

114TH CONGRESS
1ST SESSION

H. R. 2359

To amend the Social Security Act to prevent disability fraud, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2015

Mr. SAM JOHNSON of Texas (for himself, Mr. BOUSTANY, Mrs. BLACK, Mr. KELLY of Pennsylvania, and Mr. REED) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act to prevent disability fraud, 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 “Disability Fraud Re-
5 duction and Unethical Deception (FRAUD) Prevention
6 Act”.

1 **SEC. 2. IMMEDIATE SUSPENSION OF CLAIMANT REP-**
2 **RESENTATIVES UPON FELONY CONVICTIONS**
3 **OR DISBARMENT.**

4 Section 206(a)(1) of the Social Security Act (42
5 U.S.C. 406(a)(1)) is amended—

6 (1) in the third sentence, by striking “disbarred
7 or” each place it appears; and

8 (2) by inserting after the third sentence the fol-
9 lowing: “Upon conviction of an individual for a fel-
10 ony in a Federal or State Court or, in the case of
11 an attorney, upon disbarment from any court or bar
12 to which he or she was previously admitted to prac-
13 tice, the Commissioner may, after due notice, imme-
14 diately disqualify or suspend the individual from ap-
15 pearing as a claimant representative before the So-
16 cial Security Administration, pending an expedited
17 hearing.”.

18 **SEC. 3. NEW AND STRONGER PENALTIES.**

19 (a) **CONSPIRACY TO COMMIT SOCIAL SECURITY**
20 **FRAUD.—**

21 (1) **AMENDMENT TO TITLE II.—**Section 208(a)
22 of the Social Security Act (42 U.S.C. 408(a)) is
23 amended—

24 (A) in paragraph (7)(C), by striking “or”
25 at the end;

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

3 (C) by inserting after paragraph (8) the
4 following:

5 “(9) conspires to commit any offense described in any
6 of paragraphs (1) through (8),”.

7 (2) AMENDMENT TO TITLE VIII.—Section
8 811(a) of such Act (42 U.S.C. 1011(a)) is amend-
9 ed—

10 (A) in paragraph (3), by striking “or” at
11 the end;

12 (B) in paragraph (4), by striking the
13 comma and adding “; or” at the end; and

14 (C) by inserting after paragraph (4) the
15 following:

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

18 (3) AMENDMENT TO TITLE XVI.—Section
19 1632(a) of such Act (42 U.S.C. 1383a(a)) is amend-
20 ed—

21 (A) in paragraph (3), by striking “or” at
22 the end;

23 (B) in paragraph (4), by adding “or” at
24 the end; and

1 (C) by inserting after paragraph (4) the
2 following:

3 “(5) conspires to commit any offense described in any
4 of paragraphs (1) through (4),”.

5 (b) INCREASED CRIMINAL PENALTIES FOR CERTAIN
6 INDIVIDUALS VIOLATING POSITIONS OF TRUST.—

7 (1) AMENDMENT TO TITLE II.—Section 208(a)
8 of the Social Security Act (42 U.S.C. 408(a)), as
9 amended by subsection (a), is further amended by
10 striking the period at the end and inserting “, except
11 that in the case of a person who receives a fee or
12 other income for services performed in connection
13 with any determination with respect to benefits
14 under this title (including a claimant representative,
15 translator, or current or former employee of the So-
16 cial Security Administration), or who is a physician
17 or other health care provider who submits, or causes
18 the submission of, medical or other evidence in con-
19 nection with any such determination, such person
20 shall be guilty of a felony and upon conviction there-
21 of shall be fined under title 18, United States Code,
22 or imprisoned for not more than ten years, or
23 both.”.

24 (2) AMENDMENT TO TITLE VIII.—Section
25 811(a) of such Act (42 U.S.C. 1011(a)), as amended

1 by subsection (a), is further amended by striking the
2 period at the end and inserting “, except that in the
3 case of a person who receives a fee or other income
4 for services performed in connection with any deter-
5 mination with respect to benefits under this title (in-
6 cluding a claimant representative, translator, or cur-
7 rent or former employee of the Social Security Ad-
8 ministration), or who is a physician or other health
9 care provider who submits, or causes the submission
10 of, medical or other evidence in connection with any
11 such determination, such person shall be guilty of a
12 felony and upon conviction thereof shall be fined
13 under title 18, United States Code, or imprisoned
14 for not more than ten years, or both.”.

