

§ 3057o. Funding set aside

Of the funds appropriated under section 3057n(1) for a fiscal year, not more than 5 percent shall be made available to carry out part D for such fiscal year, provided that for such fiscal year—

(1) the funds appropriated for parts A and B are greater than the funds appropriated for fiscal year 2019; and

(2) the Assistant Secretary makes available for parts A and B no less than the amount of resources made available for fiscal year 2019.

(Pub. L. 89-73, title VI, §644, as added Pub. L. 116-131, title V, §501(1)(B), Mar. 25, 2020, 134 Stat. 267.)

SUBCHAPTER XI—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

PART A—STATE PROVISIONS

SUBPART I—GENERAL STATE PROVISIONS

§ 3058. Establishment

The Assistant Secretary, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

(Pub. L. 89-73, title VII, §701, as added Pub. L. 102-375, title VII, §701, Sept. 30, 1992, 106 Stat. 1271; amended Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

PRIOR PROVISIONS

A prior section 3058, Pub. L. 89-73, title VII, §702, as added Pub. L. 98-459, title VII, §701, Oct. 9, 1984, 98 Stat. 1788, related to Congressional declaration of findings, prior to repeal by Pub. L. 100-175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 701 of title VII of Pub. L. 89-73, as added by Pub. L. 98-459, title VII, §701, Oct. 9, 1984, 98 Stat. 1788, provided that this subchapter be cited as the “Older Americans Personal Health Education and Training Act”, prior to repeal by Pub. L. 100-175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

Another prior section 701 of Pub. L. 89-73 was classified to section 3045 of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

1993—Pub. L. 103-171 substituted “Assistant Secretary” for “Commissioner”.

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103-171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102-375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§ 3058a. Authorization of appropriations**(a) Ombudsman program**

There are authorized to be appropriated to carry out subpart II, \$18,066,950 for fiscal year 2020, \$19,150,967 for fiscal year 2021, \$20,300,025 for

fiscal year 2022, \$21,518,027 for fiscal year 2023, and \$22,809,108 for fiscal year 2024.

(b) Other programs

There are authorized to be appropriated to carry out subparts III and IV, \$5,107,110 for fiscal year 2020, \$5,413,537 for fiscal year 2021, \$5,738,349 for fiscal year 2022, \$6,082,650 for fiscal year 2023, and \$6,447,609 for fiscal year 2024.

(Pub. L. 89-73, title VII, §702, as added Pub. L. 102-375, title VII, §701, Sept. 30, 1992, 106 Stat. 1271; amended Pub. L. 106-501, title VII, §701, Nov. 13, 2000, 114 Stat. 2289; Pub. L. 109-365, title VII, §701, Oct. 17, 2006, 120 Stat. 2591; Pub. L. 114-144, §8(a), Apr. 19, 2016, 130 Stat. 346; Pub. L. 116-131, title VI, §601, Mar. 25, 2020, 134 Stat. 268.)

PRIOR PROVISIONS

A prior section 3058a, Pub. L. 89-73, title VII, §703, as added Pub. L. 98-459, title VII, §701, Oct. 9, 1984, 98 Stat. 1789, related to statement of purposes, prior to repeal by Pub. L. 100-175, title I, §181, title VIII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 702 of Pub. L. 89-73 was classified to section 3045a of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

2020—Pub. L. 116-131 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to authorization of appropriations to carry out subparts II to IV of this part for fiscal years 2017 to 2019.

2016—Subsec. (a). Pub. L. 114-144, §8(a)(1), which directed substitution of “\$16,280,630 for fiscal year 2017, \$16,621,101 for fiscal year 2018, and \$16,961,573 for fiscal year 2019.” for “such sums” and all that followed through the period at the end, was executed by making the substitution for “such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years.” to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 114-144, §8(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out subpart III of this part, such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years.”

Subsec. (c). Pub. L. 114-144, §8(a)(3), struck out subsec. (c). Text read as follows: “There are authorized to be appropriated to carry out subpart IV of this part, such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years.”

2006—Pub. L. 109-365 substituted “2007” for “2001” in subsecs. (a) to (c).

2000—Pub. L. 106-501 amended section catchline and text generally, substituting provisions authorizing appropriations for subparts II, III, and IV of this part for fiscal year 2001 and subsequent fiscal years for provisions authorizing appropriations for subparts II, III, IV, and V of this part for fiscal years 1992 through 1995.

EFFECTIVE DATE

Subchapter inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102-375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§ 3058b. Allotment**(a) In general****(1) Population**

In carrying out the program described in section 3058 of this title, the Assistant Secretary shall initially allot to each State, from

the funds appropriated under section 3058a of this title for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

(2) Minimum allotments

(A) In general

After making the initial allotments described in paragraph (1), the Assistant Secretary shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

(B) General minimum allotments

(i) Minimum allotment for States

No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 3058a of this title for the fiscal year for which the determination is made.

(ii) Minimum allotment for territories

Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 3058a of this title for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 3058a of this title for the fiscal year for which the determination is made.

