

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3732

To amend title II of the Social Security Act to waive the waiting period otherwise required for disability beneficiaries in the case of individuals suffering from terminal illnesses with not more than six months to live, and to amend titles II and XVI of such Act to provide for appropriate treatment of prisoners.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 1998

Mr. TIAHRT introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend title II of the Social Security Act to waive the waiting period otherwise required for disability beneficiaries in the case of individuals suffering from terminal illnesses with not more than six months to live, and to amend titles II and XVI of such Act to provide for appropriate treatment of prisoners.

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 “Rex Brewer Social Se-  
5       curity Disability Fairness and Equity Act of 1998”.

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1 **SEC. 2. WAITING PERIOD FOR SOCIAL SECURITY DISABIL-**  
2 **ITY BENEFICIARIES INAPPLICABLE TO INDI-**  
3 **VIDUALS WITH TERMINAL ILLNESSES.**

4 (a) **IN GENERAL.**—Section 223(a)(1) of the Social  
5 Security Act (42 U.S.C. 423(a)(1)) is amended, in clause  
6 (ii) of the first sentence—

7 (1) by inserting “(I)” after “but only if”, and

8 (2) by inserting “or (II) he has a terminal ill-  
9 ness (as defined in subsection (j)),” after “under  
10 such disability,”.

11 (b) **TERMINAL ILLNESS DEFINED.**—Section 223 of  
12 such Act (42 U.S.C. 423) is amended by adding at the  
13 end the following new subsection:

14 “Definition of Terminal Illness

15 “(j) As used in this section, the term ‘terminal illness’  
16 means, in the case of any individual, a medically deter-  
17 minable physical impairment which is expected to result  
18 in the death of such individual within the next six  
19 months.”.

20 (c) **EFFECTIVE DATE.**—The amendments made by  
21 this section shall apply with respect to benefits for which  
22 applications are filed on or after the date of the enactment  
23 of this Act.

1 **SEC. 3. TREATMENT OF PRISONERS UNDER TITLES II AND**  
2 **XVI OF THE SOCIAL SECURITY ACT.**

3 (a) IMPLEMENTATION OF PROHIBITION AGAINST  
4 PAYMENT OF TITLE II BENEFITS TO PRISONERS.—

5 (1) IN GENERAL.—Section 202(x)(3) of the So-  
6 cial Security Act (42 U.S.C. 402(x)(3)) is amend-  
7 ed—

8 (A) by inserting “(A)” after “(3)”; and

9 (B) by adding at the end the following new  
10 subparagraph:

11 “(B)(i) The Commissioner shall enter into an agree-  
12 ment, with any interested State or local institution com-  
13 prising a jail, prison, penal institution, correctional facil-  
14 ity, or other institution a purpose of which is to confine  
15 individuals as described in paragraph (1)(A), under  
16 which—

17 “(I) the institution shall provide to the Com-  
18 missioner, on a monthly basis and in a manner spec-  
19 ified by the Commissioner, the names, social security  
20 account numbers, dates of birth, confinement com-  
21 mencement dates, and, to the extent available to the  
22 institution, such other identifying information con-  
23 cerning the individuals confined in the institution as  
24 the Commissioner may require for the purpose of  
25 carrying out paragraph (1); and

1           “(II) except as provided in clause (ii), the Com-  
2           missioner shall pay to the institution, with respect to  
3           information described in subclause (I) concerning  
4           each individual who is confined therein as described  
5           in paragraph (1)(A), to whom a benefit under this  
6           title is payable for the month preceding the first  
7           month of such confinement, and whose benefit under  
8           this title ceases to be payable as a result of the ap-  
9           plication of this subsection, \$400 (subject to reduc-  
10          tion under clause (iii)) if the institution furnishes  
11          the information to the Commissioner within 30 days  
12          after the date such individual’s confinement in such  
13          institution begins, or \$200 (subject to reduction  
14          under clause (iii)) if the institution furnishes the in-  
15          formation after 30 days after such date but within  
16          90 days after such date.

17          “(ii) No amount shall be payable to an institution  
18          with respect to information concerning an individual under  
19          an agreement entered into under clause (i) if, prior to the  
20          Commissioner’s receipt of the information, the Commis-  
21          sioner has determined that benefits under this title are  
22          no longer payable to such individual as a result of the ap-  
23          plication of this subsection.

24          “(iii) The dollar amounts specified in clause (i)(II)  
25          shall be reduced by 50 percent if the Commissioner is also

1 required to make a payment to the institution with respect  
2 to the same individual under an agreement entered into  
3 under section 1611(e)(1)(I).

4 “(iv) There shall be transferred from the Federal  
5 Old-Age and Survivors Insurance Trust Fund and the  
6 Federal Disability Insurance Trust Fund, as appropriate,  
7 such sums as may be necessary to enable the Commis-  
8 sioner to make payments to institutions required by clause  
9 (i)(II). Sums so transferred shall be treated as direct  
10 spending for purposes of the Balanced Budget and Emer-  
11 gency Deficit Control Act of 1985 and excluded from  
12 budget totals in accordance with section 13301 of the  
13 Budget Enforcement Act of 1990.