15 (3) AMENDMENT TO TITLE XVI.—Section
16 1632(a) of such Act (42 U.S.C. 1383a(a)), as
17 amended by subsection (a), is further amended by
18 striking the period at the end and inserting “, except
19 that in the case of a person who receives a fee or
20 other income for services performed in connection
21 with any determination with respect to benefits
22 under this title (including a claimant representative,
23 translator, or current or former employee of the So-
24 cial Security Administration), or who is a physician
25 or other health care provider who submits, or causes

1 the submission of, medical or other evidence in con-
2 nection with any such determination, such person
3 shall be guilty of a felony and upon conviction there-
4 of shall be fined under title 18, United States Code,
5 or imprisoned for not more than ten years, or
6 both.”.

7 (c) INCREASED CIVIL MONETARY PENALTIES FOR
8 CERTAIN INDIVIDUALS VIOLATING POSITIONS OF
9 TRUST.—Section 1129(a)(1) of the Social Security Act
10 (42 U.S.C. 1320a–8(a)(1)) is amended, in the matter fol-
11 lowing subparagraph (C), by inserting after “withholding
12 disclosure of such fact” the following: “, except that in
13 the case of such a person who receives a fee or other in-
14 come for services performed in connection with any such
15 determination (including a claimant representative, trans-
16 lator, or current or former employee of the Social Security
17 Administration) or who is a physician or other health care
18 provider who submits, or causes the submission of, medical
19 or other evidence in connection with any such determina-
20 tion, the amount of such penalty shall be not more than
21 \$7,500”.

22 (d) ESTABLISHMENT OF SANCTIONS FOR VIOLA-
23 TIONS BY CLAIMANT REPRESENTATIVES.—Section
24 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1))
25 is amended by inserting after “or who violates any provi-

1 sion of this section for which a penalty is prescribed.” the
2 following: “The Commissioner of Social Security shall es-
3 tablish rules under which fines and other sanctions the
4 Commissioner determines to be appropriate may be im-
5 posed and collected for failure to comply with the Commis-
6 sioner’s rules and regulations.”.

7 (e) CIVIL MONETARY PENALTY ON CLAIMANT REP-
8 RESENTATIVES.—Section 1129(a) of the Social Security
9 Act (42 U.S.C. 1320a–8(a)) is amended by adding at the
10 end the following:

11 “(4) Any person (including an organization,
12 agency, or other entity) who, while acting as a
13 claimant representative pursuant to section 206,
14 knowingly charges, demands, receives, or collects for
15 services rendered in excess of the maximum fee pre-
16 scribed by the Commissioner of Social Security or al-
17 lowed by a court in connection with proceedings be-
18 fore the court to which section 206(b)(1) is applica-
19 ble, shall be subject to, in addition to any other pen-
20 alties that may be prescribed by law, a civil mone-
21 tary penalty of not more than \$7,500 for each viola-
22 tion. Such person shall also be subject to an assess-
23 ment, in lieu of damages sustained by the United
24 States resulting from the improper payment, of not

1 more than twice the amount of any payments so re-
2 ceived.”.

3 (f) INFLATION ADJUSTMENT OF CERTAIN CIVIL
4 MONETARY PENALTIES.—Title XI of the Social Security
5 Act (42 U.S.C. 1301 et seq.) is amended by inserting after
6 section 1129B the following:

7 **“SEC. 1129C. CIVIL MONETARY PENALTY INFLATION AD-
8 JUSTMENT.**

9 “(a) ADJUSTMENT BY REGULATION.—The Commis-
10 sioner of Social Security shall, not later than 180 days
11 after the date of enactment of the Disability Fraud Reduc-
12 tion and Unethical Deception (FRAUD) Prevention Act,
13 and at least once every 4 years thereafter—

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

17 “(2) publish each such regulation in the Fed-
18 eral Register.

19 “(b) AMOUNT OF ADJUSTMENT.—The inflation ad-
20 justment under subsection (a) shall be determined by in-
21 creasing the maximum amount of each civil monetary pen-
22 alty by the cost-of-living adjustment. Any increase deter-
23 mined under this subsection shall be rounded to the near-
24 est—

1 “(1) multiple of \$1,000 in the case of penalties
2 greater than \$1,000 but less than or equal to
3 \$10,000; and

4 “(2) multiple of \$5,000 in the case of penalties
5 greater than \$10,000 but less than or equal to
6 \$100,000.

