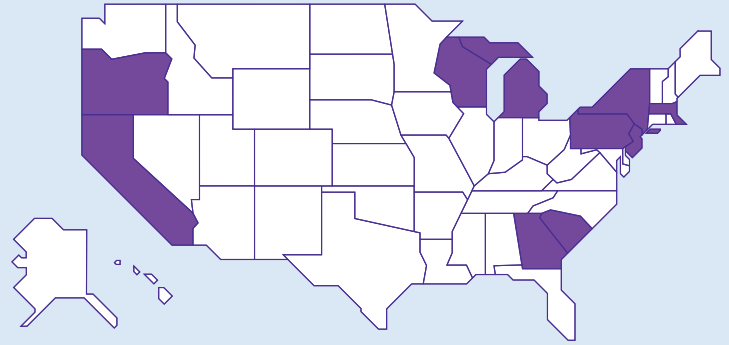


# Elder Justice Policy Highlights

SEPTEMBER 2023 – FEBRUARY 2024

The NCEA's semiannual elder justice policy compilation surveys national and state legislation from September 2023 through February 2024. This update includes federal and state elder justice legislative actions. Policy highlights are classified below as New Federal Actions, Enacted Legislation, and Introduced Legislation.



## Topic Index

The following themes were identified:

Care Monitoring Devices: [New York A.B. 4616](#), [South Carolina H.B. 4630](#)

Caregiving: [H.R. 7165](#)

Criminal Penalties: [Pennsylvania H.B. 1760](#)

Education and Consumer Information: [New York S.B. 1730](#)

Elder Abuse Registry: [South Carolina H.B. 4556](#)

Financial Exploitation: [S. 3630](#), [California A.B. 386](#), [Michigan H.B. 4197](#), [New York S.B. 1071](#), [New York A.B. 4177](#), [New York S.B. 5515](#), [New York S.B. 5708](#), [Pennsylvania H.B. 2066](#), [Wisconsin A.B. 578](#)

General: [ACL Final Rule to Update Older Americans Act Programs](#), [New Jersey S.B. 4169](#)

Isolation: [S. 3437](#), [H.R. 6388](#), [New York A.B. 2117](#)

Long-Term Care/Healthcare Facilities: [CMS Initiatives for Improving Nursing Home Care, 88 FR 80141 – Medicare and Medicaid Programs Final Rule](#), [S. 3410](#), [H.R. 7119](#), [Massachusetts H.B. 4193](#), [Michigan H.B. 5293](#), [New York S.B. 2419](#), [New York S.B. 2608](#), [New York S.B. 3293](#), [New York A.B. 3582](#), [New York S.B. 5747](#), [Oregon S.B. 99](#)

Mandatory Reporting: [California A.B. 1417](#), [New York S.B. 4839](#)

Medications: [California A.B. 48](#), [New Jersey A.B. 5248](#), [New York A.B. 7467](#)

Multidisciplinary/Workgroups: [Georgia H.B. 1123](#), [New York S.B. 3089](#)

Research: [S. 3630](#), [New York A.B. 1856](#), [New York A.B. 2730](#), [New York S.B. 4517](#)

Sexual Abuse: [Michigan H.B. 4320](#), [Michigan H.B. 4387](#)

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



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

## New Federal Actions

**ACL Final Rule to Update Older Americans Act Programs:** On February 6, 2024, the Administration for Community Living (ACL) released a final rule to update regulations for its Older Americans Act (OAA) Programs, the first update since 1988. The regulations reinforce and clarify policies, offer guidance for programs, including elder abuse prevention, legal assistance, and Long-term Care Ombudsman, and promote appropriate stewardship of OAA resources. The rule will take effect on March 15, 2024, but regulated entities have until October 1, 2025 to comply.

**CMS Initiatives for Improving Nursing Home Care:** On September 1, 2023, the Centers for Medicare & Medicaid Services (CMS) announced several efforts to improve the safety of nursing home residents including stronger enforcement of existing staffing standards and a national campaign to expand the nursing workforce. CMS is also proposing a federal minimum staffing level.

**88 FR 80141 – Medicare and Medicaid Programs Final Rule:** On November 17, 2023, the Centers for Medicare & Medicaid Services published a final rule that requires skilled nursing facilities and nursing homes enrolled in Medicare or Medicaid to disclose information about ownership and management. The goal of this measure is to help families make better informed decisions about choosing a place of care for their loved ones. This rule went into effect on January 16, 2024.

## Enacted Legislation

### STATES

#### California

##### California A.B. 48

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Approved by the Governor on June 29, 2023, this measure requires a local law enforcement agency that changes its elder and dependent adult abuse policy on or after April 13, 2021, to include specific provisions about procedures for investigating elder abuse. Improving overall quality of life.

