

Public Law 116–126
116th Congress

An Act

Mar. 18, 2020
[H.R. 5214]

Representative
Payee Fraud
Prevention Act
of 2019.
5 USC 101 note.

To amend title 5, United States Code, to prevent fraud by representative payees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Representative Payee Fraud Prevention Act of 2019”.

SEC. 2. REPRESENTATIVE PAYEE FRAUD.

(a) DEFINITIONS.—

(1) CSRS.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (31), by striking “and” at the end;

(B) in paragraph (32), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(33) ‘representative payee’ means a person (including an organization) designated under section 8345(e)(1) to receive payments on behalf of a minor or an individual mentally incompetent or under other legal disability.”.

(2) FERS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (37), by striking “and” at the end;

(B) in paragraph (38), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(39) ‘representative payee’ means a person (including an organization) designated under section 8466(c)(1) to receive payments on behalf of a minor or an individual mentally incompetent or under other legal disability.”.

(b) EMBEZZLEMENT OR CONVERSION.—

(1) CSRS.—Subchapter III of chapter 83 of title 5, United States Code, is amended by inserting after section 8345 the following:

5 USC 8345a.

“§ 8345a. Embezzlement or conversion of payments

“(a) EMBEZZLING AND CONVERSION GENERALLY.—

“(1) IN GENERAL.—It shall be unlawful for a representative payee to embezzle or in any manner convert all or any part of the amounts received from payments received as a representative payee to a use other than for the use and benefit of the minor or individual on whose behalf such payments were received.

“(2) REVOCATION.—If the Office determines that a representative payee has embezzled or converted payments as described in paragraph (1), the Office shall promptly—

Determination.

“(A) revoke the certification for payment of benefits to the representative payee; and

“(B) certify payment—

Certification.

“(i) to another representative payee; or

“(ii) if the interest of the individual under this title would be served thereby, to the individual.

“(b) PENALTY.—Any person who violates subsection (a)(1) shall be fined under title 18, imprisoned for not more than 5 years, or both.”.

(2) FERS.—Subchapter VI of chapter 84 of title 5, United States Code, is amended by inserting after section 8466 the following:

“§ 8466a. Embezzlement or conversion of payments

5 USC 8466a.

“(a) EMBEZZLING AND CONVERSION GENERALLY.—

“(1) IN GENERAL.—It shall be unlawful for a representative payee to embezzle or in any manner convert all or any part of the amounts received from payments received as a representative payee to a use other than for the use and benefit of the minor or individual on whose behalf such payments were received.

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Certification.

“(i) to another representative payee; or

“(ii) if the interest of the individual under this title would be served thereby, to the individual.

“(b) PENALTY.—Any person who violates subsection (a)(1) shall be fined under title 18, imprisoned for not more than 5 years, or both.”.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8345 the following:

5 USC
prec. 8301.

“8345a. Embezzlement or conversion of payments.”.

(B) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8466 the following:

5 USC
prec. 8401.

“8466a. Embezzlement or conversion of payments.”.

(c) DEFERRAL OF PAYMENT PENDING APPOINTMENT OF REPRESENTATIVE PAYEE.—

(1) CSRS.—Section 8345(e) of title 5, United States Code, is amended—

(A) by inserting “(1)” after “(e)”;

(B) in the first sentence, by inserting “(including an organization)” after “person”;

(C) in the second sentence—

(i) by inserting “(including an organization)” after “any person”; and

(ii) by inserting “and may appropriately receive such payments on behalf of the claimant” after “claimant” the second place it appears; and

(D) by adding at the end the following:

Determination.

“(2) If the Office determines that direct payment of a benefit to an individual mentally incompetent or under other legal disability would cause substantial harm to the individual, the Office may defer or suspend direct payment of the benefit until such time as the appointment of a representative payee is made. The Office shall resume payment as soon as practicable, including all amounts due.”.

(2) FERS.—Section 8466(c) of title 5, United States Code, is amended—

(A) by inserting “(1)” after “(c)”;

(B) in the first sentence, by inserting “(including an organization)” after “person”;

(C) in the second sentence—

(i) by inserting “(including an organization)” after “any person”; and

(ii) by inserting “and may appropriately receive such payments on behalf of the claimant” after “claimant” the second place it appears; and

(D) by adding at the end the following:

Determination.

“(2) If the Office determines that direct payment of a benefit to an individual mentally incompetent or under other legal disability would cause substantial harm to the individual, the Office may defer or suspend direct payment of the benefit until such time as the appointment of a representative payee is made. The Office shall resume payment as soon as practicable, including all amounts due.”.

(d) LIMITATIONS ON APPOINTMENTS OF REPRESENTATIVE PAYEES.—

(1) CSRS.—Section 8345 of title 5, United States Code, is amended by inserting after subsection (e) the following:

“(f) The Office may not authorize a person to receive payments on behalf of a minor or individual of legal disability under subsection (e) if that person has been convicted of a violation of—

“(1) section 8345a or 8466a;

“(2) section 208 or 1632 of the Social Security Act (42 U.S.C. 408, 1383a); or

“(3) section 6101 of title 38.”.

(2) FERS.—Section 8466 of title 5, United States Code, is amended by adding at the end the following:

“(d) The Office may not authorize a person to receive payments on behalf of a minor or individual of legal disability under subsection (c) if that person has been convicted of a violation of—

“(1) section 8345a or 8466a;

“(2) section 208 or 1632 of the Social Security Act (42 U.S.C. 408, 1383a); or

“(3) section 6101 of title 38.”.

SEC. 3. IMPLEMENTATION.

(a) AUTHORIZATION OF PAYMENTS.—Section 8348(a)(1)(B) of title 5, United States Code, is amended by inserting “in administering fraud prevention under sections 8345, 8345a, 8466, and 8466a of this title,” after “8465(b) of this title.”.

(b) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Office of Personnel Management—

Deadline.
5 USC 8331 note.

(1) shall promulgate regulations to carry out the amendments made by section 2; and

(2) may promulgate additional regulations relating to the administration of the representative payee program.

SEC. 4. EFFECTIVE DATE.

5 USC 8331 note.

The amendments made by section 2—

(1) shall take effect on the date of the enactment of this Act; and

(2) apply on and after the effective date of the regulations promulgated under section 3(b)(1).

Approved March 18, 2020.

LEGISLATIVE HISTORY—H.R. 5214:

CONGRESSIONAL RECORD, Vol. 166 (2020):

Feb. 5, considered and passed House.

Mar. 3, considered and passed Senate.