

111TH CONGRESS
1ST SESSION

S. 1042

To prohibit the use of funds to promote the direct deposit of Veterans and Social Security benefits until adequate safeguards are established to prevent the attachment and garnishment of such benefits.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2009

Mr. KOHL (for himself and Mrs. McCASKILL) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To prohibit the use of funds to promote the direct deposit of Veterans and Social Security benefits until adequate safeguards are established to prevent the attachment and garnishment of such benefits.

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 “Illegal Garnishment
5 Prevention Act”.

1 **SEC. 2. PROHIBITION ON USE OF FUNDS TO PROMOTE DI-**
2 **RECT DEPOSIT OF VETERANS AND SOCIAL**
3 **SECURITY BENEFITS UNTIL ASSURANCE OF**
4 **PROTECTION FROM ATTACHMENT OR GAR-**
5 **NISHMENT.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) Section 5301(a)(1) of title 38 of the United
9 States Code provides that Veterans benefit payments
10 “shall be exempt from the claim of creditors, and
11 shall not be liable to attachment, levy, or seizure by
12 or under any legal or equitable process whatever, ei-
13 ther before or after receipt by the beneficiary.”.

14 (2) Section 207 of the Social Security Act (42
15 U.S.C. 407) provides that Social Security benefits
16 shall not “be subject to execution, levy, attachment,
17 garnishment, or other legal process, or to the oper-
18 ation of any bankruptcy or insolvency law.”.

19 (3) Congress intended for Veterans and Social
20 Security benefits to provide at least a minimum sub-
21 sistence for our nation’s veterans, elderly, and dis-
22 abled.

23 (4) Social Security benefits are the only source
24 of income for over 20 percent of Social Security re-
25 cipients.

1 (5) Many financial institutions are garnishing
2 accounts on behalf of creditors in order to recover
3 debt owed to them, and are assessing fees on bank
4 accounts into which Veterans and Social Security
5 benefits are electronically deposited.

6 (6) Many recipients of these benefits are left
7 temporarily destitute when financial institutions
8 freeze access to their only source of income.

9 (7) Despite the lack of protections for direct de-
10 posit recipients of Veterans and Social Security ben-
11 efits, the Treasury is spending millions of dollars en-
12 couraging veterans, seniors, and other recipients of
13 social security benefits to use direct deposit for re-
14 ceipt of their benefits.

15 (b) PROHIBITION.—No funds appropriated or other-
16 wise made available to the Secretary of the Treasury, the
17 Secretary of Veterans Affairs, or the Commissioner of So-
18 cial Security for fiscal year 2010 or any fiscal year there-
19 after may be used to promote or otherwise encourage re-
20 cipients of old-age, survivors, or disability insurance bene-
21 fits paid under title II of the Social Security Act, or vet-
22 erans benefits provided under the laws administered by
23 the Secretary of Veterans Affairs, to use direct deposit
24 for payment of such benefits, or to otherwise promote the
25 use of direct deposit for such benefits, until the Secretary

1 of the Treasury promulgates rules establishing procedures
 2 to ensure that such benefits are protected from attach-
 3 ment and garnishment in accordance with the require-
 4 ments of section 207 of the Social Security Act (42 U.S.C.
 5 407), and at least 5 of the 7 members of the advisory
 6 committee established under subsection (c) concur in ad-
 7 vising the Secretary of the Treasury that such procedures
 8 provide adequate safeguards.

9 (c) ADVISORY COMMITTEE.—

10 (1) ESTABLISHMENT.—There is hereby estab-
 11 lished an Advisory Committee to be known as the
 12 “Social Security Benefits Protection from Attach-
 13 ment or Garnishment Advisory Committee”.

14 (2) MEMBERSHIP.—The Committee shall be
 15 comprised of 7 members comprised of, or appointed
 16 by the following:

17 (A) The Secretary of the Treasury.

18 (B) The Chair of the Committee on Ways
 19 and Means of the House of Representatives.

20 (C) The Ranking Member of the Com-
 21 mittee on Ways and Means of the House of
 22 Representatives.

23 (D) The Chair of the Committee on Fi-
 24 nance of the Senate.

1 (E) The Ranking Member of the Com-
2 mittee on Finance of the Senate.

3 (F) The Chair of the Special Committee on
4 Aging of the Senate.

5 (G) The Ranking Member of the Special
6 Committee on Aging of the Senate.

7 (3) MEETINGS.—The Secretary of the Treasury
8 shall establish meetings of the Committee.

9 (4) DUTIES.—The Committee shall review the
10 procedures promulgated by the Secretary of the
11 Treasury to carry out subsection (b) and, upon the
12 concurrence of at least 5 members of the Committee,
13 advise the Secretary of the Treasury as to the ade-
14 quacy of such procedures with respect to protecting
15 old-age, survivors, or disability insurance benefits
16 paid under title II of the Social Security Act from
17 attachment and garnishment.

18 (5) FACA EXEMPTION.—The Committee shall
19 not be subject to the Federal Advisory Committee
20 Act (5 U.S.C. App.).

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