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

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

9 “(A) a penalty imposed by paragraph (1),
10 (3), or (4) of section 1129(a); and

11 “(B) a penalty imposed by paragraph (1)
12 or (2) of section 1140(b); and

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

16 “(A) the Consumer Price Index for all
17 Urban Consumers (CPI-U) for the month of
18 June of the calendar year preceding the adjust-
19 ment, exceeds

20 “(B) the CPI-U for the month of June of
21 the calendar year in which the amount of such
22 civil monetary penalty was last set or adjusted
23 pursuant to law.

24 “(d) APPLICATION OF INCREASE.—Any increase
25 under this Act in a civil monetary penalty shall apply only

1 to violations which occur after the date the increase takes
2 effect.”.

3 (g) MANDATORY RESTITUTION IN SOCIAL SECURITY
4 FRAUD CASES.—

5 (1) AMENDMENTS TO TITLE II.—Section 208(b)
6 of the Social Security Act (42 U.S.C. 408(c)) is
7 amended—

8 (A) in paragraph (1), by striking “may
9 order” and inserting “shall order”;

10 (B) in paragraph (2), by striking “3663”
11 and inserting “3663A”;

12 (C) by striking paragraph (3); and

13 (D) by redesignating paragraphs (4) and
14 (5) as paragraphs (3) and (4), respectively.

15 (2) AMENDMENTS TO TITLE VIII.—Section
16 811(b) of such Act (42 U.S.C. 1011(b)) is amend-
17 ed—

18 (A) in paragraph (1), by striking “may
19 order” and inserting “shall order”;

20 (B) in paragraph (2), by striking “3663”
21 and inserting “3663A”;

22 (C) by striking paragraph (3); and

23 (D) by redesignating paragraph (4) as
24 paragraph (3).

1 (3) AMENDMENTS TO TITLE XVI.—Section
2 1632(b) of such Act (42 U.S.C. 1383a(b)) is amend-
3 ed—

4 (A) in paragraph (1), by striking “may
5 order” and inserting “shall order”;

6 (B) in paragraph (2), by striking “3663”
7 and inserting “3663A”;

8 (C) by striking paragraph (3); and

9 (D) by redesignating paragraph (4) as
10 paragraph (3).

11 (4) EFFECTIVE DATE.—The amendments made
12 by paragraphs (1), (2), and (3) shall apply with re-
13 spect to violations occurring on or after the date of
14 the enactment of this Act.

15 (h) NO BENEFITS PAYABLE TO INDIVIDUALS FOR
16 WHOM A CIVIL MONETARY PENALTY IS IMPOSED FOR
17 FRAUDULENTLY CONCEALING WORK ACTIVITY.—Section
18 222(e)(5) of the Social Security Act (42 U.S.C. 422(e)(5))
19 is amended by inserting after “conviction by a Federal
20 court” the following: “, or the imposition of a civil mone-
21 tary penalty under section 1129,”.

22 (i) IMPROVED COLLECTION OF CIVIL MONEY PEN-
23 ALTIES AND ASSESSMENTS.—

24 Section 1129(e) of the Social Security Act (42
25 U.S.C. 1320a–8) is amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 paragraphs (2) and (3), respectively;

3 (2) by inserting before paragraph (2) the fol-
4 lowing:

5 “(1) Civil money penalties and assessments im-
6 posed under this section may be compromised by the
7 Commissioner of Social Security.”; and

8 (3) in paragraph (2) (as redesignated by para-
9 graph (1) of this section), by striking “Civil money
10 penalties and assessments imposed under this sec-
11 tion may be compromised by the Commissioner of
12 Social Security and may be recovered—” and insert-
13 ing “To the extent that the Commissioner of Social
14 Security determines to seek recovery of a civil money
15 penalty or assessment imposed under this section,
16 the Commissioner shall promptly seek such recov-
17 ery—”.

18 **SEC. 4. REVIEW OF HIGHEST-EARNING CLAIMANT REP-**
19 **RESENTATIVES.**

20 Not later than 1 year after the date of the enactment
21 of this Act and biennially thereafter, the Inspector General
22 of the Social Security Administration shall conduct bien-
23 nial reviews of the practices of a sample of the highest

- 1 earning claimant representatives to ensure compliance
- 2 with the policies of the Social Security Administration.

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