

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 798

To amend title XVI of the Social Security Act to improve the provision of supplemental security income benefits, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, MAY 1), 1995

Mr. CONRAD (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. BRADLEY, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVI of the Social Security Act to improve the provision of supplemental security income benefits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children’s SSI Eligi-  
5 bility Reform Act”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act to ensure that supple-  
8 mental security income benefits—

1 (1) provide basic necessities to maintain a child  
2 with a disability at home or in another appropriate  
3 and cost effective setting;

4 (2) cover the additional costs of caring for and  
5 raising such a child; and

6 (3) enhance the child's opportunity to develop  
7 into an independent adult.

8 **SEC. 3. SUPPLEMENTAL SECURITY INCOME BENEFITS FOR**  
9 **DISABLED CHILDREN.**

10 (a) MODIFICATION OF BENEFIT ELIGIBILITY.—

11 (1) IN GENERAL.—Section 1614(a)(3)(A) of the  
12 Social Security Act (42 U.S.C. 1382c(a)(3)(A)) is  
13 amended—

14 (A) by inserting “(i)” after “(3)(A)”;

15 (B) by inserting “(other than an individual  
16 under the age of 18)” before “shall be consid-  
17 ered”;

18 (C) by striking “he” and inserting “the in-  
19 dividual”;

20 (D) by striking “(or, in the case of an indi-  
21 vidual under the age of 18, if he suffers from  
22 any medically determinable physical or mental  
23 impairment of comparable severity)”; and

24 (E) by adding after and below the end the  
25 following:

1       “(ii)(I) An individual under the age of 18 shall be  
2 considered to be disabled for purposes of this title for a  
3 month if the individual has any medically determinable  
4 physical or mental impairment of comparable severity to  
5 an impairment described in clause (i).

6       “(II) For purposes of subclause (I), an impairment  
7 is of comparable severity if such impairment is severe and  
8 persistent and substantially limits the individual’s ability  
9 to develop or function.

10           (2) EFFECTIVE DATE.—The amendments made  
11 by paragraph (1) shall apply to applicants for bene-  
12 fits for months beginning 6 months after the date of  
13 the enactment of this Act, without regard to whether  
14 regulations have been issued to implement such  
15 amendments.

16       (b) ADDITIONAL MODIFICATIONS.—

17           (1) MODIFICATION TO MEDICAL CRITERIA FOR  
18 EVALUATION OF MENTAL AND EMOTIONAL DIS-  
19 ORDERS.—The Commissioner of Social Security  
20 shall modify paragraph (2) of section 112.02B.2.c.  
21 of appendix 1 to subpart P of part 404 of title 20,  
22 Code of Federal Regulations, to eliminate references  
23 to maladaptive behaviors and to require instead evi-  
24 dence of a persistent pattern of behavior destructive  
25 to self or others requiring protective intervention.

1           (2) MODIFICATIONS TO INDIVIDUALIZED FUNC-  
2           TIONAL ASSESSMENT.—

3           (A) INCREASE IN SEVERITY.—The Com-  
4           missioner of Social Security shall modify the  
5           level of severity required to establish com-  
6           parable severity under section 416.924e of title  
7           20, Code of Federal Regulations, to either—

8                   (i) a marked level of impairment in 2  
9                   or more domains; or

10                   (ii) a marked level of impairment in  
11                   at least 1 domain and a moderate level of  
12                   impairment in at least 1 additional do-  
13                   main.

14           (B) DOMAINS OF DEVELOPMENT OR FUNC-  
15           TIONING.—The Commissioner of Social Security  
16           shall modify the individualized functional as-  
17           sessment for children set forth in section  
18           416.924d of title 20, Code of Federal Regula-  
19           tions, to include the following domains of devel-  
20           opment or functioning, to ensure the domains  
21           do not overlap from a clinical perspective, and  
22           to compare the child's abilities in each of these  
23           domains with those of children of similar age  
24           who do not have a disability:

