

106TH CONGRESS
1ST SESSION

H. R. 545

To combat fraud in, and to improve the administration of, the disability programs under titles II and XVI of the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1999

Mrs. JOHNSON of Connecticut (for herself and Mr. CARDIN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To combat fraud in, and to improve the administration of, the disability programs under titles II and XVI of the Social Security Act.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “SSI Fraud Prevention Act of 1999”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Primary liability of representative payees for overpayments to deceased recipients.

Sec. 3. Requirement to provide State prisoner information to Federal and federally assisted benefit programs.

- Sec. 4. Recovery of overpayments of SSI benefits from lump sum SSI benefit payments.
- Sec. 5. Rules relating to collection of overpayments from individuals convicted of crimes.
- Sec. 6. Additional debt collection practices.
- Sec. 7. Treatment of assets held in trust under the SSI program.
- Sec. 8. Disposal of resources for less than fair market value under the SSI program.
- Sec. 9. Loss of benefits as penalty for fraud.
- Sec. 10. Exclusion of attorneys and physicians convicted of violations from participation in social security disability programs.
- Sec. 11. Annual reviews by State disability determination services of professionals conducting consultative examinations.
- Sec. 12. Computer matches with medicare and medicaid institutionalization data.
- Sec. 13. Access to information held by financial institutions.
- Sec. 14. State data exchanges.
- Sec. 15. Study on possible measures to improve fraud prevention and administrative processing.
- Sec. 16. Annual report on amounts necessary to combat fraud.

1 SEC. 2. PRIMARY LIABILITY OF REPRESENTATIVE PAYEES
2 FOR OVERPAYMENTS TO DECEASED RECIPI-
3 ENTS.

4 (a) AMENDMENT TO TITLE II.—Section 204(a)(2) of
5 the Social Security Act (42 U.S.C. 404(a)(2)) is amended
6 by adding at the end the following new sentence: “If the
7 payment is made to a representative payee on behalf of
8 an individual who has died, the representative payee shall
9 be primarily liable for the repayment of the overpayment,
10 and the Commissioner of Social Security shall establish
11 an overpayment control record under the social security
12 account number of the representative payee.”.

13 (b) AMENDMENT TO TITLE XVI.—Section
14 1631(b)(2) of such Act (42 U.S.C. 1383(b)(2)) is amend-
15 ed by adding at the end the following new sentence: “If
16 the payment is made to a representative payee on behalf

1 of an individual who has died, the representative payee
 2 shall be primarily liable for the repayment of the overpay-
 3 ment, and the Commissioner of Social Security shall es-
 4 tablish an overpayment control record under the social se-
 5 curity account number of the representative payee.”.

6 **SEC. 3. REQUIREMENT TO PROVIDE STATE PRISONER IN-**
 7 **FORMATION TO FEDERAL AND FEDERALLY**
 8 **ASSISTED BENEFIT PROGRAMS.**

9 Section 1611(e)(1)(I)(ii)(II) of the Social Security
 10 Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amended by strik-
 11 ing “is authorized to” and inserting “shall”.

12 **SEC. 4. RECOVERY OF OVERPAYMENTS OF SSI BENEFITS**
 13 **FROM LUMP SUM SSI BENEFIT PAYMENTS.**

14 (a) IN GENERAL.—Section 1631(b)(1)(B)(ii) of the
 15 Social Security Act (42 U.S.C. 1383(b)(1)(B)(ii)) is
 16 amended—

17 (1) by inserting “monthly” before “benefit pay-
 18 ments”; and

19 (2) by inserting “and in the case of an individ-
 20 ual or eligible spouse to whom a lump sum is pay-
 21 able under this title (including under section
 22 1616(a) of this Act or under an agreement entered
 23 into under section 212(a) of Public Law 93–66)
 24 shall, as at least one means of recovering such over-
 25 payment, make the adjustment or recovery from the

1 lump sum payment in an amount equal to not less
 2 than the lesser of the amount of the overpayment or
 3 50 percent of the lump sum payment,” before “un-
 4 less fraud”.

5 (b) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on the date of the enactment
 7 of this Act and shall apply to amounts incorrectly paid
 8 which remain outstanding on or after such date.

9 **SEC. 5. RULES RELATING TO COLLECTION OF OVERPAY-**
 10 **MENTS FROM INDIVIDUALS CONVICTED OF**
 11 **CRIMES.**

12 (a) WAIVERS INAPPLICABLE TO OVERPAYMENTS BY
 13 REASON OF PAYMENT IN MONTHS IN WHICH BENE-
 14 FICIARY IS A PRISONER OR A FUGITIVE.—

15 (1) AMENDMENT TO TITLE II.—Section 204(b)
 16 of the Social Security Act (42 U.S.C. 404(b)) is
 17 amended—

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

19 (B) by adding at the end the following:

20 “(2) Paragraph (1) shall not apply with respect to
 21 any payment to any person made during a month in which
 22 such benefit was not payable under section 202(x).”.

23 (2) AMENDMENT TO TITLE XVI.—Section
 24 1631(b)(1)(B)(i) of such Act (42 U.S.C.
 25 1383(b)(1)(B)(i)) is amended by inserting “unless

1 (I) section 1611(e)(1) prohibits payment to the per-
 2 son of a benefit under this title for the month by
 3 reason of confinement of a type described in clause
 4 (i) or (ii) of section 202(x)(1)(A), or (II) section
 5 1611(e)(5) prohibits payment to the person of a
 6 benefit under this title for the month,” after “ad-
 7 ministration of this title”.

