

116TH CONGRESS
2^D SESSION

H. R. 5214

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2020

Received

AN ACT

To amend title 5, United States Code, to prevent fraud
by representative payees.

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 “Representative Payee
3 Fraud Prevention Act of 2019”.

4 **SEC. 2. REPRESENTATIVE PAYEE FRAUD.**

5 (a) DEFINITIONS.—

6 (1) CSRS.—Section 8331 of title 5, United
7 States Code, is amended—

8 (A) in paragraph (31), by striking “and”
9 at the end;

10 (B) in paragraph (32), by striking the pe-
11 riod at the end and inserting “; and”; and

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

13 “(33) ‘representative payee’ means a person
14 (including an organization) designated under section
15 8345(e)(1) to receive payments on behalf of a minor
16 or an individual mentally incompetent or under other
17 legal disability.”.

18 (2) FERS.—Section 8401 of title 5, United
19 States Code, is amended—

20 (A) in paragraph (37), by striking “and”
21 at the end;

22 (B) in paragraph (38), by striking the pe-
23 riod at the end and inserting “; and”; and

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

25 “(39) ‘representative payee’ means a person
26 (including an organization) designated under section

1 8466(e)(1) to receive payments on behalf of a minor
2 or an individual mentally incompetent or under other
3 legal disability.”.

4 (b) EMBEZZLEMENT OR CONVERSION.—

5 (1) CSRS.—Subchapter III of chapter 83 of
6 title 5, United States Code, is amended by inserting
7 after section 8345 the following:

8 **“§ 8345a. Embezzlement or conversion of payments**

9 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

10 “(1) IN GENERAL.—It shall be unlawful for a
11 representative payee to embezzle or in any manner
12 convert all or any part of the amounts received from
13 payments received as a representative payee to a use
14 other than for the use and benefit of the minor or
15 individual on whose behalf such payments were re-
16 ceived.

17 “(2) REVOCATION.—If the Office determines
18 that a representative payee has embezzled or con-
19 verted payments as described in paragraph (1), the
20 Office shall promptly—

21 “(A) revoke the certification for payment
22 of benefits to the representative payee; and

23 “(B) certify payment—

24 “(i) to another representative payee;

25 or

1 “(ii) if the interest of the individual
2 under this title would be served thereby, to
3 the individual.

4 “(b) PENALTY.—Any person who violates subsection
5 (a)(1) shall be fined under title 18, imprisoned for not
6 more than 5 years, or both.”.

7 (2) FERS.—Subchapter VI of chapter 84 of
8 title 5, United States Code, is amended by inserting
9 after section 8466 the following:

10 **“§ 8466a. Embezzlement or conversion of payments**

11 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

12 “(1) IN GENERAL.—It shall be unlawful for a
13 representative payee to embezzle or in any manner
14 convert all or any part of the amounts received from
15 payments received as a representative payee to a use
16 other than for the use and benefit of the minor or
17 individual on whose behalf such payments were re-
18 ceived.

19 “(2) REVOCATION.—If the Office determines
20 that a representative payee has embezzled or con-
21 verted payments as described in paragraph (1), the
22 Office shall promptly—

23 “(A) revoke the certification for payment
24 of benefits to the representative payee; and

25 “(B) certify payment—

1 “(i) to another representative payee;

2 or

3 “(ii) if the interest of the individual

4 under this title would be served thereby, to

5 the individual.

6 “(b) PENALTY.—Any person who violates subsection

7 (a)(1) shall be fined under title 18, imprisoned for not

8 more than 5 years, or both.”.

9 (3) TECHNICAL AND CONFORMING AMEND-
10 MENTS.—

11 (A) The table of sections for chapter 83 of

12 title 5, United States Code, is amended by in-

13 sserting after the item relating to section 8345

14 the following:

“8345a. Embezzlement or conversion of payments.”.

15 (B) The table of sections for chapter 84 of

16 title 5, United States Code, is amended by in-

17 sserting after the item relating to section 8466

18 the following:

“8466a. Embezzlement or conversion of payments.”.

