

115TH CONGRESS
1ST SESSION

H. R. 4547

To amend titles II, VIII, and XVI of the Social Security Act to improve and strengthen the representative payment program.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2017

Mr. SAM JOHNSON of Texas (for himself and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend titles II, VIII, and XVI of the Social Security Act to improve and strengthen the representative payment program.

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 “Strengthening Protec-
5 tions for Social Security Beneficiaries Act of 2017”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—STRENGTHENING OVERSIGHT AND BENEFICIARY
PROTECTION

- Sec. 101. Stronger monitoring of representative payees.
 Sec. 102. Reducing the burden on families.
 Sec. 103. Protecting beneficiaries through information sharing.
 Sec. 104. Clarifying overpayment liability for child in child welfare system.
 Sec. 105. Reports.

TITLE II—IMPROVING PAYEE SELECTION AND QUALITY

- Sec. 201. Advance designation of representative payees.
 Sec. 202. Prohibition on individuals convicted of certain crimes serving as representative payees.
 Sec. 203. Prohibition on individuals with representative payees serving as representative payees.
 Sec. 204. Reassessment of payee selection and replacement policies.

1 **TITLE I—STRENGTHENING**
 2 **OVERSIGHT AND BENE-**
 3 **FICIARY PROTECTION**

4 **SEC. 101. STRONGER MONITORING OF REPRESENTATIVE**
 5 **PAYEES.**

6 (a) PROTECTION AND ADVOCACY FOR BENE-
 7 FICIARIES WITH REPRESENTATIVE PAYEES.—Section
 8 205(j)(6) of the Social Security Act (42 U.S.C. 405(j)(6))
 9 is amended by adding at the end the following:

10 “(C)(i) The Commissioner of Social Security shall
 11 make annual grants directly to the protection and advo-
 12 cacy system serving each of the States and the American
 13 Indian consortium for the purpose of conducting reviews
 14 of representative payees in accordance with this subpara-
 15 graph. The total amount used by the Commissioner for
 16 such grants each year—

17 “(I) shall be an amount sufficient, as deter-
 18 mined by the Commissioner in consultation with

1 each of the protection and advocacy systems, to
2 carry out all of the activities described in clause (ii);
3 and

4 “(II) shall not be less than \$25,000,000.

5 “(ii) A protection and advocacy system awarded a
6 grant under this subparagraph shall use the grant funds
7 to—

8 “(I) conduct all periodic onsite reviews pursu-
9 ant to this paragraph and such other reviews of rep-
10 resentative payees as the Commissioner may request,
11 including reviews conducted in response to allega-
12 tions or concerns about the performance or suit-
13 ability of the payee;

14 “(II) conduct additional reviews that the pro-
15 tection and advocacy system has reason to believe
16 are warranted;

17 “(III) develop corrective action plans to assist
18 representative payees in conforming to requirements
19 specified by the Commissioner;

20 “(IV) submit a report to the Commissioner on
21 each completed review containing such information
22 as the Commissioner shall require; and

23 “(V) conduct an initial onsite assessment of any
24 organization that begins collecting a fee for its serv-
25 ices as a representative payee to ensure that such

1 organization is established as such a representative
2 payee in accordance with requirements specified by
3 the Commissioner.

4 A protection and advocacy system may refer beneficiaries
5 to other programs or services as the protection and advo-
6 cacy system considers appropriate.

7 “(iii) To be eligible to receive grants under this sec-
8 tion, a protection and advocacy system shall submit an
9 initial application to the Commissioner at such time, in
10 such form and manner, and accompanied by such informa-
11 tion and assurances as the Commissioner may require.

12 “(iv)(I) Subject to subclause (II), the Commissioner
13 shall ensure that any funds used for grants under clause
14 (i) shall be allocated to the protection and advocacy sys-
15 tems serving each of the States and the American Indian
16 consortium in a manner such that the amount provided
17 to each protection and advocacy system bears the same
18 ratio to the total of such funds as the number of rep-
19 resented beneficiaries in the State or American Indian
20 consortium in which such protection and advocacy system
21 is located bears to the total number of represented bene-
22 ficiaries.

23 “(II) The amount of an annual grant to a protection
24 and advocacy system under clause (i) shall—

1 “(aa) in the case of a protection and advocacy
2 system serving American Samoa, Guam, the United
3 States Virgin Islands, or the Commonwealth of the
4 Northern Mariana Islands, or the American Indian
5 consortium, not be less than \$30,000; and

6 “(bb) in the case of a protection and advocacy
7 system serving any other State, not be less than
8 \$60,000.

9 “(III) Funds provided to a protection and advocacy
10 system through a grant under clause (i) for a one-year
11 period shall remain available through the end of the fol-
12 lowing one-year period.

13 “(IV) For purposes of this clause, the term ‘rep-
14 resented beneficiary’ means an individual—

15 “(aa) who is entitled to benefits under this title,
16 title VIII, or title XVI; and

17 “(bb) whose benefits have been certified for
18 payment to a representative payee.

19 “(v)(I) The Commissioner shall make annual grants,
20 in an amount equal to 4 percent of the total amount of
21 grants awarded each year under clause (i), to an eligible
22 national association for the provision of training and tech-
23 nical assistance, administrative support, and data collec-
24 tion services to protection and advocacy systems in con-
25 nection with grants awarded under clause (i).

1 “(II) In this clause, the term ‘eligible national asso-
2 ciation’ means a national disability association with exten-
3 sive knowledge and demonstrated experience in providing
4 training, technical assistance, and administrative oversight
5 to protection and advocacy systems that monitor rep-
6 resentative payees.

7 “(vi) In conducting reviews under this section, a pro-
8 tection and advocacy system shall have the same authori-
9 ties, including access to records, facilities, and persons, as
10 such system would have for purposes of providing services
11 under subtitle C of title I of the Developmental Disabilities
12 Assistance and Bill of Rights Act of 2000 (42 U.S.C.
13 15041 et seq.).