8 (b) 10-YEAR PERIOD OF INELIGIBILITY FOR PER-
 9 SONS FAILING TO NOTIFY COMMISSIONER OF OVERPAY-
 10 MENTS IN MONTHS IN WHICH BENEFICIARY IS A PRIS-
 11 ONER OR A FUGITIVE OR FAILING TO COMPLY WITH RE-
 12 PAYMENT SCHEDULE FOR SUCH OVERPAYMENTS.—

13 (1) AMENDMENT TO TITLE II.—Section 202(x)
 14 of such Act (42 U.S.C. 402(x)) is amended by add-
 15 ing at the end the following:

16 “(4)(A) No person shall be considered entitled to
 17 monthly insurance benefits under this section based on the
 18 person’s disability or to disability insurance benefits under
 19 section 223 otherwise payable during the 10-year period
 20 that begins on the date the person—

21 “(i) knowingly fails to timely notify the Com-
 22 missioner of Social Security, in connection with any
 23 application for benefits under this title, of any prior
 24 receipt by such person of any benefit under this title
 25 or title XVI in any month in which such benefit was

1 not payable under the preceding provisions of this
2 subsection, or

3 “(ii) knowingly fails to comply with any sched-
4 ule imposed by the Commissioner which is for repay-
5 ment of overpayments comprised of payments de-
6 scribed in subparagraph (A) and which is in compli-
7 ance with section 204.

8 “(B) The Commissioner of Social Security shall, in
9 addition to any other relevant factors, take into account
10 any mental or linguistic limitations of a person (including
11 any lack of facility with the English language) in deter-
12 mining whether the person has knowingly failed to comply
13 with a requirement of clause (i) or (ii) of subparagraph
14 (A).”.

15 (2) AMENDMENT TO TITLE XVI.—Section
16 1611(e)(1) of such Act (42 U.S.C. 1382(e)(1)) is
17 amended by adding at the end the following:

18 “(J)(i) A person shall not be considered an eligible
19 individual or eligible spouse for purposes of benefits under
20 this title by reason of disability, during the 10-year period
21 that begins on the date the person—

22 “(I) knowingly fails to timely notify the Com-
23 missioner of Social Security, in an application for
24 benefits under this title, of any prior receipt by the
25 person of a benefit under this title or title II in a

1 month in which payment to the person of a benefit
 2 under this title was prohibited by—

3 “(aa) the preceding provisions of this para-
 4 graph by reason of confinement of a type de-
 5 scribed in clause (i) or (ii) of section
 6 202(x)(1)(A); or

7 “(bb) section 1611(e)(5); or

8 “(II) knowingly fails to comply with any sched-
 9 ule imposed by the Commissioner which is for repay-
 10 ment of overpayments comprised of payments de-
 11 scribed in clause (i) of this subparagraph and which
 12 is in compliance with section 1631(b).

13 “(ii) The Commissioner of Social Security shall, in
 14 addition to any other relevant factors, take into account
 15 any mental or linguistic limitations of a person (including
 16 any lack of facility with the English language) in deter-
 17 mining whether the person has knowingly failed to comply
 18 with a requirement of subclause (I) or (II) of clause (i).”.

19 (c) CONTINUED COLLECTION EFFORTS AGAINST
 20 PRISONERS.—

21 (1) AMENDMENT TO TITLE II.—Section 204(b)
 22 of such Act (as amended by subsection (a)(1)) is
 23 amended further by adding at the end the following
 24 new paragraph:

1 “(3) The Commissioner shall not refrain from recov-
 2 ering overpayments from resources currently available to
 3 any overpaid person or to such person’s estate solely be-
 4 cause such individual is confined as described in clause
 5 (i) or (ii) of section 202(x)(1)(A).”.

6 (2) AMENDMENT TO TITLE XVI.—Section
 7 1631(b)(1)(A) of such Act (42 U.S.C.
 8 1383(b)(1)(A)) is amended by adding after and
 9 below clause (ii) the following flush left sentence:
 10 “The Commissioner shall not refrain from recovering over-
 11 payments from resources currently available to any indi-
 12 vidual solely because the individual is confined as de-
 13 scribed in clause (i) or (ii) of section 202(x)(1)(A).”.

14 **SEC. 6. ADDITIONAL DEBT COLLECTION PRACTICES.**

15 (a) IN GENERAL.—Section 1631(d)(1) of the Social
 16 Security Act (42 U.S.C. 1383(d)(1)) is amended by strik-
 17 ing “section 207” and inserting “sections 204(f) and
 18 207”.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 this section shall apply to debt outstanding on or after
 21 the date of the enactment of this Act.

1 **SEC. 7. TREATMENT OF ASSETS HELD IN TRUST UNDER**
2 **THE SSI PROGRAM.**

3 (a) TREATMENT AS RESOURCE.—Section 1613 of the
4 Social Security Act (42 U.S.C. 1382b) is amended by add-
5 ing at the end the following:

6 “Trusts

7 “(e)(1) In determining the resources of an individual,
8 paragraph (3) shall apply to a trust (other than a trust
9 described in paragraph (5)) established by the individual.

