

108TH CONGRESS
1ST SESSION

H. R. 743

AN ACT

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

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AN ACT

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, 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 AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Social Security Protection Act of 2003”.

6 (b) **TABLE OF CONTENTS.**—The table of contents is
 7 as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.
- Sec. 102. Oversight of representative payees.
- Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
- Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
- Sec. 105. Liability of representative payees for misused benefits.
- Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
- Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
- Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
- Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

1 **TITLE I—PROTECTION OF**
2 **BENEFICIARIES**
3 **Subtitle A—Representative Payees**

4 **SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY**
5 **ORGANIZATIONAL REPRESENTATIVE PAYEES.**

6 (a) TITLE II AMENDMENTS.—

7 (1) REISSUANCE OF BENEFITS.—Section
8 205(j)(5) of the Social Security Act (42
9 U.S.C. 405(j)(5)) is amended by inserting after the
10 first sentence the following new sentences: “In any
11 case in which a representative payee that—

12 “(A) is not an individual (regardless of whether
13 it is a ‘qualified organization’ within the meaning of
14 paragraph (4)(B)); or

15 “(B) is an individual who, for any month dur-
16 ing a period when misuse occurs, serves 15 or more
17 individuals who are beneficiaries under this title,
18 title VIII, title XVI, or any combination of such ti-
19 tles;

20 misuses all or part of an individual’s benefit paid to such
21 representative payee, the Commissioner of Social Security
22 shall certify for payment to the beneficiary or the bene-
23 ficiary’s alternative representative payee an amount equal
24 to the amount of such benefit so misused. The provisions

1 of this paragraph are subject to the limitations of para-
2 graph (7)(B).”.

3 (2) MISUSE OF BENEFITS DEFINED.—Section
4 205(j) of such Act (42 U.S.C. 405(j)) is amended
5 by adding at the end the following new paragraph:
6 “(8) For purposes of this subsection, misuse of bene-
7 fits by a representative payee occurs in any case in which
8 the representative payee receives payment under this title
9 for the use and benefit of another person and converts
10 such payment, or any part thereof, to a use other than
11 for the use and benefit of such other person. The Commis-
12 sioner of Social Security may prescribe by regulation the
13 meaning of the term ‘use and benefit’ for purposes of this
14 paragraph.”.

15 (b) TITLE VIII AMENDMENTS.—

16 (1) REISSUANCE OF BENEFITS.—Section 807(i)
17 of the Social Security Act (42 U.S.C. 1007(i)) (as
18 amended by section 209(b)(1) of this Act) is amend-
19 ed further by inserting after the first sentence the
20 following new sentences: “In any case in which a
21 representative payee that—

22 “(A) is not an individual; or

23 “(B) is an individual who, for any month
24 during a period when misuse occurs, serves 15
25 or more individuals who are beneficiaries under

1 this title, title II, title XVI, or any combination
2 of such titles;

3 misuses all or part of an individual's benefit paid to
4 such representative payee, the Commissioner of So-
5 cial Security shall pay to the beneficiary or the bene-
6 ficiary's alternative representative payee an amount
7 equal to the amount of such benefit so misused. The
8 provisions of this paragraph are subject to the limi-
9 tations of subsection (1)(2).”.

10 (2) MISUSE OF BENEFITS DEFINED.—Section
11 807 of such Act (42 U.S.C. 1007) is amended by
12 adding at the end the following new subsection:

13 “(j) MISUSE OF BENEFITS.—For purposes of this
14 title, misuse of benefits by a representative payee occurs
15 in any case in which the representative payee receives pay-
16 ment under this title for the use and benefit of another
17 person under this title and converts such payment, or any
18 part thereof, to a use other than for the use and benefit
19 of such person. The Commissioner of Social Security may
20 prescribe by regulation the meaning of the term ‘use and
21 benefit’ for purposes of this subsection.”.

22 (3) TECHNICAL AMENDMENT.—Section 807(a)
23 of such Act (42 U.S.C. 1007(a)) is amended, in the
24 first sentence, by striking “for his or her benefit”
25 and inserting “for his or her use and benefit”.

1 (c) TITLE XVI AMENDMENTS.—

2 (1) REISSUANCE OF BENEFITS.—Section
3 1631(a)(2)(E) of such Act (42
4 U.S.C. 1383(a)(2)(E)) is amended by inserting
5 after the first sentence the following new sentences:

6 “In any case in which a representative payee that—

7 “(i) is not an individual (regardless of whether
8 it is a ‘qualified organization’ within the meaning of
9 subparagraph (D)(ii)); or

10 “(ii) is an individual who, for any month during
11 a period when misuse occurs, serves 15 or more indi-
12 viduals who are beneficiaries under this title, title II,
13 title VIII, or any combination of such titles;

14 misuses all or part of an individual’s benefit paid to the
15 representative payee, the Commissioner of Social Security
16 shall pay to the beneficiary or the beneficiary’s alternative
17 representative payee an amount equal to the amount of
18 the benefit so misused. The provisions of this subpara-
19 graph are subject to the limitations of subparagraph
20 (H)(ii).”.

21 (2) EXCLUSION OF REISSUED BENEFITS FROM
22 RESOURCES.—Section 1613(a) of such Act (42
23 U.S.C. 1382b(a)) is amended—

24 (A) in paragraph (12), by striking “and”
25 at the end;

1 (B) in paragraph (13), by striking the pe-
2 riod and inserting “; and”; and

3 (C) by inserting after paragraph (13) the
4 following new paragraph:

5 “(14) for the 9-month period beginning after
6 the month in which received, any amount received by
7 such individual (or spouse) or any other person
8 whose income is deemed to be included in such indi-
9 vidual’s (or spouse’s) income for purposes of this
10 title as restitution for benefits under this title, title
11 II, or title VIII that a representative payee of such
12 individual (or spouse) or such other person under
13 section 205(j), 807, or 1631(a)(2) has misused.”.

14 (3) MISUSE OF BENEFITS DEFINED.—Section
15 1631(a)(2)(A) of such Act (42
16 U.S.C. 1383(a)(2)(A)) is amended by adding at the
17 end the following new clause:

18 “(iv) For purposes of this paragraph, misuse of bene-
19 fits by a representative payee occurs in any case in which
20 the representative payee receives payment under this title
21 for the use and benefit of another person and converts
22 such payment, or any part thereof, to a use other than
23 for the use and benefit of such other person. The Commis-
24 sioner of Social Security may prescribe by regulation the

1 meaning of the term ‘use and benefit’ for purposes of this
2 clause.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to any case of benefit misuse by
5 a representative payee with respect to which the Commis-
6 sioner makes the determination of misuse on or after Jan-
7 uary 1, 1995.

8 **SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.**

9 (a) **CERTIFICATION OF BONDING AND LICENSING**
10 **REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZA-**
11 **TIONAL REPRESENTATIVE PAYEES.**—

12 (1) **TITLE II AMENDMENTS.**—Section 205(j) of
13 the Social Security Act (42 U.S.C. 405(j)) is
14 amended—

15 (A) in paragraph (2)(C)(v), by striking “a
16 community-based nonprofit social service agen-
17 cy licensed or bonded by the State” in sub-
18 clause (I) and inserting “a certified community-
19 based nonprofit social service agency (as de-
20 fined in paragraph (9))”;

21 (B) in paragraph (3)(F), by striking “com-
22 munity-based nonprofit social service agencies”
23 and inserting “certified community-based non-
24 profit social service agencies (as defined in
25 paragraph (9))”;

1 (C) in paragraph (4)(B), by striking “any
2 community-based nonprofit social service agen-
3 cy which is bonded or licensed in each State in
4 which it serves as a representative payee” and
5 inserting “any certified community-based non-
6 profit social service agency (as defined in para-
7 graph (9))”; and

8 (D) by adding after paragraph (8) (as
9 added by section 101(a)(2) of this Act) the fol-
10 lowing new paragraph:

11 “(9) For purposes of this subsection, the term ‘cer-
12 tified community-based nonprofit social service agency’
13 means a community-based nonprofit social service agency
14 which is in compliance with requirements, under regula-
15 tions which shall be prescribed by the Commissioner, for
16 annual certification to the Commissioner that it is bonded
17 in accordance with requirements specified by the Commis-
18 sioner and that it is licensed in each State in which it
19 serves as a representative payee (if licensing is available
20 in such State) in accordance with requirements specified
21 by the Commissioner. Any such annual certification shall
22 include a copy of any independent audit on such agency
23 which may have been performed since the previous certifi-
24 cation.”.

1 (2) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
3 amended—

4 (A) in subparagraph (B)(vii), by striking
5 “a community-based nonprofit social service
6 agency licensed or bonded by the State” in sub-
7 clause (I) and inserting “a certified community-
8 based nonprofit social service agency (as de-
9 fined in subparagraph (I))”;

10 (B) in subparagraph (D)(ii)—

11 (i) by striking “or any community-
12 based” and all that follows through “in ac-
13 cordance” in subclause (II) and inserting
14 “or any certified community-based non-
15 profit social service agency (as defined in
16 subparagraph (I)), if the agency, in ac-
17 cordance”;

18 (ii) by redesignating items (aa) and
19 (bb) as subclauses (I) and (II), respectively
20 (and adjusting the margination accord-
21 ingly); and

22 (iii) by striking “subclause (II)(bb)”
23 and inserting “subclause (II)”; and

24 (C) by adding at the end the following new
25 subparagraph:

1 “(I) For purposes of this paragraph, the term ‘cer-
2 tified community-based nonprofit social service agency’
3 means a community-based nonprofit social service agency
4 which is in compliance with requirements, under regula-
5 tions which shall be prescribed by the Commissioner, for
6 annual certification to the Commissioner that it is bonded
7 in accordance with requirements specified by the Commis-
8 sioner and that it is licensed in each State in which it
9 serves as a representative payee (if licensing is available
10 in the State) in accordance with requirements specified by
11 the Commissioner. Any such annual certification shall in-
12 clude a copy of any independent audit on the agency which
13 may have been performed since the previous certifi-
14 cation.”.

