

108TH CONGRESS
1ST SESSION

S. 439

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2003

Mr. BUNNING introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

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

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

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

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

Subtitle B—Enforcement

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

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
- Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
- Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
- Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
- Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

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

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.

1 **TITLE I—PROTECTION OF**
 2 **BENEFICIARIES**

3 **Subtitle A—Representative Payees**

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

6 (a) TITLE II AMENDMENTS.—

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

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

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

9 misuses all or part of an individual’s benefit paid to such
10 representative payee, the Commissioner of Social Security
11 shall certify for payment to the beneficiary or the bene-
12 ficiary’s alternative representative payee an amount equal
13 to the amount of such benefit so misused. The provisions
14 of this paragraph are subject to the limitations of para-
15 graph (7)(B).”.

16 (2) MISUSE OF BENEFITS DEFINED.—Section
17 205(j) of such Act (42 U.S.C. 405(j)) is amended
18 by adding at the end the following new paragraph:

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

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

3 (b) TITLE VIII AMENDMENTS.—

4 (1) REISSUANCE OF BENEFITS.—Section 807(i)
5 of the Social Security Act (42 U.S.C. 1007(i)) is
6 amended by inserting after the first sentence the fol-
7 lowing new sentences: “In any case in which a rep-
8 resentative payee that—

9 “(1) is not an individual; or

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

14 misuses all or part of an individual’s benefit paid to such
15 representative payee, the Commissioner of Social Security
16 shall pay to the beneficiary or the beneficiary’s alternative
17 representative payee an amount equal to the amount of
18 such benefit so misused. The provisions of this paragraph
19 are subject to the limitations of subsection (1)(2).”.

20 (2) MISUSE OF BENEFITS DEFINED.—Section
21 807 of such Act (42 U.S.C. 1007) is amended by
22 adding at the end the following new subsection:

23 “(j) MISUSE OF BENEFITS.—For purposes of this
24 title, misuse of benefits by a representative payee occurs
25 in any case in which the representative payee receives pay-

1 ment under this title for the use and benefit of another
 2 person under this title and converts such payment, or any
 3 part thereof, to a use other than for the use and benefit
 4 of such person. The Commissioner of Social Security may
 5 prescribe by regulation the meaning of the term ‘use and
 6 benefit’ for purposes of this subsection.”.

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

11 (c) TITLE XVI AMENDMENTS.—

12 (1) REISSUANCE OF BENEFITS.—Section
 13 1631(a)(2)(E) of such Act (42
 14 U.S.C. 1383(a)(2)(E)) is amended by inserting
 15 after the first sentence the following new sentences:

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

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

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

24 misuses all or part of an individual’s benefit paid to the
 25 representative payee, the Commissioner of Social Security

1 shall pay to the beneficiary or the beneficiary's alternative
2 representative payee an amount equal to the amount of
3 the benefit so misused. The provisions of this subpara-
4 graph are subject to the limitations of subparagraph
5 (H)(ii).”.

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

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

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

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

15 “(14) for the 9-month period beginning after
16 the month in which received, any amount received by
17 such individual (or spouse) or any other person
18 whose income is deemed to be included in such indi-
19 vidual's (or spouse's) income for purposes of this
20 title as restitution for benefits under this title, title
21 II, or title VIII that a representative payee of such
22 individual (or spouse) or such other person under
23 section 205(j), 807, or 1631(a)(2) has misused.”.

24 (3) MISUSE OF BENEFITS DEFINED.—Section
25 1631(a)(2)(A) of such Act (42

1 U.S.C. 1383(a)(2)(A)) is amended by adding at the
 2 end the following new clause:

3 “(iv) For purposes of this paragraph, misuse of bene-
 4 fits by a representative payee occurs in any case in which
 5 the representative payee receives payment under this title
 6 for the use and benefit of another person and converts
 7 such payment, or any part thereof, to a use other than
 8 for the use and benefit of such other person. The Commis-
 9 sioner of Social Security may prescribe by regulation the
 10 meaning of the term ‘use and benefit’ for purposes of this
 11 clause.”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to any case of benefit misuse by
 14 a representative payee with respect to which the Commis-
 15 sioner makes the determination of misuse on or after Jan-
 16 uary 1, 1995.

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

18 (a) CERTIFICATION OF BONDING AND LICENSING
 19 REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZA-
 20 TIONAL REPRESENTATIVE PAYEES.—

21 (1) TITLE II AMENDMENTS.—Section 205(j) of
 22 the Social Security Act (42 U.S.C. 405(j)) is
 23 amended—

24 (A) in paragraph (2)(C)(v), by striking “a
 25 community-based nonprofit social service agen-

1 cy licensed or bonded by the State” in sub-
2 clause (I) and inserting “a certified community-
3 based nonprofit social service agency (as de-
4 fined in paragraph (9))”;

5 (B) in paragraph (3)(F), by striking “com-
6 munity-based nonprofit social service agencies”
7 and inserting “certified community-based non-
8 profit social service agencies (as defined in
9 paragraph (9))”;

10 (C) in paragraph (4)(B), by striking “any
11 community-based nonprofit social service agen-
12 cy which is bonded or licensed in each State in
13 which it serves as a representative payee” and
14 inserting “any certified community-based non-
15 profit social service agency (as defined in para-
16 graph (9))”; and

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

20 “(9) For purposes of this subsection, the term ‘cer-
21 tified community-based nonprofit social service agency’
22 means a community-based nonprofit social service agency
23 which is in compliance with requirements, under regula-
24 tions which shall be prescribed by the Commissioner, for
25 annual certification to the Commissioner that it is bonded

1 in accordance with requirements specified by the Commis-
2 sioner and that it is licensed in each State in which it
3 serves as a representative payee (if licensing is available
4 in such State) in accordance with requirements specified
5 by the Commissioner. Any such annual certification shall
6 include a copy of any independent audit on such agency
7 which may have been performed since the previous certifi-
8 cation.”.

9 (2) TITLE XVI AMENDMENTS.—Section
10 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
11 amended—

12 (A) in subparagraph (B)(vii), by striking
13 “a community-based nonprofit social service
14 agency licensed or bonded by the State” in sub-
15 clause (I) and inserting “a certified community-
16 based nonprofit social service agency (as de-
17 fined in subparagraph (I))”;

18 (B) in subparagraph (D)(ii)—

19 (i) by striking “or any community-
20 based” and all that follows through “in ac-
21 cordance” in subclause (II) and inserting
22 “or any certified community-based non-
23 profit social service agency (as defined in
24 subparagraph (I)), if the agency, in ac-
25 cordance”;

1 (ii) by redesignating items (aa) and
2 (bb) as subclauses (I) and (II), respectively
3 (and adjusting the margination accord-
4 ingly); and

5 (iii) by striking “subclause (II)(bb)”
6 and inserting “subclause (II)”; and

7 (C) by adding at the end the following new
8 subparagraph:

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

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall take effect on the first day

1 of the thirteenth month beginning after the date of
2 the enactment of this Act.

