

106TH CONGRESS
2D SESSION

S. 2477

To amend the Social Security Act to provide additional safeguards for beneficiaries with representative payees under the Old-Age, Survivors, and Disability Insurance program or the Supplemental Security Income program.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2000

Mr. GRASSLEY (for himself and Mr. BREAU) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to provide additional safeguards for beneficiaries with representative payees under the Old-Age, Survivors, and Disability Insurance program or the Supplemental Security Income program.

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 “Social Security Bene-
5 ficiaries Protection Act”.

1 **SEC. 2. AUTHORITY TO REISSUE BENEFITS MISUSED BY OR-**
2 **GANIZATIONAL REPRESENTATIVE PAYEES.**

3 (a) OASDI AMENDMENT.—Section 205(j)(5) of the
4 Social Security Act (42 U.S.C. 405(j)(5)) is amended by
5 inserting after the first sentence the following new sen-
6 tence: “In any case in which a representative payee that
7 is an organization (regardless of whether it is a ‘qualified
8 organization’ within the meaning of paragraph (4)(B))
9 misuses all or part of an individual’s benefit paid to such
10 representative payee, the Commissioner of Social Security
11 shall certify for payment to the beneficiary or the bene-
12 ficiary’s alternative representative payee an amount equal
13 to the amount of such benefit so misused. The provisions
14 of this paragraph are subject to the limitations of para-
15 graph (6)(B).”.

16 (b) SSI AMENDMENT.—Section 1631(a)(2)(E) of
17 such Act (42 U.S.C. 1383(a)(2)(E)) is amended by insert-
18 ing after the first sentence the following new sentence: “In
19 any case in which a representative payee that is an organi-
20 zation (regardless of whether it is a ‘qualified organiza-
21 tion’ within the meaning of paragraph (4)(B)) misuses all
22 or part of an individual’s benefit paid to such representa-
23 tive payee, the Commissioner of Social Security shall make
24 payment to the beneficiary or the beneficiary’s alternative
25 representative payee of an amount equal to the amount
26 of such benefit so misused. The provisions of this subpara-

1 graph are subject to the limitations of subparagraph
2 (F)(ii).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to any case of benefit misuse by
5 a representative payee with respect to which the Commis-
6 sioner of Social Security makes a determination of misuse
7 after the date of enactment of this Act.

8 **SEC. 3. BONDING AND LICENSING REQUIREMENTS APPLI-**
9 **CABLE TO NONGOVERNMENTAL ORGANIZA-**
10 **TIONAL REPRESENTATIVE PAYEES.**

11 (a) OASDI AMENDMENT.—Section 205(j)(4)(B) of
12 the Social Security Act (42 U.S.C. 405(j)(4)(B)) is
13 amended by striking “is bonded or licensed in each State
14 in which it serves as a representative payee” and inserting
15 “provides a bond that meets the requirements specified by
16 the Commissioner of Social Security and is licensed in
17 each State in which it serves as a representative payee
18 (if licensing is available in such State)”.

19 (b) SSI AMENDMENT.—Section 1631(a)(2)(D)(ii)(I)
20 of such Act (42 U.S.C. 1383(a)(2)(D)(ii)(I)) is amended
21 to read as follows:

22 “(I) provides a bond that meets the require-
23 ments specified by the Commissioner of Social Secu-
24 rity and is licensed in each State in which it serves

1 as a representative payee (if licensing is available in
2 such State); and”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the first day of the thir-
5 teenth month beginning after the date of enactment of this
6 Act.

7 **SEC. 4. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY**
8 **QUALIFIED ORGANIZATIONAL REPRESENTA-**
9 **TIVE PAYEES.**

10 (a) OASDI AMENDMENT.—Section 205(j)(4)(A) of
11 the Social Security Act (42 U.S.C. 405(j)(4)(A)) is
12 amended—

13 (1) in clause (i), by striking “A qualified orga-
14 nization” and inserting “Except as provided in
15 clause (iii), a qualified organization”; and

16 (2) by adding at the end the following new
17 clause:

18 “(iii) A qualified organization may not collect a fee
19 from an individual for any month with respect to which
20 the Commissioner of Social Security or a court of com-
21 petent jurisdiction has determined that the organization
22 has misused all or part of the individual’s benefit, and any
23 amount collected by the qualified organization for such
24 month shall be treated as a misused part of the individ-
25 ual’s benefit for purposes of paragraphs (5) and (6).”.

1 (b) SSI AMENDMENT.—Section 1631(a)(2)(D) of
2 such Act (42 U.S.C. 1383(a)(2)(D)) is amended—

3 (1) in clause (i), by striking “A qualified orga-
4 nization” and inserting “Except as provided in
5 clause (v), a qualified organization”; and

6 (2) by adding at the end the following new
7 clause:

8 “(v) A qualified organization may not collect a fee
9 from an individual for any month with respect to which
10 the Commissioner of Social Security or a court of com-
11 petent jurisdiction has determined that the organization
12 has misused all or part of the individual’s benefit, and any
13 amount collected by the qualified organization for such
14 month shall be treated as a misused part of the individ-
15 ual’s benefit for purposes of subparagraphs (E) and (F).”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to any month involving benefit mis-
18 use by a representative payee in any case with respect to
19 which the Commissioner of Social Security makes a deter-
20 mination of misuse after the date of enactment of this Act.