15 (3) EFFECTIVE DATE.—The amendments made
16 by this subsection shall take effect on the first day
17 of the thirteenth month beginning after the date of
18 the enactment of this Act.

19 (b) PERIODIC ONSITE REVIEW.—

20 (1) TITLE II AMENDMENT.—Section 205(j)(6)
21 of such Act (42 U.S.C. 405(j)(6)) is amended to
22 read as follows:

23 “(6)(A) In addition to such other reviews of rep-
24 resentative payees as the Commissioner of Social Security
25 may otherwise conduct, the Commissioner shall provide for

1 the periodic onsite review of any person or agency located
2 in the United States that receives the benefits payable
3 under this title (alone or in combination with benefits pay-
4 able under title VIII or title XVI) to another individual
5 pursuant to the appointment of such person or agency as
6 a representative payee under this subsection, section 807,
7 or section 1631(a)(2) in any case in which—

8 “(i) the representative payee is a person who
9 serves in that capacity with respect to 15 or more
10 such individuals;

11 “(ii) the representative payee is a certified com-
12 munity-based nonprofit social service agency (as de-
13 fined in paragraph (9) of this subsection or section
14 1631(a)(2)(I)); or

15 “(iii) the representative payee is an agency
16 (other than an agency described in clause (ii)) that
17 serves in that capacity with respect to 50 or more
18 such individuals.

19 “(B) Within 120 days after the end of each fiscal
20 year, the Commissioner shall submit to the Committee on
21 Ways and Means of the House of Representatives and the
22 Committee on Finance of the Senate a report on the re-
23 sults of periodic onsite reviews conducted during the fiscal
24 year pursuant to subparagraph (A) and of any other re-
25 views of representative payees conducted during such fis-

1 cal year in connection with benefits under this title. Each
2 such report shall describe in detail all problems identified
3 in such reviews and any corrective action taken or planned
4 to be taken to correct such problems, and shall include—

5 “(i) the number of such reviews;

6 “(ii) the results of such reviews;

7 “(iii) the number of cases in which the rep-
8 resentative payee was changed and why;

9 “(iv) the number of cases involving the exercise
10 of expedited, targeted oversight of the representative
11 payee by the Commissioner conducted upon receipt
12 of an allegation of misuse of funds, failure to pay a
13 vendor, or a similar irregularity;

14 “(v) the number of cases discovered in which
15 there was a misuse of funds;

16 “(vi) how any such cases of misuse of funds
17 were dealt with by the Commissioner;

18 “(vii) the final disposition of such cases of mis-
19 use of funds, including any criminal penalties im-
20 posed; and

21 “(viii) such other information as the Commis-
22 sioner deems appropriate.”.

23 (2) TITLE VIII AMENDMENT.—Section 807 of
24 such Act (as amended by section 101(b)(2) of this

1 Act) is amended further by adding at the end the
2 following new subsection:

3 “(k) PERIODIC ONSITE REVIEW.—(1) In addition to
4 such other reviews of representative payees as the Com-
5 missioner of Social Security may otherwise conduct, the
6 Commissioner may provide for the periodic onsite review
7 of any person or agency that receives the benefits payable
8 under this title (alone or in combination with benefits pay-
9 able under title II or title XVI) to another individual pur-
10 suant to the appointment of such person or agency as a
11 representative payee under this section, section 205(j), or
12 section 1631(a)(2) in any case in which—

13 “(A) the representative payee is a person who
14 serves in that capacity with respect to 15 or more
15 such individuals; or

16 “(B) the representative payee is an agency that
17 serves in that capacity with respect to 50 or more
18 such individuals.

19 “(2) Within 120 days after the end of each fiscal
20 year, the Commissioner shall submit to the Committee on
21 Ways and Means of the House of Representatives and the
22 Committee on Finance of the Senate a report on the re-
23 sults of periodic onsite reviews conducted during the fiscal
24 year pursuant to paragraph (1) and of any other reviews
25 of representative payees conducted during such fiscal year

1 in connection with benefits under this title. Each such re-
2 port shall describe in detail all problems identified in such
3 reviews and any corrective action taken or planned to be
4 taken to correct such problems, and shall include—

5 “(A) the number of such reviews;

6 “(B) the results of such reviews;

7 “(C) the number of cases in which the rep-
8 resentative payee was changed and why;

9 “(D) the number of cases involving the exercise
10 of expedited, targeted oversight of the representative
11 payee by the Commissioner conducted upon receipt
12 of an allegation of misuse of funds, failure to pay a
13 vendor, or a similar irregularity;

14 “(E) the number of cases discovered in which
15 there was a misuse of funds;

16 “(F) how any such cases of misuse of funds
17 were dealt with by the Commissioner;

18 “(G) the final disposition of such cases of mis-
19 use of funds, including any criminal penalties im-
20 posed; and

21 “(H) such other information as the Commis-
22 sioner deems appropriate.”.

23 (3) TITLE XVI AMENDMENT.—Section
24 1631(a)(2)(G) of such Act (42

1 U.S.C. 1383(a)(2)(G)) is amended to read as fol-
2 lows:

3 “(G)(i) In addition to such other reviews of rep-
4 resentative payees as the Commissioner of Social Security
5 may otherwise conduct, the Commissioner shall provide for
6 the periodic onsite review of any person or agency that
7 receives the benefits payable under this title (alone or in
8 combination with benefits payable under title II or title
9 VIII) to another individual pursuant to the appointment
10 of the person or agency as a representative payee under
11 this paragraph, section 205(j), or section 807 in any case
12 in which—

13 “(I) the representative payee is a person who
14 serves in that capacity with respect to 15 or more
15 such individuals;

16 “(II) the representative payee is a certified
17 community-based nonprofit social service agency (as
18 defined in subparagraph (I) of this paragraph or
19 section 205(j)(9)); or

20 “(III) the representative payee is an agency
21 (other than an agency described in subclause (II))
22 that serves in that capacity with respect to 50 or
23 more such individuals.

24 “(ii) Within 120 days after the end of each fiscal
25 year, the Commissioner shall submit to the Committee on

1 Ways and Means of the House of Representatives and the
2 Committee on Finance of the Senate a report on the re-
3 sults of periodic onsite reviews conducted during the fiscal
4 year pursuant to clause (i) and of any other reviews of
5 representative payees conducted during such fiscal year in
6 connection with benefits under this title. Each such report
7 shall describe in detail all problems identified in the re-
8 views and any corrective action taken or planned to be
9 taken to correct the problems, and shall include—

10 “(I) the number of the reviews;

11 “(II) the results of such reviews;

12 “(III) the number of cases in which the rep-
13 resentative payee was changed and why;

14 “(IV) the number of cases involving the exercise
15 of expedited, targeted oversight of the representative
16 payee by the Commissioner conducted upon receipt
17 of an allegation of misuse of funds, failure to pay a
18 vendor, or a similar irregularity;

19 “(V) the number of cases discovered in which
20 there was a misuse of funds;

21 “(VI) how any such cases of misuse of funds
22 were dealt with by the Commissioner;

23 “(VII) the final disposition of such cases of
24 misuse of funds, including any criminal penalties im-
25 posed; and

1 “(VIII) such other information as the Commis-
2 sioner deems appropriate.”.

3 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
4 **RESENTATIVE PAYEE OF PERSONS CON-**
5 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
6 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
7 **ING PROSECUTION, CUSTODY, OR CONFINEMENT.**
8 **MENT.**

9 (a) TITLE II AMENDMENTS.—Section 205(j)(2) of
10 the Social Security Act (42 U.S.C. 405(j)(2)) is
11 amended—

12 (1) in subparagraph (B)(i)—

13 (A) by striking “and” at the end of sub-
14 clause (III);

15 (B) by redesignating subclause (IV) as
16 subclause (VI); and

17 (C) by inserting after subclause (III) the
18 following new subclauses:

19 “(IV) obtain information concerning whether
20 such person has been convicted of any other offense
21 under Federal or State law which resulted in impris-
22 onment for more than 1 year,

23 “(V) obtain information concerning whether
24 such person is a person described in section
25 202(x)(1)(A)(iv), and”;

1 (2) in subparagraph (B), by adding at the end
2 the following new clause:

3 “(iii) Notwithstanding the provisions of section 552a
4 of title 5, United States Code, or any other provision of
5 Federal or State law (other than section 6103 of the Inter-
6 nal Revenue Code of 1986 and section 1106(e) of this
7 Act), the Commissioner shall furnish any Federal, State,
8 or local law enforcement officer, upon the written request
9 of the officer, with the current address, social security ac-
10 count number, and photograph (if applicable) of any per-
11 son investigated under this paragraph, if the officer fur-
12 nishes the Commissioner with the name of such person
13 and such other identifying information as may reasonably
14 be required by the Commissioner to establish the unique
15 identity of such person, and notifies the Commissioner
16 that—

17 “(I) such person is described in section
18 202(x)(1)(A)(iv),

19 “(II) such person has information that is nec-
20 essary for the officer to conduct the officer’s official
21 duties, and

22 “(III) the location or apprehension of such per-
23 son is within the officer’s official duties.”;

24 (3) in subparagraph (C)(i)(II), by striking
25 “subparagraph (B)(i)(IV),” and inserting “subpara-

1 graph (B)(i)(VI)” and striking “section
2 1631(a)(2)(B)(ii)(IV)” and inserting “section
3 1631(a)(2)(B)(ii)(VI)”;

4 (4) in subparagraph (C)(i)—

5 (A) by striking “or” at the end of sub-
6 clause (II);

7 (B) by striking the period at the end of
8 subclause (III) and inserting a comma; and

9 (C) by adding at the end the following new
10 subclauses:

11 “(IV) such person has previously been convicted
12 as described in subparagraph (B)(i)(IV), unless the
13 Commissioner determines that such certification
14 would be appropriate notwithstanding such convic-
15 tion, or

16 “(V) such person is person described in section
17 202(x)(1)(A)(iv).”.