14 “(vii) Whenever benefit amounts under this title are
15 increased by any percentage effective with any month after
16 November 2018 as a result of a determination made under
17 section 215(i), each of the dollar amounts specified in
18 clauses (i)(II) and (iv)(II) shall be increased by the same
19 percentage.

20 “(viii) No additional funds are authorized to be ap-
21 propriated to carry out the requirements of this subpara-
22 graph. Such requirements shall be carried out using
23 amounts otherwise authorized.

24 “(ix) In this subparagraph:

1 “(I) The term ‘American Indian consortium’
2 means a consortium established under subtitle C of
3 title I of the Developmental Disabilities Assistance
4 and Bill of Rights Act of 2000 (42 U.S.C. 15041 et
5 seq.).

6 “(II) The term ‘protection and advocacy sys-
7 tem’ means a protection and advocacy system estab-
8 lished under subtitle C of title I of the Develop-
9 mental Disabilities Assistance and Bill of Rights Act
10 of 2000 (42 U.S.C. 15041 et seq.).

11 “(III) The term ‘State’ means the several
12 States of the United States, the District of Colum-
13 bia, the Commonwealth of Puerto Rico, the United
14 States Virgin Islands, Guam, American Samoa, and
15 the Commonwealth of the Northern Mariana Is-
16 lands.”.

17 (b) EXPANSION OF PERIODIC ONSITE REVIEW RE-
18 QUIREMENTS.—Section 205(j)(6)(A) of the Social Secu-
19 rity Act (42 U.S.C. 405(j)(6)(A)) is amended—

20 (1) in clause (ii), by striking “or”;

21 (2) in clause (iii), by striking the period and in-
22 serting “; or”;

23 (3) by adding after clause (iii) the following:

24 “(iv) the representative payee collects a fee for
25 its services.”; and

1 (4) by adding after clause (iv) (as added by
2 paragraph (3)) the following flush text:

3 “The Commissioner shall also conduct periodic onsite re-
4 views of individual and organizational payees, including
5 payees who are related to the beneficiary and primarily
6 reside in the same household, selected on the basis of risk-
7 factors for potential misuse or unsuitability associated
8 with such payees or beneficiaries.”.

9 (c) AVAILABILITY OF GRANT FUNDS.—

10 (1) PROTECTION AND ADVOCACY SYSTEM
11 GRANTS.—Grants described under clause (i) of sub-
12 paragraph (C) of section 205(j)(6) of the Social Se-
13 curity Act (as added by subsection (a)) shall be
14 awarded on August 1, 2018, and annually there-
15 after, and funds provided by such grants to a protec-
16 tion and advocacy system may be used to reimburse
17 the protection and advocacy system for amounts ex-
18 pended by the protection and advocacy system dur-
19 ing the period beginning on May 1, 2018, and end-
20 ing on such date for hiring and start-up costs in
21 preparation to carry out reviews of representative
22 payees in accordance with such subparagraph.

23 (2) NATIONAL ASSOCIATION GRANTS.—Grants
24 described under clause (v) of such subparagraph

1 shall be awarded on May 1, 2018, and annually
2 thereafter.

3 **SEC. 102. REDUCING THE BURDEN ON FAMILIES.**

4 (a) TITLE II.—Section 205(j)(3) of the Social Secu-
5 rity Act (42 U.S.C. 405(j)(3)) is amended—

6 (1) by redesignating subparagraphs (D)
7 through (G) as subparagraphs (E) through (H), re-
8 spectively;

9 (2) by inserting after subparagraph (C) the fol-
10 lowing:

11 “(D)(i) Subparagraph (A) shall not apply
12 in any case where the other person to whom
13 such payment is made is—

14 “(I) a parent, or other individual
15 who is a legal guardian of, a minor
16 child entitled to such payment who
17 primarily resides in the same house-
18 hold;

19 “(II) a parent of an individual
20 entitled to such payment who is under
21 a disability (as defined in section
22 223(d)) who primarily resides in the
23 same household; or

24 “(III) the spouse of the indi-
25 vidual entitled to such payment.

1 “(ii) The Commissioner of Social Security
2 shall establish and implement procedures as
3 necessary for the Commissioner to determine
4 the eligibility of such parties for the exemption
5 provided in clause (i). The Commissioner shall
6 prescribe such regulations as may be necessary
7 to determine eligibility for such exemption.”;

8 (3) in subparagraph (E) (as so redesignated), by
9 striking “and (C)” and inserting “(C), and (D)”;
10 and

11 (4) in subparagraph (F) (as so redesignated),
12 by striking “(D)” each place it appears and insert-
13 ing “(E)”.

14 (b) TITLE VIII.—Section 807(h) of the Social Secu-
15 rity Act (42 U.S.C. 1007(h)) is amended—

16 (1) by redesignating paragraphs (3) through
17 (5) as paragraphs (4) through (6), respectively; and

18 (2) by inserting after paragraph (2) the fol-
19 lowing:

20 “(3)(A) Paragraph (1) shall not apply in any
21 case where the other person to whom such payment
22 is made is the spouse of the individual entitled to
23 such payment.

24 “(B) The Commissioner of Social Security shall
25 establish and implement procedures as necessary for

1 the Commissioner to determine the eligibility of such
2 parties for the exemption provided in subparagraph
3 (A). The Commissioner shall prescribe such regula-
4 tions as may be necessary to determine eligibility for
5 such exemption.”.

6 (c) TITLE XVI.—Section 1631(a)(2)(C) of the Social
7 Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

8 (1) by redesignating clauses (iv) and (v) as
9 clauses (v) and (vi), respectively;

10 (2) by inserting after clause (iii) the following:

11 “(iv)(I) Clause (i) shall not apply in any case
12 where the representative payee is—

13 “(aa) a parent, or other individual who is
14 a legal guardian of, a minor child entitled to
15 such payment who primarily resides in the same
16 household;

17 “(bb) a parent of an individual entitled to
18 such payment who is under a disability who pri-
19 marily resides in the same household; or

20 “(cc) the spouse of the individual entitled
21 to such payment.