- 1 (i) Cognition (the ability to under-  
2 stand and reason and to learn required  
3 skills).
- 4 (ii) Communication (the ability to re-  
5 ceive and convey information; the ability to  
6 produce speech audibly and intelligibly).
- 7 (iii) Motor abilities (the ability to  
8 move and coordinate the body and extrem-  
9 ities in gross and fine motions).
- 10 (iv) Ability to care for oneself (the  
11 ability to perform normal childhood activi-  
12 ties in the home, school, or community  
13 with adult assistance or supervision appro-  
14 priate to one's age and to control behaviors  
15 that could harm oneself or others).
- 16 (v) Ability to engage in interpersonal  
17 relations (the ability to develop and main-  
18 tain positive and productive interpersonal  
19 relationships so as to function within the  
20 family, peer groups, and community).
- 21 (vi) Responsiveness to stimuli (the  
22 ability of children from birth to the attain-  
23 ment of age 1 to react appropriately to vis-  
24 ual, auditory, or tactile stimulation).

1           (vii) Ability to concentrate, persist,  
2           maintain pace, and have physical stamina  
3           to complete essential tasks in the home,  
4           school, or community (in children from age  
5           3 to the attainment of age 18).

6           (3) EFFECTIVE DATE.—

7           (A) IN GENERAL.—The modifications re-  
8           quired by this subsection shall apply to appli-  
9           cants for benefits for months beginning 6  
10          months after the date of the enactment of this  
11          Act, without regard to whether regulations have  
12          been issued to implement such amendments.

13          (B) CONTINUING REVIEW.—The Commis-  
14          sioner of Social Security shall review and report  
15          to the Congress not later than 5 months after  
16          the date of the enactment of this Act whether  
17          the required modifications described in this sub-  
18          section should be further modified.

19          (c) ADDITIONAL REVIEW AND REVISION OF INDIVID-  
20          UALIZED FUNCTIONAL ASSESSMENT.—

21          (1) IN GENERAL.—The Commissioner of Social  
22          Security shall review and revise the individual func-  
23          tional assessment for children set forth in sections  
24          416.924d and 416.924e of title 20, Code of Federal

1 Regulations, to ensure that such assessment is ap-  
2 plied to children who—

3 (A) have multiple impairments, none of  
4 which meet or equal the Listings of Impair-  
5 ments set forth in appendix 1 of subpart P of  
6 part 404 of such title 20, but which in combina-  
7 tion result in the child being disabled under sec-  
8 tion 1614(a)(3)(A)(ii) of the Social Security  
9 Act, as added by subsection (a);

10 (B) are too young, or for other reasons,  
11 cannot be fully evaluated;

12 (C) have physical or mental impairments  
13 or illnesses which are not explicitly included in  
14 such Listings; and

15 (D) have conditions which do not meet or  
16 equal the severity of any such Listing, but meet  
17 the functional test of severity under such sec-  
18 tion 1614(a)(3)(A)(ii).

19 (2) TESTING.—The Commissioner of Social Se-  
20 curity shall ensure that pursuant to the revised indi-  
21 vidual functional assessment for children under  
22 paragraph (1)—

23 (A) valid and reliable tests are used, if  
24 available, which provide qualitative and quan-  
25 tifiable measures of childhood functioning, or

1 (B) criteria of childhood functioning are  
2 developed which are equivalent to the findings  
3 of a standardized test.

4 (3) APPLICABILITY.—The Commissioner of So-  
5 cial Security shall issue final regulations relating to  
6 the individual functional assessment for children  
7 under paragraph (1) not later than 6 months after  
8 the date of the enactment of this Act and such regu-  
9 lations shall apply to applicants for benefits for  
10 months beginning 6 months after such date.

11 (d) APPLICATION TO CURRENT BENEFICIARIES.—  
12 Notwithstanding any other provision of law, if the Com-  
13 missioner of Social Security determines that the eligibility  
14 an individual who is a recipient of supplemental security  
15 income benefits under title XVI of the Social Security Act  
16 for the month in which the date of the enactment of this  
17 Act occurs is affected by the amendments made by, and  
18 provisions of, this section, the Commissioner shall, not  
19 later than 1 year after such date, provide for a continuing  
20 disability review with respect to such individual in accord-  
21 ance with the provisions of such title.