18 (b) TITLE VIII AMENDMENTS.—Section 807 of such
19 Act (42 U.S.C. 1007) is amended—

20 (1) in subsection (b)(2)—

21 (A) by striking “and” at the end of sub-
22 paragraph (C);

23 (B) by redesignating subparagraph (D) as
24 subparagraph (F); and

1 (C) by inserting after subparagraph (C)
2 the following new subparagraphs:

3 “(D) obtain information concerning wheth-
4 er such person has been convicted of any other
5 offense under Federal or State law which re-
6 sulted in imprisonment for more than 1 year;

7 “(E) obtain information concerning wheth-
8 er such person is a person described in section
9 804(a)(2); and”;

10 (2) in subsection (b), by adding at the end the
11 following new paragraph:

12 “(3) Notwithstanding the provisions of section
13 552a of title 5, United States Code, or any other
14 provision of Federal or State law (other than section
15 6103 of the Internal Revenue Code of 1986 and sec-
16 tion 1106(e) of this Act), the Commissioner shall
17 furnish any Federal, State, or local law enforcement
18 officer, upon the written request of the officer, with
19 the current address, social security account number,
20 and photograph (if applicable) of any person inves-
21 tigated under this subsection, if the officer furnishes
22 the Commissioner with the name of such person and
23 such other identifying information as may reason-
24 ably be required by the Commissioner to establish

1 the unique identity of such person, and notifies the
2 Commissioner that—

3 “(A) such person is described in section
4 804(a)(2),

5 “(B) such person has information that is
6 necessary for the officer to conduct the officer’s
7 official duties, and

8 “(C) the location or apprehension of such
9 person is within the officer’s official duties.”;
10 and

11 (3) in subsection (d)(1)—

12 (A) by striking “or” at the end of subpara-
13 graph (B);

14 (B) by striking the period at the end of
15 subparagraph (C) and inserting a semicolon;
16 and

17 (C) by adding at the end the following new
18 subparagraphs:

19 “(D) such person has previously been con-
20 victed as described in subsection (b)(2)(D), un-
21 less the Commissioner determines that such
22 payment would be appropriate notwithstanding
23 such conviction; or

24 “(E) such person is a person described in
25 section 804(a)(2).”.

1 (c) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is
3 amended—

4 (1) in clause (ii)—

5 (A) by striking “and” at the end of sub-
6 clause (III);

7 (B) by redesignating subclause (IV) as
8 subclause (VI); and

9 (C) by inserting after subclause (III) the
10 following new subclauses:

11 “(IV) obtain information concerning whether
12 the person has been convicted of any other offense
13 under Federal or State law which resulted in impris-
14 onment for more than 1 year;

15 “(V) obtain information concerning whether
16 such person is a person described in section
17 1611(e)(4)(A); and”;

18 (2) in clause (iii)(II)—

19 (A) by striking “clause (ii)(IV)” and in-
20 serting “clause (ii)(VI)”;

21 (B) by striking “section
22 205(j)(2)(B)(i)(IV)” and inserting “section
23 205(j)(2)(B)(i)(VI)”;

24 (3) in clause (iii)—

1 (A) by striking “or” at the end of sub-
2 clause (II);

3 (B) by striking the period at the end of
4 subclause (III) and inserting a semicolon; and

5 (C) by adding at the end the following new
6 subclauses:

7 “(IV) the person has previously been convicted
8 as described in clause (ii)(IV) of this subparagraph,
9 unless the Commissioner determines that the pay-
10 ment would be appropriate notwithstanding the con-
11 viction; or

12 “(V) such person is a person described in sec-
13 tion 1611(e)(4)(A).”; and

14 (4) by adding at the end the following new
15 clause:

16 “(xiv) Notwithstanding the provisions of section 552a
17 of title 5, United States Code, or any other provision of
18 Federal or State law (other than section 6103 of the Inter-
19 nal Revenue Code of 1986 and section 1106(c) of this
20 Act), the Commissioner shall furnish any Federal, State,
21 or local law enforcement officer, upon the written request
22 of the officer, with the current address, social security ac-
23 count number, and photograph (if applicable) of any per-
24 son investigated under this subparagraph, if the officer
25 furnishes the Commissioner with the name of such person

1 and such other identifying information as may reasonably
2 be required by the Commissioner to establish the unique
3 identity of such person, and notifies the Commissioner
4 that—

5 “(I) such person is described in section
6 1611(e)(4)(A),

7 “(II) such person has information that is nec-
8 essary for the officer to conduct the officer’s official
9 duties, and

10 “(III) the location or apprehension of such per-
11 son is within the officer’s official duties.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the first day of the thir-
14 teenth month beginning after the date of the enactment
15 of this Act.

16 (e) REPORT TO THE CONGRESS.—The Commissioner
17 of Social Security, in consultation with the Inspector Gen-
18 eral of the Social Security Administration, shall prepare
19 a report evaluating whether the existing procedures and
20 reviews for the qualification (including disqualification) of
21 representative payees are sufficient to enable the Commis-
22 sioner to protect benefits from being misused by represent-
23 ative payees. The Commissioner shall submit the report
24 to the Committee on Ways and Means of the House of
25 Representatives and the Committee on Finance of the

1 Senate no later than 270 days after the date of the enact-
2 ment of this Act. The Commissioner shall include in such
3 report any recommendations that the Commissioner con-
4 siderers appropriate.

5 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE**
6 **BY REPRESENTATIVE PAYEES.**

7 (a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i)
8 of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is
9 amended—

10 (1) in the first sentence, by striking “A” and
11 inserting “Except as provided in the next sentence,
12 a”; and

13 (2) in the second sentence, by striking “The
14 Secretary” and inserting the following:

15 “A qualified organization may not collect a fee from an
16 individual for any month with respect to which the Com-
17 missioner of Social Security or a court of competent juris-
18 diction has determined that the organization misused all
19 or part of the individual’s benefit, and any amount so col-
20 lected by the qualified organization for such month shall
21 be treated as a misused part of the individual’s benefit
22 for purposes of paragraphs (5) and (6). The Commis-
23 sioner”.

1 (b) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2)(D)(i) of such Act (42
3 U.S.C. 1383(a)(2)(D)(i)) is amended—

4 (1) in the first sentence, by striking “A” and
5 inserting “Except as provided in the next sentence,
6 a”; and

7 (2) in the second sentence, by striking “The
8 Commissioner” and inserting the following: “A
9 qualified organization may not collect a fee from an
10 individual for any month with respect to which the
11 Commissioner of Social Security or a court of com-
12 petent jurisdiction has determined that the organiza-
13 tion misused all or part of the individual’s benefit,
14 and any amount so collected by the qualified organi-
15 zation for such month shall be treated as a misused
16 part of the individual’s benefit for purposes of sub-
17 paragraphs (E) and (F). The Commissioner”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any month involving benefit mis-
20 use by a representative payee in any case with respect to
21 which the Commissioner of Social Security or a court of
22 competent jurisdiction makes the determination of misuse
23 after 180 days after the date of the enactment of this Act.

1 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR**
2 **MISUSED BENEFITS.**

3 (a) TITLE II AMENDMENTS.—Section 205(j) of the
4 Social Security Act (42 U.S.C. 405(j)) (as amended by
5 sections 101 and 102) is amended further—

6 (1) by redesignating paragraphs (7), (8), and
7 (9) as paragraphs (8), (9), and (10), respectively;

8 (2) in paragraphs (2)(C)(v), (3)(F), and (4)(B),
9 by striking “paragraph (9)” and inserting “para-
10 graph (10)”;

11 (3) in paragraph (6)(A)(ii), by striking “para-
12 graph (9)” and inserting “paragraph (10)”;

13 (4) by inserting after paragraph (6) the fol-
14 lowing new paragraph:

15 “(7)(A) If the Commissioner of Social Security or a
16 court of competent jurisdiction determines that a rep-
17 resentative payee that is not a Federal, State, or local gov-
18 ernment agency has misused all or part of an individual’s
19 benefit that was paid to such representative payee under
20 this subsection, the representative payee shall be liable for
21 the amount misused, and such amount (to the extent not
22 repaid by the representative payee) shall be treated as an
23 overpayment of benefits under this title to the representa-
24 tive payee for all purposes of this Act and related laws
25 pertaining to the recovery of such overpayments. Subject
26 to subparagraph (B), upon recovering all or any part of

1 such amount, the Commissioner shall certify an amount
2 equal to the recovered amount for payment to such indi-
3 vidual or such individual's alternative representative
4 payee.

5 “(B) The total of the amount certified for payment
6 to such individual or such individual's alternative rep-
7 resentative payee under subparagraph (A) and the amount
8 certified for payment under paragraph (5) may not exceed
9 the total benefit amount misused by the representative
10 payee with respect to such individual.”.

11 (b) TITLE VIII AMENDMENT.—Section 807 of such
12 Act (as amended by section 102(b)(2)) is amended further
13 by adding at the end the following new subsection:

14 “(1) LIABILITY FOR MISUSED AMOUNTS.—

15 “(1) IN GENERAL.—If the Commissioner of So-
16 cial Security or a court of competent jurisdiction de-
17 termines that a representative payee that is not a
18 Federal, State, or local government agency has mis-
19 used all or part of a qualified individual's benefit
20 that was paid to such representative payee under
21 this section, the representative payee shall be liable
22 for the amount misused, and such amount (to the
23 extent not repaid by the representative payee) shall
24 be treated as an overpayment of benefits under this
25 title to the representative payee for all purposes of

1 this Act and related laws pertaining to the recovery
2 of such overpayments. Subject to paragraph (2),
3 upon recovering all or any part of such amount, the
4 Commissioner shall make payment of an amount
5 equal to the recovered amount to such qualified indi-
6 vidual or such qualified individual’s alternative rep-
7 resentative payee.

8 “(2) LIMITATION.—The total of the amount
9 paid to such individual or such individual’s alter-
10 native representative payee under paragraph (1) and
11 the amount paid under subsection (i) may not ex-
12 ceed the total benefit amount misused by the rep-
13 resentative payee with respect to such individual.”.