10 “(2)(A) For purposes of this subsection, an individual
11 shall be considered to have established a trust if any assets
12 of the individual (or of the individual’s spouse) are trans-
13 ferred to the trust other than by will.

14 “(B) In the case of an irrevocable trust to which are
15 transferred the assets of an individual (or of the individ-
16 ual’s spouse) and the assets of any other person, this sub-
17 section shall apply to the portion of the trust attributable
18 to the assets of the individual (or of the individual’s
19 spouse).

20 “(C) This subsection shall apply to a trust without
21 regard to—

22 “(i) the purposes for which the trust is estab-
23 lished;

24 “(ii) whether the trustees have or exercise any
25 discretion under the trust;

1 “(iii) any restrictions on when or whether dis-
2 tributions may be made from the trust; or

3 “(iv) any restrictions on the use of distributions
4 from the trust.

5 “(3)(A) In the case of a revocable trust established
6 by an individual, the corpus of the trust shall be consid-
7 ered a resource available to the individual.

8 “(B) In the case of an irrevocable trust established
9 by an individual, if there are any circumstances under
10 which payment from the trust could be made to or for
11 the benefit of the individual or the individual’s spouse, the
12 portion of the corpus from which payment to or for the
13 benefit of the individual or the individual’s spouse could
14 be made shall be considered a resource available to the
15 individual.

16 “(4) The Commissioner of Social Security may waive
17 the application of this subsection with respect to an indi-
18 vidual if the Commissioner determines that such applica-
19 tion would work an undue hardship on the individual.

20 “(5) This subsection shall not apply to a trust de-
21 scribed in subparagraph (A) or (C) of section 1917(d)(4).

22 “(6) For purposes of this subsection—

23 “(A) the term ‘trust’ includes any legal instru-
24 ment or device that is similar to a trust;

1 “(B) the term ‘corpus’ means, with respect to
2 a trust, all property and other interests held by the
3 trust, including accumulated earnings and any other
4 addition to the trust after its establishment (except
5 that such term does not include any such earnings
6 or addition in the month in which the earnings or
7 addition is credited or otherwise transferred to the
8 trust); and

9 “(C) the term ‘asset’ includes any income or re-
10 source of the individual or of the individual’s spouse,
11 including—

12 “(i) any income excluded by section
13 1612(b);

14 “(ii) any resource otherwise excluded by
15 this section; and

16 “(iii) any other payment or property to
17 which the individual or the individual’s spouse
18 is entitled but does not receive or have access
19 to because of action by—

20 “(I) the individual or spouse;

21 “(II) a person or entity (including a
22 court) with legal authority to act in place
23 of, or on behalf of, the individual or
24 spouse; or

1 “(III) a person or entity (including a
 2 court) acting at the direction of, or on the
 3 request of, the individual or spouse.”.

4 (b) TREATMENT AS INCOME.—Section 1612(a)(2) of
 5 such Act (42 U.S.C. 1382a(a)(2)) is amended—

6 (1) by striking “and” at the end of subpara-
 7 graph (E);

8 (2) by striking the period at the end of sub-
 9 paragraph (F) and inserting “; and”; and

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

11 “(G) any earnings of, and additions to, the cor-
 12 pus of a trust established by an individual (within
 13 the meaning of section 1613(e)), of which the indi-
 14 vidual is a beneficiary, to which section 1613(e) ap-
 15 plies, and, in the case of an irrevocable trust, with
 16 respect to which circumstances exist under which a
 17 payment from the earnings or additions could be
 18 made to or for the benefit of the individual.”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall take effect on January 1, 2000, and shall
 21 apply to trusts established on or after such date.

22 **SEC. 8. DISPOSAL OF RESOURCES FOR LESS THAN FAIR**
 23 **MARKET VALUE UNDER THE SSI PROGRAM.**

24 (a) IN GENERAL.—Section 1613(c) of the Social Se-
 25 curity Act (42 U.S.C. 1382b(c)) is amended—

1 (1) in the caption, by striking “Notification of
2 Medicaid Policy Restricting Eligibility of Institu-
3 tionalized Individuals for Benefits Based on”;

4 (2) in paragraph (1)—

5 (A) in subparagraph (A)—

6 (i) by inserting “paragraph (1) and”
7 after “provisions of”;

8 (ii) by striking “title XIX” the first
9 place it appears and inserting “this title
10 and title XIX, respectively,”;

11 (iii) by striking “subparagraph (B)”
12 and inserting “clause (ii)”;

13 (iv) by striking “paragraph (2)” and
14 inserting “subparagraph (B)”;

15 (B) in subparagraph (B)—

16 (i) by striking “by the State agency”;
17 and

18 (ii) by striking “section 1917(c)” and
19 all that follows and inserting “paragraph
20 (1) or section 1917(c).”; and

21 (C) by redesignating subparagraphs (A)
22 and (B) as clauses (i) and (ii), respectively;

23 (3) in paragraph (2)—

24 (A) by striking “(2)” and inserting “(B)”;

25 and

1 (B) by striking “paragraph (1)(B)” and
2 inserting “subparagraph (A)(ii)”;

3 (4) by striking “(c)(1)” and inserting “(2)(A)”;
4 and

5 (5) by inserting before paragraph (2) (as redes-
6 ignated by paragraph (4) of this subsection) the fol-
7 lowing:

8 “(c)(1)(A)(i) If an individual or the spouse of an indi-
9 vidual disposes of resources for less than fair market value
10 on or after the look-back date described in clause (ii)(I),
11 the individual is ineligible for benefits under this title for
12 months during the period beginning on the date described
13 in clause (iii) and equal to the number of months cal-
14 culated as provided in clause (iv).

