

115TH CONGRESS
2D SESSION

H. R. 4547

AN ACT

To amend titles II, VIII, and XVI of the Social Security Act to improve and strengthen the representative payment program.

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. SHORT TITLE.**

2 This Act may be cited as the “Strengthening Protec-
3 tions for Social Security Beneficiaries Act of 2018”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

Sec. 1. Short title.

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**TITLE I—STRENGTHENING OVERSIGHT AND BENEFICIARY
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6 **TITLE I—STRENGTHENING**
7 **OVERSIGHT AND BENE-**
8 **FICIARY PROTECTION**

9 **SEC. 101. STRONGER MONITORING OF REPRESENTATIVE**
10 **PAYEES.**

11 (a) PROTECTION AND ADVOCACY FOR BENE-
12 FICIARIES WITH REPRESENTATIVE PAYEES.—Section
13 205(j)(6) of the Social Security Act (42 U.S.C. 405(j)(6))
14 is amended by adding at the end the following:

15 “(C)(i) The Commissioner of Social Security shall
16 make annual grants directly to the protection and advo-

1 cacy system serving each of the States and the American
2 Indian consortium for the purpose of conducting reviews
3 of representative payees in accordance with this subpara-
4 graph. The total amount used by the Commissioner for
5 such grants each year—

6 “(I) shall be an amount sufficient, as deter-
7 mined by the Commissioner in consultation with
8 each of the protection and advocacy systems, to
9 carry out all of the activities described in clause (ii);
10 and

11 “(II) shall not be less than \$25,000,000.

12 “(ii) A protection and advocacy system awarded a
13 grant under this subparagraph shall use the grant funds
14 to—

15 “(I) conduct all periodic onsite reviews pursu-
16 ant to this paragraph and such other reviews of rep-
17 resentative payees as the Commissioner may request,
18 including reviews conducted in response to allega-
19 tions or concerns about the performance or suit-
20 ability of the payee;

21 “(II) conduct additional reviews that the pro-
22 tection and advocacy system has reason to believe
23 are warranted;

1 “(III) develop corrective action plans to assist
2 representative payees in conforming to requirements
3 specified by the Commissioner;

4 “(IV) submit a report to the Commissioner on
5 each completed review containing such information
6 as the Commissioner shall require; and

7 “(V) conduct an initial onsite assessment of any
8 organization that begins collecting a fee for its serv-
9 ices as a representative payee to ensure that such
10 organization is established as such a representative
11 payee in accordance with requirements specified by
12 the Commissioner.

13 A protection and advocacy system may refer beneficiaries
14 to other programs or services as the protection and advo-
15 cacy system considers appropriate.

16 “(iii) To be eligible to receive grants under this sec-
17 tion, a protection and advocacy system shall submit an
18 initial application to the Commissioner at such time, in
19 such form and manner, and accompanied by such informa-
20 tion and assurances as the Commissioner may require.

21 “(iv)(I) Subject to subclause (II), the Commissioner
22 shall ensure that any funds used for grants under clause
23 (i) shall be allocated to the protection and advocacy sys-
24 tems serving each of the States and the American Indian
25 consortium in a manner such that the amount provided

1 to each protection and advocacy system bears the same
2 ratio to the total of such funds as the number of rep-
3 resented beneficiaries in the State or American Indian
4 consortium in which such protection and advocacy system
5 is located bears to the total number of represented bene-
6 ficiaries.

7 “(II) The amount of an annual grant to a protection
8 and advocacy system under clause (i) shall—

9 “(aa) in the case of a protection and advocacy
10 system serving American Samoa, Guam, the United
11 States Virgin Islands, or the Commonwealth of the
12 Northern Mariana Islands, or the American Indian
13 consortium, not be less than \$30,000; and

14 “(bb) in the case of a protection and advocacy
15 system serving any other State, not be less than
16 \$60,000.

17 “(III) Funds provided to a protection and advocacy
18 system through a grant under clause (i) for a 1-year pe-
19 riod shall remain available through the end of the fol-
20 lowing 1-year period.

21 “(IV) For purposes of this clause, the term ‘rep-
22 resented beneficiary’ means an individual—

23 “(aa) who is entitled to benefits under this title,
24 title VIII, or title XVI; and

1 “(bb) whose benefits have been certified for
2 payment to a representative payee.

3 “(v)(I) The Commissioner shall make annual grants,
4 in an amount equal to 4 percent of the total amount of
5 grants awarded each year under clause (i), to an eligible
6 national association for the provision of training and tech-
7 nical assistance, administrative support, and data collec-
8 tion services to protection and advocacy systems in con-
9 nection with grants awarded under clause (i).

10 “(II) In this clause, the term ‘eligible national asso-
11 ciation’ means a national disability association with exten-
12 sive knowledge and demonstrated experience in providing
13 training, technical assistance, and administrative oversight
14 to protection and advocacy systems that monitor rep-
15 resentative payees.

16 “(vi) In conducting reviews under this section, a pro-
17 tection and advocacy system shall have the same authori-
18 ties, including access to records, facilities, and persons, as
19 such system would have for purposes of providing services
20 under subtitle C of title I of the Developmental Disabilities
21 Assistance and Bill of Rights Act of 2000 (42 U.S.C.
22 15041 et seq.).

23 “(vii) Whenever benefit amounts under this title are
24 increased by any percentage effective with any month after
25 November 2018 as a result of a determination made under

1 section 215(i), each of the dollar amounts specified in
2 clauses (i)(II) and (iv)(II) shall be increased by the same
3 percentage.

4 “(viii) No additional funds are authorized to be ap-
5 propriated to carry out the requirements of this subpara-
6 graph. Such requirements shall be carried out using
7 amounts otherwise authorized.

8 “(ix) In this subparagraph:

9 “(I) The term ‘American Indian consortium’
10 means a consortium established under subtitle C of
11 title I of the Developmental Disabilities Assistance
12 and Bill of Rights Act of 2000 (42 U.S.C. 15041 et
13 seq.).