14 (c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)
15 of such Act (42 U.S.C. 1383(a)(2)) (as amended by sec-
16 tion 102(b)(3)) is amended further—

17 (1) in subparagraph (G)(i)(II), by striking “sec-
18 tion 205(j)(9)” and inserting “section 205(j)(10)”;
19 and

20 (2) by striking subparagraph (H) and inserting
21 the following:

22 “(H)(i) If the Commissioner of Social Security or a
23 court of competent jurisdiction determines that a rep-
24 resentative payee that is not a Federal, State, or local gov-
25 ernment agency has misused all or part of an individual’s

1 benefit that was paid to the representative payee under
2 this paragraph, the representative payee shall be liable for
3 the amount misused, and the amount (to the extent not
4 repaid by the representative payee) shall be treated as an
5 overpayment of benefits under this title to the representa-
6 tive payee for all purposes of this Act and related laws
7 pertaining to the recovery of the overpayments. Subject
8 to clause (ii), upon recovering all or any part of the
9 amount, the Commissioner shall make payment of an
10 amount equal to the recovered amount to such individual
11 or such individual's alternative representative payee.

12 “(ii) The total of the amount paid to such individual
13 or such individual's alternative representative payee under
14 clause (i) and the amount paid under subparagraph (E)
15 may not exceed the total benefit amount misused by the
16 representative payee with respect to such individual.”.

17 (d) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to benefit misuse by a representa-
19 tive payee in any case with respect to which the Commis-
20 sioner of Social Security or a court of competent jurisdic-
21 tion makes the determination of misuse after 180 days
22 after the date of the enactment of this Act.

1 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
2 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
3 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

4 (a) TITLE II AMENDMENTS.—Section 205(j)(3) of
5 the Social Security Act (42 U.S.C. 405(j)(3)) (as amend-
6 ed by sections 102(a)(1)(B) and 105(a)(2)) is amended—

7 (1) by redesignating subparagraphs (E) and
8 (F) as subparagraphs (F) and (G), respectively; and

9 (2) by inserting after subparagraph (D) the fol-
10 lowing new subparagraph:

11 “(E) In any case in which the person described in
12 subparagraph (A) or (D) receiving payments on behalf of
13 another fails to submit a report required by the Commis-
14 sioner of Social Security under subparagraph (A) or (D),
15 the Commissioner may, after furnishing notice to such
16 person and the individual entitled to such payment, re-
17 quire that such person appear in person at a field office
18 of the Social Security Administration serving the area in
19 which the individual resides in order to receive such pay-
20 ments.”.

21 (b) TITLE VIII AMENDMENTS.—Section 807(h) of
22 such Act (42 U.S.C. 1007(h)) is amended—

23 (1) by redesignating paragraphs (3) and (4) as
24 paragraphs (4) and (5), respectively; and

25 (2) by inserting after paragraph (2) the fol-
26 lowing new paragraph:

1 “(3) AUTHORITY TO REDIRECT DELIVERY OF
2 BENEFIT PAYMENTS WHEN A REPRESENTATIVE
3 PAYEE FAILS TO PROVIDE REQUIRED ACCOUNT-
4 ING.—In any case in which the person described in
5 paragraph (1) or (2) receiving benefit payments on
6 behalf of a qualified individual fails to submit a re-
7 port required by the Commissioner of Social Secu-
8 rity under paragraph (1) or (2), the Commissioner
9 may, after furnishing notice to such person and the
10 qualified individual, require that such person appear
11 in person at a United States Government facility
12 designated by the Social Security Administration as
13 serving the area in which the qualified individual re-
14 sides in order to receive such benefit payments.”.

15 (c) TITLE XVI AMENDMENT.—Section
16 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is
17 amended by adding at the end the following new clause:

18 “(v) In any case in which the person described in
19 clause (i) or (iv) receiving payments on behalf of another
20 fails to submit a report required by the Commissioner of
21 Social Security under clause (i) or (iv), the Commissioner
22 may, after furnishing notice to the person and the indi-
23 vidual entitled to the payment, require that such person
24 appear in person at a field office of the Social Security

1 Administration serving the area in which the individual
2 resides in order to receive such payments.”.

3 (d) **EFFECTIVE DATE.**—The amendment made by
4 this section shall take effect 180 days after the date of
5 the enactment of this Act.

6 **Subtitle B—Enforcement**

7 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 8 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 9 **RESENTATIVE PAYEES.**

10 (a) **IN GENERAL.**—Section 1129(a) of the Social Se-
11 curity Act (42 U.S.C. 1320a–8) is amended by adding at
12 the end the following new paragraph:

13 “(3) Any person (including an organization, agency,
14 or other entity) who, having received, while acting in the
15 capacity of a representative payee pursuant to section
16 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
17 or XVI for the use and benefit of another individual, con-
18 verts such payment, or any part thereof, to a use that
19 such person knows or should know is other than for the
20 use and benefit of such other individual shall be subject
21 to, in addition to any other penalties that may be pre-
22 scribed by law, a civil money penalty of not more than
23 \$5,000 for each such conversion. Such person shall also
24 be subject to an assessment, in lieu of damages sustained
25 by the United States resulting from the conversion, of not

1 more than twice the amount of any payments so con-
2 verted.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply with respect to violations com-
5 mitted after the date of the enactment of this Act.

6 **TITLE II—PROGRAM** 7 **PROTECTIONS**

8 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 9 **SPECT TO KNOWING WITHHOLDING OF MATE-** 10 **RIAL FACTS.**

11 (a) TREATMENT OF WITHHOLDING OF MATERIAL
12 FACTS.—

13 (1) CIVIL PENALTIES.—Section 1129(a)(1) of
14 the Social Security Act (42 U.S.C. 1320a–8(a)(1))
15 is amended—

16 (A) by striking “who” in the first sentence
17 and inserting “who—”;

18 (B) by striking “makes” in the first sen-
19 tence and all that follows through “shall be sub-
20 ject to,” and inserting the following:

21 “(A) makes, or causes to be made, a statement
22 or representation of a material fact, for use in deter-
23 mining any initial or continuing right to or the
24 amount of monthly insurance benefits under title II
25 or benefits or payments under title VIII or XVI,

1 that the person knows or should know is false or
2 misleading,

3 “(B) makes such a statement or representation
4 for such use with knowing disregard for the truth,
5 or

6 “(C) omits from a statement or representation
7 for such use, or otherwise withholds disclosure of, a
8 fact which the person knows or should know is mate-
9 rial to the determination of any initial or continuing
10 right to or the amount of monthly insurance benefits
11 under title II or benefits or payments under title
12 VIII or XVI, if the person knows, or should know,
13 that the statement or representation with such omis-
14 sion is false or misleading or that the withholding of
15 such disclosure is misleading,

16 shall be subject to,”;

17 (C) by inserting “or each receipt of such
18 benefits or payments while withholding disclo-
19 sure of such fact” after “each such statement
20 or representation” in the first sentence;

21 (D) by inserting “or because of such with-
22 holding of disclosure of a material fact” after
23 “because of such statement or representation”
24 in the second sentence; and

1 (E) by inserting “or such a withholding of
2 disclosure” after “such a statement or rep-
3 resentation” in the second sentence.

4 (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-
5 ING PENALTIES.—Section 1129A(a) of such Act (42
6 U.S.C. 1320a–8a(a)) is amended—

7 (A) by striking “who” the first place it ap-
8 pears and inserting “who—”; and

9 (B) by striking “makes” and all that fol-
10 lows through “shall be subject to,” and insert-
11 ing the following:

12 “(1) makes, or causes to be made, a statement
13 or representation of a material fact, for use in deter-
14 mining any initial or continuing right to or the
15 amount of monthly insurance benefits under title II
16 or benefits or payments under title XVI that the
17 person knows or should know is false or misleading,

18 “(2) makes such a statement or representation
19 for such use with knowing disregard for the truth,
20 or

21 “(3) omits from a statement or representation
22 for such use, or otherwise withholds disclosure of, a
23 fact which the person knows or should know is mate-
24 rial to the determination of any initial or continuing
25 right to or the amount of monthly insurance benefits

1 under title II or benefits or payments under title
2 XVI, if the person knows, or should know, that the
3 statement or representation with such omission is
4 false or misleading or that the withholding of such
5 disclosure is misleading,
6 shall be subject to,”.

7 (b) CLARIFICATION OF TREATMENT OF RECOVERED
8 AMOUNTS.—Section 1129(e)(2)(B) of such Act (42
9 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the
10 case of amounts recovered arising out of a determination
11 relating to title VIII or XVI,” and inserting “In the case
12 of any other amounts recovered under this section,”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 1129(b)(3)(A) of such Act (42
15 U.S.C. 1320a–8(b)(3)(A)) is amended by striking
16 “charging fraud or false statements”.

17 (2) Section 1129(e)(1) of such Act (42
18 U.S.C. 1320a–8(e)(1)) is amended by striking “and
19 representations” and inserting “, representations, or
20 actions”.

21 (3) Section 1129(e)(1)(A) of such Act (42
22 U.S.C. 1320a–8(e)(1)(A)) is amended by striking
23 “statement or representation referred to in sub-
24 section (a) was made” and inserting “violation oc-
25 curred”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to violations com-
3 mitted after the date on which the Commissioner imple-
4 ments the centralized computer file described in section
5 202.

6 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**
7 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**
8 **MISSION OF REPORTS OF CHANGES IN WORK**
9 **OR EARNINGS STATUS OF DISABLED BENE-**
10 **FICIARIES.**

11 Effective as soon as possible, but not later than 1
12 year after the date of the enactment of this Act, until such
13 time as the Commissioner of Social Security implements
14 a centralized computer file recording the date of the sub-
15 mission of information by a disabled beneficiary (or rep-
16 resentative) regarding a change in the beneficiary's work
17 or earnings status, the Commissioner shall issue a receipt
18 to the disabled beneficiary (or representative) each time
19 he or she submits documentation, or otherwise reports to
20 the Commissioner, on a change in such status.