##### California A.B. 386

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Enacted on October 8, 2023, this law adds Adult Protective Services to the list of entities that can request a bank, credit union, or savings association to provide information regarding a customer account, when investigating financial abuse of an older or dependent adult that involves the fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association.

## California A.B. 1417

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Approved by the Governor on October 8, 2023, this measure states that if abuse within a long-term facility is caused by a resident with dementia, diagnosed by a licensed physician, and does not inflict serious bodily injury, a mandated reporter is required to submit a written report within 24 hours to the long-term care ombudsman, local law enforcement, and the corresponding state agency. In all other instances, the reporter is required to immediately submit a verbal report to local law enforcement and a written report to the long-term care ombudsman, local law enforcement, and the corresponding state agency.

## Michigan

### Michigan H.B. 4197

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Enacted on November 14, 2023, this legislation allows broker-dealers and investment advisers to delay disbursements or transactions from an account if financial exploitation is detected or suspected. If the client is a vulnerable adult, the broker-dealer or investment adviser is required to notify law enforcement or Adult Protective Services. The measure provides immunity from liability if the broker-dealer or investment adviser is acting in good faith.

### Michigan H.B. 4320

[View Online](#)

Approved by the Governor on November 14, 2023, this law prohibits intentionally or knowingly harassing, abusing, threatening, forcing, coercing, compelling, or exploiting

the vulnerability of a vulnerable adult in a way that causes them to provide sexually explicit visual material to that person or any other person.

### Michigan H.B. 4387

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Approved by the Governor on November 14, 2023, this measure implements a stronger penalty for offenders of Michigan House Bill 4320 (see above) by stating that a second or subsequent offense of causing a vulnerable adult to provide sexually explicit visual material would be a class G crime, with a maximum prison term of two years.

## Oregon

### Oregon S.B. 99

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Effective as of January 1, 2024, this legislation creates a bill of rights for LGBTQIA2S+ older adult residents of long term and community-based care facilities. The bill of rights protects residents from actions that are based on a resident's actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus status. It also includes specific protocols to ensure confidentiality of resident information and informed consent for any nontherapeutic examination or treatment. The measure ensures access to assessments and treatments for transgender residents that are recommended by their healthcare providers. The measure also includes training for administrators, staff, entities that contract with care facilities, and the Long-Term Care Ombudsman.

## Introduced Legislation

### NATIONAL

#### H.R. 6388

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Introduced on November 13, 2023, the Friendly Calls for Our Seniors Act of 2023 would fund a program to promote social connection for older adults and adults with disabilities through telephone reassurance services.

## H.R. 7119

[View Online](#)

Introduced on January 29, 2024, the Fairness in Nursing Home Arbitration Act would prohibit skilled nursing facilities from using pre-dispute arbitration agreements in facilities under Medicare and Medicaid programs.

## H.R. 7165

[View Online](#)

Introduced on January 31, 2024, the Credit for Caring Act of 2024 would provide a tax credit for working family caregivers.

## S. 3410

[View Online](#)

Introduced on December 5, 2023, the Protecting Rural Seniors' Access to Care Act would prevent the implementation or enforcement of the proposed rule regarding minimum staffing standards for long-term care facilities, which was proposed by the Department of Health and Human Services in September 2023. The bill's purpose is to prevent nursing home closures that would limit access for vulnerable adults in rural areas. The measure would also create an advisory panel to study the nursing home workforce.

## S. 3437

[View Online](#)

Introduced on December 7, 2023, the Addressing Social Isolation and Loneliness in Older Adults (SILO) Act would provide grants and training to community-based organizations and area agencies on aging to prevent social isolation, conduct outreach, and develop interventions and supports for older adults and adults with disabilities at risk of isolation.

## S. 3630

[View Online](#)

Introduced on January 18, 2024, this bill would create a pilot program to test the use of a predictive risk-scoring algorithm in detecting Medicare fraud, with a focus on payments made for durable medical equipment and clinical diagnostic laboratory tests.

## STATES

### Georgia

#### Georgia H.B. 1123

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Introduced on February 1, 2024, this measure would create the Adult Abuse, Neglect, and Exploitation Multidisciplinary Coordinator Program within the Prosecuting Attorneys' Council of the State of Georgia, which would create a network of regional coordinators. The bill would also create an elder justice coalition to take multiple actions to address elder abuse including creating a guide for law enforcement on responding to abuse of disabled and older adults, conducting training on disability, Alzheimer's disease, dementia, and other cognitive impairments and training on how to respond to abuse victims with these impairments, and providing support to local Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams. The bill was passed by the House on February 29, 2024, and is awaiting passage by the Senate.

