

114TH CONGRESS
1ST SESSION

S. 2316

To amend title 38, United States Code, to expand the requirements for reissuance of veterans benefits in cases of misuse of benefits by certain fiduciaries to include misuse by all fiduciaries, to improve oversight of fiduciaries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2015

Mr. BLUMENTHAL (for himself, Mr. MORAN, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to expand the requirements for reissuance of veterans benefits in cases of misuse of benefits by certain fiduciaries to include misuse by all fiduciaries, to improve oversight of fiduciaries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXPANSION OF REQUIREMENTS FOR**
2 **REISSUANCE OF VETERANS BENEFITS IN**
3 **CASES OF MISUSE OF BENEFITS BY CERTAIN**
4 **FIDUCIARIES TO INCLUDE MISUSE BY ALL FI-**
5 **DUCIARIES.**

6 Section 6107 of title 38, United States Code, is
7 amended—

8 (1) by striking subsections (a) and (b) and in-
9 serting the following new subsection (a):

10 “(a) REISSUANCE OF MISUSED BENEFITS.—(1) In
11 any case in which a fiduciary misuses all or part of an
12 individual’s benefit paid to such fiduciary, the Secretary
13 shall pay to the beneficiary or the beneficiary’s successor
14 fiduciary an amount equal to the amount of such benefit
15 so misused.

16 “(2) In any case in which the Secretary obtains
17 recoupment from a fiduciary who has misused benefits,
18 the Secretary shall promptly remit payment of the re-
19 couped amounts to the beneficiary or the beneficiary’s suc-
20 cessor fiduciary as the case may be to the extent that such
21 amounts have not been reissued under paragraph (1).”;

22 (2) in subsection (d), by striking “or (b)”; and

23 (3) by redesignating subsections (c) and (d) as
24 subsections (b) and (c), respectively.

1 **SEC. 2. IMPROVED ACCESS TO FINANCIAL RECORDS FOR**
2 **PURPOSES OF OVERSIGHT BY DEPARTMENT**
3 **OF VETERANS AFFAIRS OF FIDUCIARIES.**

4 Section 5502 of title 38, United States Code, is
5 amended by adding at the end the following new sub-
6 section:

7 “(f)(1) The Secretary shall require any person or en-
8 tity appointed or recognized as a fiduciary for a Depart-
9 ment beneficiary under this section to provide authoriza-
10 tion for the Secretary to obtain (subject to the cost reim-
11 bursement requirements of section 1115(a) of the Right
12 to Financial Privacy Act of 1978 (12 U.S.C. 3415(a)))
13 from any financial institution any financial record held by
14 the institution with respect to the fiduciary or the bene-
15 ficiary whenever the Secretary determines that the finan-
16 cial record is necessary—

17 “(A) for the administration of a program ad-
18 ministered by the Secretary; or

19 “(B) in order to safeguard the beneficiary’s
20 benefits against neglect, misappropriation, misuse,
21 embezzlement, or fraud.

22 “(2) Notwithstanding section 1104(a)(1) of such Act
23 (12 U.S.C. 3404(a)(1)), an authorization provided by a
24 fiduciary under paragraph (1) with respect to a bene-
25 ficiary shall be a one-time authorization that will remain
26 in effect until the date that is two years after the date

1 of the approval by a court or the Secretary of a final ac-
2 counting of payment of benefits under any law adminis-
3 tered by the Secretary to the fiduciary on behalf of such
4 beneficiary.

5 “(3) The authorization provided by the fiduciary
6 under paragraph (1) shall be a condition of appointment
7 as a fiduciary.

8 “(4)(A) An authorization obtained by the Secretary
9 pursuant to this subsection shall be considered to meet
10 the requirements of the Right to Financial Privacy Act
11 of 1978 (12 U.S.C. 3401 et seq.) for purposes of section
12 1103(a) of such Act (12 U.S.C. 3403(a)) and need not
13 be furnished by the fiduciary to the financial institution,
14 notwithstanding section 1104(a)(1) of such Act (12
15 U.S.C. 3404(a)(1)), if the Secretary provides a copy of
16 the authorization to the financial institution.

17 “(B) The certification requirements of section
18 1103(b) of such Act (12 U.S.C. 3403(b)) shall not apply
19 to requests by the Secretary pursuant to an authorization
20 provided under this subsection.

21 “(C) A request for a financial record by the Secretary
22 pursuant to an authorization provided by a fiduciary
23 under this subsection is deemed to meet the requirements
24 of section 1104(a)(3) of such Act (12 U.S.C. 3404(a)(3))
25 and the matter in section 1102 of such Act (12 U.S.C.

1 3402) that precedes paragraph (1) of such section if such
2 request identifies the fiduciary and the beneficiary con-
3 cerned.

4 “(D) The Secretary shall inform any person or entity
5 who provides authorization under this subsection of the
6 duration and scope of the authorization.

7 “(E)(i) If a fiduciary of a Department beneficiary re-
8 fuses to provide or revokes any authorization to permit
9 the Secretary to obtain from any financial institution any
10 financial record concerning benefits paid by the Secretary
11 for such beneficiary, the Secretary may, on that basis, re-
12 voke the appointment or the recognition of the fiduciary
13 for such beneficiary and for any other Department bene-
14 ficiary for whom such fiduciary has been appointed or rec-
15 ognized.

16 “(ii) If an appointment or recognition of a fiduciary
17 is revoked under clause (i), benefits may be paid as pro-
18 vided in subsection (d).

19 “(5) For purposes of section 1113(d) of such Act (12
20 U.S.C. 3413(d)), a disclosure pursuant to this subsection
21 shall be considered a disclosure pursuant to a Federal
22 statute.

23 “(6) In this subsection:

24 “(A) The term ‘fiduciary’ includes any person
25 or State or local governmental entity appointed or

1 recognized to receive payment of benefits under any
2 law administered by the Secretary on behalf of a De-
3 partment beneficiary.

4 “(B) The term ‘financial institution’ has the
5 meaning given such term in section 1101 of such
6 Act (12 U.S.C. 3401), except that such term shall
7 also include any benefit association, insurance com-
8 pany, safe deposit company, money market mutual
9 fund, or similar entity authorized to do business in
10 any State.

11 “(C) The term ‘financial record’ has the mean-
12 ing given to such term in such section.”.

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