14 “(II) The term ‘protection and advocacy sys-
15 tem’ means a protection and advocacy system estab-
16 lished under subtitle C of title I of the Develop-
17 mental Disabilities Assistance and Bill of Rights Act
18 of 2000 (42 U.S.C. 15041 et seq.).

19 “(III) The term ‘State’ means the several
20 States of the United States, the District of Colum-
21 bia, the Commonwealth of Puerto Rico, the United
22 States Virgin Islands, Guam, American Samoa, and
23 the Commonwealth of the Northern Mariana Is-
24 lands.”.

1 (b) EXPANSION OF PERIODIC ONSITE REVIEW RE-
2 QUIREMENTS.—Section 205(j)(6)(A) of the Social Secu-
3 rity Act (42 U.S.C. 405(j)(6)(A)) is amended—

4 (1) in clause (ii), by striking “or”;

5 (2) in clause (iii), by striking the period and in-
6 serting “; or”;

7 (3) by adding after clause (iii) the following:

8 “(iv) the representative payee collects a fee for
9 its services.”; and

10 (4) by adding after clause (iv) (as added by
11 paragraph (3)) the following flush text:

12 “The Commissioner shall also conduct periodic onsite re-
13 views of individual and organizational payees, including
14 payees who are related to the beneficiary and primarily
15 reside in the same household, selected on the basis of risk-
16 factors for potential misuse or unsuitability associated
17 with such payees or beneficiaries.”.

18 (c) AVAILABILITY OF GRANT FUNDS.—

19 (1) PROTECTION AND ADVOCACY SYSTEM
20 GRANTS.—Grants described under clause (i) of sub-
21 paragraph (C) of section 205(j)(6) of the Social Se-
22 curity Act (as added by subsection (a)) shall be
23 awarded on August 1, 2018, and annually there-
24 after, and funds provided by such grants to a protec-
25 tion and advocacy system may be used to reimburse

1 the protection and advocacy system for amounts ex-
2 pended by the protection and advocacy system dur-
3 ing the period beginning on May 1, 2018, and end-
4 ing on such date for hiring and start-up costs in
5 preparation to carry out reviews of representative
6 payees in accordance with such subparagraph.

7 (2) NATIONAL ASSOCIATION GRANTS.—Grants
8 described under clause (v) of such subparagraph
9 shall be awarded on May 1, 2018, and annually
10 thereafter.

11 **SEC. 102. REDUCING THE BURDEN ON FAMILIES.**

12 (a) TITLE II.—Section 205(j)(3) of the Social Secu-
13 rity Act (42 U.S.C. 405(j)(3)) is amended—

14 (1) by redesignating subparagraphs (D)
15 through (G) as subparagraphs (E) through (H), re-
16 spectively;

17 (2) by inserting after subparagraph (C) the fol-
18 lowing:

19 “(D)(i) Subparagraph (A) shall not apply
20 in any case where the other person to whom
21 such payment is made is—

22 “(I) a parent, or other individual
23 who is a legal guardian of, a minor
24 child entitled to such payment who

1 primarily resides in the same house-
2 hold;

3 “(II) a parent of an individual
4 entitled to such payment who is under
5 a disability (as defined in section
6 223(d)) who primarily resides in the
7 same household; or

8 “(III) the spouse of the indi-
9 vidual entitled to such payment.

10 “(ii) The Commissioner of Social Security
11 shall establish and implement procedures as
12 necessary for the Commissioner to determine
13 the eligibility of such parties for the exemption
14 provided in clause (i). The Commissioner shall
15 prescribe such regulations as may be necessary
16 to determine eligibility for such exemption.”;

17 (3) in subparagraph (E) (as so redesignated), by
18 striking “and (C)” and inserting “(C), and (D)”;
19 and

20 (4) in subparagraph (F) (as so redesignated),
21 by striking “(D)” each place it appears and insert-
22 ing “(E)”.

23 (b) TITLE VIII.—Section 807(h) of the Social Secu-
24 rity Act (42 U.S.C. 1007(h)) is amended—

1 (1) by redesignating paragraphs (3) through
2 (5) as paragraphs (4) through (6), respectively; and

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

5 “(3)(A) Paragraph (1) shall not apply in any
6 case where the other person to whom such payment
7 is made is the spouse of the individual entitled to
8 such payment.

9 “(B) The Commissioner of Social Security shall
10 establish and implement procedures as necessary for
11 the Commissioner to determine the eligibility of such
12 parties for the exemption provided in subparagraph
13 (A). The Commissioner shall prescribe such regula-
14 tions as may be necessary to determine eligibility for
15 such exemption.”.

16 (c) TITLE XVI.—Section 1631(a)(2)(C) of the Social
17 Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

18 (1) by redesignating clauses (iv) and (v) as
19 clauses (v) and (vi), respectively;

20 (2) by inserting after clause (iii) the following:

21 “(iv)(I) Clause (i) shall not apply in any case
22 where the representative payee is—

23 “(aa) a parent, or other individual who is
24 a legal guardian of, a minor child entitled to

1 such payment who primarily resides in the same
2 household;

3 “(bb) a parent of an individual entitled to
4 such payment who is under a disability who pri-
5 marily resides in the same household; or

6 “(cc) the spouse of the individual entitled
7 to such payment.

8 “(II) The Commissioner of Social Security shall
9 establish and implement procedures as necessary for
10 the Commissioner to determine the eligibility of such
11 parties for the exemption provided in subclause (I).
12 The Commissioner shall prescribe such regulations
13 as may be necessary to determine eligibility for such
14 exemption.”;

15 (3) in clause (v) (as so redesignated), by strik-
16 ing “and (iii)” and inserting “(iii), and (iv)”;

17 (4) in clause (vi) (as so redesignated), by strik-
18 ing “(iv)” each time it appears and inserting “(v)”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act.