### Massachusetts

#### Massachusetts H.B. 4193

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Passed by the House on November 15, 2023, this legislation includes multiple actions to improve quality and oversight of long-term care (LTC) facilities. It could create funding for LTC workforce training grant programs and specialized care units in skilled nursing facilities. The bill also provides updated specifications for obtaining a license to operate a facility. As part of this measure, the attorney general would be able to file a civil action against a person who commits abuse or neglect of a resident, or causes another person to commit abuse or neglect. The measure also includes actions to improve disease outbreak response, help residents engage with others, analyze costs, and create task forces to study specific areas of LTC.

## Michigan

### Michigan H.B. 5293

[View Online](#)

Introduced on November 2, 2023, this bill would ensure that a nursing home resident or their representative receives instructions for making a complaint against the nursing home during any assessment or evaluation of the resident's needs, and if a resident is relocated. The measure gives instructions on where these materials should be posted.

## New Jersey

### New Jersey S.B. 4169

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Introduced on November 30, 2023, this measure would add protections for older adults to the Prevention of Domestic Violence Act of 1991. The bill references elder abuse in domestic settings by current or former household members in its many possible forms including emotional, psychological, and physical domestic violence. It also updates the definition of "victim of domestic violence" which currently covers any person who is 18 years of age or older, to include an elderly person in a domestic setting.

### New Jersey A.B. 5248

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Passed by the Assembly on December 7, 2023, this bill would regulate pharmaceutical services in long-term care facilities. Each facility would have a consultant pharmacist, a provider pharmacist or director of pharmaceutical services, and an interdisciplinary pharmacy and therapeutics committee. If the facility keeps emergency injectable or oral controlled substances, the facility would need a Drug Enforcement Administration registration and a Controlled Dangerous Substance registration.

## New York

### New York S.B. 1071

[View Online](#)

Introduced in January 2023 and pending, this measure would allow investment advisers

and firms to stop disbursements from an account of an elderly or vulnerable adult if financial exploitation is suspected. The investment adviser or firm would notify Adult Protective Services and the Commissioner of the Department of Financial Services about the incident and, if acting in good faith, would be immune from liability.

### New York S.B. 1730

[View Online](#)

Introduced in January 2023 and pending, this bill would require the state's Office for the Aging to develop and provide elder abuse prevention training for employees of senior centers and programs that contract with the Office for the Aging and the Office of Children and Family Services. Senior centers would be required to hold at least two educational sessions per year.

### New York A.B. 1856

[View Online](#)

Introduced in January 2023 and pending, this bill would implement a study on the use of the frailty index methodology, a measure of the health status of elderly individuals, to improve the quality of care in nursing homes, achieve better outcomes for nursing home residents, and help the state more appropriately direct payments to providers based on quality performance.

### New York A.B. 2117

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Introduced in January 2023 and pending, under this measure, residents of nursing homes and patients in hospitals or facilities providing health related services would have the right to video communication devices when visitor access is limited, including during flu season or during a designated state of emergency.

### New York S.B. 2419

[View Online](#)

Introduced in January 2023 and pending, this bill would create a temporary bi-partisan state commission to investigate the effects of the state's response to the COVID-19 pandemic on deaths in nursing homes.

**New York S.B. 2608**[View Online](#)

Introduced in January 2023 and pending, this bill would establish the COVID-19 Nursing Home Commission to investigate Governor Cuomo's administration and the state Department of Health's response to the COVID-19 pandemic in nursing homes. The Commission would specifically investigate actions taken by the administration including a health ordinance and a reported undercounting of COVID-19 related deaths in nursing homes.

**New York A.B. 2730**[View Online](#)

Introduced in January 2023 and pending, this measure would create an elder court pilot program to study the effectiveness of senior-specific judicial programming, especially involving elder abuse and domestic violence.

**New York S.B. 3089**[View Online](#)

Introduced in January 2023 and pending, this measure would implement multi-disciplinary teams at the county level for complex cases of adult abuse, neglect, or financial exploitation.

**New York S.B. 3293**[View Online](#)

Introduced in January 2023 and pending, this bill would give the attorney general the authority to investigate nursing homes that are under the supervision of the Commissioner of Health, if the attorney general suspects that those nursing homes have taken actions that are improvident or prejudicial to the interests of the public or nursing home residents.

**New York A.B. 3582**[View Online](#)

Introduced in February 2023 and pending, the Justice for Nursing Home Victims Act would create a nursing home resident coronavirus compensation program to provide full compensation to any resident or their statutory beneficiary when

COVID-19 caused or contributed to the resident's death. Compensation would also be available for the resident's surviving family members who experienced grief or anguish or other negative outcomes because of the resident's death, as detailed in the bill. The measure also provides the responsibilities of a nursing home during a pandemic. The bill is being reviewed by the Assembly Judiciary committee.