3 (b) PERIODIC ONSITE REVIEW.—

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

7 “(6)(A) In addition to such other reviews of rep-
8 resentative payees as the Commissioner of Social Security
9 may otherwise conduct, the Commissioner shall provide for
10 the periodic onsite review of any person or agency located
11 in the United States that receives the benefits payable
12 under this title (alone or in combination with benefits pay-
13 able under title VIII or title XVI) to another individual
14 pursuant to the appointment of such person or agency as
15 a representative payee under this subsection, section 807,
16 or section 1631(a)(2) in any case in which—

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

20 “(ii) the representative payee is a certified com-
21 munity-based nonprofit social service agency (as de-
22 fined in paragraph (9) of this subsection or section
23 1631(a)(2)(I)); or

24 “(iii) the representative payee is an agency
25 (other than an agency described in clause (ii)) that

1 serves in that capacity with respect to 50 or more
2 such individuals.

3 “(B) Within 120 days after the end of each fiscal
4 year, the Commissioner shall submit to the Committee on
5 Ways and Means of the House of Representatives and the
6 Committee on Finance of the Senate a report on the re-
7 sults of periodic onsite reviews conducted during the fiscal
8 year pursuant to subparagraph (A) and of any other re-
9 views of representative payees conducted during such fis-
10 cal year in connection with benefits under this title. Each
11 such report shall describe in detail all problems identified
12 in such reviews and any corrective action taken or planned
13 to be taken to correct such problems, and shall include—

14 “(i) the number of such reviews;

15 “(ii) the results of such reviews;

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

18 “(iv) the number of cases involving the exercise
19 of expedited, targeted oversight of the representative
20 payee by the Commissioner conducted upon receipt
21 of an allegation of misuse of funds, failure to pay a
22 vendor, or a similar irregularity;

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

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

3 “(vii) the final disposition of such cases of mis-
4 use of funds, including any criminal penalties im-
5 posed; and

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

8 (2) TITLE VIII AMENDMENT.—Section 807 of
9 such Act (as amended by section 101(b)(2) of this
10 Act) is amended further by adding at the end the
11 following new subsection:

12 “(k) PERIODIC ONSITE REVIEW.—(1) In addition to
13 such other reviews of representative payees as the Com-
14 missioner of Social Security may otherwise conduct, the
15 Commissioner may provide for the periodic onsite review
16 of any person or agency that receives the benefits payable
17 under this title (alone or in combination with benefits pay-
18 able under title II or title XVI) to another individual pur-
19 suant to the appointment of such person or agency as a
20 representative payee under this section, section 205(j), or
21 section 1631(a)(2) in any case in which—

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

1 “(B) the representative payee is an agency that
2 serves in that capacity with respect to 50 or more
3 such individuals.

4 “(2) Within 120 days after the end of each fiscal
5 year, the Commissioner shall submit to the Committee on
6 Ways and Means of the House of Representatives and the
7 Committee on Finance of the Senate a report on the re-
8 sults of periodic onsite reviews conducted during the fiscal
9 year pursuant to paragraph (1) and of any other reviews
10 of representative payees conducted during such fiscal year
11 in connection with benefits under this title. Each such re-
12 port shall describe in detail all problems identified in such
13 reviews and any corrective action taken or planned to be
14 taken to correct such problems, and shall include—

15 “(A) the number of such reviews;

16 “(B) the results of such reviews;

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

19 “(D) the number of cases involving the exercise
20 of expedited, targeted oversight of the representative
21 payee by the Commissioner conducted upon receipt
22 of an allegation of misuse of funds, failure to pay a
23 vendor, or a similar irregularity;

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

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

3 “(G) the final disposition of such cases of mis-
4 use of funds, including any criminal penalties im-
5 posed; and

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

8 (3) TITLE XVI AMENDMENT.—Section
9 1631(a)(2)(G) of such Act (42
10 U.S.C. 1383(a)(2)(G)) is amended to read as fol-
11 lows:

12 “(G)(i) In addition to such other reviews of rep-
13 resentative payees as the Commissioner of Social Security
14 may otherwise conduct, the Commissioner shall provide for
15 the periodic onsite review of any person or agency that
16 receives the benefits payable under this title (alone or in
17 combination with benefits payable under title II or title
18 VIII) to another individual pursuant to the appointment
19 of the person or agency as a representative payee under
20 this paragraph, section 205(j), or section 807 in any case
21 in which—

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

1 “(II) the representative payee is a certified
2 community-based nonprofit social service agency (as
3 defined in subparagraph (I) of this paragraph or
4 section 205(j)(9)); or

5 “(III) the representative payee is an agency
6 (other than an agency described in subclause (II))
7 that serves in that capacity with respect to 50 or
8 more such individuals.

9 “(ii) Within 120 days after the end of each fiscal
10 year, the Commissioner shall submit to the Committee on
11 Ways and Means of the House of Representatives and the
12 Committee on Finance of the Senate a report on the re-
13 sults of periodic onsite reviews conducted during the fiscal
14 year pursuant to clause (i) and of any other reviews of
15 representative payees conducted during such fiscal year in
16 connection with benefits under this title. Each such report
17 shall describe in detail all problems identified in the re-
18 views and any corrective action taken or planned to be
19 taken to correct the problems, and shall include—

20 “(I) the number of the reviews;

21 “(II) the results of such reviews;

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

24 “(IV) the number of cases involving the exercise
25 of expedited, targeted oversight of the representative

1 payee by the Commissioner conducted upon receipt
 2 of an allegation of misuse of funds, failure to pay a
 3 vendor, or a similar irregularity;

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

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

8 “(VII) the final disposition of such cases of
 9 misuse of funds, including any criminal penalties im-
 10 posed; and

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

13 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
 14 **RESENTATIVE PAYEE OF PERSONS CON-**
 15 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
 16 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
 17 **ING PROSECUTION, CUSTODY, OR CONFINE-**
 18 **MENT.**

19 (a) TITLE II AMENDMENTS.—Section 205(j)(2) of
 20 the Social Security Act (42 U.S.C. 405(j)(2)) is amend-
 21 ed—

22 (1) in subparagraph (B)(i)—

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

1 (B) by redesignating subclause (IV) as
2 subclause (VI); and

3 (C) by inserting after subclause (III) the
4 following new subclauses:

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

9 “(V) obtain information concerning whether
10 such person is a person described in section
11 202(x)(1)(A)(iv), and”.

12 (2) in subparagraph (C)(i)(II), by striking
13 “subparagraph (B)(i)(IV),,” and inserting “subpara-
14 graph (B)(i)(VI)” and striking “section
15 1631(a)(2)(B)(ii)(IV)” and inserting “section
16 1631(a)(2)(B)(ii)(VI)”;

17 (3) in subparagraph (C)(i)—

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

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

22 (C) by adding at the end the following new
23 subclauses:

24 “(IV) such person has previously been convicted
25 as described in subparagraph (B)(i)(IV), unless the

1 Commissioner determines that such certification
2 would be appropriate notwithstanding such convic-
3 tion, or

4 “(V) such person is person described in section
5 202(x)(1)(A)(iv).”.

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

8 (1) in subsection (b)(2)—

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

11 (B) by redesignating subparagraph (D) as
12 subparagraph (F); and

13 (C) by inserting after subparagraph (C)
14 the following new subparagraphs:

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

19 “(E) obtain information concerning wheth-
20 er such person is a person described in section
21 804(a)(2); and”; and

22 (2) in subsection (d)(1)—

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

1 (B) by striking the period at the end of
2 subparagraph (C) and inserting a semicolon;
3 and

4 (C) by adding at the end the following new
5 subparagraphs:

6 “(D) such person has previously been con-
7 victed as described in subsection (b)(2)(D), un-
8 less the Commissioner determines that such
9 payment would be appropriate notwithstanding
10 such conviction; or

11 “(E) such person is a person described in
12 section 804(a)(2).”.