22 **SEC. 103. PROTECTING BENEFICIARIES THROUGH INFOR-**
23 **MATION SHARING.**

24 (a) INFORMATION SHARING TO DETERMINE STATE
25 FOSTER CARE STATUS.—

1 (1) IN GENERAL.—Section 205(j) of the Social
2 Security Act (42 U.S.C. 405(j)) is amended by add-
3 ing at the end the following:

4 “(11)(A) The Commissioner of Social Security
5 shall—

6 “(i) enter into agreements with each State with
7 a plan approved under part E of title IV for the pur-
8 pose of sharing and matching data, on an automated
9 monthly basis, in the system of records of the Social
10 Security Administration with each Statewide and
11 Tribal Automated Child Welfare Information System
12 to identify represented minor beneficiaries who are
13 in foster care under the responsibility of the State
14 for such month; and

15 “(ii) in any case in which a represented minor
16 beneficiary has entered or exited foster care or
17 changed foster care placement in such month, rede-
18 termine the appropriate representative payee for
19 such individual.

20 “(B) For purposes of this paragraph—

21 “(i) the term ‘State’ has the meaning given
22 such term for purposes of part E of title IV;

23 “(ii) the term ‘Statewide and Tribal Automated
24 Child Welfare Information System’ means a state-

1 wide mechanized data collection and information re-
2 trieval system described in section 474(a)(3)(C); and

3 “(iii) the term ‘represented minor beneficiary’,
4 with respect to an individual for a month, means a
5 child (as defined for purposes of section 475(8)) en-
6 titled to benefits under this title for such month
7 whose benefits are certified for payment to a rep-
8 resentative payee.”.

9 (2) CONFORMING CHANGE.—Section
10 471(a)(8)(A) of the Social Security Act (42 U.S.C.
11 671(a)(8)(A)) is amended by inserting “the program
12 established by title II,” after “XX,”.

13 (3) GAO STUDY AND REPORT.—

14 (A) EVALUATION.—As soon as possible
15 after the date of the enactment of this Act, the
16 Comptroller General shall evaluate—

17 (i) the number of represented minor
18 beneficiaries in foster care under the re-
19 sponsibility of a State for each month dur-
20 ing the previous year;

21 (ii) whether the representative payee
22 for each represented minor beneficiary is—

23 (I) a governmental child welfare
24 agency;

1 (II) an organizational payee that
2 is not a governmental child welfare
3 agency;

4 (III) a foster parent or child-care
5 institution (within the meaning of
6 part E of title IV); or

7 (IV) another individual; and

8 (iii) whether funds were conserved,
9 used for direct expenses of the minor bene-
10 ficiary, or used to reimburse the State for
11 foster care maintenance costs.

12 (B) REPORT TO CONGRESS.—Not later
13 than 36 months after the date of enactment of
14 this Act, the Comptroller General shall submit
15 to Congress a report on the results of the eval-
16 uation required under subparagraph (A).

17 (C) DEFINITIONS.—For purposes of this
18 paragraph—

19 (i) the term “State” has the meaning
20 given such term for purposes of part E of
21 title IV of the Social Security Act; and

22 (ii) the term “represented minor bene-
23 ficiary”, with respect to an individual for a
24 month, means a child (as defined for pur-
25 poses of section 475(8) of the Social Secu-

1 rity Act) entitled to benefits under title II
2 of such Act for such month whose benefits
3 are certified for payment to a representa-
4 tive payee.

5 (4) EFFECTIVE DATE.—

6 (A) IN GENERAL.—The amendments made
7 by this subsection shall apply with respect to
8 months beginning on or after the date that is
9 1 year after the date of the enactment of this
10 Act.

11 (B) EXCEPTION IF STATE LEGISLATION
12 REQUIRED.—In the case of a State plan under
13 part E of title IV of the Social Security Act
14 that the Secretary of Health and Human Serv-
15 ices determines requires State legislation (other
16 than legislation appropriating funds) in order
17 for the plan to meet the additional requirement
18 imposed by the amendments made under this
19 subsection, such plan shall not be regarded as
20 failing to comply with the requirements of such
21 title solely on the basis of its failure to meet
22 this additional requirement before the first day
23 of the first calendar quarter beginning after the
24 close of the first regular session of the State
25 legislature that begins after the date of the en-

1 actment of this Act. For purposes of the pre-
2 vious sentence, in the case of a State that has
3 a 2-year legislative session, each year of such
4 session shall be deemed to be a separate regular
5 session of the State legislature.

6 (b) IMPROVING COORDINATION WITH ADULT PRO-
7 TECTIVE SERVICES.—

8 (1) IN GENERAL.—The Commissioner of Social
9 Security shall study and test the administrative fea-
10 sibility of improving information sharing, in partner-
11 ship with State agencies that provide adult protec-
12 tive services, with respect to—

13 (A) the assessment of an individual's need
14 for a representative payee in connection with
15 benefits to which the individual is entitled
16 under title II or title XVI of the Social Security
17 Act; and

18 (B) oversight of individuals and organiza-
19 tions serving as representative payees.

20 (2) REPORT.—Not later than June 30, 2022,
21 the Commissioner of Social Security shall conclude
22 the study described in paragraph (1) and submit to
23 the Committee on Ways and Means of the House of
24 Representatives and the Committee on Finance of
25 the Senate a report on the results of such study.

1 (c) STUDY ON POTENTIAL TO COORDINATE WITH
2 STATE COURTS.—

3 (1) IN GENERAL.—The Commissioner of Social
4 Security shall enter into an agreement with the Ad-
5 ministrative Conference of the United States to con-
6 duct a study that includes—

7 (A) an overview of potential opportunities
8 for information sharing between the Social Se-
9 curity Administration and State courts and rel-
10 evant State agencies;

11 (B) a detailed analysis of the barriers to
12 such information sharing, including any Federal
13 or State statutory barriers;

14 (C) a description of how such information
15 sharing would be implemented, including any
16 additional infrastructure needed; and

17 (D) a description of any risks or other fac-
18 tors that the Social Security Administration
19 and the Congress should consider before imple-
20 menting such information sharing.