22 “(II) The Commissioner of Social Security shall
23 establish and implement procedures as necessary for
24 the Commissioner to determine the eligibility of such
25 parties for the exemption provided in subclause (I).

1 The Commissioner shall prescribe such regulations
2 as may be necessary to determine eligibility for such
3 exemption.”;

4 (3) in clause (v) (as so redesignated), by strik-
5 ing “and (iii)” and inserting “(iii), and (iv)”; and

6 (4) in clause (vi) (as so redesignated), by strik-
7 ing “(iv)” each time it appears and inserting “(v)”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 103. PROTECTING BENEFICIARIES THROUGH INFOR-**
12 **MATION SHARING.**

13 (a) INFORMATION SHARING TO DETERMINE STATE
14 FOSTER CARE STATUS.—

15 (1) IN GENERAL.—Section 205(j) of the Social
16 Security Act (42 U.S.C. 405(j)) is amended by add-
17 ing at the end the following:

18 “(11)(A) The Commissioner of Social Security
19 shall—

20 “(i) enter into agreements with each State with
21 a plan approved under part E of title IV for the pur-
22 pose of sharing and matching data, on an automated
23 monthly basis, in the system of records of the Social
24 Security Administration with each Statewide and
25 Tribal Automated Child Welfare Information System

1 to identify represented minor beneficiaries who are
2 in foster care under the responsibility of the State
3 for such month; and

4 “(ii) in any case in which a represented minor
5 beneficiary has entered or exited foster care or
6 changed foster care placement in such month, rede-
7 termine the appropriate representative payee for
8 such individual.

9 “(B) For purposes of this paragraph—

10 “(i) the term ‘State’ has the meaning given
11 such term for purposes of part E of title IV;

12 “(ii) the term ‘Statewide and Tribal Automated
13 Child Welfare Information System’ means a state-
14 wide mechanized data collection and information re-
15 trieval system described in section 474(a)(3)(C); and

16 “(iii) the term ‘represented minor beneficiary’,
17 with respect to an individual for a month, means a
18 child (as defined for purposes of section 475(8)) en-
19 titled to benefits under this title for such month
20 whose benefits are certified for payment to a rep-
21 resentative payee.”.

22 (2) CONFORMING CHANGE.—Section
23 471(a)(8)(A) of the Social Security Act (42 U.S.C.
24 671(a)(8)(A)) is amended by inserting “the program
25 established by title II,” after “XX,”.

1 (3) GAO STUDY AND REPORT.—

2 (A) EVALUATION.—As soon as possible
3 after the date of the enactment of this Act, the
4 Comptroller General shall evaluate—

5 (i) the number of represented minor
6 beneficiaries in foster care under the re-
7 sponsibility of a State for each month dur-
8 ing the previous year;

9 (ii) whether the representative payee
10 for each represented minor beneficiary is—

11 (I) a governmental child welfare
12 agency;

13 (II) an organizational payee that
14 is not a governmental child welfare
15 agency;

16 (III) a foster parent or child-care
17 institution (within the meaning of
18 part E of title IV); or

19 (IV) another individual; and

20 (iii) whether funds were conserved,
21 used for direct expenses of the minor bene-
22 ficiary, or used to reimburse the State for
23 foster care maintenance costs.

24 (B) REPORT TO CONGRESS.—Not later
25 than 36 months after the date of enactment of

1 this Act, the Comptroller General shall submit
2 to Congress a report on the results of the eval-
3 uation required under subparagraph (A).

4 (C) DEFINITIONS.—For purposes of this
5 paragraph—

6 (i) the term “State” has the meaning
7 given such term for purposes of part E of
8 title IV of the Social Security Act; and

9 (ii) the term “represented minor bene-
10 ficiary”, with respect to an individual for a
11 month, means a child (as defined for pur-
12 poses of section 475(8) of the Social Secu-
13 rity Act) entitled to benefits under title II
14 of such Act for such month whose benefits
15 are certified for payment to a representa-
16 tive payee.

17 (4) EFFECTIVE DATE.—

18 (A) IN GENERAL.—The amendments made
19 by this subsection shall apply with respect to
20 months beginning on or after the date that is
21 1 year after the date of the enactment of this
22 Act.

23 (B) EXCEPTION IF STATE LEGISLATION
24 REQUIRED.—In the case of a State plan under
25 part E of title IV of the Social Security Act

1 that the Secretary of Health and Human Serv-
2 ices determines requires State legislation (other
3 than legislation appropriating funds) in order
4 for the plan to meet the additional requirement
5 imposed by the amendments made under this
6 subsection, such plan shall not be regarded as
7 failing to comply with the requirements of such
8 title solely on the basis of its failure to meet
9 this additional requirement before the first day
10 of the first calendar quarter beginning after the
11 close of the first regular session of the State
12 legislature that begins after the date of the en-
13 actment of this Act. For purposes of the pre-
14 vious sentence, in the case of a State that has
15 a 2-year legislative session, each year of such
16 session shall be deemed to be a separate regular
17 session of the State legislature.

18 (b) IMPROVING COORDINATION WITH ADULT PRO-
19 TECTIVE SERVICES.—

20 (1) IN GENERAL.—The Commissioner of Social
21 Security shall study and test the administrative fea-
22 sibility of improving information sharing, in partner-
23 ship with State agencies that provide adult protec-
24 tive services, with respect to—

1 (A) the assessment of an individual's need
2 for a representative payee in connection with
3 benefits to which the individual is entitled
4 under title II or title XVI of the Social Security
5 Act; and

6 (B) oversight of individuals and organiza-
7 tions serving as representative payees.