1 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
2 **ING PROSECUTION, CUSTODY, OR CONFINEMENT,**
3 **AND TO PERSONS VIOLATING PROBATION OR PAROLE.**
4

5 (a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

7 (1) in the heading, by striking “Prisoners” and
8 all that follows and inserting the following: “Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees”;

11 (2) in paragraph (1)(A)(ii)(IV), by striking
12 “or” at the end;

13 (3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

15 (4) by inserting after paragraph (1)(A)(iii) the following:

17 “(iv) is fleeing to avoid prosecution, or custody
18 or confinement after conviction, under the laws of
19 the place from which the person flees, for a crime,
20 or an attempt to commit a crime, which is a felony
21 under the laws of the place from which the person
22 flees, or which, in the case of the State of New Jersey,
23 is a high misdemeanor under the laws of such
24 State, or

25 “(v) is violating a condition of probation or parole imposed under Federal or State law.
26

1 In the case of an individual from whom such monthly ben-
2 efits have been withheld pursuant to clause (iv) or (v),
3 the Commissioner may, for good cause shown, pay such
4 withheld benefits to the individual.”; and

5 (5) in paragraph (3), by adding at the end the
6 following new subparagraph:

7 “(C) Notwithstanding the provisions of section 552a
8 of title 5, United States Code, or any other provision of
9 Federal or State law (other than section 6103 of the Inter-
10 nal Revenue Code of 1986 and section 1106(c) of this
11 Act), the Commissioner shall furnish any Federal, State,
12 or local law enforcement officer, upon the written request
13 of the officer, with the current address, Social Security
14 number, and photograph (if applicable) of any beneficiary
15 under this title, if the officer furnishes the Commissioner
16 with the name of the beneficiary, and other identifying in-
17 formation as reasonably required by the Commissioner to
18 establish the unique identity of the beneficiary, and noti-
19 fies the Commissioner that—

20 “(i) the beneficiary—

21 “(I) is described in clause (iv) or (v) of
22 paragraph (1)(A); and

23 “(II) has information that is necessary for
24 the officer to conduct the officer’s official du-
25 ties; and

1 “(ii) the location or apprehension of the bene-
2 ficiary is within the officer’s official duties.”.

3 (b) REGULATIONS.—Not later than the first day of
4 the first month that begins on or after the date that is
5 9 months after the date of the enactment of this Act, the
6 Commissioner of Social Security shall promulgate regula-
7 tions governing payment by the Commissioner, for good
8 cause shown, of withheld benefits, pursuant to the last
9 sentence of section 202(x)(1)(A) of the Social Security Act
10 (as amended by subsection (a)).

11 (c) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall take effect on the first day of the first
13 month that begins on or after the date that is 9 months
14 after the date of the enactment of this Act.

15 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
16 **VIDE FOR A FEE A PRODUCT OR SERVICE**
17 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
18 **CIAL SECURITY ADMINISTRATION.**

19 (a) IN GENERAL.—Section 1140 of the Social Secu-
20 rity Act (42 U.S.C. 1320b–10) is amended—

21 (1) in subsection (a), by adding at the end the
22 following new paragraph:

23 “(4)(A) No person shall offer, for a fee, to assist an
24 individual to obtain a product or service that the person
25 knows or should know is provided free of charge by the

1 Social Security Administration unless, at the time the
2 offer is made, the person provides to the individual to
3 whom the offer is tendered a notice that—

4 “(i) explains that the product or service is avail-
5 able free of charge from the Social Security Admin-
6 istration, and

7 “(ii) complies with standards prescribed by the
8 Commissioner of Social Security respecting the con-
9 tent of such notice and its placement, visibility, and
10 legibility.

11 “(B) Subparagraph (A) shall not apply to any offer—

12 “(i) to serve as a claimant representative in
13 connection with a claim arising under title II, title
14 VIII, or title XVI; or

15 “(ii) to prepare, or assist in the preparation of,
16 an individual’s plan for achieving self-support under
17 title XVI.”; and

18 (2) in the heading, by striking “PROHIBITION
19 OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN
20 REFERENCE” and inserting “PROHIBITIONS RELAT-
21 ING TO REFERENCES”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to offers of assistance made after
24 the sixth month ending after the Commissioner of Social
25 Security promulgates final regulations prescribing the

1 standards applicable to the notice required to be provided
2 in connection with such offer. The Commissioner shall
3 promulgate such final regulations within 1 year after the
4 date of the enactment of this Act.

5 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**
6 **AS CLAIMANT REPRESENTATIVES.**

7 Section 206(a)(1) of the Social Security Act (42
8 U.S.C. 406(a)(1)) is amended by inserting after the sec-
9 ond sentence the following: “Notwithstanding the pre-
10 ceding sentences, the Commissioner, after due notice and
11 opportunity for hearing, (A) may refuse to recognize as
12 a representative, and may disqualify a representative al-
13 ready recognized, any attorney who has been disbarred or
14 suspended from any court or bar to which he or she was
15 previously admitted to practice or who has been disquali-
16 fied from participating in or appearing before any Federal
17 program or agency, and (B) may refuse to recognize, and
18 may disqualify, as a non-attorney representative any attor-
19 ney who has been disbarred or suspended from any court
20 or bar to which he or she was previously admitted to prac-
21 tice. A representative who has been disqualified or sus-
22 pended pursuant to this section from appearing before the
23 Social Security Administration as a result of collecting or
24 receiving a fee in excess of the amount authorized shall
25 be barred from appearing before the Social Security Ad-

1 person shall be fined not more than \$3,000, imprisoned
2 not more than 1 year, or both. In this subsection, the
3 term ‘threats of force’ means threats of harm to the officer
4 or employee of the United States or to a contractor of
5 the Social Security Administration, or to a member of the
6 family of such an officer or employee or contractor.”.

7 **SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**
8 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

9 (a) IN GENERAL.—Section 1140(a)(1) of the Social
10 Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

11 (1) in subparagraph (A), by inserting “ ‘Cen-
12 ters for Medicare & Medicaid Services’,” after
13 “ ‘Health Care Financing Administration’,” by
14 striking “or ‘Medicaid’, ” and inserting “ ‘Med-
15 icaid’, ‘Death Benefits Update’, ‘Federal Benefit In-
16 formation’, ‘Funeral Expenses’, or ‘Final Supple-
17 mental Plan’,” and by inserting “ ‘CMS’,” after
18 “ ‘HCFA’,”;

19 (2) in subparagraph (B), by inserting “Centers
20 for Medicare & Medicaid Services,” after “Health
21 Care Financing Administration,” each place it ap-
22 pears; and

23 (3) in the matter following subparagraph (B),
24 by striking “the Health Care Financing Administra-

1 tion,” each place it appears and inserting “the Cen-
2 ters for Medicare & Medicaid Services,”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to items sent after 180 days after
5 the date of the enactment of this Act.

6 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
7 **TRIAL WORK PERIOD UPON CONVICTION OF**
8 **FRAUDULENT CONCEALMENT OF WORK AC-**
9 **TIVITY.**

10 (a) IN GENERAL.—Section 222(c) of the Social Secu-
11 rity Act (42 U.S.C. 422(c)) is amended by adding at the
12 end the following new paragraph:

13 “(5) Upon conviction by a Federal court that an indi-
14 vidual has fraudulently concealed work activity during a
15 period of trial work from the Commissioner of Social Secu-
16 rity by—

17 “(A) providing false information to the Com-
18 missioner of Social Security as to whether the indi-
19 vidual had earnings in or for a particular period, or
20 as to the amount thereof;

21 “(B) receiving disability insurance benefits
22 under this title while engaging in work activity
23 under another identity, including under another so-
24 cial security account number or a number pur-
25 porting to be a social security account number; or

1 “(b)(1) Any Federal court, when sentencing a defend-
2 ant convicted of an offense under subsection (a), may
3 order, in addition to or in lieu of any other penalty author-
4 ized by law, that the defendant make restitution to the
5 Social Security Administration.

6 “(2) Sections 3612, 3663, and 3664 of title 18,
7 United States Code, shall apply with respect to the
8 issuance and enforcement of orders of restitution under
9 this subsection. In so applying such sections, the Social
10 Security Administration shall be considered the victim.

11 “(3) If the court does not order restitution, or orders
12 only partial restitution, under this subsection, the court
13 shall state on the record the reasons therefor.”.

14 (b) AMENDMENTS TO TITLE VIII.—Section 807(i) of
15 such Act (42 U.S.C. 1007(i)) is amended—

16 (1) by striking “(i) RESTITUTION.—In any case
17 where” and inserting the following:

18 “(i) RESTITUTION.—

19 “(1) IN GENERAL.—In any case where”; and

20 (2) by adding at the end the following new
21 paragraph:

22 “(2) COURT ORDER FOR RESTITUTION.—

23 “(A) IN GENERAL.—Any Federal court,
24 when sentencing a defendant convicted of an of-
25 fense under subsection (a), may order, in addi-

1 tion to or in lieu of any other penalty author-
2 ized by law, that the defendant make restitution
3 to the Social Security Administration.

4 “(B) RELATED PROVISIONS.—Sections
5 3612, 3663, and 3664 of title 18, United States
6 Code, shall apply with respect to the issuance
7 and enforcement of orders of restitution under
8 this paragraph. In so applying such sections,
9 the Social Security Administration shall be con-
10 sidered the victim.

11 “(C) STATED REASONS FOR NOT ORDER-
12 ING RESTITUTION.—If the court does not order
13 restitution, or orders only partial restitution,
14 under this paragraph, the court shall state on
15 the record the reasons therefor.”.

16 (c) AMENDMENTS TO TITLE XVI.—Section 1632 of
17 such Act (42 U.S.C. 1383a) is amended—

18 (1) by redesignating subsection (b) as sub-
19 section (c); and

20 (2) by inserting after subsection (a) the fol-
21 lowing new subsection:

22 “(b)(1) Any Federal court, when sentencing a defend-
23 ant convicted of an offense under subsection (a), may
24 order, in addition to or in lieu of any other penalty author-

1 ized by law, that the defendant make restitution to the
2 Social Security Administration.

3 “(2) Sections 3612, 3663, and 3664 of title 18,
4 United States Code, shall apply with respect to the
5 issuance and enforcement of orders of restitution under
6 this subsection. In so applying such sections, the Social
7 Security Administration shall be considered the victim.