21 (2) REPORT.—Not later than June 30, 2020,
22 the Commissioner of Social Security shall submit to
23 the Committee on Ways and Means of the House of
24 Representatives and the Committee on Finance of
25 the Senate and make publicly available a report on

1 the results of the study conducted under paragraph
2 (1).

3 **SEC. 104. CLARIFYING OVERPAYMENT LIABILITY FOR**
4 **CHILD IN CHILD WELFARE SYSTEM.**

5 (a) AMENDMENT TO TITLE II.—Section 204(a) of
6 the Social Security Act (42 U.S.C. 404(a)) is amended
7 by adding at the end the following:

8 “(3)(A) When any payment of more than the correct
9 amount is made on behalf of an individual who is a rep-
10 resented minor beneficiary for a month in which such indi-
11 vidual is in foster care under the responsibility of a State
12 and the State is the representative payee of such indi-
13 vidual, the State shall be liable for the repayment of the
14 overpayment, and there shall be no adjustment of pay-
15 ments to, or recovery by the United States from, such in-
16 dividual.

17 “(B) For purposes of this paragraph, the term ‘rep-
18 resented minor beneficiary’ has the meaning given such
19 term in subsection (j)(11)(B)(iii).”.

20 (b) AMENDMENT TO TITLE XVI.—Section 1631(b)
21 of the Social Security Act (42 U.S.C. 1683(b)) is amend-
22 ed—

23 (1) by redesignating paragraphs (3) through
24 (7) as paragraphs (4) through (8), respectively; and

1 (2) by inserting after paragraph (2) the fol-
2 lowing:

3 “(3)(A) When any payment of more than the correct
4 amount is made on behalf of an individual who is a rep-
5 resented minor beneficiary for a month in which such indi-
6 vidual is in foster care under the responsibility of a State
7 and the State is the representative payee of such indi-
8 vidual, the State shall be liable for the repayment of the
9 overpayment, and there shall be no adjustment of pay-
10 ments to, or recovery by the United States from, such in-
11 dividual.

12 “(B) For purposes of this paragraph, the term ‘rep-
13 resented minor beneficiary’, with respect to an individual
14 for a month, means a child (as defined for purposes of
15 section 475(8)) entitled to benefits under this title for
16 such month whose benefits are certified for payment to
17 a representative payee.”.

18 (c) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply with respect to overpayment de-
20 terminations made on or after the date of the enactment
21 of this Act and to any other overpaid amounts that have
22 not been recovered as of such date.

1 **SEC. 105. REPORTS.**

2 (a) REPORT ON BENEFITS MISUSED.—Section
3 205(j) of the Social Security Act (42 U.S.C. 405(j)), as
4 amended by section 103(a), is further amended—

5 (1) in paragraph (6)—

6 (A) by striking “(A) In addition to” and
7 inserting “In addition to”; and

8 (B) by striking subparagraph (B); and

9 (2) by adding at the end the following:

10 “(12)(A) Not later than January 31 of each fiscal
11 year, the Commissioner shall submit to the Committee on
12 Ways and Means of the House of Representatives and the
13 Committee on Finance of the Senate a report on the total
14 number of individuals entitled to benefits under titles II,
15 VIII, and XVI, respectively, (and the number of individ-
16 uals concurrently entitled to benefits under more than one
17 such title) who have a representative payee, the total num-
18 ber of such representative payees, and the results of all
19 reviews of representative payees conducted during the pre-
20 vious fiscal year in connection with benefits under this
21 title, title VIII, or title XVI. Such report shall summarize
22 problems identified in such reviews and corrective actions
23 taken or planned to be taken to correct such problems,
24 and shall include—

25 “(i) the number of such reviews;

26 “(ii) the results of such reviews;

1 “(iii) the number of cases in which the rep-
2 representative payee was changed and why;

3 “(iv) the number of reviews conducted in re-
4 sponse to allegations or concerns about the perform-
5 ance or suitability of the payee;

6 “(v) the number of cases discovered in which
7 there was a misuse of funds, and the total dollar
8 amount of benefits determined by the Commissioner
9 during such fiscal year to have been misused by a
10 representative payee (regardless of the fiscal year in
11 which such misuse occurred);

12 “(vi) the number of cases discovered in which
13 such misuse of funds resulted from the negligent
14 failure of the Commissioner to investigate or mon-
15 itor a representative payee;

16 “(vii) the final disposition of such cases of mis-
17 use of funds, including—

18 “(I) any criminal, civil, and administrative
19 penalties imposed;

20 “(II) the total dollar amount of misused
21 benefits repaid to beneficiaries and alternative
22 representative payees under each of—

23 “(aa) paragraph (5) (on the basis of
24 a negligent failure of the Commissioner de-
25 scribed in such paragraph);

1 “(bb) paragraph (5) (on any other
2 basis); and

3 “(cc) paragraph (7);

4 “(III) the total dollar amount of misused
5 benefits recovered under each of—

6 “(aa) paragraph (5); and

7 “(bb) paragraph (7);

8 “(viii) any updates to prior year reports nec-
9 essary to reflect subsequent recoveries and repay-
10 ments pertaining to misuse determinations made in
11 prior years; and

12 “(ix) such other information as the Commis-
13 sioner deems appropriate.

14 “(B) Each report required under this paragraph for
15 a fiscal year shall include the information described in
16 clauses (i) through (ix) of subparagraph (A) with respect
17 to—

18 “(i) all representative payees reviewed during
19 such fiscal year;

20 “(ii) all such representative payees that are or-
21 ganizations, separated by whether such organization
22 collects a fee for its services as a representative
23 payee;

24 “(iii) all such representative payees that are in-
25 dividuals serving 15 or more individuals; and

1 “(iv) all such representative payees that are in-
2 dividuals serving less than 15 individuals, separated
3 by whether such representative payee is a family
4 member.”.