22 **SEC. 4. BETTER TARGETING AND USE OF BENEFITS.**

23 (a) PROHIBITION ON COACHING OF CHILDREN TO  
24 OBTAIN BENEFITS.—

1           (1) IN GENERAL.—Section 1632 of the Social  
2           Security Act (42 U.S.C. 1383a) is amended by add-  
3           ing at the end the following new subsection:

4           “(c) In any case in which the court determines that  
5 a violation described in paragraph (1), (2), or (3) of sub-  
6 section (a) includes—

7           “(1) any knowing and willful coaching of a  
8           child by a parent or guardian to feign an impair-  
9           ment for the purposes of gaining eligibility under  
10          this title, the court, in addition to any penalty im-  
11          posed under subsection (a), may require full restitue-  
12          tion of the benefit such child has received under this  
13          title, plus up to \$100 for each month the child re-  
14          ceived such benefit; and

15          “(2) any attorney or legal representative, inter-  
16          preter, or social service worker knowingly and will-  
17          fully causing a parent or guardian to so coach a  
18          child, subsection (a) shall be applied by substituting  
19          ‘\$5000, plus \$500 for each child involved’ for  
20          ‘\$1,000’.”.

21          (2) EFFECTIVE DATE.—The amendment made  
22          by paragraph (1) shall apply to actions occurring  
23          after the date of the enactment of this Act.

24          (b) TIGHTENING OF REPRESENTATIVE PAYEE RE-  
25          QUIREMENTS.—

1           (1) CLARIFICATION OF ROLE.—Section  
2           1631(a)(2)(B)(ii) of the Social Security Act (42  
3           U.S.C. 1383(a)(2)(B)(ii)) is amended by striking  
4           “and” at the end of subclause (II), by striking the  
5           period at the end of subclause (IV) and inserting “;  
6           and”, and by adding after subclause (IV) the follow-  
7           ing new subclause:

8           “(V) advise such person through the notice of  
9           award of benefits, and at such other times as the  
10          Commissioner of Social Security deems appropriate,  
11          of specific examples of appropriate expenditures of  
12          benefits under this title and the proper role of a rep-  
13          resentative payee.”.

14          (2) DOCUMENTATION OF EXPENDITURES RE-  
15          QUIRED.—

16                (A) IN GENERAL.—Subparagraph (C)(i) of  
17                section 1631(a)(2) of such Act (42 U.S.C.  
18                1383(a)(2)) is amended to read as follows:

19           “(C)(i) In any case where payment is made to a rep-  
20          resentative payee of an individual or spouse, the Commis-  
21          sioner of Social Security shall—

22                “(I) require such representative payee to docu-  
23                ment expenditures and keep contemporaneous  
24                records of transactions made using such payment;

1           “(II) establish a system of accountability mon-  
2           itoring under which such representative payee shall  
3           report at least annually with respect to the use of  
4           such payment; and

5           “(III) implement statistically valid procedures  
6           for reviewing each such report in order to identify  
7           instances in which such representative payee is not  
8           properly using such payment.”.

9           (B) CONFORMING AMENDMENT WITH RE-  
10           SPECT TO PARENT PAYEES.—Clause (ii) of sec-  
11           tion 1631(a)(2)(C) of such Act (42 U.S.C.  
12           1383(a)(2)(C)) is amended by striking “Clause  
13           (i)” and inserting “Subclauses (II) and (III) of  
14           clause (i)”.

15           (3) EFFECTIVE DATE.—The amendments made  
16           by this subsection shall apply to benefits paid after  
17           the date of the enactment of this Act.

18           (c) GRADUATED BENEFITS FOR ADDITIONAL CHIL-  
19           DREN.—

20           (1) IN GENERAL.—Section 1611(b) of the So-  
21           cial Security Act (42 U.S.C. 1382(b)) is amended by  
22           adding at the end the following new paragraph:

23           “(3) In the case of a family (other than a foster or  
24           group home) with more than 1 child eligible for a benefit  
25           under this title, the benefit under this title for each addi-

1 tional child (other than an adopted child with special  
 2 needs (within the meaning of paragraphs (1) and (2) of  
 3 section 473(c)) shall be determined under the following  
 4 table:

<b>“If the child is the:</b>	<b>The benefit is:</b>
2nd child .....	85 percent of the otherwise deter- mined benefit
3rd child .....	65 percent of such benefit
4th child .....	45 percent of such benefit
5th child .....	35 percent of such benefit
6th child .....	25 percent of such benefit
7th child or more .....	\$50 for each child.”.