15 “(ii)(I) The look-back date described in this sub-
16 clause is a date that is 36 months before the date de-
17 scribed in subclause (II).

18 “(II) The date described in this subclause is the date
19 on which the individual applies for benefits under this title
20 or, if later, the date on which the individual (or the spouse
21 of the individual) disposes of resources for less than fair
22 market value.

23 “(iii) The date described in this clause is the first
24 day of the first month that follows the month in which
25 resources were disposed of for less than fair market value

1 and that does not occur in any other period of ineligibility
2 under this paragraph.

3 “(iv) The number of months calculated under this
4 clause shall be equal to—

5 “(I) the total, cumulative uncompensated value
6 of all resources so disposed of by the individual (or
7 the spouse of the individual) on or after the look-
8 back date described in clause (ii)(I); divided by

9 “(II) the amount of the maximum monthly ben-
10 efit payable under section 1611(b) for the month in
11 which occurs the date described in clause (ii)(II),
12 rounded up, in the case of any fraction, to the next whole
13 number.

14 “(B)(i) Notwithstanding subparagraph (A), this sub-
15 section shall not apply to a transfer of a resource to a
16 trust if the portion of the trust attributable to the resource
17 is considered a resource available to the individual pursu-
18 ant to subsection (e)(3) (or would be so considered but
19 for the application of subsection (e)(4)).

20 “(ii) In the case of a trust established by an individ-
21 ual or an individual’s spouse (within the meaning of sub-
22 section (e)), if from such portion of the trust, if any, that
23 is considered a resource available to the individual pursu-
24 ant to subsection (e)(3) (or would be so considered but

1 for the application of subsection (e)(4)) or the residue of
2 the portion on the termination of the trust—

3 “(I) there is made a payment other than to or
4 for the benefit of the individual; or

5 “(II) no payment could under any circumstance
6 be made to the individual,

7 then, for purposes of this subsection, the payment de-
8 scribed in clause (I) or the foreclosure of payment de-
9 scribed in clause (II) shall be considered a transfer of re-
10 sources by the individual or the individual’s spouse as of
11 the date of the payment or foreclosure, as the case may
12 be.

13 “(C) An individual shall not be ineligible for benefits
14 under this title by reason of the application of this para-
15 graph to a disposal of resources by the individual or the
16 spouse of the individual, to the extent that—

17 “(i) the resources are a home and title to the
18 home was transferred to—

19 “(I) the spouse of the transferor;

20 “(II) a child of the transferor who has not
21 attained 21 years of age, or is blind or disabled;

22 “(III) a sibling of the transferor who has
23 an equity interest in such home and who was
24 residing in the transferor’s home for a period of
25 at least 1 year immediately before the date the

1 transferor becomes an institutionalized individ-
2 ual; or

3 “(IV) a son or daughter of the transferor
4 (other than a child described in subclause (II))
5 who was residing in the transferor’s home for
6 a period of at least 2 years immediately before
7 the date the transferor becomes an institu-
8 tionalized individual, and who provided care to
9 the transferor which permitted the transferor to
10 reside at home rather than in such an institu-
11 tion or facility;

12 “(ii) the resources—

13 “(I) were transferred to the transferor’s
14 spouse or to another for the sole benefit of the
15 transferor’s spouse;

16 “(II) were transferred from the transfer-
17 or’s spouse to another for the sole benefit of the
18 transferor’s spouse;

19 “(III) were transferred to, or to a trust
20 (including a trust described in section
21 1917(d)(4)) established solely for the benefit of,
22 the transferor’s child who is blind or disabled;
23 or

24 “(IV) were transferred to a trust (includ-
25 ing a trust described in section 1917(d)(4)) es-

1 tablished solely for the benefit of an individual
2 who has not attained 65 years of age and who
3 is disabled;

4 “(iii) a satisfactory showing is made to the Sec-
5 retary (in accordance with regulations promulgated
6 by the Secretary) that—

7 “(I) the individual who disposed of the re-
8 sources intended to dispose of the resources ei-
9 ther at fair market value, or for other valuable
10 consideration;

11 “(II) the resources were transferred exclu-
12 sively for a purpose other than to qualify for
13 benefits under this title; or

14 “(III) all resources transferred for less
15 than fair market value have been returned to
16 the transferor; or

17 “(iv) the Secretary determines, under proce-
18 dures established by the Secretary, that the denial of
19 eligibility would work an undue hardship as deter-
20 mined on the basis of criteria established by the Sec-
21 retary;

22 “(D) For purposes of this subsection, in the case of
23 a resource held by an individual in common with another
24 person or persons in a joint tenancy, tenancy in common,
25 or similar arrangement, the resource (or the affected por-

1 tion of such resource) shall be considered to be disposed
 2 of by the individual when any action is taken, either by
 3 the individual or by any other person, that reduces or
 4 eliminates the individual's ownership or control of such re-
 5 source.

