

113TH CONGRESS  
2D SESSION

# H. R. 4090

To amend title II of the Social Security Act to improve the Social Security Administration's ability to fight fraud, prevent errors, and protect the Social Security Trust Fund, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2014

Mr. BECERRA (for himself, Mr. LEVIN, Mr. RANGEL, Mr. DOGGETT, Mr. THOMPSON of California, Ms. SCHWARTZ, and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title II of the Social Security Act to improve the Social Security Administration's ability to fight fraud, prevent errors, and protect the Social Security Trust Fund, and for other purposes.

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 Fraud  
5 and Error Prevention Act of 2014".

1 **SEC. 2. FRAUD AND ERROR PREVENTION.**

2 (a) IN GENERAL.—Section 201 of the Social Security  
3 Act (42 U.S.C. 401 et seq.) is amended by striking sub-  
4 section (n) and inserting the following:

5 “(n) FRAUD AND ERROR PREVENTION.—

6 “(1) Subject to paragraph (4), there is hereby  
7 appropriated from any one or all of the Trust Funds  
8 to the Social Security Administration for each fiscal  
9 year beginning with fiscal year 2015 for fraud and  
10 error prevention activities described in paragraph  
11 (3), in addition to any other amounts otherwise ap-  
12 propriated for such fiscal year, an amount equal to  
13 the sum of—

14 “(A) the applicable dollar amount (deter-  
15 mined under paragraph (2)), plus

16 “(B) an amount equal to the sum of any  
17 fines or other monetary penalties recovered in  
18 the previous fiscal year pursuant to sections  
19 208(a), 1129(a), 1140 (to the extent that such  
20 penalties are imposed for misuse of words, let-  
21 ters, symbols, or emblems relating to the Social  
22 Security Administration), and 1632(a).

23 “(2) The applicable dollar amount determined  
24 under this clause is—

25 “(A) for fiscal year 2015, \$1,750,000,000;

1           “(B) for each of fiscal years 2016 through  
2           2020, \$1,800,000,000; and

3           “(C) for each fiscal year thereafter,  
4           \$1,800,000,000 multiplied by the ratio (not less  
5           than 1) of—

6                   “(i) the Consumer Price Index for all  
7                   Urban Consumers (CPI-U, published by  
8                   the Bureau of Labor Statistics of the De-  
9                   partment of Labor) for the 1st full cal-  
10                  endar year preceding such fiscal year, to

11                   “(ii) the CPI-U for 2018.

12           “(3) The Commissioner of Social Security may  
13           use funds appropriated under paragraph (1) for the  
14           following purposes:

15                   “(A) Medical continuing disability reviews  
16                   conducted pursuant to section 221(i) and sec-  
17                   tion 1614(a)(3)(H).

18                   “(B) SSI redeterminations conducted pur-  
19                   suant to section 1611(c).

20                   “(C) Work-related continuing disability re-  
21                   views conducted pursuant to section 223(f).

22                   “(D) Establishment or expansion of coop-  
23                   erative disability investigations (CDI) units.

24                   “(E) Pre-effectuation reviews conducted  
25                   pursuant to section 221(c) and section 1633(e).

1           “(F) Quality reviews of decisions made by  
2           an administrative law judge under this title or  
3           title XVI in accordance with section 221(n).

4           “(G) Recovery of overpayments under sec-  
5           tions 204 and 1631(b).

6           “(H) Recovery of civil penalties imposed  
7           under sections 1129 and 1140.

8           “(I) Supporting prosecution of felonies  
9           under section 208.

10          “(4) Funds appropriated under paragraph (1)  
11          for a fiscal year shall not be available for obligation  
12          until the report required to be submitted under  
13          paragraph (5) 60 days prior to the beginning of  
14          such fiscal year has been submitted.

15          “(5) Not later than 60 days prior to the begin-  
16          ning of each fiscal year after 2014, the Commis-  
17          sioner of Social Security shall submit a report to the  
18          Committee on Ways and Means of the House of  
19          Representatives, the Committee on Finance of the  
20          Senate, and the Office of Management and Budget  
21          that includes the following:

22                 “(A) A plan for conducting the fraud and  
23                 error prevention activities described in para-  
24                 graph (3) in such fiscal year, including—

1           “(i) an itemized statement of the dol-  
2           lar amounts expected to be spent on each  
3           such activity during such fiscal year;

4           “(ii) an itemized statement of the esti-  
5           mated long-term savings to the Trust  
6           Funds and the Treasury expected to be ob-  
7           tained as a result of each such activity,  
8           and a statement of the estimated total  
9           value of benefits paid under this title solely  
10          as a result of such activities;

11          “(iii) performance targets for each  
12          such activity; and

13          “(iv) a certification from the Chief  
14          Actuary of the Social Security Administra-  
15          tion that the plan will improve the actu-  
16          arial status of the Trust Funds.

