal liability for reporting, or failing to report, suspected abuse, neglect, or exploitation of a vulnerable adult.

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### UTAH SB 85

[▶ VIEW ONLINE](#)

Enacted on March 16, 2021, this legislation statutorily disinherits an individual who commits certain felony offenses against a vulnerable adult, including any: (i) shares in an estate or intestate shares; (ii) revocation of revocable dispositions, appointments, nominations, or conferrals; and (iii) property owned jointly.

## Virginia

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### VIRGINIA HB 2018

[▶ VIEW ONLINE](#)

Approved by the governor on March 18, 2021, this measure allows the circuit court, upon a finding that an incapacitated adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, to include in an emergency order for adult protective services one or more of the following conditions to be imposed on the alleged perpetrator: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. It provides

that any person who violates any such condition is guilty of a Class 1 misdemeanor. It also provides that hearings on emergency orders for adult protective services shall be held no earlier than 24 hours and no later than 72 hours after the notice required has been given, unless such notice has been waived by the court.

## West Virginia

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### WEST VIRGINIA HB 2671

[▶ VIEW ONLINE](#)

Approved by the governor on April 28, 2021, this measure amends current law to create criminal penalties for violating financial exploitation protective orders and provides for criminal penalties for violating any order issued under W.Va. Code 55-7J-1, including civil actions. It also provides that any person who violates the terms of any order issued under the entire article shall be subject to contempt. The violation of any such order is a misdemeanor under W.VA. Code 61-2-29b and can result in penalties ranging from \$1,000/90days/both for first offenses to \$2,500/one year/both for second offenses. It also clarifies that an elderly person, protected person, or incapacitated adult may file a civil complaint for financial exploitation or file a petition seeking a financial exploitation protective order, or both.

## Wisconsin

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### WISCONSIN SB 17

[▶ VIEW ONLINE](#)

Enacted on August 9, 2021, the "2021 Wisconsin Act 76" creates various provisions related to crimes and other proceedings involving individuals who are 60 years of age or older. The act creates a new crime prohibiting physical abuse of an elder person, similar to the crime of physical abuse of a child under current law. It also establishes that a person is guilty of first-degree sexual assault if the person commits the acts constituting a second-degree sexual assault against an individual who is 60 years of age or older. It also establishes that if a person is convicted of a crime for which imprisonment may be imposed, and the crime victim is an elder person, a sentencing court is allowed to increase the maximum term of imprisonment prescribed by law for that crime. It also provides that if an elder person petitions for a restraining order, the court must permit the elder person to participate in hearings by telephone or live audiovisual means. Lastly, the act creates a procedure to freeze the assets of a defendant charged with certain crimes of financial exploitation.



# Keep on the Watch

## NATIONAL

**HR 4969**

[▶ VIEW ONLINE](#)

Introduced on August 6, 2021, the “Elder Justice Reauthorization and Modernization Act of 2021” would reauthorize funding for programs to prevent, investigate, and prosecute elder abuse, neglect, and exploitation.

## STATES

### California

**CALIFORNIA AB 636**

[▶ VIEW ONLINE](#)

Enrolled and presented to the governor on September 10, 2021, this bill would make changes regarding the sharing of information relevant to incidents of elder or dependent adult abuse. While existing law authorizes this type of information to be given to specified investigators, including investigators from an adult protective services agency, a local law enforcement agency, and the probate court, this measure would authorize it to also be given to a federal law enforcement agency charged with the investigation of elder or dependent adult abuse or to a local code enforcement agency for the sole purpose of investigating a property where the health and safety of an elder or dependent adult resident is at risk. The measure is awaiting the governor’s signature.

**CALIFORNIA AB 790**

[▶ VIEW ONLINE](#)

Enrolled and presented to the governor on September 10, 2021, this measure would extend the provisions of the Consumer Legal Remedies Act relating to home solicitations of a senior citizen where a loan encumbers the primary residence of the consumer for purposes of paying for home improvement to also apply to assessments. Under the bill, if transactions are part of a pattern or practice in violation of specified provisions relating to the PACE program, or specified provisions regulating PACE program administrators under the California Financing Law, they would be unfair methods of competition and unfair or deceptive acts or practices. The measure is awaiting the governor’s signature.

## Kentucky

**KENTUCKY SB 2**

[▶ VIEW ONLINE](#)

Delivered to the Secretary of State on September 10, 2021, this measure would require that visitation in a long-term care facility or a residential long-term care facility be allowed by an essential compassionate care visitor, including a family member, legal guardian, outside caregiver, friend, or volunteer, who: (a) provided regular care and support to the resident prior to the COVID-19 pandemic; and (b) Is designated an essential compassionate care visitor who is important to the mental, physical, or social well-being of a resident in: (1) Critical situations such as end of life; (2) Instances of significant mental or social decline of the resident; or (3) Exigent circumstances existing regarding a resident in the facility. The measure would also provide additional provisions relating to COVID-19 emergency actions and declaring an emergency.

## Michigan

**MICHIGAN SB 315**

[▶ VIEW ONLINE](#)

Passed by the Senate on September 14, 2021, this measure would add Article 5A (Financial Exploitation of Specified Adults) to the Uniform Securities Act to allow a broker-dealer or investment adviser to place a temporary hold on a disbursement of funds or securities if the broker-dealer or investment advisor believed that financial exploitation of a specified adult had occurred, was occurring, had been attempted, or will be attempted. It would also allow a broker-dealer or investment adviser to notify certain entities if the broker-dealer or investment adviser believed that financial exploitation of a specified adult could have occurred, was occurring, could have been attempted, or was being attempted. The bill also provides requirements for maintaining written procedures and retaining records. It would also allow an agency of competent jurisdiction to disclose to any reporting or notifying broker-dealer or investment adviser the general status or final disposition of an investigation. It would not require a broker-dealer or investment adviser to place a temporary hold on a disbursement of funds or securities from the account of a specified adult. The bill also provides immunity for a broker-dealer or investment advisor that exercised good faith in making disclosures, placing a temporary hold, or providing access to records. The measure was referred to the House Committee on Financial Services on September 14, 2021.

## North Carolina

### NORTH CAROLINA SB 191

[▶ VIEW ONLINE](#)

Passed by the House on August 18, 2021, the “No Patient Left Alone Act” would ensure visitation rights for patients in most healthcare facilities during a declared disaster or emergency. It would also require the Department of Health and Human Services to assess a civil penalty for violations of those visitation rights. Senate and House conferees were appointed for the measure on August 30 and 31, 2021 to reconcile differences between House and Senate versions of the bill.

## Pennsylvania

### PENNSYLVANIA HB 996

[▶ VIEW ONLINE](#)

Passed by the House on May 26, 2021, the “Religious Liberty in Long-Term Care Facilities Act” would require the Department of Health of the Commonwealth, in consultation with the Department of Human Services, to establish protocols to allow a resident or an individual with decision-making authority for the resident to request visitation by a member of the clergy during a declaration of disaster emergency. A member of the clergy would be required to meet the necessary qualifications to enter the long-term care facility to provide in-person physical or emotional support to a resident of a long-term care facility on a voluntary basis and in accordance with the protocols established in the act. The measure was referred to the Senate Committee on Aging and Youth on May 28, 2021.

# Legislation Tracked in Specific Topic Areas

**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](#)

**NCEA**  
National Center on Elder Abuse

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