

106TH CONGRESS
1ST SESSION

H. R. 631

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 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, 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; 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.

TITLE I—FRAUD PREVENTION AND RELATED PROVISIONS

- Sec. 101. Primary liability of representative payees for overpayments to deceased recipients.
- Sec. 102. Requirement to provide State prisoner information to Federal and federally assisted benefit programs.
- Sec. 103. Recovery of overpayments of SSI benefits from lump sum SSI benefit payments.
- Sec. 104. Rules relating to collection of overpayments from individuals convicted of crimes.
- Sec. 105. Additional debt collection practices.
- Sec. 106. Treatment of assets held in trust under the SSI program.
- Sec. 107. Disposal of resources for less than fair market value under the SSI program.
- Sec. 108. Loss of benefits as penalty for fraud.
- Sec. 109. Exclusion of attorneys and physicians convicted of violations from participation in social security disability programs.
- Sec. 110. Annual reviews by State disability determination services of professionals conducting consultative examinations.
- Sec. 111. Computer matches with medicare and medicaid institutionalization data.
- Sec. 112. Access to information held by financial institutions.
- Sec. 113. State data exchanges.
- Sec. 114. Study on possible measures to improve fraud prevention and administrative processing.
- Sec. 115. Annual report on amounts necessary to combat fraud.

TITLE II—BENEFITS FOR PHILIPPINO VETERANS OF WORLD WAR II

- Sec. 201. Provision of reduced SSI benefit to certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II after they move back to the Philippines.

1 **TITLE I—FRAUD PREVENTION** 2 **AND RELATED PROVISIONS**

3 **SEC. 101. PRIMARY LIABILITY OF REPRESENTATIVE PAY-** 4 **EES FOR OVERPAYMENTS TO DECEASED RE-** 5 **CIPIENTS.**

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

1 and the Commissioner of Social Security shall establish
 2 an overpayment control record under the social security
 3 account number of the representative payee.”.

4 (b) AMENDMENT TO TITLE XVI.—Section
 5 1631(b)(2) of such Act (42 U.S.C. 1383(b)(2)) is amend-
 6 ed by adding at the end the following new sentence: “If
 7 the payment is made to a representative payee on behalf
 8 of an individual who has died, the representative payee
 9 shall be primarily liable for the repayment of the overpay-
 10 ment, and the Commissioner of Social Security shall es-
 11 tablish an overpayment control record under the social se-
 12 curity account number of the representative payee.”.

13 **SEC. 102. REQUIREMENT TO PROVIDE STATE PRISONER IN-**
 14 **FORMATION TO FEDERAL AND FEDERALLY**
 15 **ASSISTED BENEFIT PROGRAMS.**

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

19 **SEC. 103. RECOVERY OF OVERPAYMENTS OF SSI BENEFITS**
 20 **FROM LUMP SUM SSI BENEFIT PAYMENTS.**

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

24 (1) by inserting “monthly” before “benefit pay-
 25 ments”; and

1 (2) by inserting “and in the case of an individ-
 2 ual or eligible spouse to whom a lump sum is pay-
 3 able under this title (including under section
 4 1616(a) of this Act or under an agreement entered
 5 into under section 212(a) of Public Law 93–66)
 6 shall, as at least one means of recovering such over-
 7 payment, make the adjustment or recovery from the
 8 lump sum payment in an amount equal to not less
 9 than the lesser of the amount of the overpayment or
 10 50 percent of the lump sum payment,” before “un-
 11 less fraud”.

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

16 **SEC. 104. RULES RELATING TO COLLECTION OF OVERPAY-**
 17 **MENTS FROM INDIVIDUALS CONVICTED OF**
 18 **CRIMES.**

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

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

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

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

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

5 (2) AMENDMENT TO TITLE XVI.—Section
6 1631(b)(1)(B)(i) of such Act (42 U.S.C.
7 1383(b)(1)(B)(i)) is amended by inserting “unless
8 (I) section 1611(e)(1) prohibits payment to the per-
9 son of a benefit under this title for the month by
10 reason of confinement of a type described in clause
11 (i) or (ii) of section 202(x)(1)(A), or (II) section
12 1611(e)(5) prohibits payment to the person of a
13 benefit under this title for the month,” after “ad-
14 ministration of this title”.