5 (b) REPORT ON ELIMINATION OF THE ACCOUNTING
6 FORM.—The Commissioner shall—

7 (1) conduct a study on the changes made by the
8 amendments made by section 102 of the Strength-
9 ening Protections for Social Security Beneficiaries
10 Act of 2018, which shall include the impact of such
11 changes on families, beneficiaries, and the operations
12 of the Social Security Administration; and

13 (2) not later than January 1, 2021, submit a
14 report on the results of such study to the Committee
15 on Ways and Means of the House of Representatives
16 and the Committee on Finance of the Senate.

17 (c) REPORT ON THE ADVANCED DESIGNATION POL-
18 ICY.—The Commissioner shall—

19 (1) conduct a study on the changes made by the
20 amendments made by section 201 of the Strength-
21 ening Protections for Social Security Beneficiaries
22 Act of 2018, which shall include the impact of such
23 changes on beneficiaries and the operations of the
24 Social Security Administration; and

1 (2) not later than January 1, 2025, submit a
2 report on the results of such study to the Committee
3 on Ways and Means of the House of Representatives
4 and the Committee on Finance of the Senate.

5 **TITLE II—IMPROVING PAYEE**
6 **SELECTION AND QUALITY**

7 **SEC. 201. ADVANCE DESIGNATION OF REPRESENTATIVE**
8 **PAYEES.**

9 (a) IN GENERAL.—Section 205(j)(1) of the Social Se-
10 curity Act (42 U.S.C. 405(j)(1)) is amended by adding
11 at the end the following:

12 “(C)(i) An individual who is entitled to or is an appli-
13 cant for a benefit under this title, title VIII, or title XVI,
14 who has attained 18 years of age or is an emancipated
15 minor, may, at any time, designate one or more other indi-
16 viduals to serve as a representative payee for such indi-
17 vidual in the event that the Commissioner of Social Secu-
18 rity determines under subparagraph (A) that the interest
19 of such individual would be served by certification for pay-
20 ment of such benefits to which the individual is entitled
21 to a representative payee. If the Commissioner of Social
22 Security makes such a determination with respect to such
23 individual at any time after such designation has been
24 made, the Commissioner shall—

1 “(I) certify payment of such benefits to the des-
2 ignated individual, subject to the requirements of
3 paragraph (2); or

4 “(II) if the Commissioner determines that cer-
5 tification for payment of such benefits to the des-
6 ignated individual would not satisfy the require-
7 ments of paragraph (2), that the designated indi-
8 vidual is unwilling or unable to serve as representa-
9 tive payee, or that other good cause exists, certify
10 payment of such benefits to another individual or or-
11 ganization, in accordance with paragraph (1).

12 “(ii) An organization may not be designated to serve
13 as a representative payee under this subparagraph.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on the date that is 2 years
16 after the date of the enactment of this section.

17 (c) REGULATIONS.—Not later than 18 months after
18 the date of the enactment of this section, the Commis-
19 sioner of Social Security shall promulgate regulations
20 specifying the information an individual is required to pro-
21 vide to the Commissioner in order to designate another
22 individual to serve as the individual’s representative payee
23 under section 205(j)(1)(C) of the Social Security Act (as
24 added by subsection (a)).

1 (d) NOTIFICATION TO BENEFICIARIES.—Not later
 2 than January 1, 2020, and annually thereafter, the Com-
 3 missioner of Social Security shall notify each individual
 4 entitled to a benefit under title II, VIII, or XVI of the
 5 Social Security Act of the name of any individual des-
 6 ignated to serve as the individual’s representative payee
 7 under section 205(j)(1)(C) of such Act (as added by sub-
 8 section (a)).

9 **SEC. 202. PROHIBITION ON INDIVIDUALS CONVICTED OF**
 10 **CERTAIN CRIMES SERVING AS REPRESENTA-**
 11 **TIVE PAYEES.**

12 (a) AMENDMENTS TO TITLE II.—Section 205(j)(2)
 13 of the Social Security Act (42 U.S.C. 405(j)(2)) is amend-
 14 ed—

15 (1) in subparagraph (B)—

16 (A) in clause (i)—

17 (i) in subclause (V), by striking “and”
 18 at the end;

19 (ii) in subclause (VI), by striking the
 20 period and inserting “, and”; and

21 (iii) by adding at the end the fol-
 22 lowing:

23 “(VII) determine whether such person has been
 24 convicted (and not subsequently exonerated), under
 25 Federal or State law, of a felony provided under

1 clause (iv), or of an attempt or a conspiracy to com-
2 mit such a felony.”; and

3 (B) by adding at the end the following:

4 “(iv) The felony crimes provided under this clause,
5 whether an offense under State or Federal law, are the
6 following:

7 “(I) Human trafficking, including as prohibited
8 under sections 1590 and 1591 of title 18, United
9 States Code.

10 “(II) False imprisonment, including as prohib-
11 ited under section 1201 of title 18, United States
12 Code.

13 “(III) Kidnapping, including as prohibited
14 under section 1201 of title 18, United States Code.

15 “(IV) Rape and sexual assault, including as
16 prohibited under sections 2241, 2242, 2243, and
17 2244 of title 18, United States Code.

18 “(V) First-degree homicide, including as prohib-
19 ited under section 1111 of title 18, United States
20 Code.

21 “(VI) Robbery, including as prohibited under
22 section 2111 of title 18, United States Code.

23 “(VII) Fraud to obtain access to government
24 assistance, including as prohibited under sections

1 287, 1001, and 1343 of title 18, United States
2 Code.

3 “(VIII) Fraud by scheme, including as prohib-
4 ited under section 1343 of title 18, United States
5 Code.

6 “(IX) Theft of government funds or property,
7 including as prohibited under section 641 of title 18,
8 United States Code.

9 “(X) Abuse or neglect, including as prohibited
10 under sections 111, 113, 114, 115, 116, or 117 of
11 title 18, United States Code.

12 “(XI) Forgery, including as prohibited under
13 section 642 and chapter 25 (except section 512) of
14 title 18, United States Code.

15 “(XII) Identity theft or identity fraud, includ-
16 ing as prohibited under sections 1028 and 1028A of
17 title 18, United States Code.