13 (c) TITLE XVI AMENDMENTS.—Section
14 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is
15 amended—

16 (1) in clause (ii)—

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

19 (B) by redesignating subclause (IV) as
20 subclause (VI); and

21 (C) by inserting after subclause (III) the
22 following new subclauses:

23 “(IV) obtain information concerning whether
24 the person has been convicted of any other offense

1 under Federal or State law which resulted in impris-
2 onment for more than 1 year;

3 “(V) obtain information concerning whether
4 such person is a person described in section
5 1611(e)(4)(A); and”;

6 (2) in clause (iii)(II)—

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

9 (B) by striking “section
10 205(j)(2)(B)(i)(IV)” and inserting “section
11 205(j)(2)(B)(i)(VI)”;

12 (3) in clause (iii)—

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

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

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

19 “(IV) the person has previously been convicted
20 as described in clause (ii)(IV) of this subparagraph,
21 unless the Commissioner determines that the pay-
22 ment would be appropriate notwithstanding the con-
23 viction; or

24 “(V) such person is a person described in sec-
25 tion 1611(e)(4)(A).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the first day of the thir-
3 teenth month beginning after the date of the enactment
4 of this Act.

5 (e) REPORT TO THE CONGRESS.—The Commissioner
6 of Social Security, in consultation with the Inspector Gen-
7 eral of the Social Security Administration, shall prepare
8 a report evaluating whether the existing procedures and
9 reviews for the qualification (including disqualification) of
10 representative payees are sufficient to enable the Commis-
11 sioner to protect benefits from being misused by represent-
12 ative payees. The Commissioner shall submit the report
13 to the Committee on Ways and Means of the House of
14 Representatives and the Committee on Finance of the
15 Senate no later than 270 days after the date of the enact-
16 ment of this Act. The Commissioner shall include in such
17 report any recommendations that the Commissioner con-
18 siders appropriate.

19 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE**
20 **BY REPRESENTATIVE PAYEES.**

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

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

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

6 “A qualified organization may not collect a fee from an
7 individual for any month with respect to which the Com-
8 missioner of Social Security or a court of competent juris-
9 diction has determined that the organization misused all
10 or part of the individual’s benefit, and any amount so col-
11 lected by the qualified organization for such month shall
12 be treated as a misused part of the individual’s benefit
13 for purposes of paragraphs (5) and (6). The Commis-
14 sioner”.

15 (b) TITLE XVI AMENDMENTS.—Section
16 1631(a)(2)(D)(i) of such Act (42
17 U.S.C. 1383(a)(2)(D)(i)) is amended—

18 (1) in the first sentence, by striking “A” and
19 inserting “Except as provided in the next sentence,
20 a”; and

21 (2) in the second sentence, by striking “The
22 Commissioner” and inserting the following: “A
23 qualified organization may not collect a fee from an
24 individual for any month with respect to which the
25 Commissioner of Social Security or a court of com-

1 (4) by inserting after paragraph (6) the fol-
2 lowing new paragraph:

3 “(7)(A) If the Commissioner of Social Security or a
4 court of competent jurisdiction determines that a rep-
5 resentative payee that is not a Federal, State, or local gov-
6 ernment agency has misused all or part of an individual’s
7 benefit that was paid to such representative payee under
8 this subsection, the representative payee shall be liable for
9 the amount misused, and such amount (to the extent not
10 repaid by the representative payee) shall be treated as an
11 overpayment of benefits under this title to the representa-
12 tive payee for all purposes of this Act and related laws
13 pertaining to the recovery of such overpayments. Subject
14 to subparagraph (B), upon recovering all or any part of
15 such amount, the Commissioner shall certify an amount
16 equal to the recovered amount for payment to such indi-
17 vidual or such individual’s alternative representative
18 payee.

19 “(B) The total of the amount certified for payment
20 to such individual or such individual’s alternative rep-
21 resentative payee under subparagraph (A) and the amount
22 certified for payment under paragraph (5) may not exceed
23 the total benefit amount misused by the representative
24 payee with respect to such individual.”.

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

4 “(1) LIABILITY FOR MISUSED AMOUNTS.—

5 “(1) IN GENERAL.—If the Commissioner of So-
6 cial Security or a court of competent jurisdiction de-
7 termines that a representative payee that is not a
8 Federal, State, or local government agency has mis-
9 used all or part of a qualified individual’s benefit
10 that was paid to such representative payee under
11 this section, the representative payee shall be liable
12 for the amount misused, and such amount (to the
13 extent not repaid by the representative payee) shall
14 be treated as an overpayment of benefits under this
15 title to the representative payee for all purposes of
16 this Act and related laws pertaining to the recovery
17 of such overpayments. Subject to paragraph (2),
18 upon recovering all or any part of such amount, the
19 Commissioner shall make payment of an amount
20 equal to the recovered amount to such qualified indi-
21 vidual or such qualified individual’s alternative rep-
22 resentative payee.

23 “(2) LIMITATION.—The total of the amount
24 paid to such individual or such individual’s alter-
25 native representative payee under paragraph (1) and

1 the amount paid under subsection (i) may not ex-
2 ceed the total benefit amount misused by the rep-
3 resentative payee with respect to such individual.”.

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

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

10 (2) by striking subparagraph (H) and inserting
11 the following:

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

1 amount equal to the recovered amount to such individual
2 or such individual’s alternative representative payee.

3 “(ii) The total of the amount paid to such individual
4 or such individual’s alternative representative payee under
5 clause (i) and the amount paid under subparagraph (E)
6 may not exceed the total benefit amount misused by the
7 representative payee with respect to such individual.”.

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

14 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
15 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
16 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

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

20 (1) by redesignating subparagraphs (E) and
21 (F) as subparagraphs (F) and (G), respectively; and

22 (2) by inserting after subparagraph (D) the fol-
23 lowing new subparagraph:

24 “(E) In any case in which the person described in
25 subparagraph (A) or (D) receiving payments on behalf of

1 another fails to submit a report required by the Commis-
2 sioner of Social Security under subparagraph (A) or (D),
3 the Commissioner may, after furnishing notice to such
4 person and the individual entitled to such payment, re-
5 quire that such person appear in person at a field office
6 of the Social Security Administration serving the area in
7 which the individual resides in order to receive such pay-
8 ments.”.

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

11 (1) by redesignating paragraphs (3) and (4) as
12 paragraphs (4) and (5), respectively; and

13 (2) by inserting after paragraph (2) the fol-
14 lowing new paragraph:

15 “(3) AUTHORITY TO REDIRECT DELIVERY OF
16 BENEFIT PAYMENTS WHEN A REPRESENTATIVE
17 PAYEE FAILS TO PROVIDE REQUIRED ACCOUNT-
18 ING.—In any case in which the person described in
19 paragraph (1) or (2) receiving benefit payments on
20 behalf of a qualified individual fails to submit a re-
21 port required by the Commissioner of Social Secu-
22 rity under paragraph (1) or (2), the Commissioner
23 may, after furnishing notice to such person and the
24 qualified individual, require that such person appear
25 in person at a United States Government facility

1 designated by the Social Security Administration as
 2 serving the area in which the qualified individual re-
 3 sides in order to receive such benefit payments.”.