6 “(E) In the case of a transfer by the spouse of an
 7 individual that results in a period of ineligibility for the
 8 individual under this subsection, the Commissioner shall
 9 apportion the period (or any portion of the period) among
 10 the individual and the individual's spouse if the spouse be-
 11 comes eligible for benefits under this title.

12 “(F) For purposes of this paragraph—

13 “(i) the term ‘benefits under this title’ includes
 14 payments of the type described in section 1616(a) of
 15 this Act and of the type described in section 212(b)
 16 of Public Law 93-66;

17 “(ii) the term ‘institutionalized individual’ has
 18 the meaning given such term in section 1917(e)(3);
 19 and

20 “(iii) the term ‘trust’ has the meaning given
 21 such term in subsection (e)(5)(A) of this section.”.

22 (b) EFFECTIVE DATE.—The amendments made by
 23 this section shall be effective with respect to disposals
 24 made on or after the date of enactment of this Act.

1 **SEC. 9. LOSS OF BENEFITS AS PENALTY FOR FRAUD.**

2 (a) IN GENERAL.—Part A of title XI of the Social
3 Security Act (42 U.S.C. 1301 et seq.) is amended by in-
4 serting after section 1129 the following:

5 **“SEC. 1129A. LOSS OF BENEFITS AS PENALTY FOR FRAUD.**

6 “(a) IN GENERAL.—Any person who makes, or
7 causes to be made, a statement or representation of a ma-
8 terial fact for use in determining any initial or continuing
9 right to or the amount of—

10 “(1) monthly insurance benefits under title II;

11 or

12 “(2) benefits or payments under title XVI,

13 that the person knows or should know is false or mislead-
14 ing or knows or should know omits a material fact or
15 makes such a statement with knowing disregard for the
16 truth shall be subject to, in addition to any other penalties
17 that may be prescribed by law, a penalty described in sub-
18 section (b) which shall be imposed by the Commissioner
19 of Social Security.

20 “(b) PENALTY.—The penalty described in this sub-
21 section is—

22 “(1) nonpayment of benefits under title II that
23 would otherwise be payable to the person; and

24 “(2) ineligibility for cash benefits under title
25 XVI,

1 for each month that begins during the applicable period
2 described in subsection (c).

3 “(c) DURATION OF PENALTY.—The applicable period
4 begins with the date the Commissioner makes a deter-
5 mination that the person has engaged in conduct described
6 in subsection (a), and the duration of the period shall be—

7 “(1) 6 consecutive months, in the case of the
8 first such determination with respect to the person;

9 “(2) 12 consecutive months, in the case of a
10 second such determination with respect to the per-
11 son;

12 “(3) 24 consecutive months, in the case of a
13 third or subsequent such determination with respect
14 to the person.

15 “(d) EFFECT ON OTHER ASSISTANCE.—A person
16 subject to a period of nonpayment of benefits under title
17 II or ineligibility for title XVI benefits by reason of this
18 section nevertheless shall be considered to be receiving
19 such benefits for purposes of—

20 “(1) determination of the eligibility of the per-
21 son for benefits under titles XVIII and XIX; and

22 “(2) determination of the eligibility or amount
23 of benefits payable under title II or XVI to another
24 person.

1 “(e) DEFINITION.—In this section, the term ‘benefits
2 under title XVI’ includes State supplementary payments
3 made by the Commissioner pursuant to an agreement
4 under section 1616(a) of this Act or section 212(b) of
5 Public Law 93–66.

6 “(f) CONSULTATIONS.—The Commissioner of Social
7 Security shall consult with the Inspector General of the
8 Social Security Administration before initiating an action
9 under this section.”.

10 (b) CONFORMING AMENDMENT PRECLUDING DE-
11 LAYED RETIREMENT CREDIT FOR ANY MONTH TO WHICH
12 A NONPAYMENT OF BENEFITS PENALTY APPLIES.—Sec-
13 tion 202(w)(2)(B) of such Act (42 U.S.C. 402(w)(2)(B))
14 is amended—

15 (1) by striking “and” at the end of clause (i);

16 (2) by striking the period at the end of clause

17 (ii) and inserting “, and”; and

18 (3) by adding at the end the following:

19 “(iii) such individual was not subject to a
20 penalty imposed under section 1129A.”.

21 (c) ELIMINATION OF REDUNDANT PROVISION.—Sec-
22 tion 1611(e) of such Act (42 U.S.C. 1382(e)) is
23 amended—

24 (1) by striking paragraph (4);

1 (2) in paragraph (6)(A)(i), by striking “(5)”
2 and inserting “(4)”; and

3 (3) by redesignating paragraphs (5) and (6) as
4 paragraphs (4) and (5), respectively.

5 (d) REGULATIONS.—Within 6 months after the date
6 of the enactment of this Act, the Commissioner of Social
7 Security shall develop regulations that prescribe the ad-
8 ministrative process for making determinations under sec-
9 tion 1129A of the Social Security Act.