8 (2) REPORT.—Not later than June 30, 2022,
9 the Commissioner of Social Security shall conclude
10 the study described in paragraph (1) and submit to
11 the Committee on Ways and Means of the House of
12 Representatives and the Committee on Finance of
13 the Senate a report on the results of such study.

14 (c) STUDY ON POTENTIAL TO COORDINATE WITH
15 STATE COURTS.—

16 (1) IN GENERAL.—The Commissioner of Social
17 Security shall enter into an agreement with the Ad-
18 ministrative Conference of the United States to con-
19 duct a study that includes—

20 (A) an overview of potential opportunities
21 for information sharing between the Social Se-
22 curity Administration and State courts and rel-
23 evant State agencies;

1 (B) a detailed analysis of the barriers to
2 such information sharing, including any Federal
3 or State statutory barriers;

4 (C) a description of how such information
5 sharing would be implemented, including any
6 additional infrastructure needed; and

7 (D) a description of any risks or other fac-
8 tors that the Social Security Administration
9 and the Congress should consider before imple-
10 menting such information sharing.

11 (2) REPORT.—Not later than June 30, 2020,
12 the Commissioner of Social Security shall submit to
13 the Committee on Ways and Means of the House of
14 Representatives and the Committee on Finance of
15 the Senate and make publicly available a report on
16 the results of the study conducted under paragraph
17 (1).

18 **SEC. 104. CLARIFYING OVERPAYMENT LIABILITY FOR**
19 **CHILD IN CHILD WELFARE SYSTEM.**

20 (a) AMENDMENT TO TITLE II.—Section 204(a) of
21 the Social Security Act (42 U.S.C. 404(a)) is amended
22 by adding at the end the following:

23 “(3)(A) When any payment of more than the correct
24 amount is made on behalf of an individual who is a rep-
25 resented minor beneficiary for a month in which such indi-

1 vidual is in foster care under the responsibility of a State
2 and the State is the representative payee of such indi-
3 vidual, the State shall be liable for the repayment of the
4 overpayment, and there shall be no adjustment of pay-
5 ments to, or recovery by the United States from, such in-
6 dividual.

7 “(B) For purposes of this paragraph, the term ‘rep-
8 resented minor beneficiary’ has the meaning given such
9 term in subsection (j)(11)(B)(iii).”.

10 (b) AMENDMENT TO TITLE XVI.—Section 1631(b)
11 of the Social Security Act (42 U.S.C. 1683(b)) is amend-
12 ed—

13 (1) by redesignating paragraphs (3) through
14 (7) as paragraphs (4) through (8), respectively; and

15 (2) by inserting after paragraph (2) the fol-
16 lowing:

17 “(3)(A) When any payment of more than the correct
18 amount is made on behalf of an individual who is a rep-
19 resented minor beneficiary for a month in which such indi-
20 vidual is in foster care under the responsibility of a State
21 and the State is the representative payee of such indi-
22 vidual, the State shall be liable for the repayment of the
23 overpayment, and there shall be no adjustment of pay-
24 ments to, or recovery by the United States from, such in-
25 dividual.

1 “(B) For purposes of this paragraph, the term ‘rep-
2 resented minor beneficiary’, with respect to an individual
3 for a month, means a child (as defined for purposes of
4 section 475(8)) entitled to benefits under this title for
5 such month whose benefits are certified for payment to
6 a representative payee.”.

7 (c) **EFFECTIVE DATE.**—The amendment made by
8 subsection (a) shall apply with respect to overpayments
9 made on or after the date of the enactment of this Act
10 and to any other overpayments that have not been recov-
11 ered as of such date.

12 **SEC. 105. REPORTS.**

13 (a) **REPORT ON BENEFITS MISUSED.**—Section
14 205(j) of the Social Security Act (42 U.S.C. 405(j)), as
15 amended by section 103(a), is further amended—

16 (1) in paragraph (6)—

17 (A) by striking “(A) In addition to” and
18 inserting “In addition to”; and

19 (B) by striking subparagraph (B); and

20 (2) by adding at the end the following:

21 “(12)(A) Not later than January 31 of each fiscal
22 year, the Commissioner shall submit to the Committee on
23 Ways and Means of the House of Representatives and the
24 Committee on Finance of the Senate a report on the re-
25 sults of all reviews of representative payees conducted dur-

1 ing the previous fiscal year in connection with benefits
2 under this title, title VIII, or title XVI. Such report shall
3 summarize problems identified in such reviews and correc-
4 tive actions taken or planned to be taken to correct such
5 problems, and shall include—

6 “(i) the number of such reviews;

7 “(ii) the results of such reviews;

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

10 “(iv) the number of reviews conducted in re-
11 sponse to allegations or concerns about the perform-
12 ance or suitability of the payee;

13 “(v) the number of cases discovered in which
14 there was a misuse of funds, and the total dollar
15 amount of benefits determined by the Commissioner
16 during such fiscal year to have been misused by a
17 representative payee (regardless of the fiscal year in
18 which such misuse occurred);

19 “(vi) the number of cases discovered in which
20 such misuse of funds resulted from the negligent
21 failure of the Commissioner to investigate or mon-
22 itor a representative payee;

23 “(vii) the final disposition of such cases of mis-
24 use of funds, including—

1 “(I) any criminal, civil, and administrative
2 penalties imposed;

3 “(II) the total dollar amount of misused
4 benefits repaid to beneficiaries and alternative
5 representative payees under each of—

6 “(aa) paragraph (5) (on the basis of
7 a negligent failure of the Commissioner de-
8 scribed in such paragraph);

9 “(bb) paragraph (5) (on any other
10 basis); and

11 “(cc) paragraph (7); and

12 “(III) the total dollar amount of misused
13 benefits recovered under each of—

14 “(aa) paragraph (5); and

15 “(bb) paragraph (7);

16 “(viii) any updates to prior year reports nec-
17 essary to reflect subsequent recoveries and repay-
18 ments pertaining to misuse determinations made in
19 prior years; and

20 “(ix) such other information as the Commis-
21 sioner deems appropriate.