4 (c) TITLE XVI AMENDMENT.—Section
 5 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is
 6 amended by adding at the end the following new clause:
 7 “(v) In any case in which the person described in
 8 clause (i) or (iv) receiving payments on behalf of another
 9 fails to submit a report required by the Commissioner of
 10 Social Security under clause (i) or (iv), the Commissioner
 11 may, after furnishing notice to the person and the indi-
 12 vidual entitled to the payment, require that such person
 13 appear in person at a field office of the Social Security
 14 Administration serving the area in which the individual
 15 resides in order to receive such payments.”.

16 (d) EFFECTIVE DATE.—The amendment made by
 17 this section shall take effect 180 days after the date of
 18 the enactment of this Act.

19 **Subtitle B—Enforcement**

20 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 21 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 22 **RESENTATIVE PAYEES.**

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

1 “(3) Any person (including an organization, agency,
 2 or other entity) who, having received, while acting in the
 3 capacity of a representative payee pursuant to section
 4 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
 5 or XVI for the use and benefit of another individual, con-
 6 verts such payment, or any part thereof, to a use that
 7 such person knows or should know is other than for the
 8 use and benefit of such other individual shall be subject
 9 to, in addition to any other penalties that may be pre-
 10 scribed by law, a civil money penalty of not more than
 11 \$5,000 for each such conversion. Such person shall also
 12 be subject to an assessment, in lieu of damages sustained
 13 by the United States resulting from the conversion, of not
 14 more than twice the amount of any payments so con-
 15 verted.”.

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

19 **TITLE II—PROGRAM** 20 **PROTECTIONS**

21 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**
 22 **SPECT TO KNOWING WITHHOLDING OF MATE-**
 23 **RIAL FACTS.**

24 (a) TREATMENT OF WITHHOLDING OF MATERIAL
 25 FACTS.—

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

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

6 (B) by striking “makes” in the first sen-
7 tence and all that follows through “shall be sub-
8 ject to” and inserting the following:

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

16 “(B) makes such a statement or representation
17 for such use with knowing disregard for the truth,
18 or

19 “(C) omits from a statement or representation
20 for such use, or otherwise withholds disclosure of, a
21 fact which the person knows or should know is mate-
22 rial to the determination of any initial or continuing
23 right to or the amount of monthly insurance benefits
24 under title II or benefits or payments under title
25 VIII or XVI, if the person knows, or should know,

1 that the statement or representation with such omis-
2 sion is false or misleading or that the withholding of
3 such disclosure is misleading,
4 shall be subject to”;

5 (C) by inserting “or each receipt of such
6 benefits or payments while withholding disclo-
7 sure of such fact” after “each such statement
8 or representation” in the first sentence;

9 (D) by inserting “or because of such with-
10 holding of disclosure of a material fact” after
11 “because of such statement or representation”
12 in the second sentence; and

13 (E) by inserting “or such a withholding of
14 disclosure” after “such a statement or rep-
15 resentation” in the second sentence.

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

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

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

24 “(1) makes, or causes to be made, a statement
25 or representation of a material fact, for use in deter-

1 mining any initial or continuing right to or the
2 amount of monthly insurance benefits under title II
3 or benefits or payments under title XVI that the
4 person knows or should know is false or misleading,

5 “(2) makes such a statement or representation
6 for such use with knowing disregard for the truth,
7 or

8 “(3) omits from a statement or representation
9 for such use, or otherwise withholds disclosure of, a
10 fact which the person knows or should know is mate-
11 rial to the determination of any initial or continuing
12 right to or the amount of monthly insurance benefits
13 under title II or benefits or payments under title
14 XVI, if the person knows, or should know, that the
15 statement or representation with such omission is
16 false or misleading or that the withholding of such
17 disclosure is misleading,
18 shall be subject to,”.

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

25 (c) CONFORMING AMENDMENTS.—

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

4 (2) Section 1129(c)(1) of such Act (42
5 U.S.C. 1320a-8(c)(1)) is amended by striking “and
6 representations” and inserting “, representations, or
7 actions”.

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

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to violations com-
15 mitted after the date on which the Commissioner imple-
16 ments the centralized computer file described in section
17 202.

18 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**
19 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**
20 **MISSION OF REPORTS OF CHANGES IN WORK**
21 **OR EARNINGS STATUS OF DISABLED BENE-**
22 **FICIARIES.**

23 Effective as soon as possible, but not later than 1
24 year after the date of the enactment of this Act, until such
25 time as the Commissioner of Social Security implements

1 a centralized computer file recording the date of the sub-
 2 mission of information by a disabled beneficiary (or rep-
 3 resentative) regarding a change in the beneficiary’s work
 4 or earnings status, the Commissioner shall issue a receipt
 5 to the disabled beneficiary (or representative) each time
 6 he or she submits documentation, or otherwise reports to
 7 the Commissioner, on a change in such status.

8 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
 9 **ING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBA-**
 10 **MENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.**
 11 **TION OR PAROLE.**

12 (a) IN GENERAL.—Section 202(x) of the Social Secu-
 13 rity Act (42 U.S.C. 402(x)) is amended—

14 (1) in the heading, by striking “Prisoners” and
 15 all that follows and inserting the following: “Pris-
 16 oners, Certain Other Inmates of Publicly Funded In-
 17 stitutions, and Fugitives”;

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

20 (3) in paragraph (1)(A)(iii), by striking the pe-
 21 riod at the end and inserting a comma;

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

24 “(iv) is fleeing to avoid prosecution, or custody
 25 or confinement after conviction, under the laws of

1 the place from which the person flees, for a crime,
2 or an attempt to commit a crime, which is a felony
3 under the laws of the place from which the person
4 flees, or which, in the case of the State of New Jer-
5 sey, is a high misdemeanor under the laws of such
6 State, or

7 “(v) is violating a condition of probation or pa-
8 role imposed under Federal or State law.

9 In the case of an individual from whom such monthly ben-
10 efits have been withheld pursuant to clause (iv), the Com-
11 missioner may, for good cause shown, pay such withheld
12 benefits to the individual.”; and

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

15 “(C) Notwithstanding the provisions of section 552a
16 of title 5, United States Code, or any other provision of
17 Federal or State law (other than section 6103 of the Inter-
18 nal Revenue Code of 1986 and section 1106(e) of this
19 Act), the Commissioner shall furnish any Federal, State,
20 or local law enforcement officer, upon the written request
21 of the officer, with the current address, Social Security
22 number, and photograph (if applicable) of any beneficiary
23 under this title, if the officer furnishes the Commissioner
24 with the name of the beneficiary, and other identifying in-
25 formation as reasonably required by the Commissioner to

1 establish the unique identity of the beneficiary, and noti-
2 fies the Commissioner that—

3 “(i) the beneficiary—

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

6 “(II) has information that is necessary for
7 the officer to conduct the officer’s official du-
8 ties; and

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

11 (b) REGULATIONS.—Not later than the first day of
12 the first month that begins on or after the date that is
13 9 months after the date of the enactment of this Act, the
14 Commissioner of Social Security shall promulgate regula-
15 tions governing payment by the Commissioner, for good
16 cause shown, of withheld benefits, pursuant to the last
17 sentence of section 202(x)(1)(A) of the Social Security Act
18 (as amended by subsection (a)).