17          “(B) An assessment of the fraud and error  
18          prevention activities described in paragraph (3)  
19          conducted in the previous fiscal year, includ-  
20          ing—

21                 “(i) an itemized statement of the dol-  
22                 lar amounts spent on each such activity  
23                 during such fiscal year;

24                 “(ii) an itemized statement of the esti-  
25                 mated long-term savings to the Trust

1 Funds and the Treasury obtained as a re-  
2 sult of each such activity, and a statement  
3 of the estimated total value of benefits  
4 paid under this title solely as a result of  
5 such activities;

6 “(iii) an assessment of the extent to  
7 which performance targets set in the appli-  
8 cable plan for such fiscal year were met;

9 “(iv) an explanation and a corrective  
10 action plan for any failure to meet such  
11 performance targets; and

12 “(v) an assessment of whether funds  
13 made available under paragraph (1) for  
14 such fiscal year were adequate to protect  
15 the Trust Funds from fraud and errors, an  
16 explanation of any such funds that re-  
17 mained unobligated at the end of the fiscal  
18 year, and recommendations for needed ad-  
19 justments to future funding in order to  
20 protect the Trust Funds from fraud and  
21 errors and any additional cost-effective  
22 strategies for improving the actuarial sta-  
23 tus of the Trust Funds.

24 “(6) Of the discretionary amounts made avail-  
25 able for ‘Social Security Administration—Limitation

1 on Administrative Expenses’ for each fiscal year be-  
2 ginning with fiscal year 2015, the amount obligated  
3 for the activities described in paragraph (3) shall be  
4 not less than the sum of—

5 “(A) \$273,000,000; plus

6 “(B) the amount obligated from funds  
7 made available for ‘Social Security Administra-  
8 tion—Limitation on Administrative Expenses’  
9 for fiscal year 2013 for the activities described  
10 in subparagraphs (C) through (I) of paragraph  
11 (3).”.

12 **SEC. 3. EXPANSION OF COOPERATIVE DISABILITY INVES-**  
13 **TIGATIONS UNITS.**

14 Not later than October 1, 2017, the Commissioner  
15 of Social Security shall take any necessary actions to en-  
16 sure that cooperative disability investigations (CDI) units  
17 have been established for each of the 50 States, the Dis-  
18 trict of Columbia, Puerto Rico, Guam, the Northern Mar-  
19 iana Islands, the Virgin Islands, and American Samoa.

20 **SEC. 4. CODIFICATION OF REQUIREMENT TO CONDUCT**  
21 **QUALITY REVIEWS.**

22 Section 221 of the Social Security Act is amended  
23 by adding at the end the following:

24 “(n)(1) The Commissioner of Social Security shall  
25 conduct quality reviews in accordance with section 969 of

1 part 404 of title 20, Code of Federal Regulations, in cases  
2 described in section 970(a) of such part (as such sections  
3 were in effect on January 1, 2014) with respect to deci-  
4 sions in connection with applications for benefits under  
5 this title and title XVI, in a sufficient number to ensure  
6 compliance with laws, regulations, and other guidance  
7 issued by the Commissioner of Social Security.

8 “(2) The Commissioner of Social Security shall annu-  
9 ally submit to the Committee on Ways and Means of the  
10 House of Representatives and the Committee on Finance  
11 of the Senate a report that includes—

12 “(A) the total number of cases selected for a  
13 quality review as described in paragraph (1);

14 “(B) the number of such cases in which a deci-  
15 sion is remanded; and

16 “(C) the number of such cases in which a deci-  
17 sion is modified or reversed.”.