5           (2) EFFECTIVE DATE.—The amendment made  
 6 by paragraph (1) shall apply to determinations made  
 7 after the date of the enactment of this Act.

8           (d) CONTINUING DISABILITY REVIEWS.—

9           (1) CONTINUING DISABILITY REVIEWS FOR  
 10 CERTAIN CHILDREN.—Section 1614(a)(3)(G) of the  
 11 Social Security Act (42 U.S.C. 1382c(a)(3)(G)) is  
 12 amended—

13                   (A) by inserting “(i)” after “(G)”; and

14                   (B) by adding at the end the following:

15           “(ii)(I) Not less frequently than once every 7 years,  
 16 the Commissioner of Social Security shall redetermine in  
 17 accordance with paragraph (4) the eligibility for benefits  
 18 under this title of each child who is eligible for benefits  
 19 by reason of disability with respect to which medical im-  
 20 provement is not expected.

1       “(II) If a child has a disability with respect to which  
2 medical improvement is possible, subclause (I) shall be ap-  
3 plied by substituting ‘3 years’ for ‘7 years’.

4       “(III) If a child has a disability with respect to which  
5 medical improvement is expected subclause (I) shall be ap-  
6 plied by substituting ‘year’ for ‘7 years’.

7       “(IV) A parent or guardian of a recipient whose case  
8 is reviewed under this clause shall present, at the time  
9 of review, evidence demonstrating that the recipient is,  
10 and has been, receiving treatment, to the extent consid-  
11 ered medically necessary and available, of the condition  
12 which was the basis for providing benefits under this  
13 title.”.

14               (2) DISABILITY REVIEW REQUIRED FOR LOW  
15 BIRTH WEIGHT BABIES WHO HAVE RECEIVED SSI  
16 BENEFITS FOR 12 MONTHS.—Section 1614(a)(3)(G)  
17 of such Act (42 U.S.C. 1382c(a)(3)(G)), as amended  
18 by paragraph (1) of this subsection, is amended by  
19 adding at the end the following:

20       “(iii)(I) The Commissioner of Social Security shall  
21 redetermine the eligibility for benefits under this title by  
22 reason of disability of a child whose low birth weight is  
23 a contributing factor material to the Commissioner’s de-  
24 termination that the child is disabled.

1       “(II) The redetermination required by subclause (I)  
2 shall be conducted once the child has received such bene-  
3 fits for 12 months.

4       “(III) A redetermination under subclause (I) shall be  
5 considered a substitute for a review required under any  
6 other provision of this subparagraph.

7       “(IV) A parent or guardian of a recipient whose case  
8 is reviewed under this clause shall present, at the time  
9 of review, evidence demonstrating that the recipient is,  
10 and has been, receiving treatment, to the extent consid-  
11 ered medically necessary and available, of the condition  
12 which was the basis for providing benefits under this  
13 title.”.

14               (3) DISABILITY REVIEW REQUIRED FOR SSI RE-  
15 CIPIENTS WHO ARE 18 YEARS OF AGE.—

16               (A) IN GENERAL.—Section 1614(a)(3)(G)  
17 of such Act (42 U.S.C. 1382c(a)(3)(G)), as  
18 amended by paragraphs (1) and (2) of this sub-  
19 section, is amended by adding at the end the  
20 following:

21       “(iv)(I) The Commissioner of Social Security shall re-  
22 determine the eligibility of a qualified individual for sup-  
23 plemental security income benefits under this title by rea-  
24 son of disability, by applying the criteria used in determin-

1 ing eligibility for such benefits of applicants who have at-  
2 tained 18 years of age.

3 “(II) The redetermination required by subclause (I)  
4 with respect to a qualified individual shall be conducted  
5 during the 1-year period that begins on the date the quali-  
6 fied individual attains 18 years of age.