21 **SEC. 5. LIABILITY OF NONGOVERNMENTAL REPRESENTA-**
22 **TIVE PAYEES FOR MISUSED BENEFITS.**

23 (a) OASDI AMENDMENT.—Section 205(j) of the So-
24 cial Security Act (42 U.S.C. 405(j)) is amended by redes-
25 ignating paragraphs (6) and (7) as paragraphs (7) and

1 (8), respectively, and inserting after paragraph (5) the fol-
2 lowing new paragraph:

3 “(6)(A) If the Commissioner of Social Security or a
4 court of competent jurisdiction determines that a rep-
5 resentative payee that is not a State or local government
6 agency has misused all or part of an individual’s benefit
7 that was paid to such representative payee under this sub-
8 section, the representative payee shall be liable for the
9 amount misused, and such amount (to the extent not re-
10 paid by the representative payee) shall be treated as an
11 overpayment of benefits under this title to the representa-
12 tive payee for all purposes of this Act and related laws
13 pertaining to the recovery of such overpayments. Subject
14 to subparagraph (B), upon recovering all or any part of
15 such amount, the Commissioner shall certify an amount
16 equal to the recovered amount to such individual or the
17 individual’s alternative representative payee.

18 “(B) The total of the amount certified to such indi-
19 vidual or the individual’s alternative representative payee
20 under subparagraph (A) and the amount certified under
21 paragraph (5) shall not exceed the total benefit amount
22 misused by the representative payee with respect to such
23 individual.”.

24 (b) SSI AMENDMENT.—Section 1631(a)(2) of such
25 Act (42 U.S.C. 1383(a)(2)) is amended by redesignating

1 subparagraphs (F), (G), and (H) as subparagraphs (G),
2 (H), and (I), respectively, and inserting after subpara-
3 graph (E) the following new subparagraph:

4 “(F)(i) If the Commissioner of Social Security or a
5 court of competent jurisdiction determines that a rep-
6 resentative payee that is not a State or local government
7 agency has misused all or part of an individual’s benefit
8 that was paid to such representative payee under this
9 paragraph, the representative payee shall be liable for the
10 amount misused, and such amount (to the extent not re-
11 paid by the representative payee) shall be treated as an
12 overpayment of benefits under this title to the representa-
13 tive payee for all purposes of this Act and related laws
14 pertaining to the recovery of such overpayments. Upon re-
15 covering all or any part of such amount, the Commissioner
16 shall make payment of an amount equal to the recovered
17 amount to such individual or the individual’s alternative
18 representative payee.

19 “(ii) The total of the amount paid to such individual
20 or the individual’s alternative representative payee under
21 clause (i) and the amount paid under subparagraph (E)
22 shall not exceed the total benefit amount misused by the
23 representative payee with respect to such individual.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to benefit misuse by a representa-

1 tive payee in any case with respect to which the Commis-
2 sioner of Social Security makes a determination of misuse
3 after the date of enactment of this Act.

4 **SEC. 6. EXTENSION OF THE CIVIL MONETARY PENALTY**
5 **AUTHORITY.**

6 (a) IN GENERAL.—Section 1129(a) of the Social Se-
7 curity Act (42 U.S.C. 1320a–8(a)) is amended—

8 (1) by striking “(A)” and “(B)” and inserting
9 “(i)” and “(ii)”, respectively;

10 (2) by striking “(a)(1)” and inserting “
11 (a)(1)(A)”;

12 (3) by striking “(2)” and inserting “(B)”;

13 (4) by adding at the end the following new
14 paragraph:

15 “(2) Any person (including an organization,
16 agency, or other entity (other than a State or local
17 government agency)) who having received, while act-
18 ing in the capacity as representative payee pursuant
19 to section 205(j) or section 1631(a)(2), a payment
20 under title II or title XVI for the use and benefit
21 of another individual, converts such payment, or any
22 part thereof, to a use that such person knows or
23 should know is other than for the use and benefit of
24 such other individual, shall be subject to, in addition
25 to any other penalties that may be prescribed by

1 law, a civil money penalty of not more than \$5,000
2 for each such violation.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1129(b)(3)(A) of such Act (42
5 U.S.C. 1320a–8(b)(3)(A)) is amended by striking
6 “charging fraud or false statements”.

7 (2) Section 1129(c)(1) of such Act (42 U.S.C.
8 1320a–8(c)(1)) is amended by striking “and rep-
9 resentations” and inserting “, representations, or ac-
10 tions”.

11 (3) Section 1129(e)(1)(A) of such Act (42
12 U.S.C. 1320a–8(e)(1)(A)) is amended by striking
13 “statement or representation referred to in sub-
14 section (a) was made” and inserting “violation oc-
15 curred”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall be effective with respect to violations
18 committed after the date of enactment of this Act.

○