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

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

23 “(4)(A) No person shall be considered entitled to
24 monthly insurance benefits under this section based on the
25 person’s disability or to disability insurance benefits under

1 section 223 otherwise payable during the 10-year period
2 that begins on the date the person—

3 “(i) knowingly fails to timely notify the Com-
4 missioner of Social Security, in connection with any
5 application for benefits under this title, of any prior
6 receipt by such person of any benefit under this title
7 or title XVI in any month in which such benefit was
8 not payable under the preceding provisions of this
9 subsection, or

10 “(ii) knowingly fails to comply with any sched-
11 ule imposed by the Commissioner which is for repay-
12 ment of overpayments comprised of payments de-
13 scribed in subparagraph (A) and which is in compli-
14 ance with section 204.

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

22 (2) AMENDMENT TO TITLE XVI.—Section
23 1611(e)(1) of such Act (42 U.S.C. 1382(e)(1)) is
24 amended by adding at the end the following:

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

5 “(I) knowingly fails to timely notify the Com-
6 missioner of Social Security, in an application for
7 benefits under this title, of any prior receipt by the
8 person of a benefit under this title or title II in a
9 month in which payment to the person of a benefit
10 under this title was prohibited by—

11 “(aa) the preceding provisions of this para-
12 graph by reason of confinement of a type de-
13 scribed in clause (i) or (ii) of section
14 202(x)(1)(A); or

15 “(bb) section 1611(e)(5); or

16 “(II) knowingly fails to comply with any sched-
17 ule imposed by the Commissioner which is for repay-
18 ment of overpayments comprised of payments de-
19 scribed in clause (i) of this subparagraph and which
20 is in compliance with section 1631(b).

21 “(ii) The Commissioner of Social Security shall, in
22 addition to any other relevant factors, take into account
23 any mental or linguistic limitations of a person (including
24 any lack of facility with the English language) in deter-

1 mining whether the person has knowingly failed to comply
 2 with a requirement of subclause (I) or (II) of clause (i).”.

3 (c) CONTINUED COLLECTION EFFORTS AGAINST
 4 PRISONERS.—

5 (1) AMENDMENT TO TITLE II.—Section 204(b)
 6 of such Act (as amended by subsection (a)(1)) is
 7 amended further by adding at the end the following
 8 new paragraph:

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

14 (2) AMENDMENT TO TITLE XVI.—Section
 15 1631(b)(1)(A) of such Act (42 U.S.C.
 16 1383(b)(1)(A)) is amended by adding after and
 17 below clause (ii) the following flush left sentence:

18 “The Commissioner shall not refrain from recovering over-
 19 payments from resources currently available to any indi-
 20 vidual solely because the individual is confined as de-
 21 scribed in clause (i) or (ii) of section 202(x)(1)(A).”.

22 **SEC. 105. ADDITIONAL DEBT COLLECTION PRACTICES.**

23 (a) IN GENERAL.—Section 1631(d)(1) of the Social
 24 Security Act (42 U.S.C. 1383(d)(1)) is amended by strik-

1 ing “section 207” and inserting “sections 204(f) and
2 207”.

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

6 **SEC. 106. TREATMENT OF ASSETS HELD IN TRUST UNDER**
7 **THE SSI PROGRAM.**

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

11 “Trusts

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

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

19 “(B) In the case of an irrevocable trust to which are
20 transferred the assets of an individual (or of the individ-
21 ual’s spouse) and the assets of any other person, this sub-
22 section shall apply to the portion of the trust attributable
23 to the assets of the individual (or of the individual’s
24 spouse).

1 “(C) This subsection shall apply to a trust without
2 regard to—

3 “(i) the purposes for which the trust is estab-
4 lished;

5 “(ii) whether the trustees have or exercise any
6 discretion under the trust;

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

9 “(iv) any restrictions on the use of distributions
10 from the trust.

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

14 “(B) In the case of an irrevocable trust established
15 by an individual, if there are any circumstances under
16 which payment from the trust could be made to or for
17 the benefit of the individual or the individual’s spouse, the
18 portion of the corpus from which payment to or for the
19 benefit of the individual or the individual’s spouse could
20 be made shall be considered a resource available to the
21 individual.