8 “(3) If the court does not order restitution, or orders
9 only partial restitution, under this subsection, the court
10 shall state on the record the reasons therefor.”.

11 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-
12 TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.
13 904(b)) is amended by adding at the end the following
14 new paragraph:

15 “(3)(A) Except as provided in subparagraph (B),
16 amounts received by the Social Security Administration
17 pursuant to an order of restitution under section 208(b),
18 807(i), or 1632(b) shall be credited to a special fund es-
19 tablished in the Treasury of the United States for
20 amounts so received or recovered. The amounts so cred-
21 ited, to the extent and in the amounts provided in advance
22 in appropriations Acts, shall be available to defray ex-
23 penses incurred in carrying out titles II, VIII, and XVI.

24 “(B) Subparagraph (A) shall not apply with respect
25 to amounts received in connection with misuse by a rep-

1 resentative payee (within the meaning of sections 205(j),
 2 807, and 1631(a)(2)) of funds paid as benefits under title
 3 II, VIII, or XVI. Such amounts received in connection
 4 with misuse of funds paid as benefits under title II shall
 5 be transferred to the Managing Trustee of the Federal
 6 Old-Age and Survivors Insurance Trust Fund or the Fed-
 7 eral Disability Insurance Trust Fund, as determined ap-
 8 propriate by the Commissioner of Social Security, and
 9 such amounts shall be deposited by the Managing Trustee
 10 into such Trust Fund. All other such amounts shall be
 11 deposited by the Commissioner into the general fund of
 12 the Treasury as miscellaneous receipts.”.

13 (e) EFFECTIVE DATE.—The amendments made by
 14 subsections (a), (b), and (c) shall apply with respect to
 15 violations occurring on or after the date of the enactment
 16 of this Act.

17 **TITLE III—ATTORNEY FEE PAY-**
 18 **MENT SYSTEM IMPROVE-**
 19 **MENTS**

20 **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

21 (a) IN GENERAL.—Section 206(d)(2)(A) of the Social
 22 Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

23 (1) by inserting “, except that the maximum
 24 amount of the assessment may not exceed the great-
 25 er of \$75 or the adjusted amount as provided pursu-

1 ant to the following two sentences” after “subpara-
2 graph (B)”;

3 (2) by adding at the end the following new sen-
4 tence: “In the case of any calendar year beginning
5 after the amendments made by section 301 of the
6 Social Security Protection Act of 2003 take effect,
7 the dollar amount specified in the preceding sentence
8 (including a previously adjusted amount) shall be
9 adjusted annually under the procedures used to ad-
10 just benefit amounts under section 215(i)(2)(A)(ii),
11 except such adjustment shall be based on the higher
12 of \$75 or the previously adjusted amount that would
13 have been in effect for December of the preceding
14 year, but for the rounding of such amount pursuant
15 to the following sentence. Any amount so adjusted
16 that is not a multiple of \$1 shall be rounded to the
17 next lowest multiple of \$1, but in no case less than
18 \$75.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to fees for representa-
21 tion of claimants which are first required to be certified
22 or paid under section 206 of the Social Security Act on
23 or after the first day of the first month that begins after
24 180 days after the date of the enactment of this Act.

1 **SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**
2 **TO TITLE XVI CLAIMS.**

3 (a) IN GENERAL.—Section 1631(d)(2) of the Social
4 Security Act (42 U.S.C. 1383(d)(2)) is amended—

5 (1) in subparagraph (A), in the matter pre-
6 ceding clause (i)—

7 (A) by striking “section 206(a)” and in-
8 serting “section 206”;

9 (B) by striking “(other than paragraph (4)
10 thereof)” and inserting “(other than sub-
11 sections (a)(4) and (d) thereof)”; and

12 (C) by striking “paragraph (2) thereof”
13 and inserting “such section”;

14 (2) in subparagraph (A)(i), by striking “in sub-
15 paragraphs (A)(ii)(I) and (C)(i),” and inserting “in
16 subparagraphs (A)(ii)(I) and (D)(i) of subsection
17 (a)(2)”, and by striking “and” at the end;

18 (3) by striking subparagraph (A)(ii) and insert-
19 ing the following:

20 “(ii) by substituting, in subsections (a)(2)(B)
21 and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A)
22 or the requirements of due process of law’ for the
23 phrase ‘subsection (g) or (h) of section 223’;

24 “(iii) by substituting, in subsection (a)(2)(C)(i),
25 the phrase ‘under title II’ for the phrase ‘under title
26 XVI’;

1 “(iv) by substituting, in subsection (b)(1)(A),
2 the phrase ‘pay the amount of such fee’ for the
3 phrase ‘certify the amount of such fee for payment’
4 and by striking, in subsection (b)(1)(A), the phrase
5 ‘or certified for payment’; and

6 “(v) by substituting, in subsection (b)(1)(B)(ii),
7 the phrase ‘deemed to be such amounts as deter-
8 mined before any applicable reduction under section
9 1631(g), and reduced by the amount of any reduc-
10 tion in benefits under this title or title II made pur-
11 suant to section 1127(a)’ for the phrase ‘determined
12 before any applicable reduction under section
13 1127(a))’.”; and

14 (4) by striking subparagraph (B) and inserting
15 the following new subparagraphs:

16 “(B) Subject to subparagraph (C), if the claimant is
17 determined to be entitled to past-due benefits under this
18 title and the person representing the claimant is an attor-
19 ney, the Commissioner of Social Security shall pay out of
20 such past-due benefits to such attorney an amount equal
21 to the lesser of—

22 “(i) so much of the maximum fee as does not
23 exceed 25 percent of such past-due benefits (as de-
24 termined before any applicable reduction under sec-
25 tion 1631(g) and reduced by the amount of any re-

1 duction in benefits under this title or title II pursu-
2 ant to section 1127(a)), or

3 “(ii) the amount of past-due benefits available
4 after any applicable reductions under sections
5 1631(g) and 1127(a).

6 “(C)(i) Whenever a fee for services is required to be
7 paid to an attorney from a claimant’s past-due benefits
8 pursuant to subparagraph (B), the Commissioner shall
9 impose on the attorney an assessment calculated in ac-
10 cordance with clause (ii).

11 “(ii)(I) The amount of an assessment under clause
12 (i) shall be equal to the product obtained by multiplying
13 the amount of the representative’s fee that would be re-
14 quired to be paid by subparagraph (B) before the applica-
15 tion of this subparagraph, by the percentage specified in
16 subclause (II), except that the maximum amount of the
17 assessment may not exceed \$75. In the case of any cal-
18 endar year beginning after the amendments made by sec-
19 tion 302 of the Social Security Protection Act of 2003
20 take effect, the dollar amount specified in the preceding
21 sentence (including a previously adjusted amount) shall be
22 adjusted annually under the procedures used to adjust
23 benefit amounts under section 215(i)(2)(A)(ii), except
24 such adjustment shall be based on the higher of \$75 or
25 the previously adjusted amount that would have been in

1 effect for December of the preceding year, but for the
2 rounding of such amount pursuant to the following sen-
3 tence. Any amount so adjusted that is not a multiple of
4 \$1 shall be rounded to the next lowest multiple of \$1, but
5 in no case less than \$75.

6 “(II) The percentage specified in this subclause is
7 such percentage rate as the Commissioner determines is
8 necessary in order to achieve full recovery of the costs of
9 determining and approving fees to attorneys from the
10 past-due benefits of claimants, but not in excess of 6.3
11 percent.

12 “(iii) The Commissioner may collect the assessment
13 imposed on an attorney under clause (i) by offset from
14 the amount of the fee otherwise required by subparagraph
15 (B) to be paid to the attorney from a claimant’s past-due
16 benefits.

17 “(iv) An attorney subject to an assessment under
18 clause (i) may not, directly or indirectly, request or other-
19 wise obtain reimbursement for such assessment from the
20 claimant whose claim gave rise to the assessment.

21 “(v) Assessments on attorneys collected under this
22 subparagraph shall be deposited in the Treasury in a sepa-
23 rate fund created for this purpose.

24 “(vi) The assessments authorized under this subpara-
25 graph shall be collected and available for obligation only

1 to the extent and in the amount provided in advance in
2 appropriations Acts. Amounts so appropriated are au-
3 thorized to remain available until expended, for adminis-
4 trative expenses in carrying out this title and related
5 laws.”.

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply with respect to fees for rep-
9 resentation of claimants which are first required to
10 be certified or paid under section 1631(d)(2) of the
11 Social Security Act on or after the first day of the
12 first month that begins after 270 days after the date
13 of the enactment of this Act.

14 (2) SUNSET.—Such amendments shall not
15 apply with respect to fees for representation of
16 claimants in the case of any claim for benefits with
17 respect to which the agreement for representation is
18 entered into after 5 years after the date on which
19 the Commissioner of Social Security first imple-
20 ments the amendments made by this section.

21 (c) STUDY REGARDING FEE-WITHHOLDING FOR
22 NON-ATTORNEY REPRESENTATIVES.—

23 (1) STUDY.—As soon as practicable after the
24 date of the enactment of this Act, the Comptroller
25 General of the United States shall undertake a study

1 regarding fee-withholding for non-attorney rep-
2 resentatives representing claimants before the Social
3 Security Administration.

4 (2) MATTERS TO BE STUDIED.—In conducting
5 the study under this subsection, the Comptroller
6 General shall—

7 (A) compare the non-attorney representa-
8 tives who seek fee approval for representing
9 claimants before the Social Security Adminis-
10 tration to attorney representatives who seek
11 such fee approval, with regard to—

12 (i) their training, qualifications, and
13 competency,

14 (ii) the type and quality of services
15 provided, and

16 (iii) the extent to which claimants are
17 protected through oversight of such rep-
18 resentatives by the Social Security Admin-
19 istration or other organizations, and

20 (B) consider the potential results of ex-
21 tending to non-attorney representatives the fee
22 withholding procedures that apply under titles
23 II and XVI of the Social Security Act for the
24 payment of attorney fees, including the effect
25 on claimants and program administration.