14 “(v) The Commissioner is authorized to provide, on  
15 a reimbursable basis, information obtained pursuant to  
16 agreements entered into under clause (i) to any Federal  
17 or federally-assisted cash, food, or medical assistance pro-  
18 gram for eligibility purposes.”.

19 (2) EFFECTIVE DATE.—The amendments made  
20 by this subsection shall apply to individuals whose  
21 period of confinement in an institution commences  
22 on or after the first day of the fourth month begin-  
23 ning after the month in which this Act is enacted.

1 (b) ELIMINATION OF TITLE II REQUIREMENT THAT  
2 CONFINEMENT STEM FROM CRIME PUNISHABLE BY IM-  
3 PRISONMENT FOR MORE THAN 1 YEAR.—

4 (1) IN GENERAL.—Section 202(x)(1)(A) of such  
5 Act (42 U.S.C. 402(x)(1)(A)) is amended—

6 (A) in the matter preceding clause (i), by  
7 striking “during” and inserting “throughout”;

8 (B) in clause (i), by striking “an offense  
9 punishable by imprisonment for more than 1  
10 year (regardless of the actual sentence im-  
11 posed)” and inserting “a criminal offense”; and

12 (C) in clause (ii)(I), by striking “an of-  
13 fense punishable by imprisonment for more  
14 than 1 year” and inserting “a criminal of-  
15 fense”.

16 (2) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall apply to individuals whose  
18 period of confinement in an institution commences  
19 on or after the first day of the fourth month begin-  
20 ning after the month in which this Act is enacted.

21 (c) CONFORMING TITLE XVI AMENDMENTS.—

22 (1) PRECLUSION OF TITLE XVI PAYMENT WHEN  
23 INFORMATION FURNISHED BY AN INSTITUTION IS  
24 ALREADY KNOWN BY THE COMMISSIONER.—Section

1       1611(e)(1)(I) of the Social Security Act (42 U.S.C.  
2       1382(e)(1)(I)) is amended—

3               (A) in clause (i)(II), by inserting “except  
4               as provided in clause (ii),” after “(II)”;

5               (B) by redesignating clauses (ii) and (iii)  
6               as clauses (iii) and (iv), respectively; and

7               (C) by inserting after clause (i) the follow-  
8               ing new clause:

9       “(ii) No amount shall be payable to an institution  
10       with respect to information concerning an inmate under  
11       an agreement entered into under clause (i) if, prior to the  
12       Commissioner’s receipt of the information, the Commis-  
13       sioner has determined that the inmate is no longer an eli-  
14       gible individual or eligible spouse for purposes of this title  
15       as a result of the application of this paragraph.”.

16               (2) FIFTY PERCENT REDUCTION IN TITLE XVI  
17       PAYMENT IN CASE INVOLVING COMPARABLE TITLE II  
18       PAYMENT.—Section 1611(e)(1)(I) of such Act (as  
19       amended by paragraph (1)) is amended further—

20               (A) in clause (i)(II), by inserting “(subject  
21               to reduction under clause (iii))” after “\$400”  
22               and after “\$200”; and

23               (B) by inserting after clause (ii) the follow-  
24               ing new clause:

1       “(iii) The dollar amounts specified in clause (i)(II)  
2 shall be reduced by 50 percent if the Commissioner is also  
3 required to make a payment to the institution with respect  
4 to the same individual under an agreement entered into  
5 under section 202(x)(3)(B).”.

6           (3) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply as if included in the  
8 enactment of section 203(a) of the Personal Respon-  
9 sibility and Work Opportunity Reconciliation Act of  
10 1996 (Public Law 104–193).

11       (d) EXEMPTION FROM COMPUTER MATCHING RE-  
12 QUIREMENTS.—

13           (1) IN GENERAL.—Section 552a(a)(8)(B) of  
14 title 5, United States Code, is amended—

15               (A) by striking “or” at the end of clause  
16 (vi); and

17               (B) by inserting after clause (vii) the fol-  
18 lowing new clauses:

19                       “(viii) matches performed pursuant to  
20 section 202(x) or 1611(e)(1) of the Social  
21 Security Act; or

22                       “(ix) matches performed pursuant to  
23 section 205(j)(1)(A), 205(j)(5),  
24 1631(a)(2)(A)(ii), 1631(a)(2)(A)(iii), or  
25 1631(a)(2)(E) of the Social Security Act;”.

1           (2) CONFORMING AMENDMENT.—Section  
2           1611(e)(1)(I)(iv) of the Social Security Act (as re-  
3           designated by subsection (e)(1)(B)) is amended fur-  
4           ther by striking “(I) The provisions” and all that  
5           follows through “(II) The Commissioner” and in-  
6           serting “The Commissioner”.

7           (3) EFFECTIVE DATE.—The amendments made  
8           by this subsection shall take effect on the date of the  
9           enactment of this Act.

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