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

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

3 “(6) For purposes of this subsection—

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

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

14 “(C) the term ‘asset’ includes any income or re-
15 source of the individual or of the individual’s spouse,
16 including—

17 “(i) any income excluded by section
18 1612(b);

19 “(ii) any resource otherwise excluded by
20 this section; and

21 “(iii) any other payment or property to
22 which the individual or the individual’s spouse
23 is entitled but does not receive or have access
24 to because of action by—

25 “(I) the individual or spouse;

1 “(II) a person or entity (including a
2 court) with legal authority to act in place
3 of, or on behalf of, the individual or
4 spouse; or

5 “(III) a person or entity (including a
6 court) acting at the direction of, or on the
7 request of, the individual or spouse.”.

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

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

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

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

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

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

1 **SEC. 107. DISPOSAL OF RESOURCES FOR LESS THAN FAIR**
 2 **MARKET VALUE UNDER THE SSI PROGRAM.**

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

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

8 (2) in paragraph (1)—

9 (A) in subparagraph (A)—

10 (i) by inserting “paragraph (1) and”
 11 after “provisions of”;

12 (ii) by striking “title XIX” the first
 13 place it appears and inserting “this title
 14 and title XIX, respectively,”;

15 (iii) by striking “subparagraph (B)”
 16 and inserting “clause (ii)”;

17 (iv) by striking “paragraph (2)” and
 18 inserting “subparagraph (B)”;

19 (B) in subparagraph (B)—

20 (i) by striking “by the State agency”;
 21 and

22 (ii) by striking “section 1917(c)” and
 23 all that follows and inserting “paragraph
 24 (1) or section 1917(c).”; and

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

1 (3) in paragraph (2)—

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

3 and

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

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

7 and

8 (5) by inserting before paragraph (2) (as redes-
9 igned by paragraph (4) of this subsection) the fol-
10 lowing:

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

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

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

1 “(iii) The date described in this clause is the first
2 day of the first month that follows the month in which
3 resources were disposed of for less than fair market value
4 and that does not occur in any other period of ineligibility
5 under this paragraph.

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

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

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

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

23 “(ii) In the case of a trust established by an individ-
24 ual or an individual’s spouse (within the meaning of sub-
25 section (e)), if from such portion of the trust, if any, that

1 is considered a resource available to the individual pursu-
 2 ant to subsection (e)(3) (or would be so considered but
 3 for the application of subsection (e)(4)) or the residue of
 4 the portion on the termination of the trust—

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

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

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

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

19 “(i) the resources are a home and title to the
 20 home was transferred to—

21 “(I) the spouse of the transferor;

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

24 “(III) a sibling of the transferor who has
 25 an equity interest in such home and who was

1 residing in the transferor’s home for a period of
2 at least 1 year immediately before the date the
3 transferor becomes an institutionalized individ-
4 ual; or

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

14 “(ii) the resources—

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

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

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

1 “(IV) were transferred to a trust (includ-
2 ing a trust described in section 1917(d)(4)) es-
3 tablished solely for the benefit of an individual
4 who has not attained 65 years of age and who
5 is disabled;

6 “(iii) a satisfactory showing is made to the
7 Commissioner of Social Security (in accordance with
8 regulations promulgated by the Commissioner)
9 that—

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

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

17 “(III) all resources transferred for less
18 than fair market value have been returned to
19 the transferor; or

20 “(iv) the Commissioner determines, under pro-
21 cedures established by the Commissioner, that the
22 denial of eligibility would work an undue hardship as
23 determined on the basis of criteria established by the
24 Commissioner;

1 “(D) For purposes of this subsection, in the case of
2 a resource held by an individual in common with another
3 person or persons in a joint tenancy, tenancy in common,
4 or similar arrangement, the resource (or the affected por-
5 tion of such resource) shall be considered to be disposed
6 of by the individual when any action is taken, either by
7 the individual or by any other person, that reduces or
8 eliminates the individual’s ownership or control of such re-
9 source.