22 “(B) Each report required under this paragraph for
23 a fiscal year shall include the information described in
24 clauses (i) through (ix) of subparagraph (A) with respect
25 to—

1 “(i) all representative payees reviewed during
2 such fiscal year;

3 “(ii) all such representative payees that are or-
4 ganizations, separated by whether such organization
5 collects a fee for its services as a representative
6 payee;

7 “(iii) all such representative payees that are in-
8 dividuals serving 15 or more individuals; and

9 “(iv) all such representative payees that are in-
10 dividuals serving less than 15 individuals, separated
11 by whether such representative payee is a family
12 member.”.

13 (b) REPORT ON ELIMINATION OF THE ACCOUNTING
14 FORM.—The Commissioner shall—

15 (1) conduct a study on the changes made by the
16 amendments made by section 102 of the Strength-
17 ening Protections for Social Security Beneficiaries
18 Act of 2017, which shall include the impact of such
19 changes on families, beneficiaries, and the operations
20 of the Social Security Administration; and

21 (2) not later than January 1, 2021, submit a
22 report on the results of such study to the Committee
23 on Ways and Means of the House of Representatives
24 and the Committee on Finance of the Senate.

1 (c) REPORT ON THE ADVANCED DESIGNATION POL-
2 ICY.—The Commissioner shall—

3 (1) conduct a study on the changes made by the
4 amendments made by section 201 of the Strength-
5 ening Protections for Social Security Beneficiaries
6 Act of 2017, which shall include the impact of such
7 changes on beneficiaries and the operations of the
8 Social Security Administration; and

9 (2) not later than January 1, 2025, submit a
10 report on the results of such study to the Committee
11 on Ways and Means of the House of Representatives
12 and the Committee on Finance of the Senate.

13 **TITLE II—IMPROVING PAYEE**
14 **SELECTION AND QUALITY**

15 **SEC. 201. ADVANCE DESIGNATION OF REPRESENTATIVE**
16 **PAYEES.**

17 (a) IN GENERAL.—Section 205(j)(1) of the Social Se-
18 curity Act (42 U.S.C. 405(j)(1)) is amended by adding
19 at the end the following:

20 “(C)(i) An individual who is entitled to or is an appli-
21 cant for a benefit under this title, title VIII, or title XVI,
22 who has attained 18 years of age or is an emancipated
23 minor, may, at any time, designate one or more other indi-
24 viduals to serve as a representative payee for such indi-
25 vidual in the event that the Commissioner of Social Secu-

1 rity determines under subparagraph (A) that the interest
2 of such individual would be served by certification for pay-
3 ment of such benefits to which the individual is entitled
4 to a representative payee. If the Commissioner of Social
5 Security makes such a determination with respect to such
6 individual at any time after such designation has been
7 made, the Commissioner shall—

8 “(I) certify payment of such benefits to the des-
9 ignated individual, subject to the requirements of
10 paragraph (2); or

11 “(II) if the Commissioner determines that cer-
12 tification for payment of such benefits to the des-
13 ignated individual would not satisfy the require-
14 ments of paragraph (2), that the designated indi-
15 vidual is unwilling or unable to serve as representa-
16 tive payee, or that other good cause exists, certify
17 payment of such benefits to another individual or or-
18 ganization, in accordance with paragraph (1).

19 “(ii) An organization may not be designated to serve
20 as a representative payee under this subparagraph.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on the date that is 2 years
23 after the date of the enactment of this section.

24 (c) REGULATIONS.—Not later than 18 months after
25 the date of the enactment of this section, the Commis-

1 sioner of Social Security shall promulgate regulations
2 specifying the information an individual is required to pro-
3 vide to the Commissioner in order to designate another
4 individual to serve as the individual’s representative payee
5 under section 205(j)(1)(C) of the Social Security Act (as
6 added by subsection (a)).

7 (d) NOTIFICATION TO BENEFICIARIES.—Not later
8 than January 1, 2020, and annually thereafter, the Com-
9 missioner of Social Security shall notify each individual
10 entitled to a benefit under title II, VIII, or XVI of the
11 Social Security Act of the name of any individual des-
12 ignated to serve as the individual’s representative payee
13 under section 205(j)(1)(C) of such Act (as added by sub-
14 section (a)).

15 **SEC. 202. PROHIBITION ON INDIVIDUALS CONVICTED OF**
16 **CERTAIN CRIMES SERVING AS REPRESENTA-**
17 **TIVE PAYEES.**

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

21 (1) in subparagraph (B)—

22 (A) in clause (i)—

23 (i) in subclause (V), by striking “and”
24 at the end;

1 (ii) in subclause (VI), by striking the
2 period and inserting “, and”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(VII) determine whether such person has been
6 convicted, under Federal or State law, of a felony
7 provided under clause (iv), or of an attempt or a
8 conspiracy to commit such a felony.”; and

9 (B) by adding at the end the following:

10 “(iv) The felony crimes provided under this clause,
11 whether an offense under State or Federal law, are the
12 following:

13 “(I) Human trafficking, including as prohibited
14 under sections 1590 and 1591 of title 18, United
15 States Code.

16 “(II) False imprisonment, including as prohib-
17 ited under section 1201 of title 18, United States
18 Code.

19 “(III) Kidnapping, including as prohibited
20 under section 1201 of title 18, United States Code.

21 “(IV) Rape and sexual assault, including as
22 prohibited under sections 2241, 2242, 2243, and
23 2244 of title 18, United States Code.

1 “(V) First-degree homicide, including as prohib-
2 ited under section 1111 of title 18, United States
3 Code.

4 “(VI) Robbery, including as prohibited under
5 section 2111 of title 18, United States Code.