18 The Commissioner of Social Security may promulgate reg-
19 ulations to provide for additional felony crimes under this
20 clause.

21 “(v)(I) For the purpose of carrying out the activities
22 required under subparagraph (B)(i) as part of the inves-
23 tigation under subparagraph (A)(i), the Commissioner
24 may conduct a background check of any individual seeking
25 to serve as a representative payee under this subsection

1 and may disqualify from service as a representative payee
 2 any such individual who fails to grant permission for the
 3 Commissioner to conduct such a background check.

4 “(II) The Commissioner may revoke certification of
 5 payment of benefits under this subsection to any indi-
 6 vidual serving as a representative payee on or after Janu-
 7 ary 1, 2019 who fails to grant permission for the Commis-
 8 sioner to conduct such a background check.”; and

9 (2) in subparagraph (C)—

10 (A) in clause (i)—

11 (i) in subclause (IV), by striking “or”
 12 at the end;

13 (ii) in subclause (V), by striking the
 14 period at the end and inserting “, or”; and

15 (iii) by adding at the end the fol-
 16 lowing:

17 “(VI) except as provided in clause (vi), such
 18 person has previously been convicted (and not subse-
 19 quently exonerated) as described in subparagraph
 20 (B)(i)(VII).”; and

21 (B) by adding at the end the following:

22 “(vi)(I) With respect to any person described in sub-
 23 clause (II)—

24 “(aa) subparagraph (B)(i)(VII) shall not apply;

25 and

1 “(bb) the Commissioner may grant an exemp-
2 tion from the provisions of clause (i)(VI) if the Com-
3 missioner determines that such exemption is in the
4 best interest of the individual entitled to benefits.

5 “(II) A person is described in this subclause if the
6 person—

7 “(aa) is the custodial parent of a minor child
8 for whom the person applies to serve;

9 “(bb) is the custodial spouse of the beneficiary
10 for whom the person applies to serve;

11 “(cc) is the custodial parent of a beneficiary
12 who is under a disability (as defined in section
13 223(d)) which began before the beneficiary attained
14 the age of 22, for whom the person applies to serve;

15 “(dd) is the custodial court appointed guardian
16 of the beneficiary for whom the person applies to
17 serve;

18 “(ee) is the custodial grandparent of a minor
19 grandchild for whom the person applies to serve;

20 “(ff) is the parent who was previously rep-
21 resentative payee for his or her minor child who has
22 since turned 18 and continues to be eligible for such
23 benefit; or

24 “(gg) received a presidential or gubernatorial
25 pardon for the relevant conviction.”.

1 (b) AMENDMENTS TO TITLE VIII.—Section 807 of
2 the Social Security Act (42 U.S.C. 1007) is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (2)—

5 (i) in subparagraph (E), by striking
6 “and” at the end;

7 (ii) in subparagraph (F), by striking
8 the period and inserting “, and”; and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(G) determine whether such person has
12 been convicted (and not subsequently exoner-
13 ated), under Federal or State law, of a felony
14 provided under paragraph (4), or of an attempt
15 or a conspiracy to commit such a felony.”; and

16 (B) by adding at the end the following:

17 “(4) The felony crimes provided under this
18 paragraph, whether an offense under State or Fed-
19 eral law, are the following:

20 “(A) Human trafficking, including as pro-
21 hibited under sections 1590 and 1591 of title
22 18, United States Code.

23 “(B) False imprisonment, including as
24 prohibited under section 1201 of title 18,
25 United States Code.

1 “(C) Kidnapping, including as prohibited
2 under section 1201 of title 18, United States
3 Code.

4 “(D) Rape and sexual assault, including as
5 prohibited under sections 2241, 2242, 2243,
6 and 2244 of title 18, United States Code.

7 “(E) First-degree homicide, including as
8 prohibited under section 1111 of title 18,
9 United States Code.

10 “(F) Robbery, including as prohibited
11 under section 2111 of title 18, United States
12 Code.

13 “(G) Fraud to obtain access to government
14 assistance, including as prohibited under sec-
15 tions 287, 1001, and 1343 of title 18, United
16 States Code.

17 “(H) Fraud by scheme, including as pro-
18 hibited under section 1343 of title 18, United
19 States Code.

20 “(I) Theft of government funds or prop-
21 erty, including as prohibited under section 641
22 of title 18, United States Code.

23 “(J) Abuse or neglect, including as prohib-
24 ited under sections 111, 113, 114, 115, 116, or
25 117 of title 18, United States Code.

1 “(K) Forgery, including as prohibited
2 under section 642 and chapter 25 (except sec-
3 tion 512) of title 18, United States Code.

4 “(L) Identity theft or identity fraud, in-
5 cluding as prohibited under sections 1028 and
6 1028A of title 18, United States Code.

7 The Commissioner of Social Security may promul-
8 gate regulations to provide for additional felony
9 crimes under this clause.

10 “(5)(A) For the purpose of carrying out the activities
11 required under paragraph (2) as part of the investigation
12 under paragraph (1)(A), the Commissioner may conduct
13 a background check of any individual seeking to serve as
14 a representative payee under this subsection and may dis-
15 qualify from service as a representative payee any such
16 individual who fails to grant permission for the Commis-
17 sioner to conduct such a background check.

18 “(B) The Commissioner may revoke certification of
19 payment of benefits under this subsection to any indi-
20 vidual serving as a representative payee on or after Janu-
21 ary 1, 2019 who fails to grant permission for the Commis-
22 sioner to conduct such a background check.”; and

23 (2) in subsection (d)—

24 (A) in paragraph (1)—

1 (i) in subparagraph (D), by striking
2 “or” at the end;

3 (ii) in subparagraph (E), by striking
4 the period at the end and inserting “, or”;
5 and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(F) except as provided in paragraph
9 (2)(D), such person has previously been con-
10 victed (and not subsequently exonerated) as de-
11 scribed in subsection (b)(2)(G).”; and

12 (B) in paragraph (2), by adding at the end
13 the following:

14 “(D)(i) With respect to any person described in
15 clause (II)—

16 “(I) subsection (b)(2)(G) shall not apply; and

17 “(II) the Commissioner may grant an exemp-
18 tion from the provisions of paragraph (1)(F) if the
19 Commissioner determines that such exemption is in
20 the best interest of the individual entitled to bene-
21 fits.