(C) Minimum allotments for ombudsman and elder abuse programs

(i) Ombudsman program

No State shall be allotted for a fiscal year, from the funds appropriated under section 3058a of this title and made available to carry out subpart II of this part, less than the amount allotted to the State under section 3024 of this title in fiscal year 2000 to carry out the State Long-Term Care Ombudsman program under subchapter III.

(ii) Elder abuse programs

No State shall be allotted for a fiscal year, from the funds appropriated under section 3058a of this title and made available to carry out subpart III of this part, less than the amount allotted to the State under section 3024 of this title in fiscal year 2000 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under subchapter III.

(D) "State" defined

For the purposes of this paragraph, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) Reallotment

(1) In general

If the Assistant Secretary determines that any amount allotted to a State for a fiscal

year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make the amount available to a State that the Assistant Secretary determines will be able to use the amount for carrying out the purpose.

(2) Availability

Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this part, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

(c) Withholding

If the Assistant Secretary finds that any State has failed to carry out this subchapter in accordance with the assurances made and description provided under section 3058d of this title, the Assistant Secretary shall withhold the allotment of funds to the State. The Assistant Secretary shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

(Pub. L. 89-73, title VII, §703, as added Pub. L. 102-375, title VII, §701, Sept. 30, 1992, 106 Stat. 1271; amended Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106-501, title VII, §702, title VIII, §801(e)(1), Nov. 13, 2000, 114 Stat. 2289, 2293.)

PRIOR PROVISIONS

A prior section 3058b, Pub. L. 89-73, title VII, §704, as added Pub. L. 98-459, title VII, §701, Oct. 9, 1984, 98 Stat. 1789, related to older Americans personal health education and training program, prior to repeal by Pub. L. 100-175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 703 of Pub. L. 89-73 was classified to section 3045b of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

2000—Subsec. (a)(2)(C)(i). Pub. L. 106-501, §§702, 801(e)(1)(A), substituted "section 3058a of this title and made available to carry out subpart II of this part" for "section 3058a(a) of this title" and "2000" for "1991".

Subsec. (a)(2)(C)(ii). Pub. L. 106-501, §§702, 801(e)(1)(B), substituted "section 3058a of this title and made available to carry out subpart III of this part" for "section 3058a(b) of this title" and "2000" for "1991".

1993—Pub. L. 103-171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103-171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102-375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 3058c. Organization

In order for a State to be eligible to receive allotments under this part—

- (1) the State shall demonstrate eligibility under section 3025 of this title;
- (2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 3025 of this title; and
- (3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 3025 of this title.

(Pub. L. 89-73, title VII, §704, as added Pub. L. 102-375, title VII, §701, Sept. 30, 1992, 106 Stat. 1273.)

PRIOR PROVISIONS

A prior section 3058c, Pub. L. 89-73, title VII, §705, as added Pub. L. 98-459, title VII, §701, Oct. 9, 1984, 98 Stat. 1791, related to administration of program, prior to repeal by Pub. L. 100-175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 704 of Pub. L. 89-73 was classified to section 3045c of this title prior to repeal by Pub. L. 95-478.

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102-375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§ 3058d. Additional State plan requirements

(a) Eligibility

In order to be eligible to receive an allotment under this part, a State shall include in the State plan submitted under section 3027 of this title—

- (1) an assurance that the State, in carrying out any subpart of this part for which the State receives funding under this part, will establish programs in accordance with the requirements of the subpart and this subpart;
- (2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under subchapter X, and other interested persons and entities regarding programs carried out under this part;
- (3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;
- (4) an assurance that the State will use funds made available under this part for a subpart in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before September 30, 1992, to carry out each of the vulnerable elder rights protection activities described in the subpart;
- (5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 3058g(a)(5)(C) of this title, on the eligibility of

entities for designation as local Ombudsman entities under section 3058g(a)(5) of this title;

(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under subpart III of this part—

(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

- (i) public education to identify and prevent elder abuse;
- (ii) receipt of reports of elder abuse;
- (iii) active participation of older individuals participating in programs under this chapter through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and
- (iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

- (i) if all parties to such complaint consent in writing to the release of such information;
- (ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or
- (iii) upon court order; and

(7) a description of the manner in which the State agency will carry out this subchapter in accordance with the assurances described in paragraphs (1) through (6).

(b) Privilege

Neither a State, nor a State agency, may require any provider of legal assistance under this part to reveal any information that is protected by the attorney-client privilege.

(Pub. L. 89-73, title VII, §705, as added Pub. L. 102-375, title VII, §701, Sept. 30, 1992, 106 Stat. 1273; amended Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106-501, title VII, §703, Nov. 13, 2000, 114 Stat. 2289.)

PRIOR PROVISIONS

A prior section 3058d, Pub. L. 89-73, title VII, §706, as added Pub. L. 98-459, title VII, §701, Oct. 9, 1984, 98 Stat. 1791, authorized appropriations for fiscal years 1985, 1986, and 1987, prior to repeal by Pub. L. 100-175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 705 of Pub. L. 89-73 was classified to section 3045d of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

2000—Subsec. (a)(4). Pub. L. 106-501, §703(1), inserted “each of” after “carry out”.