1 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
2 **IN CONNECTION WITH DEMONSTRATION**
3 **PROJECTS PROVIDING FOR REDUCTIONS IN**
4 **DISABILITY INSURANCE BENEFITS BASED ON**
5 **EARNINGS.**

6 Section 302(c) of the Ticket to Work and Work In-
7 centives Improvement Act of 1999 (42 U.S.C. 434 note)
8 is amended by striking “(42 U.S.C. 401 et seq.),” and
9 inserting “(42 U.S.C. 401 et seq.) and the requirements
10 of section 1148 of such Act (42 U.S.C. 1320b–19) as they
11 relate to the program established under title II of such
12 Act.”.

13 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
14 **VIDED FOR REDUCTIONS IN DISABILITY IN-**
15 **SURANCE BENEFITS BASED ON EARNINGS.**

16 Section 302(f) of the Ticket to Work and Work In-
17 centives Improvement Act of 1999 (42 U.S.C. 434 note)
18 is amended to read as follows:

19 “(f) EXPENDITURES.—Administrative expenses for
20 demonstration projects under this section shall be paid
21 from funds available for the administration of title II or
22 XVIII of the Social Security Act, as appropriate. Benefits
23 payable to or on behalf of individuals by reason of partici-
24 pation in projects under this section shall be made from
25 the Federal Disability Insurance Trust Fund and the Fed-
26 eral Old-Age and Survivors Insurance Trust Fund, as de-

1 terminated appropriate by the Commissioner of Social Secu-
2 rity, and from the Federal Hospital Insurance Trust Fund
3 and the Federal Supplementary Medical Insurance Trust
4 Fund, as determined appropriate by the Secretary of
5 Health and Human Services, from funds available for ben-
6 efits under such title II or XVIII.”.

7 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
8 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
9 **UALS.**

10 (a) FEDERAL WORK INCENTIVES OUTREACH PRO-
11 GRAM.—

12 (1) IN GENERAL.—Section 1149(c)(2) of the
13 Social Security Act (42 U.S.C. 1320b–20(c)(2)) is
14 amended to read as follows:

15 “(2) DISABLED BENEFICIARY.—The term ‘dis-
16 abled beneficiary’ means an individual—

17 “(A) who is a disabled beneficiary as de-
18 fined in section 1148(k)(2) of this Act;

19 “(B) who is receiving a cash payment de-
20 scribed in section 1616(a) of this Act or a sup-
21 plementary payment described in section
22 212(a)(3) of Public Law 93–66 (without regard
23 to whether such payment is paid by the Com-
24 missioner pursuant to an agreement under sec-

1 tion 1616(a) of this Act or under section
2 212(b) of Public Law 93–66);

3 “(C) who, pursuant to section 1619(b) of
4 this Act, is considered to be receiving benefits
5 under title XVI of this Act; or

6 “(D) who is entitled to benefits under part
7 A of title XVIII of this Act by reason of the pe-
8 nultimate sentence of section 226(b) of this
9 Act.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by this subsection shall apply with respect to grants,
12 cooperative agreements, or contracts entered into on
13 or after the date of the enactment of this Act.

14 (b) STATE GRANTS FOR WORK INCENTIVES ASSIST-
15 ANCE.—

16 (1) DEFINITION OF DISABLED BENEFICIARY.—
17 Section 1150(g)(2) of such Act (42 U.S.C. 1320b-
18 21(g)(2)) is amended to read as follows:

19 “(2) DISABLED BENEFICIARY.—The term ‘dis-
20 abled beneficiary’ means an individual—

21 “(A) who is a disabled beneficiary as de-
22 fined in section 1148(k)(2) of this Act;

23 “(B) who is receiving a cash payment de-
24 scribed in section 1616(a) of this Act or a sup-
25 plementary payment described in section

1 212(a)(3) of Public Law 93–66 (without regard
2 to whether such payment is paid by the Com-
3 missioner pursuant to an agreement under sec-
4 tion 1616(a) of this Act or under section
5 212(b) of Public Law 93–66);

6 “(C) who, pursuant to section 1619(b) of
7 this Act, is considered to be receiving benefits
8 under title XVI of this Act; or

9 “(D) who is entitled to benefits under part
10 A of title XVIII of this Act by reason of the pe-
11 nultimate sentence of section 226(b) of this
12 Act.”.

13 (2) ADVOCACY OR OTHER SERVICES NEEDED
14 TO MAINTAIN GAINFUL EMPLOYMENT.—Section
15 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2))
16 is amended by striking “secure or regain” and in-
17 serting “secure, maintain, or regain”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply with respect to pay-
20 ments provided after the date of the enactment of
21 this Act.

1 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**
2 **MENT FOR CERTAIN PURPOSES OF INDI-**
3 **VIDUAL WORK PLANS UNDER THE TICKET TO**
4 **WORK AND SELF-SUFFICIENCY PROGRAM.**

5 (a) IN GENERAL.—Section 1148(g)(1) of the Social
6 Security Act (42 U.S.C. 1320b–19) is amended by adding
7 at the end, after and below subparagraph (E), the fol-
8 lowing new sentence:

9 “An individual work plan established pursuant to
10 this subsection shall be treated, for purposes of sec-
11 tion 51(d)(6)(B)(i) of the Internal Revenue Code of
12 1986, as an individualized written plan for employ-
13 ment under a State plan for vocational rehabilitation
14 services approved under the Rehabilitation Act of
15 1973.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall take effect as if included in section
18 505 of the Ticket to Work and Work Incentives Improve-
19 ment Act of 1999 (Public Law 106–170; 113 Stat. 1921).

20 **Subtitle B—Miscellaneous**
21 **Amendments**

22 **SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN**
23 **REMAND CASES FULLY FAVORABLE TO THE**
24 **CLAIMANT.**

25 (a) IN GENERAL.—Section 205(g) of the Social Secu-
26 rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-

1 tence by striking “and a transcript” and inserting “and,
2 in any case in which the Commissioner has not made a
3 decision fully favorable to the individual, a transcript”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply with respect to final determina-
6 tions issued (upon remand) on or after the date of the
7 enactment of this Act.

8 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
9 **FROM THE UNITED STATES.**

10 (a) IN GENERAL.—Paragraphs (1) and (2) of section
11 202(n) of the Social Security Act (42 U.S.C. 402(n)(1),
12 (2)) are each amended by striking “or (1)(E)”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section to section 202(n)(1) of the Social Security Act
15 shall apply to individuals with respect to whom the Com-
16 missioner of Social Security receives a removal notice from
17 the Attorney General after the date of the enactment of
18 this Act. The amendment made by this section to section
19 202(n)(2) of the Social Security Act shall apply with re-
20 spect to removals occurring after the date of the enact-
21 ment of this Act.

22 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**
23 **QUIREMENTS.**

24 Section 3003(a)(1) of the Federal Reports Elimini-
25 nation and Sunset Act of 1995 (31 U.S.C. 1113 note)

1 shall not apply to any report required to be submitted
2 under any of the following provisions of law:

3 (1)(A) Section 201(c)(2) of the Social Security
4 Act (42 U.S.C. 401(c)(2)).

5 (B) Section 1817(b)(2) of the Social Security
6 Act (42 U.S.C. 1395i(b)(2)).

7 (C) Section 1841(b)(2) of the Social Security
8 Act (42 U.S.C. 1395t(b)(2)).

9 (2)(A) Section 221(c)(3)(C) of the Social Secu-
10 rity Act (42 U.S.C. 421(c)(3)(C)).

11 (B) Section 221(i)(3) of the Social Security Act
12 (42 U.S.C. 421(i)(3)).

13 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**
14 **CERTAIN SURVIVOR BENEFITS.**

15 (a) WIDOWS.—Section 216(c) of the Social Security
16 Act (42 U.S.C. 416(c)) is amended—

17 (1) by redesignating subclauses (A) through (C)
18 of clause (6) as subclauses (i) through (iii), respec-
19 tively;

20 (2) by redesignating clauses (1) through (6) as
21 clauses (A) through (F), respectively;

22 (3) in clause (E) (as redesignated), by inserting
23 “except as provided in paragraph (2),” before “she
24 was married”;

25 (4) by inserting “(1)” after “(c)”; and

1 (5) by adding at the end the following new
2 paragraph:

3 “(2) The requirements of paragraph (1)(E) in con-
4 nection with the surviving wife of an individual shall be
5 treated as satisfied if—

6 “(A) the individual had been married prior to
7 the individual’s marriage to the surviving wife,

8 “(B) the prior wife was institutionalized during
9 the individual’s marriage to the prior wife due to
10 mental incompetence or similar incapacity,

11 “(C) during the period of the prior wife’s insti-
12 tutionalization, the individual would have divorced
13 the prior wife and married the surviving wife, but
14 the individual did not do so because such divorce
15 would have been unlawful, by reason of the prior
16 wife’s institutionalization, under the laws of the
17 State in which the individual was domiciled at the
18 time (as determined based on evidence satisfactory
19 to the Commissioner of Social Security),

20 “(D) the prior wife continued to remain institu-
21 tionalized up to the time of her death, and

22 “(E) the individual married the surviving wife
23 within 60 days after the prior wife’s death.”.

24 (b) WIDOWERS.—Section 216(g) of such Act (42
25 U.S.C. 416(g)) is amended—

1 (1) by redesignating subclauses (A) through (C)
2 of clause (6) as subclauses (i) through (iii), respec-
3 tively;

4 (2) by redesignating clauses (1) through (6) as
5 clauses (A) through (F), respectively;

6 (3) in clause (E) (as redesignated), by inserting
7 “except as provided in paragraph (2),” before “he
8 was married”;

9 (4) by inserting “(1)” after “(g)”; and

10 (5) by adding at the end the following new
11 paragraph:

12 “(2) The requirements of paragraph (1)(E) in con-
13 nection with the surviving husband of an individual shall
14 be treated as satisfied if—

15 “(A) the individual had been married prior to
16 the individual’s marriage to the surviving husband,

17 “(B) the prior husband was institutionalized
18 during the individual’s marriage to the prior hus-
19 band due to mental incompetence or similar inca-
20 pacity,

21 “(C) during the period of the prior husband’s
22 institutionalization, the individual would have di-
23 vorced the prior husband and married the surviving
24 husband, but the individual did not do so because
25 such divorce would have been unlawful, by reason of

1 the prior husband's institutionalization, under the
2 laws of the State in which the individual was domi-
3 ciled at the time (as determined based on evidence
4 satisfactory to the Commissioner of Social Security),

5 “(D) the prior husband continued to remain in-
6 stitutionalized up to the time of his death, and

7 “(E) the individual married the surviving hus-
8 band within 60 days after the prior husband's
9 death.”.