6 “(VII) Fraud to obtain access to government
7 assistance, including as prohibited under sections
8 287, 1001, and 1343 of title 18, United States
9 Code.

10 “(VIII) Fraud by scheme, including as prohib-
11 ited under section 1343 of title 18, United States
12 Code.

13 “(IX) Theft of government funds or property,
14 including as prohibited under section 641 of title 18,
15 United States Code.

16 “(X) Abuse or neglect, including as prohibited
17 under sections 111, 113, 114, 115, 116, or 117 of
18 title 18, United States Code.

19 “(XI) Forgery, including as prohibited under
20 section 642 and chapter 25 (except section 512) of
21 title 18, United States Code.

22 “(XII) Identity theft or identity fraud, includ-
23 ing as prohibited under sections 1028 and 1028A of
24 title 18, United States Code.

1 The Commissioner of Social Security may promulgate reg-
2 ulations to provide for additional felony crimes under this
3 clause.

4 “(v)(I) For the purpose of carrying out the activities
5 required under subparagraph (B)(i) as part of the inves-
6 tigation under subparagraph (A)(i), the Commissioner
7 may conduct a background check of any individual seeking
8 to serve as a representative payee under this subsection
9 and may disqualify from service as a representative payee
10 any such individual who fails to grant permission for the
11 Commissioner to conduct such a background check.

12 “(II) The Commissioner may revoke certification of
13 payment of benefits under this subsection to any indi-
14 vidual serving as a representative payee on or after Janu-
15 ary 1, 2019, who fails to grant permission for the Commis-
16 sioner to conduct such a background check.”; and

17 (2) in subparagraph (C)—

18 (A) in clause (i)—

19 (i) in subclause (IV), by striking “or”
20 at the end;

21 (ii) in subclause (V), by striking the
22 period at the end and inserting “, or”; and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(VI) except as provided in clause (vi), such
2 person has previously been convicted as described in
3 subparagraph (B)(i)(VII).”; and

4 (B) by adding at the end the following:

5 “(vi) The Commissioner of Social Security may grant
6 an exemption from the provisions of clause (i)(VI), if the
7 Commissioner determines that such exemption is in the
8 best interest of the individual entitled to such benefits, to
9 any person who—

10 “(I) is the custodial parent of a minor child for
11 whom the person applies to serve;

12 “(II) is the custodial spouse of the beneficiary
13 for whom the person applies to serve;

14 “(III) is the custodial parent of a beneficiary
15 who is under a disability (as defined in section
16 223(d)) which began before the beneficiary attained
17 the age of 22, for whom the person applies to serve;

18 “(IV) is the custodial court appointed guardian
19 of the beneficiary for whom the person applies to
20 serve;

21 “(V) is the custodial grandparent of a minor
22 grandchild for whom the person applies to serve;

23 “(VI) is the parent who was previously rep-
24 resentative payee for his or her minor child who has

1 since turned 18 and continues to be eligible for such
2 benefit; or

3 “(VII) received a presidential or gubernatorial
4 pardon for the relevant conviction.”.

5 (b) AMENDMENTS TO TITLE VIII.—Section 807 of
6 the Social Security Act (42 U.S.C. 1007) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (2)—

9 (i) in subparagraph (E), by striking
10 “and” at the end;

11 (ii) in subparagraph (F), by striking
12 the period and inserting “, and”; and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(G) determine whether such person has
16 been convicted, under Federal or State law, of
17 a felony provided under paragraph (4), or of an
18 attempt or a conspiracy to commit such a fel-
19 ony.”; and

20 (B) by adding at the end the following:

21 “(4) The felony crimes provided under this
22 paragraph, whether an offense under State or Fed-
23 eral law, are the following:

1 “(A) Human trafficking, including as pro-
2 hibited under sections 1590 and 1591 of title
3 18, United States Code.

4 “(B) False imprisonment, including as
5 prohibited under section 1201 of title 18,
6 United States Code.

7 “(C) Kidnapping, including as prohibited
8 under section 1201 of title 18, United States
9 Code.

10 “(D) Rape and sexual assault, including as
11 prohibited under sections 2241, 2242, 2243,
12 and 2244 of title 18, United States Code.

13 “(E) First-degree homicide, including as
14 prohibited under section 1111 of title 18,
15 United States Code.

16 “(F) Robbery, including as prohibited
17 under section 2111 of title 18, United States
18 Code.

19 “(G) Fraud to obtain access to government
20 assistance, including as prohibited under sec-
21 tions 287, 1001, and 1343 of title 18, United
22 States Code.

23 “(H) Fraud by scheme, including as pro-
24 hibited under section 1343 of title 18, United
25 States Code.

1 “(I) Theft of government funds or prop-
2 erty, including as prohibited under section 641
3 of title 18, United States Code.

4 “(J) Abuse or neglect, including as prohib-
5 ited under sections 111, 113, 114, 115, 116, or
6 117 of title 18, United States Code.

7 “(K) Forgery, including as prohibited
8 under section 642 and chapter 25 (except sec-
9 tion 512) of title 18, United States Code.

10 “(L) Identity theft or identity fraud, in-
11 cluding as prohibited under sections 1028 and
12 1028A of title 18, United States Code.

13 The Commissioner of Social Security may promul-
14 gate regulations to provide for additional felony
15 crimes under this clause.

16 “(5)(A) For the purpose of carrying out the activities
17 required under paragraph (2) as part of the investigation
18 under paragraph (1)(A), the Commissioner may conduct
19 a background check of any individual seeking to serve as
20 a representative payee under this subsection and may dis-
21 qualify from service as a representative payee any such
22 individual who fails to grant permission for the Commis-
23 sioner to conduct such a background check.

