

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5214  
OFFERED BY MRS. CAROLYN B. MALONEY OF  
NEW YORK**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Representative Payee  
3 Fraud Prevention Act”.

**4 SEC. 2. REPRESENTATIVE PAYEE FRAUD.**

5 (a) DEFINITIONS.—

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

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

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

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

13 “(33) ‘representative payee’ means a person  
14 (including an organization) designated under section  
15 8345(e)(1) to receive payments on behalf of a minor  
16 or an individual mentally incompetent or under other  
17 legal disability.”.

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

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

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

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

8           “(39) ‘representative payee’ means a person  
9 (including an organization) designated under section  
10 8466(e)(1) to receive payments on behalf of a minor  
11 or an individual mentally incompetent or under other  
12 legal disability.”.

13       (b) EMBEZZLEMENT OR CONVERSION.—

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

17 **“§ 8345a. Embezzlement or conversion of payments**

18       “(a) EMBEZZLING AND CONVERSION GENERALLY.—

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

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

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

7                   “(B) certify payment—

8                           “(i) to another representative payee;

9                           or

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

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

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

19   **“§ 8466a. Embezzlement or conversion of payments**

20           “(a) EMBEZZLING AND CONVERSION GENERALLY.—

21                   “(1) IN GENERAL.—It shall be unlawful for a  
22                   representative payee to embezzle or in any manner  
23                   convert all or any part of the amounts received from  
24                   payments received as a representative payee to a use  
25                   other than for the use and benefit of the minor or

1 individual on whose behalf such payments were re-  
2 ceived.

3 “(2) REVOCATION.—If the Office determines  
4 that a representative payee has embezzled or con-  
5 verted payments as described in paragraph (1), the  
6 Office shall promptly—

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

9 “(B) certify payment—

10 “(i) to another representative payee;

11 or

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

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

18 (3) TECHNICAL AND CONFORMING AMEND-  
19 MENTS.—

20 (A) The table of sections for chapter 83 of  
21 title 5, United States Code, is amended by in-  
22 serting after the item relating to section 8345  
23 the following:

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

24 (B) The table of sections for chapter 84 of  
25 title 5, United States Code, is amended by in-

1           serting after the item relating to section 8466  
2           the following:

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

3           (c) DEFERRAL OF PAYMENT PENDING APPOINT-  
4           MENT OF REPRESENTATIVE PAYEE.—

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

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

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

10                  (C) in the second sentence—

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

13                           (ii) by inserting “and may appro-  
14                           priately receive such payments on behalf of  
15                           the claimant” after “claimant” the second  
16                           place it appears; and

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

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

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

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

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

6           (C) in the second sentence—

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

9           (ii) by inserting “and may appro-  
10 priately receive such payments on behalf of  
11 the claimant” after “claimant” the second  
12 place it appears; and

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

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

21           (d) LIMITATIONS ON APPOINTMENTS OF REP-  
22 RESENTATIVE PAYEES.—

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

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

5 “(1) section 8345a or 8466a;

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

8 “(3) section 6101 of title 38.”.

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

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

16 “(1) section 8345a or 8466a;

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

19 “(3) section 6101 of title 38.”.

### 20 **SEC. 3. IMPLEMENTATION.**

21 (a) AUTHORIZATION OF PAYMENTS.—Section  
22 8348(a)(1)(B) of title 5, United States Code, is amended  
23 by inserting “in administering fraud prevention under sec-  
24 tions 8345, 8345a, 8466, and 8466a of this title,” after  
25 “8465(b) of this title,”.

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

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

6 (2) may promulgate additional regulations re-  
7 lating to the administration of the representative  
8 payee program.

9 **SEC. 4. EFFECTIVE DATE.**

10 The amendments made by section 2—

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

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