10 (c) CONFORMING AMENDMENT.—Section 216(k) of
11 such Act (42 U.S.C. 416(k)) is amended by striking
12 “clause (5) of subsection (c) or clause (5) of subsection
13 (g)” and inserting “clause (E) of subsection (c)(1) or
14 clause (E) of subsection (g)(1)”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall be effective with respect to applications
17 for benefits under title II of the Social Security Act filed
18 during months ending after the date of the enactment of
19 this Act.

1 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND**
2 **SECA TAX EXEMPTIONS FOR AN INDIVIDUAL**
3 **WHOSE EARNINGS ARE SUBJECT TO THE**
4 **LAWS OF A TOTALIZATION AGREEMENT**
5 **PARTNER.**

6 Sections 1401(c), 3101(c), and 3111(c) of the Inter-
7 nal Revenue Code of 1986 are each amended by striking
8 “to taxes or contributions for similar purposes under” and
9 inserting “exclusively to the laws applicable to”.

10 **SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYS-**
11 **TEM FOR PUBLIC EMPLOYEES IN KENTUCKY.**

12 (a) IN GENERAL.—Section 218(d)(6)(C) of the Social
13 Security Act (42 U.S.C. 418(d)(6)(C)) is amended by in-
14 serting “Kentucky,” after “Illinois,”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) takes effect on January 1, 2003.

17 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY AD-**
18 **VISORY BOARD.**

19 (a) IN GENERAL.—Subsection (f) of section 703 of
20 the Social Security Act (42 U.S.C. 903(f)) is amended to
21 read as follows:

22 “Compensation, Expenses, and Per Diem

23 “(f) A member of the Board shall, for each day (in-
24 cluding traveltime) during which the member is attending
25 meetings or conferences of the Board or otherwise engaged
26 in the business of the Board, be compensated at the daily

1 rate of basic pay for level IV of the Executive Schedule.
2 While serving on business of the Board away from their
3 homes or regular places of business, members may be al-
4 lowed travel expenses, including per diem in lieu of sub-
5 sistence, as authorized by section 5703 of title 5, United
6 States Code, for persons in the Government employed
7 intermittently.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall be effective as of January 1, 2003.

10 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
11 **MENT FOR APPLICATION OF GOVERNMENT**
12 **PENSION OFFSET EXEMPTION.**

13 (a) WIFE’S INSURANCE BENEFITS.—Section
14 202(b)(4)(A) of the Social Security Act (42 U.S.C.
15 402(b)(4)(A)) is amended by striking “if, on” and insert-
16 ing “if, during any portion of the last 60 months of such
17 service ending with”.

18 (b) HUSBAND’S INSURANCE BENEFITS.—Section
19 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is
20 amended by striking “if, on” and inserting “if, during any
21 portion of the last 60 months of such service ending with”.

22 (c) WIDOW’S INSURANCE BENEFITS.—Section
23 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is
24 amended by striking “if, on” and inserting “if, during any
25 portion of the last 60 months of such service ending with”.

1 (d) WIDOWER'S INSURANCE BENEFITS.—Section
2 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is
3 amended by striking “if, on” and inserting “if, during any
4 portion of the last 60 months of such service ending with”.

5 (e) MOTHER'S AND FATHER'S INSURANCE BENE-
6 FITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C.
7 402(g)(4)(A)) is amended by striking “if, on” and insert-
8 ing “if, during any portion of the last 60 months of such
9 service ending with”.

10 (f) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to applications for
12 benefits under title II of the Social Security Act filed on
13 or after the first day of the first month that begins after
14 the date of the enactment of this Act, except that such
15 amendments shall not apply in connection with monthly
16 periodic benefits of any individual based on earnings while
17 in service described in section 202(b)(4)(A), 202(c)(2)(A),
18 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act
19 (in the matter preceding clause (i) thereof)—

20 (1) if the last day of such service occurs before
21 the end of the 90-day period following the date of
22 the enactment of this Act, or

23 (2) in any case in which the last day of such
24 service occurs after the end of such 90-day period,
25 such individual performed such service during such

1 90-day period which constituted “employment” as
2 defined in section 210 of such Act, and all such
3 service subsequently performed by such individual
4 has constituted such “employment”.

5 **Subtitle C—Technical Amendments**

6 **SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-** 7 **SIBLE AGENCY HEAD.**

8 Section 1143 of the Social Security Act (42
9 U.S.C. 1320b–13) is amended—

10 (1) by striking “Secretary” the first place it ap-
11 pears and inserting “Commissioner of Social Secu-
12 rity”; and

13 (2) by striking “Secretary” each subsequent
14 place it appears and inserting “Commissioner”.

15 **SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-** 16 **MENT BENEFITS OF MINISTERS.**

17 (a) IN GENERAL.—Section 211(a)(7) of the Social
18 Security Act (42 U.S.C. 411(a)(7)) is amended by insert-
19 ing “, but shall not include in any such net earnings from
20 self-employment the rental value of any parsonage or any
21 parsonage allowance (whether or not excluded under sec-
22 tion 107 of the Internal Revenue Code of 1986) provided
23 after the individual retires, or any other retirement benefit
24 received by such individual from a church plan (as defined

1 in section 414(e) of such Code) after the individual re-
2 tires” before the semicolon.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to years beginning before, on, or
5 after December 31, 1994.

6 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
7 **TIC EMPLOYMENT.**

8 (a) AMENDMENT TO INTERNAL REVENUE CODE.—
9 Section 3121(a)(7)(B) of the Internal Revenue Code of
10 1986 is amended by striking “described in subsection
11 (g)(5)” and inserting “on a farm operated for profit”.

12 (b) AMENDMENT TO SOCIAL SECURITY ACT.—Sec-
13 tion 209(a)(6)(B) of the Social Security Act (42
14 U.S.C. 409(a)(6)(B)) is amended by striking “described
15 in section 210(f)(5)” and inserting “on a farm operated
16 for profit”.

17 (c) CONFORMING AMENDMENT.—Section 3121(g)(5)
18 of such Code and section 210(f)(5) of such Act (42
19 U.S.C. 410(f)(5)) are amended by striking “or is domes-
20 tic service in a private home of the employer”.

21 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**
22 **ERENCES.**

23 (a) CORRECTION OF TERMINOLOGY AND CITATIONS
24 RESPECTING REMOVAL FROM THE UNITED STATES.—
25 Section 202(n) of the Social Security Act (42

1 U.S.C. 402(n)) (as amended by section 412) is amended
2 further—

3 (1) by striking “deportation” each place it ap-
4 pears and inserting “removal”;

5 (2) by striking “deported” each place it appears
6 and inserting “removed”;

7 (3) in paragraph (1) (in the matter preceding
8 subparagraph (A)), by striking “under section
9 241(a) (other than under paragraph (1)(C) there-
10 of)” and inserting “under section 237(a) (other than
11 paragraph (1)(C) thereof) or 212(a)(6)(A)”;

12 (4) in paragraph (2), by striking “under any of
13 the paragraphs of section 241(a) of the Immigration
14 and Nationality Act (other than under paragraph
15 (1)(C) thereof)” and inserting “under any of the
16 paragraphs of section 237(a) of the Immigration and
17 Nationality Act (other than paragraph (1)(C) there-
18 of) or under section 212(a)(6)(A) of such Act”;

19 (5) in paragraph (3)—

20 (A) by striking “paragraph (19) of section
21 241(a)” and inserting “subparagraph (D) of
22 section 237(a)(4)”;

23 (B) by striking “paragraph (19)” and in-
24 serting “subparagraph (D)”;

1 (6) in the heading, by striking “Deportation”
2 and inserting “Removal”.

3 (b) CORRECTION OF CITATION RESPECTING THE
4 TAX DEDUCTION RELATING TO HEALTH INSURANCE
5 COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section
6 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amend-
7 ed by striking “section 162(m)” and inserting “section
8 162(l)”.

9 (c) ELIMINATION OF REFERENCE TO OBSOLETE 20-
10 DAY AGRICULTURAL WORK TEST.—Section 3102(a) of
11 the Internal Revenue Code of 1986 is amended by striking
12 “and the employee has not performed agricultural labor
13 for the employer on 20 days or more in the calendar year
14 for cash remuneration computed on a time basis”.

15 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**
16 **PLOYMENT INCOME IN COMMUNITY PROP-**
17 **ERTY STATES.**

18 (a) SOCIAL SECURITY ACT AMENDMENT.—Section
19 211(a)(5)(A) of the Social Security Act (42
20 U.S.C. 411(a)(5)(A)) is amended by striking “all of the
21 gross income” and all that follows and inserting “the gross
22 income and deductions attributable to such trade or busi-
23 ness shall be treated as the gross income and deductions
24 of the spouse carrying on such trade or business or, if
25 such trade or business is jointly operated, treated as the

1 gross income and deductions of each spouse on the basis
2 of their respective distributive share of the gross income
3 and deductions;”.

4 (b) INTERNAL REVENUE CODE OF 1986 AMEND-
5 MENT.—Section 1402(a)(5)(A) of the Internal Revenue
6 Code of 1986 is amended by striking “all of the gross in-
7 come” and all that follows and inserting “the gross income
8 and deductions attributable to such trade or business shall
9 be treated as the gross income and deductions of the
10 spouse carrying on such trade or business or, if such trade
11 or business is jointly operated, treated as the gross income
12 and deductions of each spouse on the basis of their respec-
13 tive distributive share of the gross income and deductions;
14 and”.

Passed the House of Representatives April 2, 2003.

Attest:

Clerk.