10 **SEC. 10. EXCLUSION OF ATTORNEYS AND PHYSICIANS CON-**
11 **VICTED OF VIOLATIONS FROM PARTICIPA-**
12 **TION IN SOCIAL SECURITY DISABILITY PRO-**
13 **GRAMS.**

14 (a) IN GENERAL.—Part A of title XI of the Social
15 Security Act (42 U.S.C. 1301–1320b–17) is amended by
16 adding at the end the following:

17 “EXCLUSION OF ATTORNEYS AND PHYSICIANS CON-
18 VICTED OF VIOLATIONS FROM PARTICIPATION IN SO-
19 CIAL SECURITY DISABILITY PROGRAMS

20 “SEC. 1148. (a) IN GENERAL.—The Commissioner
21 of Social Security shall exclude from participation in the
22 social security disability programs any attorney or
23 physician—

24 “(1) who is convicted of a violation of section
25 208 or 1632 of this Act,

1 “(2) who is convicted of any violation under
2 title 18, United States Code, relating to an initial
3 application for or continuing entitlement to benefits
4 under title II of this Act, or an initial application for
5 or continuing eligibility for benefits under title XVI
6 of this Act, or

7 “(3) who becomes subject to a penalty or as-
8 sessment under section 1129(a)(1)(A) of this Act.

9 “(b) NOTICE, EFFECTIVE DATE, AND PERIOD OF
10 EXCLUSION.—(1) An exclusion under this section shall be
11 effective at such time, for such period, and upon such rea-
12 sonable notice to the public and to the individual excluded
13 as may be specified in regulations consistent with para-
14 graph (2).

15 “(2) Such an exclusion shall be effective with respect
16 to services furnished to any individual on or after the ef-
17 fective date of the exclusion. Nothing in this section may
18 be construed to preclude, in determining disability under
19 title II or title XVI, consideration of any medical evidence
20 derived from services provided by a physician before the
21 effective date of the exclusion of the physician under this
22 section.

23 “(3)(A) The Commissioner shall specify, in the notice
24 of exclusion under paragraph (1), the period of the exclu-
25 sion.

1 “(B) Subject to subparagraph (C), in the case of an
2 exclusion under subsection (a), the minimum period of ex-
3 clusion shall be five years, except that the Commissioner
4 may waive the exclusion in the case of an individual who
5 is the sole source of essential services in a community. The
6 Commissioner’s decision whether to waive the exclusion
7 shall not be reviewable.

8 “(C) In the case of an exclusion of an individual
9 under subsection (a) based on a conviction occurring on
10 or after the date of the enactment of this section, if the
11 individual has (before, on, or after such date) been
12 convicted—

13 “(i) on one previous occasion of one or more of-
14 fenses for which an exclusion may be effected under
15 such subsection, the period of the exclusion shall be
16 not less than 10 years, or

17 “(ii) on 2 or more previous occasions of one or
18 more offenses for which an exclusion may be effected
19 under such subsection, the period of the exclusion
20 shall be permanent.

21 “(c) NOTICE TO STATE AGENCIES.—The Commis-
22 sioner shall promptly notify each appropriate State agency
23 employed for the purpose of making disability determina-
24 tions under section 221 or 1633(a)—

1 “(1) of the fact and circumstances of each ex-
2 clusion effected against an individual under this sec-
3 tion, and

4 “(2) of the period (described in subsection
5 (b)(3)) for which the State agency is directed to ex-
6 clude the individual from participation in the activi-
7 ties of the State agency in the course of its employ-
8 ment.

9 “(d) NOTICE TO STATE LICENSING AGENCIES.—The
10 Commissioner shall—

11 “(1) promptly notify the appropriate State or
12 local agency or authority having responsibility for
13 the licensing or certification of an individual ex-
14 cluded from participation under this section of the
15 fact and circumstances of the exclusion,

16 “(2) request that appropriate investigations be
17 made and sanctions invoked in accordance with ap-
18 plicable State law and policy, and

19 “(3) request that the State or local agency or
20 authority keep the Commissioner and the Inspector
21 General of the Social Security Administration fully
22 and currently informed with respect to any actions
23 taken in response to the request.

24 “(e) APPLICATION FOR TERMINATION OF EXCLU-
25 SION.—(1) An individual excluded from participation

1 under this section may apply to the Commissioner, in the
2 manner specified by the Commissioner in regulations and
3 at the end of the minimum period of exclusion provided
4 under subsection (b)(3) and at such other times as the
5 Commissioner may provide, for termination of the exclu-
6 sion effected under this section.

7 “(2) The Commissioner may terminate the exclusion
8 if the Commissioner determines, on the basis of the con-
9 duct of the applicant which occurred after the date of the
10 notice of exclusion or which was unknown to the Commis-
11 sioner at the time of the exclusion, that—

12 “(A) there is no basis under subsection (a) for
13 a continuation of the exclusion, and

14 “(B) there are reasonable assurances that the
15 types of actions which formed the basis for the origi-
16 nal exclusion have not recurred and will not recur.

17 “(3) The Commissioner shall promptly notify each
18 State agency employed for the purpose of making disabil-
19 ity determinations under section 221 or 1633(a) of the
20 fact and circumstances of each termination of exclusion
21 made under this subsection.

22 “(f) AVAILABILITY OF RECORDS OF EXCLUDED AT-
23 TORNEYS AND PHYSICIANS.—Nothing in this section shall
24 be construed to have the effect of limiting access by any
25 applicant or beneficiary under title II or XVI, any State

1 agency acting under section 221 or 1633(a), or the Com-
2 missioner of Social Security to records maintained by any
3 attorney or physician in connection with services provided
4 to the applicant or beneficiary prior to the exclusion of
5 such attorney or physician under this section.

