

under this section [enacting provisions set out as notes under sections 8339 and 8341 of this title] shall be considered as the monthly rate of annuity payable under section 8345(a) of title 5, United States Code [subsec. (a) of this section], for purposes of computing the minimum annuity under section 8345(f) of title 5 [subsec. (f) of this section], as added by the first section of this Act.”

§ 8345a. Embezzlement or conversion of payments

(a) EMBEZZLING AND CONVERSION GENERALLY.—

(1) IN GENERAL.—It shall be unlawful for a representative payee to embezzle or in any manner convert all or any part of the amounts received from payments received as a representative payee to a use other than for the use and benefit of the minor or individual on whose behalf such payments were received.

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

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

(B) certify payment—

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

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

(Added Pub. L. 116-126, §2(b)(1), Mar. 18, 2020, 134 Stat. 174.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on Mar. 18, 2020, and applicable on and after the effective date of regulations promulgated under section 3(b)(1) of Pub. L. 116-126, see sections 4 and 3(b) of Pub. L. 116-126, set out respectively as an Effective Date of 2020 Amendment note and a Regulations note under section 8331 of this title.

REGULATIONS

Regulations to carry out this section to be promulgated by Office of Personnel Management no later than 1 year after Mar. 18, 2020, with allowance for additional regulations relating to administration of representative payee program, see section 3(b) of Pub. L. 116-126, set out as a note under section 8331 of this title.

§ 8346. Exemption from legal process; recovery of payments

(a) The money mentioned by this subchapter is not assignable, either in law or equity, except under the provisions of subsections (h) and (j) of section 8345 of this title, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

(b) Recovery of payments under this subchapter may not be made from an individual when, in the judgment of the Office of Personnel Management, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this subchapter on account of a certification or payment made by a former employee of the United States in the discharge of

his official duties may be made only if the head of the agency on behalf of which the certification or payment was made certifies to the Office that the certification or payment involved fraud on the part of the former employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 583; Pub. L. 94-166, §2, Dec. 23, 1975, 89 Stat. 1002; Pub. L. 95-366, §1(b), Sept. 15, 1978, 92 Stat. 600; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 2265. | July 31, 1956, ch. 804, §401 “Sec. 15”, 70 Stat. 758. |

In subsection (b), the words “Notwithstanding any other provision of law” are omitted as unnecessary. The second word of the second sentence “or” is substituted for “of” to correct a printing error.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-366 substituted references to subsecs. (h) and (j) of section 8345 for reference to subsec. (g) of section 8345.

Subsec. (b). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively.

1975—Subsec. (a). Pub. L. 94-166 inserted “except under the provisions of section 8345(g) of this title,” after “equity”, and “, except as otherwise may be provided by Federal laws” after “process”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

Amendment by Pub. L. 95-366 applicable to payments made from Civil Service Retirement and Disability Fund after Sept. 15, 1978, see section 2 of Pub. L. 95-366, set out as a note under section 8345 of this title.

§ 8347. Administration; regulations

(a) The Office of Personnel Management shall administer this subchapter. Except as otherwise specifically provided herein, the Office shall perform, or cause to be performed, such acts and prescribe such regulations as are necessary and proper to carry out this subchapter.

(b) Applications under this subchapter shall be in such form as the Office prescribes. Agencies shall support the applications by such certificates as the Office considers necessary to the determination of the rights of applicants. The Office shall adjudicate all claims under this subchapter.

(c) The Office shall determine questions of disability and dependency arising under this subchapter. Except to the extent provided under subsection (d) of this section, the decisions of the Office concerning these matters are final and conclusive and are not subject to review. The Office may direct at any time such medical or other examinations as it considers necessary to determine the facts concerning disability or