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

16 “(F) For purposes of this paragraph—

17 “(i) the term ‘benefits under this title’ includes
18 payments of the type described in section 1616(a) of
19 this Act and of the type described in section 212(b)
20 of Public Law 93–66;

21 “(ii) the term ‘institutionalized individual’ has
22 the meaning given such term in section 1917(e)(3);
23 and

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

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

4 **SEC. 108. LOSS OF BENEFITS AS PENALTY FOR FRAUD.**

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

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

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

13 “(1) monthly insurance benefits under title II;
 14 or

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

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

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

3 “(2) ineligibility for cash benefits under title
4 XVI,
5 for each month that begins during the applicable period
6 described in subsection (c).

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

11 “(1) 6 consecutive months, in the case of the
12 first such determination with respect to the person;

13 “(2) 12 consecutive months, in the case of a
14 second such determination with respect to the per-
15 son; and

16 “(3) 24 consecutive months, in the case of a
17 third or subsequent such determination with respect
18 to the person.

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

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

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

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

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

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

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

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

20 (ii) and inserting “, and”; and

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

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

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

4 (1) by striking paragraph (4);

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

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

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

14 **SEC. 109. EXCLUSION OF ATTORNEYS AND PHYSICIANS**
 15 **CONVICTED OF VIOLATIONS FROM PARTICI-**
 16 **PATION IN SOCIAL SECURITY DISABILITY**
 17 **PROGRAMS.**

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

21 “EXCLUSION OF ATTORNEYS AND PHYSICIANS CON-
 22 VICTED OF VIOLATIONS FROM PARTICIPATION IN SO-
 23 CIAL SECURITY DISABILITY PROGRAMS

24 “SEC. 1148. (a) IN GENERAL.—The Commissioner
 25 of Social Security shall exclude from participation in the

1 social security disability programs any attorney or
2 physician—

3 “(1) who is convicted of a violation of section
4 208 or 1632 of this Act,

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

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

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

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

1 effective date of the exclusion of the physician under this
2 section.

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

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

13 “(C) In the case of an exclusion of an individual
14 under subsection (a) based on a conviction occurring on
15 or after the date of the enactment of this section, if the
16 individual has (before, on, or after such date) been
17 convicted—

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

22 “(ii) on 2 or more previous occasions of one or
23 more offenses for which an exclusion may be effected
24 under such subsection, the period of the exclusion
25 shall be permanent.

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

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

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

13 “(d) NOTICE TO STATE LICENSING AGENCIES.—The
14 Commissioner shall—

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

20 “(2) request that appropriate investigations be
21 made and sanctions invoked in accordance with ap-
22 plicable State law and policy, and

23 “(3) request that the State or local agency or
24 authority keep the Commissioner and the Inspector
25 General of the Social Security Administration fully

1 and currently informed with respect to any actions
2 taken in response to the request.

3 “(e) APPLICATION FOR TERMINATION OF EXCLU-
4 SION.—(1) An individual excluded from participation
5 under this section may apply to the Commissioner, in the
6 manner specified by the Commissioner in regulations and
7 at the end of the minimum period of exclusion provided
8 under subsection (b)(3) and at such other times as the
9 Commissioner may provide, for termination of the exclu-
10 sion effected under this section.

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

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

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

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

1 “(f) AVAILABILITY OF RECORDS OF EXCLUDED AT-
2 TORNEYS AND PHYSICIANS.—Nothing in this section shall
3 be construed to have the effect of limiting access by any
4 applicant or beneficiary under title II or XVI, any State
5 agency acting under section 221 or 1633(a), or the Com-
6 missioner of Social Security to records maintained by any
7 attorney or physician in connection with services provided
8 to the applicant or beneficiary prior to the exclusion of
9 such attorney or physician under this section.

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

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

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

20 “(A) in connection with an attorney, to
21 prohibit from engaging in representation of an
22 applicant for, or recipient of, benefits as a rep-
23 resentative payee under section 205(j) or
24 1631(a)(2)(A)(ii) or otherwise as a representa-

1 tive in any hearing or other proceeding relating
2 to entitlement to benefits, and

3 “(B) in connection with a physician, to
4 prohibit from providing items or services to an
5 applicant for, or recipient of, benefits for the
6 purpose of assisting such applicant or recipient
7 in demonstrating disability.

