

107TH CONGRESS  
1ST SESSION

# S. 693

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 4, 2001

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

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## 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 subparagraph (D)(ii)) misuses  
22 all or part of an individual’s benefit paid to such rep-  
23 resentative payee, the Commissioner of Social Security  
24 shall make payment to the beneficiary or the beneficiary’s  
25 alternative representative payee of an amount equal to the  
26 amount of such benefit so misused. The provisions of this

1 subparagraph are subject to the limitations of subpara-  
2 graph (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 redес-  
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.

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