

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.

(a) TITLE II AMENDMENTS- Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended--

(1) in subparagraph (B)(i)--

(A) by striking `and' at the end of subclause (III);

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

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

`(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

`(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and';

(2) in subparagraph (B), by adding at the end the following new clause:

`(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that--

`(I) such person is described in section 202(x)(1)(A)(iv),

`(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

`(III) the location or apprehension of such person is within the officer's official duties.';

(3) in subparagraph (C)(i)(II), by striking `subparagraph (B)(i)(IV),,' and inserting `subparagraph (B)(i)(VI)' and striking `section 1631(a)(2)(B)(ii)(IV)' and inserting `section 1631(a)(2)(B)(ii)(VI)'; and

(4) in subparagraph (C)(i)--

(A) by striking `or' at the end of subclause (II);

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

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

`(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

`(V) such person is person described in section 202(x)(1)(A)(iv).'

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

(1) in subsection (b)(2)--

(A) by striking `and' at the end of subparagraph (C);

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

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

`(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

`(E) obtain information concerning whether such person is a person described in section 804(a)(2); and';

(2) in subsection (b), by adding at the end the following new paragraph:

`(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that--

`(A) such person is described in section 804(a)(2),

`(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

`(C) the location or apprehension of such person is within the officer's official duties.'; and

(3) in subsection (d)(1)--

(A) by striking `or' at the end of subparagraph (B);

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

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

`(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

`(E) such person is a person described in section 804(a)(2).'

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

(1) in clause (ii)--

(A) by striking `and' at the end of subclause (III);

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

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

`(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

`(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and';

(2) in clause (iii)(II)--

(A) by striking `clause (ii)(IV)' and inserting `clause (ii)(VI)'; and

(B) by striking `section 205(j)(2)(B)(i)(IV)' and inserting `section 205(j)(2)(B)(i)(VI)';

(3) in clause (iii)--

(A) by striking `or' at the end of subclause (II);

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

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

`(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

`(V) such person is a person described in section 1611(e)(4)(A).'; and

(4) by adding at the end the following new clause:

`(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that--

`(I) such person is described in section 1611(e)(4)(A),

`(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

`(III) the location or apprehension of such person is within the officer's official duties.'.

(d) EFFECTIVE DATE- The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS- The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the

enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL- Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended--

(1) in the heading, by striking `Prisoners' and all that follows and inserting the following: `Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees';

(2) in paragraph (1)(A)(ii)(IV), by striking `or' at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

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

`(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or
(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual.'; and

(5) in paragraph (3), by adding at the end the following new subparagraph:
(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that--

(i) the beneficiary--

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

(II) has information that is necessary for the officer to conduct the officer's official duties; and

(ii) the location or apprehension of the beneficiary is within the officer's official duties.'

(b) REGULATIONS- Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the

Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

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

Legislative History

(Sec. 103 of the Bill)

PRESENT LAW

Sections 205, 807, and 1631 of the Social Security Act disqualify individuals from being representative payees if they have been convicted of fraudulent conduct involving Social Security programs.

REASON FOR CHANGE

Prohibiting persons convicted of offenses resulting in imprisonment for more than one year and persons fleeing prosecution, custody or confinement for a felony from serving as representative payees decreases the likelihood of mismanagement or abuse of beneficiaries' funds. Also, allowing such persons to serve as representative payees could raise serious questions about the SSA's stewardship of taxpayer funds. The agency's report will assist Congress in its oversight of the representative payee program.

EXPLANATION OF PROVISION

The new provision expands the scope of disqualification to prohibit an individual from serving as a representative payee if he or she has been convicted of an offense resulting in imprisonment for more than one year, unless the Commissioner determines that payee status would be appropriate despite the conviction. It also disqualifies persons fleeing prosecution, custody, or confinement for a felony from being representative payees. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

The new provision requires the Commissioner, in consultation with the SSA Inspector General, to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating existing procedures and reviews conducted for representative payees to determine whether they are sufficient to protect benefits from being misused.

PRESENT LAW

The 'Personal Responsibility and Work Opportunity Reconciliation Act of 1996,' (PRWORA) P.L. 104-193, included provisions making persons ineligible to receive SSI benefits during any month in which they are fleeing to avoid prosecution, custody, or confinement for a felony, or if they are in violation of a condition of probation or parole. However, this prohibition was not extended to Social Security benefits under Title II.

REASON FOR CHANGE

There are concerns that Social Security benefits, not just Supplemental Security Income and other welfare benefits, are being used to aid flight from justice or other crime. The Congressional Budget Office has estimated that persons fleeing to avoid prosecution for a felony or to avoid custody or confinement after conviction for a felony, or in violation of a condition of probation or parole, will receive \$526 million in Title II Social Security benefits over the next 10 years. The Social Security Inspector General (SSA IG) recommended changing the law to prohibit fugitive felons and other criminals from receiving benefits.

The provision gives the Commissioner authority to pay withheld Title II benefits if there is 'good cause.' The Commissioner would be required to develop regulations within one year of the date of enactment. This 'good cause' discretion is authorized for the Commissioner in cases of Title II benefits, where it was not authorized or intended for programs affected under the similar provision in PRWORA, because workers earn the right to receive benefits for themselves and their families through their career-long Social Security payroll tax contributions.

The good cause exception will provide the Commissioner with the ability to pay benefits under circumstances in which the Commissioner deems withholding of benefits to be inappropriate--for example, but not limited to, situations when Social Security beneficiaries are found to be in flight from a warrant relating to a crime for which a court of competent jurisdiction finds the person not guilty, or if the charges are dismissed; if a warrant for arrest is vacated; or if probation or parole is not revoked. In such circumstances, it is expected that the Commissioner would pay benefits withheld from the beneficiary for which he or she was otherwise eligible but for the prohibition in this provision.

In testimony received at a February 27, 2003 hearing, the Subcommittee was made aware of instances with respect to the SSI program where there may be mitigating circumstances relating to persons with outstanding warrants for their arrest. In addition, PRWORA implementing instructions have been found to vary between agencies. For example, the Department of Agriculture's Food and Nutrition Service has issued instructions that in order to be considered 'fleeing,' the individual must have knowledge a warrant has been issued for his or her arrest and that the State agency should verify the individual has such knowledge. In addition, once the person has knowledge of the warrant, either by having received it personally or by being advised of its existence by the

State agency, he or she is technically `fleeing' at that time. Finally, the instructions strongly urge the State agency to give the individual an opportunity to submit documentation that the warrant has been satisfied. The Social Security Administration's procedures do not include such instructions.

The SSA IG is conducting an audit on implementation of the fugitive felon provision for the Supplemental Security Income program, which will shed light on the types of crimes beneficiaries committed, law enforcement's pursuit of such criminals, the length of time benefits were suspended, the SSA's handling of these cases, and other issues. The Subcommittee will continue to closely monitor these issues and encourages the Commissioner to review the agency's implementing instructions in light of these circumstances and what constitutes flight under Federal law.

EXPLANATION OF PROVISION

The new provision denies Social Security benefits under Title II to persons fleeing prosecution, custody or confinement for a felony, and to persons violating probation or parole. However, the Commissioner may, for good cause, pay withheld benefits. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

Bill Status

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On passage Passed by recorded vote: 396 - 28 ([Roll no. 102](#)).

4/3/2003:

Received in the Senate and Read twice and referred to the Committee on Finance.

Senate Finance Committee Members

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