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

1 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
2 **VIDE FOR A FEE A PRODUCT OR SERVICE**
3 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
4 **CIAL SECURITY ADMINISTRATION.**

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

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

9 “(4)(A) No person shall offer, for a fee, to assist an
10 individual to obtain a product or service that the person
11 knows or should know is provided free of charge by the
12 Social Security Administration unless, at the time the
13 offer is made, the person provides to the individual to
14 whom the offer is tendered a notice that—

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

18 “(ii) complies with standards prescribed by the
19 Commissioner of Social Security respecting the con-
20 tent of such notice and its placement, visibility, and
21 legibility.

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

23 “(i) to serve as a claimant representative in
24 connection with a claim arising under title II, title
25 VIII, or title XVI; or

1 employee, or contractor of the Social Security Administra-
 2 tion (including any State employee of a disability deter-
 3 mination service or any other individual designated by the
 4 Commissioner of Social Security) acting in an official ca-
 5 pacity to carry out a duty under this Act, or in any other
 6 way corruptly or by force or threats of force (including
 7 any threatening letter or communication) obstructs or im-
 8 pedes, or attempts to obstruct or impede, the due adminis-
 9 tration of this Act, shall be fined not more than \$5,000,
 10 imprisoned not more than 3 years, or both, except that
 11 if the offense is committed only by threats of force, the
 12 person shall be fined not more than \$3,000, imprisoned
 13 not more than 1 year, or both. In this subsection, the
 14 term ‘threats of force’ means threats of harm to the officer
 15 or employee of the United States or to a contractor of
 16 the Social Security Administration, or to a member of the
 17 family of such an officer or employee or contractor.”.

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

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

22 (1) in subparagraph (A), by inserting “ ‘Cen-
 23 ters for Medicare & Medicaid Services’,” after
 24 “ ‘Health Care Financing Administration’,”, by
 25 striking “or ‘Medicaid’, ” and inserting “ ‘Med-

1 icaid’, ‘Death Benefits Update’, ‘Federal Benefit In-
2 formation’, ‘Funeral Expenses’, or ‘Final Supple-
3 mental Plan’,” and by inserting “ ‘CMS’,” after
4 “ ‘HCFA’,”;

5 (2) in subparagraph (B), by inserting “Centers
6 for Medicare & Medicaid Services,” after “Health
7 Care Financing Administration,” each place it ap-
8 pears; and

9 (3) in the matter following subparagraph (B),
10 by striking “the Health Care Financing Administra-
11 tion,” each place it appears and inserting “the Cen-
12 ters for Medicare & Medicaid Services,”.

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

16 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
17 **TRIAL WORK PERIOD UPON CONVICTION OF**
18 **FRAUDULENT CONCEALMENT OF WORK AC-**
19 **TIVITY.**

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

23 “(5) Upon conviction by a Federal court that an indi-
24 vidual has fraudulently concealed work activity during a

1 period of trial work from the Commissioner of Social Secu-
2 rity by—

3 “(A) providing false information to the Com-
4 missioner of Social Security as to whether the indi-
5 vidual had earnings in or for a particular period, or
6 as to the amount thereof;

7 “(B) receiving disability insurance benefits
8 under this title while engaging in work activity
9 under another identity, including under another so-
10 cial security account number or a number pur-
11 porting to be a social security account number; or

12 “(C) taking other actions to conceal work activ-
13 ity with an intent fraudulently to secure payment in
14 a greater amount than is due or when no payment
15 is authorized,

16 no benefit shall be payable to such individual under this
17 title with respect to a period of disability for any month
18 before such conviction during which the individual ren-
19 dered services during the period of trial work with respect
20 to which the fraudulently concealed work activity occurred,
21 and amounts otherwise due under this title as restitution,
22 penalties, assessments, fines, or other repayments shall in
23 all cases be in addition to any amounts for which such
24 individual is liable as overpayments by reason of such con-
25 cealment.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply with respect to work activity
3 performed after the date of the enactment of this Act.

4 **SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITU-**
5 **TION.**

6 (a) AMENDMENTS TO TITLE II.—Section 208 of the
7 Social Security Act (42 U.S.C. 408) is amended—

8 (1) by redesignating subsections (b), (c), and
9 (d) as subsections (c), (d), and (e), respectively; and

10 (2) by inserting after subsection (a) the fol-
11 lowing new subsection:

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

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

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

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

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

5 “(i) RESTITUTION.—

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

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) COURT ORDER FOR RESTITUTION.—

10 “(A) IN GENERAL.—Any Federal court,
11 when sentencing a defendant convicted of an of-
12 fense under subsection (a), may order, in addi-
13 tion to or in lieu of any other penalty author-
14 ized by law, that the defendant make restitution
15 to the Social Security Administration.

16 “(B) RELATED PROVISIONS.—Sections
17 3612, 3663, and 3664 of title 18, United States
18 Code, shall apply with respect to the issuance
19 and enforcement of orders of restitution under
20 this paragraph. In so applying such sections,
21 the Social Security Administration shall be con-
22 sidered the victim.

23 “(C) STATED REASONS FOR NOT ORDER-
24 ING RESTITUTION.—If the court does not order
25 restitution, or orders only partial restitution,

1 under this paragraph, the court shall state on
2 the record the reasons therefor.”.

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

5 (1) by redesignating subsection (b) as sub-
6 section (c); and

7 (2) by inserting after subsection (a) the fol-
8 lowing new subsection:

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

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

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

22 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-
23 TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.
24 904(b)) is amended by adding at the end the following
25 new paragraph:

1 “(3)(A) Except as provided in subparagraph (B),
2 amounts received by the Social Security Administration
3 pursuant to an order of restitution under section 208(b),
4 807(i), or 1632(b) shall be credited to a special fund es-
5 tablished in the Treasury of the United States for
6 amounts so received or recovered. The amounts so cred-
7 ited, to the extent and in the amounts provided in advance
8 in appropriations Acts, shall be available to defray ex-
9 penses incurred in carrying out titles II, VIII, and XVI.

10 “(B) Subparagraph (A) shall not apply with respect
11 to amounts received in connection with misuse by a rep-
12 resentative payee (within the meaning of sections 205(j),
13 807, and 1631(a)(2)) of funds paid as benefits under title
14 II, VIII, or XVI. Such amounts received in connection
15 with misuse of funds paid as benefits under title II shall
16 be transferred to the Managing Trustee of the Federal
17 Old-Age and Survivors Insurance Trust Fund or the Fed-
18 eral Disability Insurance Trust Fund, as determined ap-
19 propriate by the Commissioner of Social Security, and
20 such amounts shall be deposited by the Managing Trustee
21 into such Trust Fund. All other such amounts shall be
22 deposited by the Commissioner into the general fund of
23 the Treasury as miscellaneous receipts.”.

24 (e) EFFECTIVE DATE.—The amendments made by
25 subsections (a) and (b) shall apply with respect to viola-

1 tions occurring on or after the date of the enactment of
2 this Act.