18 **SEC. 5. REPORT ON WORK-RELATED CONTINUING DIS-**  
19 **ABILITY REVIEWS.**

20 Section 223 of the Social Security Act is amended  
21 by adding at the end the following:

22 “(k) REPORT ON WORK-RELATED CONTINUING DIS-  
23 ABILITY REVIEWS.—The Commissioner of Social Security  
24 shall annually submit to the Committee on Ways and  
25 Means of the House of Representatives and the Committee

1 on Finance of the Senate a report on the number of work-  
2 related continuing disability reviews conducted pursuant  
3 to subsection (f). Such report shall include—

4 “(1) the total number of reports of earnings re-  
5 ceived by the Commissioner in the previous calendar  
6 year from individuals receiving benefits on account  
7 of disability under this title or title XVI;

8 “(2) the number of such reports that resulted  
9 in a determination by the Commissioner to conduct  
10 a work-related continuing disability review with re-  
11 spect to the beneficiary to whom such report per-  
12 tains, and the basis on which such determinations  
13 were made;

14 “(3) in the case of a beneficiary selected for a  
15 work-related continuing disability review on the basis  
16 of a report of earnings—

17 “(A) the average number of days between  
18 the submission of the report and the initiation  
19 of the review, and the average number of days  
20 between the initiation and the completion of the  
21 review;

22 “(B) the number of such reviews com-  
23 pleted during such calendar year, and the num-  
24 ber of such reviews that result in a suspension  
25 or termination of benefits; and

1           “(C) the number of such reviews that had  
2           not been completed as of the end of such cal-  
3           endar year;

4           “(4) the total savings to the Trust Funds and  
5           the Treasury generated from benefits terminated as  
6           a result of such reviews; and

7           “(5) with respect to individuals for whom a  
8           work-related continuing disability review was com-  
9           pleted during such calendar year—

10           “(A) the number who participated in the  
11           Ticket to Work program under section 1148  
12           during such calendar year;

13           “(B) the number who used any program  
14           work incentives during such calendar year; and

15           “(C) the number who received vocational  
16           rehabilitation services during such calendar  
17           year with respect to which the Commissioner of  
18           Social Security reimbursed a State agency  
19           under section 222(d).”.

20 **SEC. 6. COORDINATION OF REPORTS RELATING TO DIS-**  
21 **ABILITY BENEFITS.**

22           Section 221(i)(3) of the Social Security Act (42  
23 U.S.C. 421(i)(3)) is amended by adding at the end the  
24 following: “To the extent the Commissioner of Social Se-  
25 curity determines to be necessary for maximum efficiency,

1 the Commissioner may submit a combined report con-  
 2 sisting of the information required to be submitted under  
 3 this paragraph, subsection (c)(3)(C), subsection (n)(2),  
 4 section 201(n)(5), and section 223(k).”.

5 **SEC. 7. INCREASED PENALTIES IN CERTAIN CASES OF**  
 6 **FRAUD.**

7 (a) CONSPIRACY TO COMMIT SOCIAL SECURITY  
 8 FRAUD.—Section 208(a) of the Social Security Act (42  
 9 U.S.C. 408(a)) is amended—

10 (1) in paragraph (7)(C), by striking “or” at the  
 11 end;

12 (2) in paragraph (8), by adding “or” at the  
 13 end; and

14 (3) by inserting after paragraph (8) the fol-  
 15 lowing:

16 “(9) conspires to commit any offense described in any  
 17 of paragraphs (1) through (4),”.

18 (b) INCREASED CRIMINAL PENALTIES FOR CERTAIN  
 19 INDIVIDUALS IN POSITIONS OF TRUST.—Section 208(a)  
 20 of such Act (42 U.S.C. 408(a)), as amended by subsection  
 21 (a), is further amended by striking the period at the end  
 22 and inserting “, except that in the case of a person who  
 23 receives a fee or other income for services performed in  
 24 connection with any determination with respect to benefits  
 25 under this title, or who is a physician or other health care

1 provider who submits medical evidence in connection with  
2 any such determination, such person shall be guilty of a  
3 felony and upon conviction thereof shall be fined under  
4 title 18, United States Code, or imprisoned for not more  
5 than ten years, or both.”.

6 (c) INCREASED CIVIL PENALTIES FOR CERTAIN IN-  
7 DIVIDUALS IN POSITIONS OF TRUST.—Section 1129(a)(1)  
8 of such Act (42 U.S.C. 1320a–8(a)(1)) is amended, in the  
9 matter following subparagraph (C), by inserting after  
10 “withholding disclosure of such fact” the following: “, ex-  
11 cept that in the case of such a person who receives a fee  
12 or other income for services performed in connection with  
13 any such determination or who is a physician or other  
14 health care provider who submits medical evidence in con-  
15 nection with any such determination, the amount of such  
16 penalty shall be not more than \$7,500”.

