

111TH CONGRESS  
1ST SESSION

# H. R. 2059

To amend title 10, United States Code, to provide for the payment of monthly annuities under the Survivor Benefit Plan to a supplemental or special needs trust established for the sole benefit of a disabled dependent child of a participant in the Survivor Benefit Plan.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2009

Mr. FOSTER introduced the following bill; which was referred to the  
Committee on Armed Services

---

## A BILL

To amend title 10, United States Code, to provide for the payment of monthly annuities under the Survivor Benefit Plan to a supplemental or special needs trust established for the sole benefit of a disabled dependent child of a participant in the Survivor Benefit Plan.

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

1 **SECTION 1. SURVIVOR BENEFIT PLAN ANNUITIES FOR SPE-**  
2 **CIAL NEEDS TRUSTS ESTABLISHED FOR THE**  
3 **BENEFIT OF DEPENDENT CHILDREN INCAPA-**  
4 **BLE OF SELF-SUPPORT.**

5 (a) SPECIAL NEEDS TRUST AS ELIGIBLE BENE-  
6 FICIARY.—

7 (1) IN GENERAL.—Subsection (a) of section  
8 1450 of title 10, United States Code, is amended—

9 (A) by redesignating paragraph (4) as  
10 paragraph (5); and

11 (B) by inserting after paragraph (3) the  
12 following new paragraph (4):

13 “(4) SPECIAL NEEDS TRUSTS FOR SOLE BEN-  
14 EFIT OF CERTAIN DEPENDENT CHILDREN.—Not-  
15 withstanding subsection (i), a supplemental or spe-  
16 cial needs trust established under subparagraph (A)  
17 or (C) of section 1917(d)(4) of the Social Security  
18 Act (42 U.S.C. 1936p(d)(4)) for the sole benefit of  
19 a dependent child considered disabled under section  
20 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who  
21 is incapable of self-support because of mental or  
22 physical incapacity.”.

23 (2) CONFORMING AMENDMENT.—Subsection (i)  
24 of such section is amended by inserting “(a)(4) or”  
25 after “subsection”.

1 (b) REGULATIONS.—Section 1455(d) of such title is  
2 amended—

3 (1) in the subsection heading, by striking “AND  
4 FIDUCIARIES” and inserting “, FIDUCIARIES, AND  
5 SPECIAL NEEDS TRUSTS”;

6 (2) in paragraph (1)—

7 (A) in subparagraph (A), by striking  
8 “and” at the end;

9 (B) in subparagraph (B), by striking the  
10 period at the end and inserting “; and”; and

11 (C) by adding at the end the following new  
12 subparagraph:

13 “(C) a dependent child incapable of self-  
14 support because of mental or physical inca-  
15 pacity for whom a supplemental or special  
16 needs trust has been established under subpara-  
17 graph (A) or (C) of section 1917(d)(4) of the  
18 Social Security Act (42 U.S.C. 1936p(d)(4)).”;

19 (3) in paragraph (2)—

20 (A) by redesignating subparagraphs (C)  
21 through (H) as subparagraphs (D) through (I),  
22 respectively;

23 (B) by inserting after subparagraph (B)  
24 the following new subparagraph (C):

1           “(C) In the case of an annuitant referred  
2 to in paragraph (1)(C), payment of the annuity  
3 to the supplemental or special needs trust es-  
4 tablished for the annuitant.”;

5           (C) in subparagraph (D), as redesignated,  
6 by striking “subparagraphs (D) and (E)” and  
7 inserting “subparagraphs (E) and (F)”; and

8           (D) in subparagraph (H), as so redesign-  
9 ated—

10           (i) by inserting “or (1)(C)” after  
11 “paragraph (1)(B)” in the matter pre-  
12 ceding clause (i);

13           (ii) in clause (i), by striking “and” at  
14 the end;

15           (iii) in clause (ii), by striking the pe-  
16 riod at the end and inserting “; and”; and

17           (iv) by adding at the end the following  
18 new clause:

19           “(iii) procedures for determining when  
20 annuity payments to a supplemental or  
21 special needs trust shall end based on the  
22 death or marriage of the dependent child  
23 for which the trust was established.”; and

- 1 (4) in paragraph (3), by striking “TO GUARD-
- 2 IAN OR FIDUCIARY” in the paragraph heading.

○