3 **TITLE III—ATTORNEY FEE PAY-**
4 **MENT SYSTEM IMPROVE-**
5 **MENTS**

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

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

9 (1) by inserting “, except that the maximum
10 amount of the assessment may not exceed the great-
11 er of \$75 or the adjusted amount as provided pursu-
12 ant to the following two sentences” after “subpara-
13 graph (B)”; and

14 (2) by adding at the end the following new sen-
15 tence: “In the case of any calendar year beginning
16 after the date of the enactment of the Social Secu-
17 rity Program Protection Act of 2003, the dollar
18 amount specified in the preceding sentence (includ-
19 ing a previously adjusted amount) shall be adjusted
20 annually under the procedures used to adjust benefit
21 amounts under section 215(i)(2)(A)(ii), except such
22 adjustment shall be based on the higher of \$75 or
23 the previously adjusted amount that would have
24 been in effect for December of the preceding year,
25 but for the rounding of such amount pursuant to the

1 following sentence. Any amount so adjusted that is
 2 not a multiple of \$10 shall be rounded to the next
 3 lowest multiple of \$10, but in no case less than
 4 \$75.”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
 6 this section shall apply with respect to fees for representa-
 7 tion of claimants which are first required to be certified
 8 or paid under section 206 of the Social Security Act on
 9 or after the first day of the first month that begins after
 10 180 days after the date of the enactment of this Act.

11 **SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**
 12 **TO TITLE XVI CLAIMS.**

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

15 (1) in subparagraph (A), in the matter pre-
 16 ceding clause (i)—

17 (A) by striking “section 206(a)” and in-
 18 serting “section 206”;

19 (B) by striking “(other than paragraph (4)
 20 thereof)” and inserting “(other than sub-
 21 sections (a)(4) and (d) thereof)”; and

22 (C) by striking “paragraph (2) thereof”
 23 and inserting “such section”;

24 (2) in subparagraph (A)(i), by striking “in sub-
 25 paragraphs (A)(ii)(I) and (C)(i),” and inserting “in

1 subparagraphs (A)(ii)(I) and (D)(i) of subsection
2 (a)(2)”, and by striking “and” at the end;

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

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

9 “(iii) by substituting, in subsection (a)(2)(C)(i),
10 the phrase ‘under title II’ for the phrase ‘under title
11 XVI’;

12 “(iv) by substituting, in subsection (b)(1)(A),
13 the phrase ‘pay the amount of such fee’ for the
14 phrase ‘certify the amount of such fee for payment’
15 and by striking, in subsection (b)(1)(A), the phrase
16 ‘or certified for payment’; and

17 “(v) by substituting, in subsection (b)(1)(B)(ii),
18 the phrase ‘deemed to be such amounts as deter-
19 mined before any applicable reduction under section
20 1631(g), and reduced by the amount of any reduc-
21 tion in benefits under this title or title II made pur-
22 suant to section 1127(a)’ for the phrase ‘determined
23 before any applicable reduction under section
24 1127(a))’.”; and

1 (4) by striking subparagraph (B) and inserting
2 the following new subparagraphs:

3 “(B) Subject to subparagraph (C), if the claimant is
4 determined to be entitled to past-due benefits under this
5 title and the person representing the claimant is an attor-
6 ney, the Commissioner of Social Security shall pay out of
7 such past-due benefits to such attorney an amount equal
8 to the lesser of—

9 “(i) so much of the maximum fee as does not
10 exceed 25 percent of such past-due benefits (as de-
11 termined before any applicable reduction under sec-
12 tion 1631(g) and reduced by the amount of any re-
13 duction in benefits under this title or title II pursu-
14 ant to section 1127(a)), or

15 “(ii) the amount of past-due benefits available
16 after any applicable reductions under sections
17 1631(g) and 1127(a).

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

23 “(ii)(I) The amount of an assessment under clause
24 (i) shall be equal to the product obtained by multiplying
25 the amount of the representative’s fee that would be re-

1 quired to be paid by subparagraph (B) before the applica-
2 tion of this subparagraph, by the percentage specified in
3 subclause (II), except that the maximum amount of the
4 assessment may not exceed \$75. In the case of any cal-
5 endar year beginning after the date of the enactment of
6 the Social Security Program Protection Act of 2003, the
7 dollar amount specified in the preceding sentence (includ-
8 ing a previously adjusted amount) shall be adjusted annu-
9 ally under the procedures used to adjust benefit amounts
10 under section 215(i)(2)(A)(ii), except such adjustment
11 shall be based on the higher of \$75 or the previously ad-
12 justed amount that would have been in effect for Decem-
13 ber of the preceding year, but for the rounding of such
14 amount pursuant to the following sentence. Any amount
15 so adjusted that is not a multiple of \$10 shall be rounded
16 to the next lowest multiple of \$10, but in no case less
17 than \$75.

18 “(II) The percentage specified in this subclause is
19 such percentage rate as the Commissioner determines is
20 necessary in order to achieve full recovery of the costs of
21 determining and approving fees to attorneys from the
22 past-due benefits of claimants, but not in excess of 6.3
23 percent.

24 “(iii) The Commissioner may collect the assessment
25 imposed on an attorney under clause (i) by offset from

1 the amount of the fee otherwise required by subparagraph
2 (B) to be paid to the attorney from a claimant's past-due
3 benefits.

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

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

11 “(vi) The assessments authorized under this subpara-
12 graph shall be collected and available for obligation only
13 to the extent and in the amount provided in advance in
14 appropriations Acts. Amounts so appropriated are au-
15 thorized to remain available until expended, for adminis-
16 trative expenses in carrying out this title and related
17 laws.”.

18 (b) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply with respect to fees for rep-
21 resentation of claimants which are first required to
22 be certified or paid under section 1631(d)(2) of the
23 Social Security Act on or after the first day of the
24 first month that begins after 270 days after the date
25 of the enactment of this Act.

1 (2) SUNSET.—Such amendments shall not
2 apply with respect to fees for representation of
3 claimants in the case of any claim for benefits with
4 respect to which the agreement for representation is
5 entered into after 3 years after the date of the en-
6 actment of this Act.

7 (c) STUDY REGARDING FEE-WITHHOLDING FOR
8 NON-ATTORNEY REPRESENTATIVES.—

9 (1) STUDY.—As soon as practicable after the
10 date of the enactment of this Act, the Comptroller
11 General of the United States shall undertake a study
12 regarding fee-withholding for non-attorney rep-
13 resentatives representing claimants before the Social
14 Security Administration.

15 (2) MATTERS TO BE STUDIED.—In conducting
16 the study under this subsection, the Comptroller
17 General shall—

18 (A) compare the non-attorney representa-
19 tives who seek fee approval for representing
20 claimants before the Social Security Adminis-
21 tration to attorney representatives who seek
22 such fee approval, with regard to—

23 (i) their training, qualifications, and
24 competency,

1 (ii) the type and quality of services
2 provided, and

3 (iii) the extent to which claimants are
4 protected through oversight of such rep-
5 resentatives by the Social Security Admin-
6 istration or other organizations, and

7 (B) consider the potential results of ex-
8 tending to non-attorney representatives the fee
9 withholding procedures that apply under titles
10 II and XVI of the Social Security Act for the
11 payment of attorney fees, including the effect
12 on claimants and program administration.

13 (3) REPORT.—Not later than 1 year after the
14 date of the enactment of this Act, the Comptroller
15 General shall submit to the Committee on Ways and
16 Means of the House of Representatives and the
17 Committee on Finance of the Senate a report detail-
18 ing the results of the Comptroller General’s study
19 conducted pursuant to this subsection.

