

116TH CONGRESS
1ST SESSION

S. 1430

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

IN THE SENATE OF THE UNITED STATES

MAY 13, 2019

Mr. LANKFORD (for himself, Mr. PETERS, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Representative Payee
5 Fraud Prevention Act of 2019”.

6 **SEC. 2. REPRESENTATIVE PAYEE FRAUD.**

7 (a) DEFINITIONS.—

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

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

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

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

6 “(33) ‘representative payee’ means a person
7 (including an organization) appointed under section
8 8345(e)(1) to receive payments on behalf of a minor
9 or an individual mentally incompetent or under other
10 legal disability.”.

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

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

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

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

18 “(39) ‘representative payee’ means a person
19 (including an organization) appointed under section
20 8466(e)(1) to receive payments on behalf of a minor
21 or an individual mentally incompetent or under other
22 legal disability.”.

23 (b) EMBEZZLEMENT OR CONVERSION.—

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

4 **“§ 8345a. Embezzlement or conversion of payments**

5 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

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

13 “(2) REVOCATION.—If the Office determines
14 that a representative payee has embezzled or con-
15 verted payments as described in paragraph (1), the
16 Office shall promptly revoke payments to the rep-
17 resentative payee.

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

21 “(c) PRIMA FACIE EVIDENCE.—Any willful neglect
22 or refusal by a representative payee to make and file prop-
23 er accountings or reports concerning the amounts received
24 from payments authorized under section 8345(e) as re-
25 quired by law shall be taken to be sufficient evidence

1 prima facie of the embezzlement or conversion of such
2 amounts.”.

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

6 **“§ 8466a. Embezzlement or conversion of payments**

7 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

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

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

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

23 “(c) PRIMA FACIE EVIDENCE.—Any willful neglect
24 or refusal by a representative payee to make and file prop-
25 er accountings or reports concerning the amounts received

1 from payments authorized under section 8466(c) as re-
 2 quired by law shall be taken to be sufficient evidence
 3 prima facie of the embezzlement or conversion of such
 4 amounts.”.

5 (3) TECHNICAL AND CONFORMING AMEND-
 6 MENTS.—

7 (A) The table of sections for chapter 83 of
 8 title 5, United States Code, is amended by in-
 9 serting after the item relating to section 8345
 10 the following:

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

11 (B) The table of sections for chapter 84 of
 12 title 5, United States Code, is amended by in-
 13 serting after the item relating to section 8466
 14 the following:

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

15 (c) DEFERRAL OF PAYMENT PENDING APPOINT-
 16 MENT OF REPRESENTATIVE PAYEE.—

17 (1) CSRS.—Section 8345(e) of title 5, United
 18 States Code, is amended—

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

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

22 (C) in the second sentence—

23 (i) by inserting “(including an organi-
 24 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”; and

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

5 “(2) If the Office determines that direct payment of
6 a benefit to an individual mentally incompetent or under
7 other legal disability would cause substantial harm to the
8 individual, the Office may defer or suspend direct payment
9 of the benefit until such time as the appointment of a rep-
10 resentative payee is made.”.

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

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

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

16 (C) in the second sentence—

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

19 (ii) by inserting “and may appro-
20 priately receive such payments on behalf of
21 the claimant” after “claimant”; and

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

23 “(2) If the Office determines that direct payment of
24 a benefit to an individual mentally incompetent or under
25 other legal disability would cause substantial harm to the

1 individual, the Office may defer or suspend direct payment
2 of the benefit until such time as the appointment of a rep-
3 resentative payee is made.”.

4 (d) LIMITATIONS ON APPOINTMENTS OF REP-
5 RESENTATIVE PAYEES.—

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

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

13 “(1) section 8345a or 8466a;

14 “(2) section 208 or 1632 of the Social Security
15 Act (42 U.S.C. 408 and 1383a); or

16 “(3) section 6101 of title 38.”.

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

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

24 “(1) section 8345a or 8466a;

1 “(2) section 208 or 1632 of the Social Security
2 Act (42 U.S.C. 408 and 1383a); or
3 “(3) section 6101 of title 38.”.

4 **SEC. 3. IMPLEMENTATION.**

5 (a) **AUTHORIZATION OF PAYMENTS.**—Amounts in
6 the Civil Service Retirement and Disability Fund may be
7 used by the Office of Personnel Management, without fur-
8 ther appropriation, for the cost of activities of the Office
9 relating to preventing fraud by representative payees (as
10 defined in section 8331 and 8401 of title 5, United States
11 Code, as amended by this Act).

12 (b) **REGULATIONS.**—Not later than 1 year after the
13 date of enactment of this Act, the Office of Personnel
14 Management—

15 (1) shall promulgate regulations to carry out
16 the amendments made by this Act; and

17 (2) may promulgate additional regulations re-
18 lating to the administration of the representative
19 payee program.

20 **SEC. 4. EFFECTIVE DATE.**

21 The amendments made by this Act—

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

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

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