

116TH CONGRESS  
1ST SESSION

# H. R. 5214

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2019

Ms. TLAIB (for herself and Mr. MEADOWS) introduced the following bill; which was referred to the Committee on Oversight and Reform

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## A BILL

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

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 “Representative Payee  
5 Fraud Prevention Act of 2019”.

6 **SEC. 2. REPRESENTATIVE PAYEE FRAUD.**

7 (a) DEFINITIONS.—

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

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

3 (B) in paragraph (32), by striking the pe-  
4 riod at the end and inserting “; and”; and

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

6 “(33) ‘representative payee’ means a person  
7 (including an organization) designated under section  
8 8345(e)(1) to receive payments on behalf of a minor  
9 or an individual mentally incompetent or under other  
10 legal disability.”.

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

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

15 (B) in paragraph (38), by striking the pe-  
16 riod at the end and inserting “; and”; and

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

18 “(39) ‘representative payee’ means a person  
19 (including an organization) designated under section  
20 8466(e)(1) to receive payments on behalf of a minor  
21 or an individual mentally incompetent or under other  
22 legal disability.”.

23 (b) EMBEZZLEMENT OR CONVERSION.—

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

4 **“§ 8345a. Embezzlement or conversion of payments**

5           “(a) EMBEZZLING AND CONVERSION GENERALLY.—

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

13           “(2) REVOCATION.—If the Office determines  
14 that a representative payee has embezzled or con-  
15 verted payments as described in paragraph (1), the  
16 Office shall promptly—

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

19           “(B) certify payment—

20           “(i) to another representative payee;

21           or

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

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

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

7 **“§ 8466a. Embezzlement or conversion of payments**

8 “(a) EMBEZZLING AND CONVERSION GENERALLY.—

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

16 “(2) REVOCATION.—If the Office determines  
17 that a representative payee has embezzled or con-  
18 verted payments as described in paragraph (1), the  
19 Office shall promptly—

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

22 “(B) certify payment—

23 “(i) to another representative payee;

24 or

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

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

7           (3) TECHNICAL AND CONFORMING AMEND-  
8           MENTS.—

9                   (A) The table of sections for chapter 83 of  
10                   title 5, United States Code, is amended by in-  
11                   serting after the item relating to section 8345  
12                   the following:

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

13                   (B) The table of sections for chapter 84 of  
14                   title 5, United States Code, is amended by in-  
15                   serting after the item relating to section 8466  
16                   the following:

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

17           (c) DEFERRAL OF PAYMENT PENDING APPOINT-  
18           MENT OF REPRESENTATIVE PAYEE.—

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

21                           (A) by inserting “(1)” after “(e)”;

22                           (B) in the first sentence, by inserting “(in-  
23                           cluding an organization)” after “person”;

24                           (C) in the second sentence—

1 (i) by inserting “(including an organi-  
2 zation)” after “any person”; and

3 (ii) by inserting “and may appro-  
4 priately receive such payments on behalf of  
5 the claimant” after “claimant” the second  
6 place it appears; and

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

8 “(2) If the Office determines that direct payment of  
9 a benefit to an individual mentally incompetent or under  
10 other legal disability would cause substantial harm to the  
11 individual, the Office may defer or suspend direct payment  
12 of the benefit until such time as the appointment of a rep-  
13 resentative payee is made. The Office shall resume pay-  
14 ment as soon as practicable, including all amounts due.”.

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

17 (A) by inserting “(1)” after “(c)”;

18 (B) in the first sentence, by inserting “(in-  
19 cluding an organization)” after “person”;

20 (C) in the second sentence—

21 (i) by inserting “(including an organi-  
22 zation)” after “any person”; and

23 (ii) by inserting “and may appro-  
24 priately receive such payments on behalf of

1           the claimant” after “claimant” the second  
2           place it appears; and

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

4           “(2) If the Office determines that direct payment of  
5 a benefit to an individual mentally incompetent or under  
6 other legal disability would cause substantial harm to the  
7 individual, the Office may defer or suspend direct payment  
8 of the benefit until such time as the appointment of a rep-  
9 resentative payee is made. The Office shall resume pay-  
10 ment as soon as practicable, including all amounts due.”.

11       (d) LIMITATIONS ON APPOINTMENTS OF REP-  
12 RESENTATIVE PAYEES.—

13           (1) CSRS.—Section 8345 of title 5, United  
14 States Code, is amended by inserting after sub-  
15 section (e) the following:

16           “(f) The Office may not authorize a person to receive  
17 payments on behalf of a minor or individual of legal dis-  
18 ability under subsection (e) if that person has been con-  
19 victed of a violation of—

20           “(1) section 8345a or 8466a;

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

23           “(3) section 6101 of title 38.”.

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

4           “(d) The Office may not authorize a person to receive  
5 payments on behalf of a minor or individual of legal dis-  
6 ability under subsection (c) if that person has been con-  
7 victed of a violation of—

8           “(1) section 8345a or 8466a;

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

11           “(3) section 6101 of title 38.”.

12 **SEC. 3. IMPLEMENTATION.**

13           (a) AUTHORIZATION OF PAYMENTS.—Section  
14 8348(a)(1)(B) of title 5, United States Code, is amended  
15 by inserting “in administering fraud prevention under sec-  
16 tions 8345, 8345a, 8466, and 8466a of this title,” after  
17 “8465(b) of this title,”.

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

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

23           (2) may promulgate additional regulations re-  
24 lating to the administration of the representative  
25 payee program.

1 **SEC. 4. EFFECTIVE DATE.**

2 The amendments made by section 2—

3 (1) shall take effect on the date of the enact-  
4 ment of this Act; and

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

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