

Calendar No. 148

116TH CONGRESS
1ST SESSION**S. 1430****[Report No. 116–56]**

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

JULY 15, 2019

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italie*]**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”.

1 **SEC. 2. REPRESENTATIVE PAYEE FRAUD.**

2 (a) DEFINITIONS.—

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

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

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

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

10 “(33) ‘representative payee’ means a person
11 (including an organization) appointed under section
12 8345(e)(1) to receive payments on behalf of a minor
13 or an individual mentally incompetent or under other
14 legal disability.”.

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

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

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

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

22 “(39) ‘representative payee’ means a person
23 (including an organization) appointed under section
24 8466(e)(1) to receive payments on behalf of a minor
25 or an individual mentally incompetent or under other
26 legal disability.”.

1 (b) EMBEZZLEMENT OR CONVERSION.—

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

5 **“§ 8345a. Embezzlement or conversion of payments**

6 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

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

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

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

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

25 “(B) *certify payment—*

1 “(i) to another representative payee; or
 2 “(ii) if the interest of the individual
 3 under this title would be served thereby, to
 4 the individual.

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

8 ~~“(c) PRIMA FACIE EVIDENCE.—Any willful neglect~~
 9 ~~or refusal by a representative payee to make and file prop-~~
 10 ~~er accountings or reports concerning the amounts received~~
 11 ~~from payments authorized under section 8345(e) as re-~~
 12 ~~quired by law shall be taken to be sufficient evidence~~
 13 ~~prima facie of the embezzlement or conversion of such~~
 14 ~~amounts.”.~~

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

18 **“§ 8466a. Embezzlement or conversion of payments**

19 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

20 “(1) IN GENERAL.—It shall be unlawful for a
 21 representative payee to embezzle or in any manner
 22 convert all or any part of the amounts received from
 23 payments received as a representative payee to a use
 24 other than for the use and benefit of the minor or

1 individual on whose behalf such payments were re-
 2 ceived.

3 ~~“(2) REVOCATION.—If the Office determines~~
 4 ~~that a representative payee has embezzled or con-~~
 5 ~~verted payments as described in paragraph (1), the~~
 6 ~~Office shall promptly revoke payments to the rep-~~
 7 ~~resentative payee.~~

8 *“(2) REVOCATION.—If the Office determines that*
 9 *a representative payee has embezzled or converted*
 10 *payments as described in paragraph (1), the Office*
 11 *shall promptly—*

12 *“(A) revoke the certification for payment of*
 13 *benefits to the representative payee; and*

14 *“(B) certify payment—*

15 *“(i) to another representative payee; or*

16 *“(ii) if the interest of the individual*
 17 *under this title would be served thereby, to*
 18 *the individual.*

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

22 ~~“(c) PRIMA FACIE EVIDENCE.—Any willful neglect~~
 23 ~~or refusal by a representative payee to make and file prop-~~
 24 ~~er accountings or reports concerning the amounts received~~
 25 ~~from payments authorized under section 8466(c) as re-~~

1 quired by law shall be taken to be sufficient evidence
 2 prima facie of the embezzlement or conversion of such
 3 amounts.”.

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

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

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

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

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

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

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

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

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

21 (C) in the second sentence—

22 (i) by inserting “(including an organi-
 23 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 payment*
 12 *as soon as practicable, including all amounts due.*”.

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

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

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

18 (C) in the second sentence—

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

21 (ii) by inserting “and may appro-
 22 priately receive such payments on behalf of
 23 the claimant” after “claimant” *the second*
 24 *place it appears*; and

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

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

8 (d) LIMITATIONS ON APPOINTMENTS OF REP-
 9 RESENTATIVE PAYEES.—

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

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

17 “(1) section 8345a or 8466a;

18 “(2) section 208 or 1632 of the Social Security
 19 Act (42 U.S.C. 408, ~~and~~ 1383a); or

20 “(3) section 6101 of title 38.”.

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

24 “(d) The Office may not authorize a person to receive
 25 payments on behalf of a minor or individual of legal dis-

1 ability under subsection (c) if that person has been con-
 2 victed of a violation of—

3 “(1) section 8345a or 8466a;

4 “(2) section 208 or 1632 of the Social Security
 5 Act (42 U.S.C. 408, ~~and~~ 1383a); or

6 “(3) section 6101 of title 38.”.

7 **SEC. 3. IMPLEMENTATION.**

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

15 *(a) AUTHORIZATION OF PAYMENTS.—Section*
 16 *8348(a)(1)(B) of title 5, United States Code, is amended*
 17 *by inserting “in administering fraud prevention under sec-*
 18 *tions 8345, 8345a, 8466, and 8466a of this title,” after*
 19 *“8465(b) of this title.”.*

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

23 (1) shall promulgate regulations to carry out
 24 the amendments made by ~~this Act~~ *section 2*; and

1 (2) may promulgate additional regulations re-
2 lating to the administration of the representative
3 payee program.

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

5 The amendments made by ~~this Act~~ *section 2*—

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

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

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