1 **TITLE IV—MISCELLANEOUS AND**
 2 **TECHNICAL AMENDMENTS**
 3 **Subtitle A—Amendments Relating**
 4 **to the Ticket to Work and Work**
 5 **Incentives Improvement Act of**
 6 **1999**

7 **SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY**
 8 **SUNSET DATE TO NEW PROJECTS.**

9 Section 234 of the Social Security Act (42
 10 U.S.C. 434) is amended—

11 (1) in the first sentence of subsection (c), by
 12 striking “conducted under subsection (a)” and in-
 13 serting “initiated under subsection (a) on or before
 14 December 17, 2004”; and

15 (2) in subsection (d)(2), by amending the first
 16 sentence to read as follows: “The authority to ini-
 17 tiate projects under the preceding provisions of this
 18 section shall terminate on December 18, 2004.”.

19 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
 20 **IN CONNECTION WITH DEMONSTRATION**
 21 **PROJECTS PROVIDING FOR REDUCTIONS IN**
 22 **DISABILITY INSURANCE BENEFITS BASED ON**
 23 **EARNINGS.**

24 Section 302(c) of the Ticket to Work and Work In-
 25 centives Improvement Act of 1999 (42 U.S.C. 434 note)

1 is amended by striking “(42 U.S.C. 401 et seq.),” and
 2 inserting “(42 U.S.C. 401 et seq.) and the requirements
 3 of section 1148 of such Act (42 U.S.C. 1320b–19) as they
 4 relate to the program established under title II of such
 5 Act.”.

6 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
 7 **VIDED FOR REDUCTIONS IN DISABILITY IN-**
 8 **SURANCE BENEFITS BASED ON EARNINGS.**

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

12 “(f) EXPENDITURES.—Administrative expenses for
 13 demonstration projects under this section shall be paid
 14 from funds available for the administration of title II or
 15 XVIII of the Social Security Act, as appropriate. Benefits
 16 payable to or on behalf of individuals by reason of partici-
 17 pation in projects under this section shall be made from
 18 the Federal Disability Insurance Trust Fund and the Fed-
 19 eral Old-Age and Survivors Insurance Trust Fund, as de-
 20 termined appropriate by the Commissioner of Social Secu-
 21 rity, and from the Federal Hospital Insurance Trust Fund
 22 and the Federal Supplementary Medical Insurance Trust
 23 Fund, as determined appropriate by the Secretary of
 24 Health and Human Services, from funds available for ben-
 25 efits under such title II or XVIII.”.

1 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
2 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
3 **UALS.**

4 (a) **FEDERAL WORK INCENTIVES OUTREACH PRO-**
5 **GRAM.—**

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

9 “(2) **DISABLED BENEFICIARY.—**The term ‘dis-
10 abled beneficiary’ means an individual—

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

13 “(B) who is receiving a cash payment de-
14 scribed in section 1616(a) of this Act or a sup-
15 plementary payment described in section
16 212(a)(3) of Public Law 93–66 (without regard
17 to whether such payment is paid by the Com-
18 missioner pursuant to an agreement under sec-
19 tion 1616(a) of this Act or under section
20 212(b) of Public Law 93–66);

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

24 “(D) who is entitled to benefits under part
25 A of title XVIII of this Act by reason of the pe-

1 multimate sentence of section 226(b) of this
2 Act.”.

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

7 (b) STATE GRANTS FOR WORK INCENTIVES ASSIST-
8 ANCE.—

9 (1) DEFINITION OF DISABLED BENEFICIARY.—
10 Section 1150(g)(2) of such Act (42 U.S.C. 1320b-
11 21(g)(2)) is amended to read as follows:

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

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

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

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

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

8 (2) **ADVOCACY OR OTHER SERVICES NEEDED**
9 **TO MAINTAIN GAINFUL EMPLOYMENT.**—Section
10 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2))
11 is amended by striking “secure or regain” and in-
12 serting “secure, maintain, or regain”.

13 (3) **EFFECTIVE DATE.**—The amendments made
14 by this subsection shall apply with respect to pay-
15 ments provided after the date of the enactment of
16 this Act.

17 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**
18 **MENT FOR CERTAIN PURPOSES OF INDI-**
19 **VIDUAL WORK PLANS UNDER THE TICKET TO**
20 **WORK AND SELF-SUFFICIENCY PROGRAM.**

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

1 “An individual work plan established pursuant to
 2 this subsection shall be treated, for purposes of sec-
 3 tion 51(d)(6)(B)(i) of the Internal Revenue Code of
 4 1986, as an individualized written plan for employ-
 5 ment under a State plan for vocational rehabilitation
 6 services approved under the Rehabilitation Act of
 7 1973.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 subsection (a) shall take effect as if included in section
 10 505 of the Ticket to Work and Work Incentives Improve-
 11 ment Act of 1999 (Public Law 106–170; 113 Stat. 1921).

12 **Subtitle B—Miscellaneous**

13 **Amendments**

14 **SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN**

15 **REMAND CASES FULLY FAVORABLE TO THE**

16 **CLAIMANT.**

17 (a) IN GENERAL.—Section 205(g) of the Social Secu-
 18 rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-
 19 tence by striking “and a transcript” and inserting “and,
 20 in any case in which the Commissioner has not made a
 21 decision fully favorable to the individual, a transcript”.

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

1 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
2 **FROM THE UNITED STATES.**

3 (a) IN GENERAL.—Paragraphs (1) and (2) of section
4 202(n) of the Social Security Act (42 U.S.C. 402(n)(1),
5 (2)) are each amended by striking “or (1)(E)”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section to section 202(n)(1) of the Social Security Act
8 shall apply to individuals with respect to whom the Com-
9 missioner of Social Security receives a removal notice from
10 the Attorney General after the date of the enactment of
11 this Act. The amendment made by this section to section
12 202(n)(2) of the Social Security Act shall apply with re-
13 spect to removals occurring after the date of the enact-
14 ment of this Act.

15 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**
16 **QUIREMENTS.**

17 Section 3003(a)(1) of the Federal Reports Elimini-
18 nation and Sunset Act of 1995 (31 U.S.C. 1113 note)
19 shall not apply to any report required to be submitted
20 under any of the following provisions of law:

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

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

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

1 “(B) the prior wife was institutionalized during
2 the individual’s marriage to the prior wife due to
3 mental incompetence or similar incapacity,

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

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

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

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

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

22 (2) by redesignating clauses (1) through (6) as
23 clauses (A) through (F), respectively;

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

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

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

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

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

12 “(B) the prior husband was institutionalized
13 during the individual’s marriage to the prior hus-
14 band due to mental incompetence or similar inca-
15 pacity,

16 “(C) during the period of the prior husband’s
17 institutionalization, the individual would have di-
18 vorced the prior husband and married the surviving
19 husband, but the individual did not do so because
20 such divorce would have been unlawful, by reason of
21 the prior husband’s institutionalization, under the
22 laws of the State in which the individual was domi-
23 ciled at the time (as determined based on evidence
24 satisfactory to the Commissioner of Social Security),

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

3 “(E) the individual married the surviving hus-
4 band within 60 days after the prior husband’s
5 death.”.