8 “(2) SOCIAL SECURITY DISABILITY PROGRAM.—

9 The term ‘social security disability program’ means
10 the program providing for monthly disability insur-
11 ance benefits under section 223 or monthly benefits
12 based on the disability of the recipient under section
13 202 and the program providing for supplemental se-
14 curity income to individuals based on disability
15 under title XVI.

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

18 “(A) when a judgment of conviction has
19 been entered against the individual by a Fed-
20 eral, State, or local court, except if the judg-
21 ment of conviction has been set aside or ex-
22 punged;

23 “(B) when there has been a finding of
24 guilt against the individual by a Federal, State,
25 or local court;

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

4 “(D) when the individual has entered into
5 participation in a first offender, deferred adju-
6 dication, or other arrangement or program
7 where judgment of conviction has been with-
8 held.”.

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

13 **SEC. 110. ANNUAL REVIEWS BY STATE DISABILITY DETER-**
14 **MINATION SERVICES OF PROFESSIONALS**
15 **CONDUCTING CONSULTATIVE EXAMINA-**
16 **TIONS.**

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

19 (1) by redesignating paragraphs (1), (2), and
20 (3), as subparagraphs (A), (B), and (C), respec-
21 tively;

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

23 (3) by adding at the end the following new
24 paragraph:

1 “(2) The Commissioner shall provide for annual eval-
 2 uations by State disability determination services of the
 3 performance of professionals to whom cases are referred
 4 for purposes of disability determinations by such services.
 5 Such evaluations shall include a thorough analysis of the
 6 completeness of the examinations performed through such
 7 referrals and the extent to which any patterns of abuse
 8 have arisen in the referral processes. The Commissioner
 9 shall ensure that any such pattern of abuse which, in the
 10 course of any such evaluation, is determined by any State
 11 disability determination service to have occurred is
 12 promptly referred by such service to the Inspector General
 13 of the Social Security Administration.”.

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

17 **SEC. 111. COMPUTER MATCHES WITH MEDICARE AND MED-**
 18 **ICAID INSTITUTIONALIZATION DATA.**

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

22 “(K) For the purpose of carrying out this paragraph,
 23 the Commissioner of Social Security shall conduct periodic
 24 computer matches with data maintained by the Secretary
 25 of Health and Human Services under title XVIII or XIX.

1 The Secretary shall furnish to the Commissioner, in such
 2 form and manner and under such terms as the Commis-
 3 sioner and the Secretary shall mutually agree, such infor-
 4 mation as the Commissioner may request for this purpose.
 5 Information obtained pursuant to such a match may be
 6 substituted for the physician’s certification otherwise re-
 7 quired under subparagraph (G)(i).”.

8 (b) CONFORMING AMENDMENT.—Section
 9 1611(e)(1)(G) of such Act (42 U.S.C. 1382(e)(1)(G)) is
 10 amended by striking “subparagraph (H)” and inserting
 11 “subparagraph (H) or (K)”.

12 **SEC. 112. ACCESS TO INFORMATION HELD BY FINANCIAL**
 13 **INSTITUTIONS.**

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

16 (1) by striking “(B) The” and inserting “(B)(i)
 17 The”; and

18 (2) by adding at the end the following new
 19 clause:

20 “(ii)(I) The Commissioner of Social Security may re-
 21 quire each applicant for, or recipient of, benefits under
 22 this title to provide authorization by the applicant or recip-
 23 ient (or by any other person whose income or resources
 24 are material to the determination of the eligibility of the
 25 applicant or recipient for such benefits) for the Commis-

1 sioner to obtain (subject to the cost reimbursement re-
2 quirements of section 1115(a) of the Right to Financial
3 Privacy Act) from any financial institution (within the
4 meaning of section 1101(1) of such Act) any financial
5 record (within the meaning of section 1101(2) of such
6 Act) held by the institution with respect to the applicant
7 or recipient (or any such other person) whenever the Com-
8 missioner determines the record is needed in connection
9 with a determination with respect to such eligibility or the
10 amount of such benefits.

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

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

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

23 “(cc) the express revocation by the applicant or
24 recipient (or such other person referred to in sub-

1 clause (I)) of the authorization, in a written notifica-
2 tion to the Commissioner.

