

110TH CONGRESS  
2D SESSION

# S. 2850

To prohibit the use of funds to promote the direct deposit of Social Security benefits until adequate safeguards are established to prevent the attachment and garnishment of such benefits.

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IN THE SENATE OF THE UNITED STATES

APRIL 14, 2008

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

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## A BILL

To prohibit the use of funds to promote the direct deposit of Social Security benefits until adequate safeguards are established to prevent the attachment and garnishment of such benefits.

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 “Illegal Garnishment  
5       Prevention Act”.

1 **SEC. 2. PROHIBITION ON USE OF FUNDS TO PROMOTE DI-**  
2 **RECT DEPOSIT OF SOCIAL SECURITY BENE-**  
3 **FITS UNTIL ASSURANCE OF PROTECTION**  
4 **FROM ATTACHMENT OR GARNISHMENT.**

5 (a) FINDINGS.—Congress makes the following find-  
6 ings:

7 (1) Section 207 of the Social Security Act (42  
8 U.S.C. 407) provides that Social Security benefits  
9 shall not “be subject to execution, levy, attachment,  
10 garnishment, or other legal process, or to the oper-  
11 ation of any bankruptcy or insolvency law.”.

12 (2) Congress intended for Social Security bene-  
13 fits to provide at least a minimum subsistence for  
14 our nation’s elderly and disabled.

15 (3) Social Security benefits are the only source  
16 of income for over 20 percent of Social Security re-  
17 cipients.

18 (4) Many financial institutions are garnishing  
19 accounts on behalf of creditors in order to recover  
20 debt owed to them, and are assessing fees on bank  
21 accounts into which Social Security benefits are elec-  
22 tronically deposited.

23 (5) Many recipients of these benefits are left  
24 temporarily destitute when financial institutions  
25 freeze access to their only source of income.

1           (6) Despite the lack of protections for direct de-  
2           posit recipients of Social Security, the Treasury is  
3           spending millions of dollars encouraging seniors and  
4           other recipients of social security benefits to use di-  
5           rect deposit for receipt of their benefits.

6           (b) PROHIBITION.—No funds appropriated or other-  
7           wise made available to the Secretary of the Treasury or  
8           the Commissioner of Social Security for fiscal year 2009  
9           may be used to promote or otherwise encourage recipients  
10          of old-age, survivors, or disability insurance benefits paid  
11          under title II of the Social Security Act to use direct de-  
12          posit for payment of such benefits, or to otherwise pro-  
13          mote the use of direct deposit for such benefits until the  
14          Secretary of the Treasury promulgates rules establishing  
15          procedures to ensure that such benefits are protected from  
16          attachment and garnishment in accordance with the re-  
17          quirements of section 207 of the Social Security Act (42  
18          U.S.C. 407), and at least 5 of the 7 members of the advi-  
19          sory committee established under subsection (c) concur in  
20          advising the Secretary of the Treasury that such proce-  
21          dures provide adequate safeguards.

22          (c) ADVISORY COMMITTEE.—

23                 (1) ESTABLISHMENT.—There is hereby estab-  
24                 lished an Advisory Committee to be known as the

1 “Social Security Benefits Protection from Attach-  
2 ment or Garnishment Advisory Committee”.

3 (2) MEMBERSHIP.—The Committee shall be  
4 comprised of 7 members comprised of, or appointed  
5 by the following:

6 (A) The Secretary of the Treasury.

7 (B) The Chair of the Committee on Ways  
8 and Means of the House of Representatives.

9 (C) The Ranking Member of the Com-  
10 mittee on Ways and Means of the House of  
11 Representatives.

12 (D) The Chair of the Committee on Fi-  
13 nance of the Senate.

14 (E) The Ranking Member of the Com-  
15 mittee on Finance of the Senate.

16 (F) The Chair of the Special Committee on  
17 Aging of the Senate.

18 (G) The Ranking Member of the Special  
19 Committee on Aging of the Senate.

20 (3) MEETINGS.—The Secretary of the Treasury  
21 shall establish meetings of the Committee.

22 (4) DUTIES.—The Committee shall review the  
23 procedures promulgated by the Secretary of the  
24 Treasury to carry out subsection (b) and, upon the  
25 concurrence of at least 5 members of the Committee,

1       advise the Secretary of the Treasury as to the ade-  
2       quacy of such procedures with respect to protecting  
3       old-age, survivors, or disability insurance benefits  
4       paid under title II of the Social Security Act from  
5       attachment and garnishment.

6               (5) FACA EXEMPTION.—The Committee shall  
7       not be subject to the Federal Advisory Committee  
8       Act (5 U.S.C. App.).

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