22 “(ii) A person is described in this clause if the per-
23 son—

24 “(I) is the custodial spouse of the beneficiary
25 for whom the person applies to serve;

1 “(II) is the custodial court appointed guardian
 2 of the beneficiary for whom the person applies to
 3 serve; or

4 “(III) received a presidential or gubernatorial
 5 pardon for the relevant conviction.”.

6 (c) AMENDMENTS TO TITLE XVI.—Section
 7 1631(a)(2)(B) of the Social Security Act (42 U.S.C.
 8 1383(a)(2)(B)) is amended—

9 (1) in clause (ii)—

10 (A) in subclause (V), by striking “and” at
 11 the end;

12 (B) in subclause (VI), by striking the pe-
 13 riod and inserting “, and”; and

14 (C) by adding at the end the following:

15 “(VII) determine whether such person has been
 16 convicted (and not subsequently exonerated), under
 17 Federal or State law, of a felony provided under
 18 clause (xv), or of an attempt or a conspiracy to com-
 19 mit such a felony.”;

20 (2) in clause (iii)—

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

23 (B) in subclause (V), by striking the period
 24 at the end and inserting “, or”; and

25 (C) by adding at the end the following:

1 “(VI) except as provided in clause (xvii), such
2 person has previously been convicted (and not subse-
3 quently exonerated) as described in clause
4 (ii)(VII).”; and

5 (3) by adding at the end the following:

6 “(xv) The felony crimes provided under this clause,
7 whether an offense under State or Federal law, are the
8 following:

9 “(I) Human trafficking, including as prohibited
10 under sections 1590 and 1591 of title 18, United
11 States Code.

12 “(II) False imprisonment, including as prohib-
13 ited under section 1201 of title 18, United States
14 Code.

15 “(III) Kidnapping, including as prohibited
16 under section 1201 of title 18, United States Code.

17 “(IV) Rape and sexual assault, including as
18 prohibited under sections 2241, 2242, 2243, and
19 2244 of title 18, United States Code.

20 “(V) First-degree homicide, including as prohib-
21 ited under section 1111 of title 18, United States
22 Code.

23 “(VI) Robbery, including as prohibited under
24 section 2111 of title 18, United States Code.

1 “(VII) Fraud to obtain access to government
2 assistance, including as prohibited under sections
3 287, 1001, and 1343 of title 18, United States
4 Code.

5 “(VIII) Fraud by scheme, including as prohib-
6 ited under section 1343 of title 18, United States
7 Code.

8 “(IX) Theft of government funds or property,
9 including as prohibited under section 641 of title 18,
10 United States Code.

11 “(X) Abuse or neglect, including as prohibited
12 under sections 111, 113, 114, 115, 116, or 117 of
13 title 18, United States Code.

14 “(XI) Forgery, including as prohibited under
15 section 642 and chapter 25 (except section 512) of
16 title 18, United States Code.

17 “(XII) Identity theft or identity fraud, includ-
18 ing as prohibited under sections 1028 and 1028A of
19 title 18, United States Code.

20 The Commissioner of Social Security may promulgate reg-
21 ulations to provide for additional felony crimes under this
22 clause.

23 “(xvi)(I) For the purpose of carrying out the activi-
24 ties required under clause (ii) as part of the investigation
25 under clause (i)(I), the Commissioner may conduct a back-

1 ground check of any individual seeking to serve as a rep-
 2 resentative payee under this subsection and may disqualify
 3 from service as a representative payee any such individual
 4 who fails to grant permission for the Commissioner to con-
 5 duct such a background check.

6 “(II) The Commissioner may revoke certification of
 7 payment of benefits under this subsection to any indi-
 8 vidual serving as a representative payee on or after Janu-
 9 ary 1, 2019 who fails to grant permission for the Commis-
 10 sioner to conduct such a background check.

11 “(xvii)(I) With respect to any person described in
 12 subclause (II)—

13 “(aa) clause (ii)(VII) shall not apply; and

14 “(bb) the Commissioner may grant an exemp-
 15 tion from the provisions of clause (iii)(VI) if the
 16 Commissioner determines that such exemption is in
 17 the best interest of the individual entitled to bene-
 18 fits.

19 “(II) A person is described in this subclause if the
 20 person—

21 “(aa) is the custodial parent of a minor child
 22 for whom the person applies to serve;

23 “(bb) is the custodial spouse of the beneficiary
 24 for whom the person applies to serve;

1 “(cc) is the custodial parent of a beneficiary
2 who is under a disability which began before the
3 beneficiary attained the age of 22, for whom the per-
4 son applies to serve;

5 “(dd) is the custodial court appointed guardian
6 of the beneficiary for whom the person applies to
7 serve;

8 “(ee) is the custodial grandparent of a minor
9 grandchild for whom the person applies to serve;

10 “(ff) is the parent who was previously rep-
11 resentative payee for his or her minor child who has
12 since turned 18 and continues to be eligible for such
13 benefit; or

14 “(gg) received a presidential or gubernatorial
15 pardon for the relevant conviction.”.

16 (d) APPLICATION TO NEW APPOINTMENTS.—Subject
17 to subsection (e), the amendments made by subsections
18 (a), (b), and (c) shall apply with respect to any individual
19 appointed to serve as a representative payee pursuant to
20 section 205(j), 807, or 1631(a)(2) of the Social Security
21 Act on or after January 1, 2019.