6 “(g) REPORTING REQUIREMENT.—Any attorney or
7 physician participating in, or seeking to participate in, a
8 social security disability program shall inform the Com-
9 missioner, in such form and manner as the Commissioner
10 shall prescribe by regulation, whether such attorney or
11 physician has been convicted of a violation described in
12 subsection (a).

13 “(h) DEFINITIONS.—For purposes of this section.—

14 “(1) EXCLUDE.—The term ‘exclude’ from par-
15 ticipation means—

16 “(A) in connection with an attorney, to
17 prohibit from engaging in representation of an
18 applicant for, or recipient of, benefits as a rep-
19 resentative payee under section 205(j) or
20 1631(a)(2)(A)(ii) or otherwise as a representa-
21 tive in any hearing or other proceeding relating
22 to entitlement to benefits, and

23 “(B) in connection with a physician, to
24 prohibit from providing items or services to an
25 applicant for, or recipient of, benefits for the

1 purpose of assisting such applicant or recipient
2 in demonstrating disability.

3 “(2) SOCIAL SECURITY DISABILITY PROGRAM.—

4 The term ‘social security disability program’ means
5 the program providing for monthly disability insur-
6 ance benefits under section 223 or monthly benefits
7 based on the disability of the recipient under section
8 202 and the program providing for supplemental se-
9 curity income to individuals based on disability
10 under title XVI.

11 “(3) CONVICTED.—An individual is considered
12 to have been ‘convicted’ of a violation—

13 “(A) when a judgment of conviction has
14 been entered against the individual by a Fed-
15 eral, State, or local court, except if the judge-
16 ment of conviction has been set aside or ex-
17 punged;

18 “(B) when there has been a finding of
19 guilt against the individual by a Federal, State,
20 or local court;

21 “(C) when a plea of guilty or nolo
22 contendere by the individual has been accepted
23 by a Federal, State, or local court; or

24 “(D) when the individual has entered into
25 participation in a first offender, deferred adju-

1 dication, or other arrangement or program
 2 where judgment of conviction has been with-
 3 held.”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
 5 this section shall apply with respect to violations and con-
 6 victions occurring on or after the date of the enactment
 7 of this Act.

8 **SEC. 11. ANNUAL REVIEWS BY STATE DISABILITY DETER-**
 9 **MINATION SERVICES OF PROFESSIONALS**
 10 **CONDUCTING CONSULTATIVE EXAMINA-**
 11 **TIONS.**

12 (a) **IN GENERAL.**—Section 221(j) of the Social Secu-
 13 rity Act (42 U.S.C. 421(j)) is amended—

14 (1) by redesignating paragraphs (1), (2), and
 15 (3), as subparagraphs (A), (B), and (C), respec-
 16 tively;

17 (2) by inserting “(1)” after “(j)”; and

18 (3) by adding at the end the following new
 19 paragraph:

20 “(2) The Commissioner shall provide for annual eval-
 21 uations by State disability determination services of the
 22 performance of professionals to whom cases are referred
 23 for purposes of disability determinations by such services.
 24 Such evaluations shall include a thorough analysis of the
 25 completeness of the examinations performed through such

1 referrals and the extent to which any patterns of abuse
 2 have arisen in the referral processes. The Commissioner
 3 shall ensure that any such pattern of abuse which, in the
 4 course of any such evaluation, is determined by any State
 5 disability determination service to have occurred is
 6 promptly referred by such service to the Inspector General
 7 of the Social Security Administration.”.

8 (b) EFFECTIVE DATE.—The first annual evaluations
 9 required pursuant to the amendments made by this section
 10 shall be filed not later than December 31, 1999.

11 **SEC. 12. COMPUTER MATCHES WITH MEDICARE AND MED-**
 12 **ICAID INSTITUTIONALIZATION DATA.**

13 (a) IN GENERAL.—Section 1611(e)(1) of the Social
 14 Security Act (42 U.S.C. 1382(e)(1)) is further amended
 15 by adding at the end the following:

16 “(K) For the purpose of carrying out this paragraph,
 17 the Commissioner of Social Security shall conduct periodic
 18 computer matches with data maintained by the Secretary
 19 of Health and Human Services under title XVIII or XIX.
 20 The Secretary shall furnish to the Commissioner, in such
 21 form and manner and under such terms as the Commis-
 22 sioner and the Secretary shall mutually agree, such infor-
 23 mation as the Commissioner may request for this purpose.
 24 Information obtained pursuant to such a match may be

1 substituted for the physician’s certification otherwise re-
 2 quired under subparagraph (G)(i).”.

3 (b) CONFORMING AMENDMENT.—Section
 4 1611(e)(1)(G) of such Act (42 U.S.C. 1382(e)(1)(G)) is
 5 amended by striking “subparagraph (H)” and inserting
 6 “subparagraph (H) or (K)”.