7 “(III) As used in this clause, the term ‘qualified indi-  
8 vidual’ means an individual who attains 18 years of age  
9 and for whom, for the month preceding the month in  
10 which the individual attained such age, a determination  
11 was in effect that the individual is eligible for benefits  
12 under this title by reason of disability.

13 “(IV) A redetermination under subclause (I) of this  
14 clause shall be considered a substitute for a review re-  
15 quired under any other provision of this subparagraph.”.

16 (B) REPORT TO THE CONGRESS.—Not  
17 later than October 1, 1998, the Commissioner  
18 of Social Security shall submit to the Commit-  
19 tee on Ways and Means of the House of Rep-  
20 resentatives and the Committee on Finance of  
21 the Senate a report on the activities conducted  
22 under section 1614(a)(3)(G)(iv) of the Social  
23 Security Act.

24 (C) CONFORMING REPEAL.—Section 207  
25 of the Social Security Independence and Pro-

1           gram Improvements Act of 1994 (42 U.S.C.  
2           1382 note; 108 Stat. 1516) is hereby repealed.

3           (4) REVOLVING FUND.—The Secretary of the  
4           Treasury shall pay into a revolving fund for each fis-  
5           cal year an amount equal to 50 percent of the sav-  
6           ings resulting from the amendments made by sub-  
7           section (c) with respect to such fiscal year. Such  
8           fund shall be available to the Commissioner of Social  
9           Security, without regard to appropriation Acts and  
10          without fiscal year limitation, to supplement funds  
11          otherwise made available for disability reviews re-  
12          quired by the amendments made by this subsection.

13          (5) EFFECTIVE DATE.—The amendments made  
14          by this subsection shall apply to benefits for months  
15          beginning after the date of the enactment of this  
16          Act.

17 **SEC. 5. ENCOURAGING MOVEMENT TOWARD INDEPEND-**  
18 **ENCE.**

19          (a) DEDICATED SAVINGS ACCOUNTS.—

20               (1) IN GENERAL.—Section 1631(a)(2)(B) of the  
21               Social Security Act (42 U.S.C. 1383(a)(2)(B)) is  
22               amended by adding at the end the following new  
23               clause:

24               “(xiv) Notwithstanding clause (x), the Commissioner  
25               of Social Security may, at the request of the representative

1 payee, pay any lump sum payment for the benefit of a  
2 child into a dedicated savings account that could only be  
3 used to purchase for such child—

4 “(I) education and job skills training;

5 “(II) special equipment or housing modifica-  
6 tions or both specifically related to, and required by  
7 the nature of, the child’s disability; and

8 “(III) appropriate therapy and rehabilitation.”.

9 (2) DISREGARD OF TRUST FUNDS.—Section  
10 1613(a) of such Act (42 U.S.C. 1382b) is amend-  
11 ed—

12 (A) by striking “and” at the end of para-  
13 graph (9),

14 (B) by striking the period at the end of  
15 paragraph (10) the first place it appears and  
16 inserting a semicolon,

17 (C) by redesignating paragraph (10) the  
18 second place it appears as paragraph (11) and  
19 striking the period at the end of such para-  
20 graph and inserting “; and”, and

21 (D) by inserting after paragraph (11), as  
22 so redesignated, the following new paragraph:

23 “(12) all amounts deposited in, or interest cred-  
24 ited to, a dedicated savings account described in sec-  
25 tion 1631(a)(2)(B)(xiv).”.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to payments made  
3           after the date of the enactment of this Act.

4           (b) INFORMATION AND REFERRAL SYSTEM.—Section  
5           1631 of the Social Security Act (42 U.S.C. 1383) is  
6           amended by redesignating subsection (n) (relating to no-  
7           tice requirements) as subsection (o) and by adding at the  
8           end the following new subsection:

9           “INFORMATION AND REFERRAL SYSTEM FOR CHILDREN  
10           “(p) The Commissioner of Social Security shall estab-  
11           lish or identify a system of information and referral for  
12           treatment and services available to children receiving ben-  
13           efits under this title under State and Federal programs.”.

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S 798 IS—2