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

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

16 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND**
17 **SECA TAX EXEMPTIONS FOR AN INDIVIDUAL**
18 **WHOSE EARNINGS ARE SUBJECT TO THE**
19 **LAWS OF A TOTALIZATION AGREEMENT**
20 **PARTNER.**

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

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

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

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

8 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY AD-**
9 **VISORY BOARD.**

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

13 “Compensation, Expenses, and Per Diem

14 “(f) A member of the Board shall, for each day (in-
15 cluding traveltime) during which the member is attending
16 meetings or conferences of the Board or otherwise engaged
17 in the business of the Board, be compensated at the daily
18 rate of basic pay for level IV of the Executive Schedule
19 for each day during which the member is engaged in per-
20 forming a function of the Board. While serving on busi-
21 ness of the Board away from their homes or regular places
22 of business, members may be allowed travel expenses, in-
23 cluding per diem in lieu of subsistence, as authorized by
24 section 5703 of title 5, United States Code, for persons
25 in the Government employed intermittently.”.

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

3 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
4 **MENT FOR APPLICATION OF GOVERNMENT**
5 **PENSION OFFSET EXEMPTION.**

6 (a) WIFE’S INSURANCE BENEFITS.—Section
7 202(b)(4)(A) of the Social Security Act (42 U.S.C.
8 402(b)(4)(A)) is amended by striking “if, on the last day
9 she was employed by such entity” and inserting “if,
10 throughout the period beginning with the period of 60 cal-
11 endar months preceding the last day she was employed
12 by such entity and ending with such last day”.

13 (b) HUSBAND’S INSURANCE BENEFITS.—Section
14 202(e)(2)(A) of such Act (42 U.S.C. 402(e)(2)(A)) is
15 amended by striking “if, on the last day he was employed
16 by such entity” and inserting “if, throughout the period
17 beginning with the period of 60 calendar months preceding
18 the last day he was employed by such entity and ending
19 with such last day”.

20 (c) WIDOW’S INSURANCE BENEFITS.—Section
21 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is
22 amended by striking “if, on the last day she was employed
23 by such entity” and inserting “if, throughout the period
24 beginning with the period of 60 calendar months preceding

1 the last day she was employed by such entity and ending
2 with such last day”.

3 (d) WIDOWER’S INSURANCE BENEFITS.—Section
4 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is
5 amended by striking “if, on the last day he was employed
6 by such entity” and inserting “if, throughout the period
7 beginning with the period of 60 calendar months preceding
8 the last day he was employed by such entity and ending
9 with such last day”.

10 (e) MOTHER’S AND FATHER’S INSURANCE BENE-
11 FITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C.
12 402(g)(4)(A)) is amended by striking “if, on the last day
13 the individual was employed by such entity” and inserting
14 “if, throughout the period beginning with the period of
15 60 calendar months preceding the last day the individual
16 was employed by such entity and ending with such last
17 day”.

18 (f) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to applications for
20 benefits under title II of the Social Security Act filed on
21 or after the first day of the first month that begins after
22 the date of the enactment of this Act, except that such
23 amendments shall not apply in connection with monthly
24 periodic benefits of any individual based on earnings while
25 in service described in section 202(b)(4)(A), 202(c)(2)(A),

1 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act
2 (in the matter preceding clause (i) thereof)—

3 (1) if the last day of such service occurs before
4 the end of the 90-day period following the date of
5 the enactment of this Act, or

6 (2) in any case in which the last day of such
7 service occurs after the end of such 90-day period,
8 such individual performed such service during such
9 90-day period which constituted “employment” as
10 defined in section 210 of such Act, and all such
11 service subsequently performed by such individual
12 has constituted such “employment”.

13 **Subtitle C—Technical Amendments**

14 **SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-** 15 **SIBLE AGENCY HEAD.**

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

18 (1) by striking “Secretary” the first place it ap-
19 pears and inserting “Commissioner of Social Secu-
20 rity”; and

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

1 **SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-**
2 **MENT BENEFITS OF MINISTERS.**

3 (a) IN GENERAL.—Section 211(a)(7) of the Social
4 Security Act (42 U.S.C. 411(a)(7)) is amended by insert-
5 ing “, but shall not include in any such net earnings from
6 self-employment the rental value of any parsonage or any
7 parsonage allowance (whether or not excluded under sec-
8 tion 107 of the Internal Revenue Code of 1986) provided
9 after the individual retires, or any other retirement benefit
10 received by such individual from a church plan (as defined
11 in section 414(e) of such Code) after the individual re-
12 tires” before the semicolon.

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

16 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
17 **TIC EMPLOYMENT.**

18 (a) AMENDMENT TO INTERNAL REVENUE CODE.—
19 Section 3121(a)(7)(B) of the Internal Revenue Code of
20 1986 is amended by striking “described in subsection
21 (g)(5)” and inserting “on a farm operated for profit”.

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

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

5 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**
6 **ERENCES.**

7 (a) CORRECTION OF TERMINOLOGY AND CITATIONS
8 RESPECTING REMOVAL FROM THE UNITED STATES.—
9 Section 202(n) of the Social Security Act (42
10 U.S.C. 402(n)) (as amended by section 412) is amended
11 further—

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

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

16 (3) in paragraph (1) (in the matter preceding
17 subparagraph (A)), by striking “under section
18 241(a) (other than under paragraph (1)(C) there-
19 of)” and inserting “under section 237(a) (other than
20 paragraph (1)(C) thereof) or 212(a)(6)(A)”;

21 (4) in paragraph (2), by striking “under any of
22 the paragraphs of section 241(a) of the Immigration
23 and Nationality Act (other than under paragraph
24 (1)(C) thereof)” and inserting “under any of the
25 paragraphs of section 237(a) of the Immigration and

1 Nationality Act (other than paragraph (1)(C) there-
2 of) or under section 212(a)(6)(A) of such Act”;

3 (5) in paragraph (3)—

4 (A) by striking “paragraph (19) of section
5 241(a)” and inserting “subparagraph (D) of
6 section 237(a)(4)”;

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

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

11 (b) CORRECTION OF CITATION RESPECTING THE
12 TAX DEDUCTION RELATING TO HEALTH INSURANCE
13 COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section
14 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amend-
15 ed by striking “section 162(m)” and inserting “section
16 162(l)”.

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

1 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**
2 **PLOYMENT INCOME IN COMMUNITY PROP-**
3 **ERTY STATES.**

4 (a) SOCIAL SECURITY ACT AMENDMENT.—Section
5 211(a)(5)(A) of the Social Security Act (42
6 U.S.C. 411(a)(5)(A)) is amended by striking “all of the
7 gross income” and all that follows and inserting “the gross
8 income and deductions attributable to such trade or busi-
9 ness shall be treated as the gross income and deductions
10 of the spouse carrying on such trade or business or, if
11 such trade or business is jointly operated, treated as the
12 gross income and deductions of each spouse on the basis
13 of their respective distributive share of the gross income
14 and deductions;”.

15 (b) INTERNAL REVENUE CODE OF 1986 AMEND-
16 MENT.—Section 1402(a)(5)(A) of the Internal Revenue
17 Code of 1986 is amended by striking “all of the gross in-
18 come” and all that follows and inserting “the gross income
19 and deductions attributable to such trade or business shall
20 be treated as the gross income and deductions of the
21 spouse carrying on such trade or business or, if such trade
22 or business is jointly operated, treated as the gross income
23 and deductions of each spouse on the basis of their respec-
24 tive distributive share of the gross income and deductions;
25 and”.

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