3 “(III)(aa) An authorization obtained by the Commis-
4 sioner of Social Security pursuant to this clause shall be
5 considered to meet the requirements of the Right to Fi-
6 nancial Privacy Act for purposes of section 1103(a) of
7 such Act, and need not be furnished to the financial insti-
8 tution, notwithstanding section 1104(a) of such Act.

9 “(bb) The certification requirements of section
10 1103(b) of the Right to Financial Privacy Act shall not
11 apply to requests by the Commissioner of Social Security
12 pursuant to an authorization provided under this clause.

13 “(cc) A request by the Commissioner pursuant to an
14 authorization provided under this clause is deemed to meet
15 the requirements of section 1104(a)(3) of the Right to Fi-
16 nancial Privacy Act and the flush language of section
17 1102 of such Act.

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

21 “(V) If an applicant for, or recipient of, benefits
22 under this title (or any such other person referred to in
23 subclause (I)) refuses to provide or revokes any authoriza-
24 tion for the Commissioner of Social Security to obtain
25 from any financial institution any financial record, the

1 Commissioner may, on that basis, determine that the ap-
 2 plicant or recipient is ineligible for benefits under this
 3 title.”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 this section shall take effect on the date of the enactment
 6 of this Act.

7 **SEC. 113. STATE DATA EXCHANGES.**

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

18 **SEC. 114. STUDY ON POSSIBLE MEASURES TO IMPROVE**
 19 **FRAUD PREVENTION AND ADMINISTRATIVE**
 20 **PROCESSING.**

21 (a) STUDY.—As soon as practicable after the date of
 22 the enactment of this Act, the Commissioner of Social Se-
 23 curity, in consultation with the Inspector General of the
 24 Social Security Administration and the Attorney General,
 25 shall conduct a study of possible measures to improve—

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall report in writing to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the Commissioner's study under subsection (a). Such report shall contain such recommendations for legislative and administrative changes as the Commissioner considers appropriate.

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

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

1 “(B) The Commissioner shall include in the annual
 2 budget prepared pursuant to subparagraph (A) an
 3 itemization of the amount of funds required by the Social
 4 Security Administration for the fiscal year covered by the
 5 budget to support efforts to combat fraud committed by
 6 applicants and beneficiaries.”.

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

10 **TITLE II—BENEFITS FOR**
 11 **PHILIPPINO VETERANS OF**
 12 **WORLD WAR II**

13 **SEC. 201. PROVISION OF REDUCED SSI BENEFIT TO CER-**
 14 **TAIN INDIVIDUALS WHO PROVIDED SERVICE**
 15 **TO THE ARMED FORCES OF THE UNITED**
 16 **STATES IN THE PHILIPPINES DURING WORLD**
 17 **WAR II AFTER THEY MOVE BACK TO THE**
 18 **PHILIPPINES.**

19 (a) IN GENERAL.—Notwithstanding sections
 20 1611(b), 1611(f)(1), and 1614(a)(1)(B)(i) of the Social
 21 Security Act—

22 (1) the eligibility of a qualified individual for
 23 benefits under the supplemental security income pro-
 24 gram under title XVI of such Act shall not termi-

1 nate by reason of a change in the place of residence
2 of the individual to the Philippines; and

3 (2) the benefits payable to the individual under
4 such program shall be reduced by 50 percent for so
5 long as the place of residence of the individual is in
6 the Philippines.

7 (b) **QUALIFIED INDIVIDUAL DEFINED.**—In sub-
8 section (a), the term “qualified individual” means an indi-
9 vidual who—

10 (1) as of the date of the enactment of this Act,
11 is eligible for benefits under the supplemental secu-
12 rity income program under title XVI of the Social
13 Security Act;

14 (2) as of January 1, 1990, was eligible for such
15 benefits; and

16 (3) before August 15, 1945, served in the orga-
17 nized military forces of the Government of the Com-
18 monwealth of the Philippines while such forces were
19 in the service of the Armed Forces of the United
20 States pursuant to the military order of the Presi-
21 dent dated July 26, 1941, including among such
22 military forces organized guerrilla forces under com-
23 manders appointed, designated, or subsequently rec-
24 ognized by the Commander in Chief, Southwest Pa-

- 1 cific Area, or other competent military authority in
- 2 the Army of the United States.