22 (e) APPLICATION TO PRIOR APPOINTMENTS.—

23 (1) IN GENERAL.—Not later than January 1,
24 2024, the Commissioner of Social Security shall con-
25 duct a review of each individual serving as a rep-

1 representative payee pursuant to 205(j), 807, or
2 1631(a)(2) of the Social Security Act, to determine
3 whether such individual has been convicted of a fel-
4 ony as described in section 205(j)(2)(B)(i)(VII),
5 807(b)(2)(G), or 1631(a)(2)(B)(ii)(VII), respectively
6 (as such provisions are added by this section). Ex-
7 cept as provided in section 205(j)(2)(C)(vi),
8 807(d)(2)(D), or 1631(a)(2)(B)(xvii) (as so added),
9 any individual determined by the Commissioner to
10 have been so convicted may not serve as a represent-
11 ative payee on or after the date of such determina-
12 tion.

13 (2) PRIORITY.—In conducting reviews under
14 paragraph (1), the Commissioner shall prioritize re-
15 views of the following categories of individuals, in
16 the following order:

17 (A) An individual serving as representative
18 payee for 15 or more individuals.

19 (B) An individual serving as representative
20 payee for an individual who is not related to the
21 representative payee.

22 (C) An individual serving as representative
23 payee for an individual who has attained the
24 age of 18 and is not the spouse of the rep-
25 resentative payee.

1 (f) PERIODIC REVIEW.—Not later than 1 year after
 2 the date of enactment of this section, the Commissioner
 3 of Social Security shall issue regulations to establish a
 4 process for reviewing each individual serving as a rep-
 5 resentative payee pursuant to section 205(j), 807, or
 6 1631(a)(2) of the Social Security Act (other than individ-
 7 uals with respect to whom an exemption has been granted
 8 under section 205(j)(2)(C)(vi), 807(d)(2)(D), or
 9 1631(a)(2)(B)(xvii)) not less than once every 5 years to
 10 determine whether any such individual has been convicted
 11 of a felony as described in subsection (e)(1) of this section.

12 **SEC. 203. PROHIBITION ON INDIVIDUALS WITH REP-**
 13 **RESENTATIVE PAYEES SERVING AS REP-**
 14 **RESENTATIVE PAYEES.**

15 (a) AMENDMENT TO TITLE II.—Section
 16 205(j)(2)(C)(i) of the Social Security Act (42 U.S.C.
 17 405(j)(2)(C)(i)), as amended by section 202(a)(2), is fur-
 18 ther amended—

19 (1) in subclause (V), by striking “or” at the
 20 end;

21 (2) in subclause (VI), by striking the period
 22 and inserting “, or”; and

23 (3) by adding at the end the following:

24 “(VII) such person’s benefits under this title,
 25 title VIII, or title XVI are certified for payment to

1 a representative payee during the period for which
2 the individual's benefits would be certified for pay-
3 ment to another person.”.

4 (b) AMENDMENT TO TITLE VIII.—Section 807(d)(1)
5 of the Social Security Act (42 U.S.C. 1007(d)(1)), as
6 amended by section 202(b)(2), is further amended—

7 (1) in subparagraph (E), by striking “or” at
8 the end;

9 (2) in subparagraph (F), by striking the period
10 and inserting “, or”; and

11 (3) by adding at the end the following:

12 “(G) such person's benefits under this
13 title, title II, or title XVI are certified for pay-
14 ment to a representative payee during the pe-
15 riod for which the individual's benefits would be
16 certified for payment to another person.”.

17 (c) AMENDMENT TO TITLE XVI.—Section
18 1631(a)(2)(B)(iii) of the Social Security Act (42 U.S.C.
19 1383(a)(2)(B)(iii)), as amended by section 202(c)(2), is
20 further amended—

21 (1) in subclause (V), by striking “or” at the
22 end;

23 (2) in subclause (VI), by striking the period
24 and inserting “, or”; and

25 (3) by adding at the end the following:

1 “(VII) such person’s benefits under this title,
2 title II, or title VIII are certified for payment to a
3 representative payee during the period for which the
4 individual’s benefits would be certified for payment
5 to another person.”.

6 (d) EFFECTIVE DATE.—

7 (1) NEW APPOINTMENTS.—Subject to para-
8 graph (2), the amendments made by this section
9 shall apply with respect to any individual appointed
10 to serve as a representative payee under title II, title
11 VIII, or title XVI of the Social Security Act on or
12 after January 1, 2019.

13 (2) PRIOR APPOINTMENTS.—With respect to in-
14 dividuals serving as a representative payee whose
15 benefits under this title, title VIII, or title XVI are
16 certified for payment to another representative payee
17 as of January 1, 2019, the Commissioner shall take
18 any steps necessary to terminate such individual’s
19 service as a representative payee as soon as possible,
20 but no later than January 1, 2024.

21 **SEC. 204. REASSESSMENT OF PAYEE SELECTION AND RE-**
22 **PLACEMENT POLICIES.**

23 (a) IN GENERAL.—The Commissioner of Social Secu-
24 rity shall conduct, with opportunity for public comment,
25 a review and reassessment of—

1 (1) the appropriateness of its order of pref-
 2 erence for selecting representative payees, including
 3 payees who may be creditors of the beneficiary or
 4 who are private, for-profit institutions; and

5 (2) the effectiveness of its policy and oper-
 6 ational procedures in properly determining when to
 7 change a representative payee, including—

8 (A) from a payee that has a higher order
 9 of preference (such as a family member) to a
 10 payee that has a lower order of preference
 11 (such as a creditor); or

12 (B) when a request to change payees arises
 13 from someone other than the beneficiary.

14 (b) REPORT.—Not later than 18 months after the
 15 date of the enactment of this Act, the Commissioner of
 16 Social Security shall submit to the Committee on Ways
 17 and Means of the House of Representatives and the Com-
 18 mittee on Finance of the Senate and make publicly avail-
 19 able a report on the results of the review and reassessment
 20 under subsection (a).

Passed the House of Representatives February 5,
 2018.

Attest:

Clerk.

115TH CONGRESS
2D SESSION

H. R. 4547

AN ACT

To amend titles II, VIII, and XVI of the Social Security Act to improve and strengthen the representative payment program.