17 (d) REFERENCES TO SOCIAL SECURITY AND MEDI-  
18 CARE IN ELECTRONIC COMMUNICATIONS.—Section  
19 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–  
20 10(a)(1)) is amended by inserting “(including any elec-  
21 tronic communication)” after “or other communication”.

22 (e) INFLATION ADJUSTMENT OF CERTAIN CIVIL  
23 PENALTIES.—Title XI of the Social Security Act is  
24 amended by inserting after section 1129B the following:

1 **“SEC. 1129C. CIVIL PENALTY INFLATION ADJUSTMENT.**

2 “(a) **ADJUSTMENT BY REGULATION.**—The Commis-  
3 sioner of Social Security shall, not later than 180 days  
4 after the date of enactment of the Social Security Fraud  
5 and Error Prevention Act of 2014, and at least once every  
6 4 years thereafter—

7 “(1) by regulation adjust the maximum amount  
8 of each civil monetary penalty by the inflation ad-  
9 justment described under subsection (b); and

10 “(2) publish each such regulation in the Fed-  
11 eral Register.

12 “(b) **AMOUNT OF ADJUSTMENT.**—The inflation ad-  
13 justment under subsection (a) shall be determined by in-  
14 creasing the maximum amount of each civil monetary pen-  
15 alty by the cost-of-living adjustment. Any increase deter-  
16 mined under this subsection shall be rounded to the near-  
17 est—

18 “(1) multiple of \$1,000 in the case of penalties  
19 greater than \$1,000 but less than or equal to  
20 \$10,000; and

21 “(2) multiple of \$5,000 in the case of penalties  
22 greater than \$10,000 but less than or equal to  
23 \$100,000.

24 “(c) **DEFINITIONS.**—For purposes of this section—

25 “(1) the term ‘civil monetary penalty’ means—

1           “(A) a penalty imposed by paragraph (1)  
2 or (3) of section 1129(a); and

3           “(B) a penalty imposed by paragraph (1)  
4 or (2) of section 1140(b).

5           “(2) the term ‘cost-of-living adjustment’ means  
6 the percentage (if any) for each civil monetary pen-  
7 alty by which—

8           “(A) the Consumer Price Index for the  
9 month of June of the calendar year preceding  
10 the adjustment, exceeds

11           “(B) the Consumer Price Index for the  
12 month of June of the calendar year in which  
13 the amount of such civil monetary penalty was  
14 last set or adjusted pursuant to law.

15           “(d) APPLICATION OF INCREASE.—Any increase  
16 under this Act in a civil monetary penalty shall apply only  
17 to violations which occur after the date the increase takes  
18 effect.”.

19 **SEC. 8. EXCLUSION OF CERTAIN MEDICAL EVIDENCE IN**  
20 **DISABILITY CASES.**

21           (a) IN GENERAL.—Section 223(d)(5) of the Social  
22 Security Act (42 U.S.C. 423(d)(5)) is amended by adding  
23 at the end the following:

24           “(C) In making any determination with respect to  
25 whether an individual is under a disability or continues

1 to be under a disability, the Commissioner of Social Secu-  
2 rity may not consider, except for good cause as determined  
3 by the Commissioner, any evidence furnished by a physi-  
4 cian or other health care provider who—

5           “(i) has been barred from practice in any State;

6           or

7           “(ii) has been assessed a penalty under section  
8           1128 or 1129 for the submission of false evidence.”.

9           (b) REGULATIONS.—Not later than 1 year after the  
10 date of the enactment of this Act, the Commissioner of  
11 Social Security shall issue regulations to carry out the  
12 amendment made by subsection (a).

13           (c) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) shall apply with respect to determinations  
15 of disability made on or after the date that is 1 year after  
16 the date of enactment of this Act.

17 **SEC. 9. REPEAL OF PROGRAM INTEGRITY ADJUSTMENTS**  
18 **TO DISCRETIONARY SPENDING LIMITS.**

19           Section 251(b)(2)(B)(i) of the Balanced Budget and  
20 Emergency Deficit Control Act of 1985 is amended—

21           (1) in subclause (II), by adding “and” at the  
22           end;

23           (2) in subclause (III), by striking the semicolon  
24           at the end and inserting a period; and

1 (3) by striking subclauses (IV) through (X).

○