7 **SEC. 13. ACCESS TO INFORMATION HELD BY FINANCIAL IN-**
 8 **STITUTIONS.**

9 (a) IN GENERAL.—Section 1631(e)(1)(B) of the So-
 10 cial Security Act (42 U.S.C. 1383(e)(1)(B)) is amended—

11 (1) by striking “(B) The” and inserting “(B)(i)
 12 The”; and

13 (2) by adding at the end the following new
 14 clause:

15 “(ii)(I) The Commissioner of Social Security may re-
 16 quire each applicant for, or recipient of, benefits under
 17 this title to provide authorization by the applicant or recip-
 18 ient (or by any other person whose income or resources
 19 are material to the determination of the eligibility of the
 20 applicant or recipient for such benefits) for the Commis-
 21 sioner to obtain (subject to the cost reimbursement re-
 22 quirements of section 1115(a) of the Right to Financial
 23 Privacy Act) from any financial institution (within the
 24 meaning of section 1101(1) of such Act) any financial
 25 record (within the meaning of section 1101(2) of such

1 Act) held by the institution with respect to the applicant
 2 or recipient (or any such other person) whenever the Com-
 3 missioner determines the record is needed in connection
 4 with a determination with respect to such eligibility or the
 5 amount of such benefits.

6 “(II) Notwithstanding section 1104(a)(1) of the
 7 Right to Financial Privacy Act, an authorization provided
 8 by an applicant or recipient (or any other person whose
 9 income or resources are material to the determination of
 10 the eligibility of the applicant or recipient) pursuant to
 11 subclause (I) of this clause shall remain effective until the
 12 earliest of—

13 “(aa) the rendering of a final adverse decision
 14 on the applicant’s application for eligibility for bene-
 15 fits under this title;

16 “(bb) the cessation of the recipient’s eligibility
 17 for benefits under this title; or

18 “(cc) the express revocation by the applicant or
 19 recipient (or such other person referred to in sub-
 20 clause (I)) of the authorization, in a written notifica-
 21 tion to the Commissioner.

22 “(III)(aa) An authorization obtained by the Commis-
 23 sioner of Social Security pursuant to this clause shall be
 24 considered to meet the requirements of the Right to Fi-
 25 nancial Privacy Act for purposes of section 1103(a) of

1 such Act, and need not be furnished to the financial insti-
2 tution, notwithstanding section 1104(a) of such Act.

3 “(bb) The certification requirements of section
4 1103(b) of the Right to Financial Privacy Act shall not
5 apply to requests by the Commissioner of Social Security
6 pursuant to an authorization provided under this clause.

7 “(cc) A request by the Commissioner pursuant to an
8 authorization provided under this clause is deemed to meet
9 the requirements of section 1104(a)(3) of the Right to Fi-
10 nancial Privacy Act and the flush language of section
11 1102 of such Act.

12 “(IV) The Commissioner shall inform any person who
13 provides authorization pursuant to this clause of the dura-
14 tion and scope of the authorization.

15 “(V) If an applicant for, or recipient of, benefits
16 under this title (or any such other person referred to in
17 subclause (I)) refuses to provide or revokes any authoriza-
18 tion for the Commissioner of Social Security to obtain
19 from any financial institution any financial record, the
20 Commissioner may, on that basis, determine that the ap-
21 plicant or recipient is ineligible for benefits under this
22 title.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act.

1 **SEC. 14. STATE DATA EXCHANGES.**

2 Whenever the Commissioner of Social Security re-
3 quests information from a State for the purpose of
4 ascertaining an individual's eligibility for benefits (or the
5 correct amount of such benefits) under title II or XVI of
6 the Social Security Act, the standards of the Commis-
7 sioner promulgated pursuant to section 1106 of such Act
8 or any other Federal law for the use, safeguarding, and
9 disclosure of information are deemed to meet any stand-
10 ards of the State that would otherwise apply to the disclo-
11 sure of information by the State to the Commissioner.

12 **SEC. 15. STUDY ON POSSIBLE MEASURES TO IMPROVE**
13 **FRAUD PREVENTION AND ADMINISTRATIVE**
14 **PROCESSING.**

15 (a) STUDY.—As soon as practicable after the date of
16 the enactment of this Act, the Commissioner of Social Se-
17 curity, in consultation with the Inspector General of the
18 Social Security Administration and the Attorney General,
19 shall conduct a study of possible measures to improve—

20 (1) prevention of fraud on the part of individ-
21 uals entitled to disability benefits under section 223
22 of the Social Security Act or benefits under section
23 202 of such Act based on the beneficiary's disability,
24 individuals eligible for supplemental security income
25 benefits under title XVI of such Act, and applicants
26 for any such benefits; and

1 (2) timely processing of reported income
2 changes by individuals receiving such benefits.

3 (b) REPORT.—Not later than 1 year after the date
4 of the enactment of this Act, the Commissioner shall re-
5 port in writing to the Committee on Ways and Means of
6 the House of Representatives and the Committee on Fi-
7 nance of the Senate the results of the Commissioner’s
8 study under subsection (a). Such report shall contain such
9 recommendations for legislative and administrative
10 changes as the Commissioner considers appropriate.

11 **SEC. 16. ANNUAL REPORT ON AMOUNTS NECESSARY TO**
12 **COMBAT FRAUD.**

13 (a) IN GENERAL.—Section 704(b)(1) of the Social
14 Security Act (42 U.S.C. 904(b)(1)) is amended—

15 (1) by inserting “(A)” after “(b)(1)”; and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(B) The Commissioner shall include in the annual
19 budget prepared pursuant to subparagraph (A) an
20 itemization of the amount of funds required by the Social
21 Security Administration for the fiscal year covered by the
22 budget to support efforts to combat fraud committed by
23 applicants and beneficiaries.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to annual budgets pre-
3 pared for fiscal years after fiscal year 1999.