**New York A.B. 4177**[View Online](#)

Introduced in February 2023 and pending, this bill would require the superintendent of the Department of Financial Services, along with the attorney general, representatives of the financial services industry, law enforcement, senior groups, and district attorneys to develop guidelines for detecting and reporting financial exploitation. A financial institution that reports suspected financial exploitation in good faith would have immunity from any civil or criminal liability.

**New York S.B. 4517**[View Online](#)

Introduced in February 2023 and pending, this bill would create an elder abuse shelter aftercare demonstration program to evaluate the effectiveness of the program in preventing re-victimization, avoiding readmissions to the shelter, avoiding hospitalizations, and maintaining residence in a community setting.

**New York A.B. 4616**[View Online](#)

Introduced in February 2023 and pending, this bill would allow nursing home residents to install electronic monitoring devices in their rooms.

**New York S.B. 4839**[View Online](#)

Introduced in February 2023 and pending, this measure would establish a statewide central register for reporting elder abuse. The register would be equipped with

receiving elder abuse reports, providing referrals to the appropriate adult protective service agency, and maintaining records. The bill identifies professionals that are mandated reporters of suspected elder abuse. This measure would also create an Elder Justice Coordinating Council to facilitate interagency planning, review elder abuse initiatives, and provide a community forum to gain input from consumers, providers, law enforcement, and others, on developing a state plan for addressing elder abuse.

#### **New York S.B. 5515**

[View Online](#)

Introduced in March 2023 and pending, this bill would prohibit an individual convicted of a crime involving elder abuse from inheriting the elder's estate.

#### **New York S.B. 5708**

[View Online](#)

Introduced in January 2023 and pending, this measure would amend the Penal Law to add a new crime of financial exploitation of the elderly or disabled, enabling prosecution for financial abuse of senior citizens.

#### **New York S.B. 5747**

[View Online](#)

Introduced in March 2023 and pending, this measure intends to protect nursing home residents by allowing nursing homes the authority to perform background checks on prospective residents. The background check would assess criminal history information including a prior sex offense conviction and whether the prospective resident has recently been released from prison.

#### **New York A.B. 7467**

[View Online](#)

Introduced in May 2023 and pending, this bill would require informed consent and notice to family members before psychotropic medication can be prescribed to patients in nursing homes or adult care facilities. An emergency order for

psychotropic medication would be allowed when necessary to protect the life, health, or safety of a patient or others in the nursing home.

## **Pennsylvania**

#### **Pennsylvania H.B. 1760**

[View Online](#)

Passed by the House on December 13, 2023, this bill would ensure that individuals convicted of elder abuse resulting in death of the victim would be unable to acquire the victim's property or benefits.

#### **Pennsylvania H.B. 2066**

[View Online](#)

Introduced on February 27, 2024, this measure would allow fiduciaries and representatives of financial institutions to refuse disbursements and transactions from an older adult's account if financial exploitation is suspected, and to report these incidents to Adult Protective Services or law enforcement. Additionally, the Department of Aging and the Department of Banking and Securities, in consultation with financial service representatives, would develop a model training program on identifying and reporting financial exploitation for employees of financial institutions and fiduciaries. The bill would also allow fiduciaries and representatives of financial institutions to initiate certain court proceedings to help protect an older adult when financial exploitation is taking place. The measure provides immunity from liability.

## **South Carolina**

#### **South Carolina H.B. 4630**

[View Online](#)

Introduced on January 9, 2024, this measure would require skilled nursing facilities, nursing homes, community residential care facilities, and assisted living facilities to provide a video camera in patients' rooms for the family or legal

guardian of a resident to use for monitoring care. Any recordings made by the monitor must be secured and available only to the patient, the patient's family member, or legal guardian.

### **South Carolina H.B. 4556**

[View Online](#)

Introduced on January 9, 2024, the Vulnerable Adult Maltreatment Registry Act would create a registry of perpetrators of abuse of vulnerable adults. Individuals entered in the registry would be notified in writing and have the right to appeal. The registry would only be accessible by certain authorities and under specific conditions as detailed in the legislation.

## **Wisconsin**

### **Wisconsin A.B. 578**

[View Online](#)

Introduced on October 31, 2023, this bill would allow financial service providers to refuse or delay transactions from a vulnerable adult's account if financial exploitation is suspected. The financial service provider would need to notify one or more parties authorized to transact business on the account and report the incident to the appropriate agency. The financial representative, if acting in good faith, would be immune from liability. The bill was passed by the Assembly on January 18, 2024, and is being reviewed by the Senate.

## **Legislation Tracked in Specific Topic Areas**

The following links provide additional information on legislative activity relevant to guardianship and financial exploitation.

**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](#)



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