24 “(B) The Commissioner may revoke certification of
25 payment of benefits under this subsection to any indi-

1 individual serving as a representative payee on or after Janu-
2 ary 1, 2019 who fails to grant permission for the Commis-
3 sioner to conduct such a background check.”; and

4 (2) in subsection (d)—

5 (A) in paragraph (1)—

6 (i) in subparagraph (D), by striking
7 “or” at the end;

8 (ii) in subparagraph (E), by striking
9 the period at the end and inserting “, or”;
10 and

11 (iii) by adding at the end the fol-
12 lowing:

13 “(F) except as provided in paragraph
14 (2)(D), such person has previously been con-
15 victed as described in subsection (b)(2)(G).”;
16 and

17 (B) in paragraph (2), by adding at the end
18 the following:

19 “(D) The Commissioner of Social Security
20 may grant an exemption from the provisions of
21 paragraph (1)(F), if the Commissioner deter-
22 mines that such exemption is in the best inter-
23 est of the individual entitled to such benefits, to
24 any person who—

1 “(i) is the custodial spouse of the ben-
2 eficiary for whom the person applies to
3 serve;

4 “(ii) is the custodial court appointed
5 guardian of the beneficiary for whom the
6 person applies to serve; or

7 “(iii) received a presidential or guber-
8 natorial pardon for the relevant convic-
9 tion.”.

10 (c) AMENDMENTS TO TITLE XVI.—Section
11 1631(a)(2)(B) of the Social Security Act (42 U.S.C.
12 1383(a)(2)(B)) is amended—

13 (1) in clause (ii)—

14 (A) in subclause (V), by striking “and” at
15 the end;

16 (B) in subclause (VI), by striking the pe-
17 riod and inserting “, and”; and

18 (C) by adding at the end the following:

19 “(VII) determine whether such person has been
20 convicted, under Federal or State law, of a felony
21 provided under clause (xv), or of an attempt or a
22 conspiracy to commit such a felony.”;

23 (2) in clause (iii)—

24 (A) in subclause (IV), by striking “or” at
25 the end;

1 (B) in subclause (V), by striking the period
2 at the end and inserting “, or”; and

3 (C) by adding at the end the following:

4 “(VI) except as provided in clause (xvii), such
5 person has previously been convicted as described in
6 clause (ii)(VII).”; and

7 (3) by adding at the end the following:

8 “(xv) The felony crimes provided under this clause,
9 whether an offense under State or Federal law, are the
10 following:

11 “(I) Human trafficking, including as prohibited
12 under sections 1590 and 1591 of title 18, United
13 States Code.

14 “(II) False imprisonment, including as prohib-
15 ited under section 1201 of title 18, United States
16 Code.

17 “(III) Kidnapping, including as prohibited
18 under section 1201 of title 18, United States Code.

19 “(IV) Rape and sexual assault, including as
20 prohibited under sections 2241, 2242, 2243, and
21 2244 of title 18, United States Code.

22 “(V) First-degree homicide, including as prohib-
23 ited under section 1111 of title 18, United States
24 Code.

1 “(VI) Robbery, including as prohibited under
2 section 2111 of title 18, United States Code.

3 “(VII) Fraud to obtain access to government
4 assistance, including as prohibited under sections
5 287, 1001, and 1343 of title 18, United States
6 Code.

7 “(VIII) Fraud by scheme, including as prohib-
8 ited under section 1343 of title 18, United States
9 Code.

10 “(IX) Theft of government funds or property,
11 including as prohibited under section 641 of title 18,
12 United States Code.

13 “(X) Abuse or neglect, including as prohibited
14 under sections 111, 113, 114, 115, 116, or 117 of
15 title 18, United States Code.

16 “(XI) Forgery, including as prohibited under
17 section 642 and chapter 25 (except section 512) of
18 title 18, United States Code.

19 “(XII) Identity theft or identity fraud, includ-
20 ing as prohibited under sections 1028 and 1028A of
21 title 18, United States Code.

22 The Commissioner of Social Security may promulgate reg-
23 ulations to provide for additional felony crimes under this
24 clause.

1 “(xvi)(I) For the purpose of carrying out the activi-
2 ties required under clause (ii) as part of the investigation
3 under clause (i)(I), the Commissioner may conduct a back-
4 ground check of any individual seeking to serve as a rep-
5 resentative payee under this subsection and may disqualify
6 from service as a representative payee any such individual
7 who fails to grant permission for the Commissioner to con-
8 duct such a background check.

9 “(II) The Commissioner may revoke certification of
10 payment of benefits under this subsection to any indi-
11 vidual serving as a representative payee on or after Janu-
12 ary 1, 2019, who fails to grant permission for the Commis-
13 sioner to conduct such a background check.

14 “(xvii) The Commissioner of Social Security may
15 grant an exemption from the provisions of clause (iii)(VI),
16 if the Commissioner determines that such exemption is in
17 the best interest of the individual entitled to such benefits,
18 to any person who—

19 “(I) is the custodial parent of a minor child for
20 whom the person applies to serve;

21 “(II) is the custodial spouse of the beneficiary
22 for whom the person applies to serve;

23 “(III) is the custodial parent of a beneficiary
24 who is under a disability which began before the

1 beneficiary attained the age of 22, for whom the per-
2 son applies to serve;

3 “(IV) is the custodial court appointed guardian
4 of the beneficiary for whom the person applies to
5 serve;

6 “(V) is the custodial grandparent of a minor
7 grandchild for whom the person applies to serve;

8 “(VI) is the parent who was previously rep-
9 resentative payee for his or her minor child who has
10 since turned 18 and continues to be eligible for such
11 benefit; or

12 “(VII) received a presidential or gubernatorial
13 pardon for the relevant conviction.”.

14 (d) APPLICATION TO NEW APPOINTMENTS.—Subject
15 to subsection (e), the amendments made by subsections
16 (a), (b), and (c) shall apply with respect to any individual
17 appointed to serve as a representative payee pursuant to
18 section 205(j), 807, or 1631(a)(2) of the Social Security
19 Act on or after January 1, 2019.

