Public Law 103-387
103d Congress

An Act

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

Oct. 22, 1994
[H.R. 4278]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security Domestic Employment Reform Act of 1994.
26 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Domestic Employment Reform Act of 1994".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

26 USC 3121.

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;".

(B) APPLICABLE DOLLAR THRESHOLD.—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE DOLLAR THRESHOLD.—For purposes of subsection (a)(7)(B), the term 'applicable dollar threshold' means $1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such $1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.".

(C) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 3121(b) of such Code (defining employment) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

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(iii) by adding at the end the following new paragraph:

"(21) domestic service in a private home of the employer which—

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee.".

(D) CONFORMING AMENDMENTS.—The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "$50" and inserting "the applicable dollar threshold (as defined in section 3121(x)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) GENERAL RULE.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;".

(B) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) Domestic service in a private home of the employer which—

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee.".

26 USC 3102 note.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

26 USC 3102 note.

(4) NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994; CONTINUATION OF W-2 FILING REQUIREMENT.—Notwithstanding the amendments made by this subsection, if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than $1,000—

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any

such wages required to be included on any such return or statement.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

"(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

"(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

"(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.".

26 USC 3510 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

26 USC 3510 note.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "Decem-

ber 31, 1999, and so reported," and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,".

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999," and inserting "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date. 42 USC 401 note.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Commissioner of Social Security shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

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

(1) in the heading, by inserting "and Certain Other Inmates of Publicly Funded Institutions" after "Prisoners";

(2) by striking "(x)(1) Notwithstanding" and all that follows through the end of paragraph (1) and inserting the following:

"(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual—

"(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

"(ii) is confined by court order in an institution at public expense in connection with—

"(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

"(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

"(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

"(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

"(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

"(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

"(I) he or she is released from the care and supervision of such institution, and

"(II) such institution ceases to meet the individual's basic living needs.";

and

(3) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.".

42 USC 402 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

"(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

"(2) For purposes of paragraph (1), the term 'delinquent amount' means an amount—

"(A) in excess of the correct amount of payment under this title;

"(B) paid to a person after such person has attained 18 years of age; and

"(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.".

(b) CONFORMING AMENDMENT.—Section 3701(d) of title 31, United States Code, is amended by inserting ", except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f))," after "the Social Security Act (42 U.S.C. 301 et seq.)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

31 USC 3701 note.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

42 USC 1383 note.

42 USC 402 note.

SEC. 7. RULE OF CONSTRUCTION.

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4278 (S. 1231):

HOUSE REPORTS: Nos. 103-491 (Comm. on Ways and Means) and 103-842 (Comm. of Conference).
SENATE REPORTS: No. 103-252 accompanying S. 1231 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 10, 12, considered and passed House.
May 25, considered and passed Senate, amended, in lieu of S. 1231.
Oct. 6, House and Senate agreed to conference report.

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