19 (c) DEFERRAL OF PAYMENT PENDING APPOINT-

20 MENT OF REPRESENTATIVE PAYEE.—

21 (1) CSRS.—Section 8345(e) of title 5, United

22 States Code, is amended—

23 (A) by inserting “(1)” after “(e)”;

1 (B) in the first sentence, by inserting “(in-
2 cluding an organization)” after “person”;

3 (C) in the second sentence—

4 (i) by inserting “(including an organi-
5 zation)” after “any person”; and

6 (ii) by inserting “and may appro-
7 priately receive such payments on behalf of
8 the claimant” after “claimant” the second
9 place it appears; and

10 (D) by adding at the end the following:

11 “(2) If the Office determines that direct payment of
12 a benefit to an individual mentally incompetent or under
13 other legal disability would cause substantial harm to the
14 individual, the Office may defer or suspend direct payment
15 of the benefit until such time as the appointment of a rep-
16 resentative payee is made. The Office shall resume pay-
17 ment as soon as practicable, including all amounts due.”.

18 (2) FERS.—Section 8466(c) of title 5, United
19 States Code, is amended—

20 (A) by inserting “(1)” after “(c)”;

21 (B) in the first sentence, by inserting “(in-
22 cluding an organization)” after “person”;

23 (C) in the second sentence—

24 (i) by inserting “(including an organi-
25 zation)” after “any person”; and

1 (ii) by inserting “and may appro-
2 priately receive such payments on behalf of
3 the claimant” after “claimant” the second
4 place it appears; and

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

6 “(2) If the Office determines that direct payment of
7 a benefit to an individual mentally incompetent or under
8 other legal disability would cause substantial harm to the
9 individual, the Office may defer or suspend direct payment
10 of the benefit until such time as the appointment of a rep-
11 resentative payee is made. The Office shall resume pay-
12 ment as soon as practicable, including all amounts due.”.

13 (d) LIMITATIONS ON APPOINTMENTS OF REP-
14 RESENTATIVE PAYEES.—

15 (1) CSRS.—Section 8345 of title 5, United
16 States Code, is amended by inserting after sub-
17 section (e) the following:

18 “(f) The Office may not authorize a person to receive
19 payments on behalf of a minor or individual of legal dis-
20 ability under subsection (e) if that person has been con-
21 victed of a violation of—

22 “(1) section 8345a or 8466a;

23 “(2) section 208 or 1632 of the Social Security
24 Act (42 U.S.C. 408, 1383a); or

25 “(3) section 6101 of title 38.”.

1 (2) **FERS.**—Section 8466 of title 5, United
2 States Code, is amended by adding at the end the
3 following:

4 “(d) The Office may not authorize a person to receive
5 payments on behalf of a minor or individual of legal dis-
6 ability under subsection (c) if that person has been con-
7 victed of a violation of—

8 “(1) section 8345a or 8466a;

9 “(2) section 208 or 1632 of the Social Security
10 Act (42 U.S.C. 408, 1383a); or

11 “(3) section 6101 of title 38.”.

12 **SEC. 3. IMPLEMENTATION.**

13 (a) **AUTHORIZATION OF PAYMENTS.**—Section
14 8348(a)(1)(B) of title 5, United States Code, is amended
15 by inserting “in administering fraud prevention under sec-
16 tions 8345, 8345a, 8466, and 8466a of this title,” after
17 “8465(b) of this title,”.

18 (b) **REGULATIONS.**—Not later than 1 year after the
19 date of enactment of this Act, the Office of Personnel
20 Management—

21 (1) shall promulgate regulations to carry out
22 the amendments made by section 2; and

23 (2) may promulgate additional regulations re-
24 lating to the administration of the representative
25 payee program.

1 **SEC. 4. EFFECTIVE DATE.**

2 The amendments made by section 2—

3 (1) shall take effect on the date of the enact-
4 ment of this Act; and

5 (2) apply on and after the effective date of the
6 regulations promulgated under section 3(b)(1).

Passed the House of Representatives February 5,
2020.

Attest:

CHERYL L. JOHNSON,

Clerk.