

109TH CONGRESS  
1ST SESSION

# H. R. 308

To amend title II of the Social Security Act to eliminate the 5-month waiting period for entitlement to disability benefits and to eliminate reconsideration as an intervening step between initial benefit entitlement decisions and subsequent hearings on the record on such decisions.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2005

Mr. MCINTYRE introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend title II of the Social Security Act to eliminate the 5-month waiting period for entitlement to disability benefits and to eliminate reconsideration as an intervening step between initial benefit entitlement decisions and subsequent hearings on the record on such decisions.

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.**

4       This Act may be cited as the “Disability Benefit  
5       Fairness Act of 2005”.

1 **SEC. 2. ELIMINATION OF 5-MONTH WAITING PERIOD FOR**  
2 **BENEFITS BASED ON DISABILITY.**

3 (a) DISABILITY INSURANCE BENEFITS.—

4 (1) IN GENERAL.—The first sentence of section  
5 223(a)(1) of the Social Security Act (42 U.S.C.  
6 423(a)(1)) is amended by striking “(i) for each  
7 month” and all that follows through “the first  
8 month in which he is under such disability” and in-  
9 serting the following: “for each month beginning  
10 with the first month during all of which such indi-  
11 vidual is under a disability and in which such indi-  
12 vidual becomes so entitled to such insurance bene-  
13 fits”.

14 (2) WAITING PERIOD ELIMINATED FROM DE-  
15 TERMINATION OF BENEFIT AMOUNT.—

16 (A) IN GENERAL.—The first sentence of  
17 section 223(a)(2) of such Act (42 U.S.C.  
18 423(a)(2)) is amended by striking “in—” and  
19 all that follows through “and as though” and  
20 inserting the following: “in the first month for  
21 which such individual becomes entitled to such  
22 disability insurance benefits, and as though”.

23 (B) CONFORMING AMENDMENT.—The sec-  
24 ond sentence of section 223(a)(2) of such Act  
25 (42 U.S.C. 423(a)(2)) is amended by striking  
26 “subparagraph (A) or (B) of such sentence, as

1 the case may be” and inserting “such sen-  
2 tence”.

3 (3) ELIMINATION OF DEFINED TERM.—

4 (A) IN GENERAL.—Section 223(c)(2) of  
5 such Act is repealed.

6 (B) CONFORMING AMENDMENTS.—

7 (i) The heading of section 223(c) of  
8 such Act (42 U.S.C. 423(c)) is amended to  
9 read as follows: “Definition of Insured Sta-  
10 tus”.

11 (ii) Section 223(c)(1) of such Act (42  
12 U.S.C. 423(c)(1)) is amended by striking  
13 “For purposes of subparagraph (B) of this  
14 paragraph, when the number of quarters”  
15 in the last sentence and inserting the fol-  
16 lowing:

17 “(2) In applying paragraph (1)(B), when the  
18 number of quarters”.

19 (b) WIDOW’S INSURANCE BENEFITS BASED ON DIS-  
20 ABILITY.—

21 (1) IN GENERAL.—Section 202(e)(1)(F) of such  
22 Act (42 U.S.C. 402(e)(1)(F)) is amended to read as  
23 follows:

24 “(F) if she satisfies subparagraph (B) by rea-  
25 son of clause (ii) thereof, the first month during all

1 of which she is under a disability and in which she  
 2 becomes so entitled to such insurance benefits,”.

3 (2) ELIMINATION OF DEFINED TERM.—Section  
 4 202(e) of such Act (42 U.S.C. 402(e)) is amended—

5 (A) by striking paragraph (5); and

6 (B) by redesignating paragraphs (6), (7),  
 7 and (8) as paragraphs (5), (6), and (7), respec-  
 8 tively.

9 (c) WIDOWER’S INSURANCE BENEFITS BASED ON  
 10 DISABILITY.—

11 (1) IN GENERAL.—Section 202(f)(1)(F) of such  
 12 Act (42 U.S.C. 402(f)(1)(F)) is amended to read as  
 13 follows:

14 “(F) if he satisfies subparagraph (B) by reason  
 15 of clause (ii) thereof, the first month during all of  
 16 which he is under a disability and in which he be-  
 17 comes so entitled to such insurance benefits,”.

18 (2) ELIMINATION OF DEFINED TERM.—Section  
 19 202(f) of such Act (42 U.S.C. 402(f)) is amended—

20 (A) by striking paragraph (5); and

21 (B) by redesignating paragraphs (6), (7),  
 22 and (8) as paragraphs (5), (6), and (7), respec-  
 23 tively.

24 (d) ELIMINATION OF WAITING PERIOD FOR COM-  
 25 MENCEMENT OF PERIODS OF DISABILITY.—Section

1 216(i)(2)(A) of such Act (42 U.S.C. 416(i)(2)(A)) is  
 2 amended by striking “, but only” and all that follows and  
 3 inserting a period.

4 (e) EFFECTIVE DATES.—The amendments made by  
 5 subsection (a) shall apply only with respect to benefits  
 6 under section 223 of the Social Security Act, or under sec-  
 7 tion 202 of such Act on the basis of the wages and self-  
 8 employment income of an individual entitled to benefits  
 9 under such section 223, for months after the third month  
 10 following the month in which this Act is enacted. The  
 11 amendments made by subsections (b) and (c) shall apply  
 12 only with respect to benefits based on disability under sub-  
 13 section (e) or (f) of section 202 of the Social Security Act  
 14 (42 U.S.C. 402) for months after the third month fol-  
 15 lowing the month in which this Act is enacted. The amend-  
 16 ment made by subsection (d) shall apply only with respect  
 17 to applications for disability determinations filed under  
 18 title II of the Social Security Act on or after the 90th  
 19 day following the date of the enactment of this Act.

20 **SEC. 3. ELIMINATION OF RECONSIDERATION IN THE RE-**  
 21 **VIEW PROCESS GOVERNING DECISIONS ON**  
 22 **BENEFIT ENTITLEMENT.**

23 (a) IN GENERAL.—Section 205(b)(1) of the Social  
 24 Security Act (42 U.S.C. 405(b)(1)) is amended by adding  
 25 at the end the following new sentence: “Opportunity for

1 a hearing under this title in accordance with this sub-  
2 section with respect to any initial decision or determina-  
3 tion under this title shall be available without any require-  
4 ment for intervening reconsideration.”.

5 (b) CONFORMING AMENDMENTS.—Section 205(b) of  
6 such Act is amended—

7 (1) by striking paragraph (2); and

8 (2) by redesignating paragraph (3) as para-  
9 graph (2).

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply with respect to initial decisions and  
12 determinations (subject to opportunity for a hearing to the  
13 extent provided under section 205(b) of the Social Secu-  
14 rity Act) issued after 1 year after the date of the enact-  
15 ment of this Act.

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