20 (e) APPLICATION TO PRIOR APPOINTMENTS.—

21 (1) IN GENERAL.—Not later than January 1,
22 2024, the Commissioner of Social Security shall con-
23 duct a review of each individual serving as a rep-
24 resentative payee pursuant to 205(j), 807, or
25 1631(a)(2) of the Social Security Act, to determine

1 whether such individual has been convicted of a fel-
2 ony as described in section 205(j)(2)(B)(i)(VII),
3 807(b)(2)(G), or 1631(a)(2)(B)(ii)(VII), respectively
4 (as such provisions are added by this section). Ex-
5 cept as provided in section 205(j)(2)(C)(vi),
6 807(d)(2)(D), or 1631(a)(2)(B)(xvii) (as so added),
7 any individual determined by the Commissioner to
8 have been so convicted may not serve as a represent-
9 ative payee on or after the date of such determina-
10 tion.

11 (2) PRIORITY.—In conducting reviews under
12 paragraph (1), the Commissioner shall prioritize re-
13 views of the following categories of individuals, in
14 the following order:

15 (A) An individual serving as representative
16 payee for 15 or more individuals.

17 (B) An individual serving as representative
18 payee for an individual who is not related to the
19 representative payee.

20 (C) An individual serving as representative
21 payee for an individual who has attained the
22 age of 18 and is not the spouse of the rep-
23 resentative payee.

24 (f) PERIODIC REVIEW.—Not later than 1 year after
25 the date of enactment of this section, the Commissioner

1 of Social Security shall issue regulations to establish a
2 process for reviewing each individual serving as a rep-
3 resentative payee pursuant to section 205(j), 807, or
4 1631(a)(2) of the Social Security Act not less than once
5 every 5 years to determine whether any such individual
6 has been convicted of a felony as described in subsection
7 (e)(1) of this section and is not subject to an exemption
8 as described in such subsection.

9 **SEC. 203. PROHIBITION ON INDIVIDUALS WITH REP-**
10 **RESENTATIVE PAYEES SERVING AS REP-**
11 **RESENTATIVE PAYEES.**

12 (a) AMENDMENT TO TITLE II.—Section
13 205(j)(2)(C)(i) of the Social Security Act (42 U.S.C.
14 405(j)(2)(C)(i)), as amended by section 202(a)(2), is fur-
15 ther amended—

16 (1) in subclause (V), by striking “or” at the
17 end;

18 (2) in subclause (VI), by striking the period
19 and inserting “, or”; and

20 (3) by adding at the end the following:

21 “(VII) such person’s benefits under this title,
22 title VIII, or title XVI are certified for payment to
23 a representative payee during the period for which
24 the individual’s benefits would be certified for pay-
25 ment to another person.”.

1 (b) AMENDMENT TO TITLE VIII.—Section 807(d)(1)
2 of the Social Security Act (42 U.S.C. 1007(d)(1)), as
3 amended by section 202(b)(2), is further amended—

4 (1) in subparagraph (E), by striking “or” at
5 the end;

6 (2) in subparagraph (F), by striking the period
7 and inserting “, or”; and

8 (3) by adding at the end the following:

9 “(G) such person’s benefits under this
10 title, title II, or title XVI are certified for pay-
11 ment to a representative payee during the pe-
12 riod for which the individual’s benefits would be
13 certified for payment to another person.”.

14 (c) AMENDMENT TO TITLE XVI.—Section
15 1631(a)(2)(B)(iii) of the Social Security Act (42 U.S.C.
16 1383(a)(2)(B)(iii)), as amended by section 202(c)(2), is
17 further amended—

18 (1) in subclause (V), by striking “or” at the
19 end;

20 (2) in subclause (VI), by striking the period
21 and inserting “, or”; and

22 (3) by adding at the end the following:

23 “(VII) such person’s benefits under this title,
24 title II, or title VIII are certified for payment to a
25 representative payee during the period for which the

1 individual's benefits would be certified for payment
2 to another person.”.

3 (d) EFFECTIVE DATE.—

4 (1) NEW APPOINTMENTS.—Subject to para-
5 graph (2), the amendments made by this section
6 shall apply with respect to any individual appointed
7 to serve as a representative payee under title II, title
8 VIII, or title XVI of the Social Security Act on or
9 after January 1, 2019.

10 (2) PRIOR APPOINTMENTS.—With respect to in-
11 dividuals serving as a representative payee whose
12 benefits under this title, title VIII, or title XVI are
13 certified for payment to another representative payee
14 as of January 1, 2019, the Commissioner shall take
15 any steps necessary to terminate such individual's
16 service as a representative payee as soon as possible,
17 but no later than January 1, 2024.

18 **SEC. 204. REASSESSMENT OF PAYEE SELECTION AND RE-**
19 **PLACEMENT POLICIES.**

20 (a) IN GENERAL.—The Commissioner of Social Secu-
21 rity shall conduct, with opportunity for public comment,
22 a review and reassessment of—

23 (1) the appropriateness of its order of pref-
24 erence for selecting representative payees, including

1 payees who may be creditors of the beneficiary or
2 who are private, for-profit institutions; and

3 (2) the effectiveness of its policy and oper-
4 ational procedures in properly determining when to
5 change a representative payee, including—

6 (A) from a payee that has a higher order
7 of preference (such as a family member) to a
8 payee that has a lower order of preference
9 (such as a creditor); or

10 (B) when a request to change payees arises
11 from someone other than the beneficiary.

12 (b) REPORT.—Not later than 18 months after the
13 date of the enactment of this Act, the Commissioner of
14 Social Security shall submit to the Committee on Ways
15 and Means of the House of Representatives and the Com-
16 mittee on Finance of the Senate and make publicly avail-
17 able a report on the results of the review and reassessment
18 under subsection (a).

○