

Quick search by citation:

Title

Section

Go!

42 U.S. Code § 408 - Penalties

U.S. Code Notes

(a) IN GENERAL

Whoever—

(1) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(A) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(B) whether net earnings from self-employment (as such term is defined in this subchapter and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(C) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(2) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(3) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(4) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(5) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(6) willfully, knowingly, and with intent to deceive the Commissioner of Social Security as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner of Social Security with respect to any information required by the Commissioner of Social Security in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or

(7) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal

funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled, or for the purpose of obtaining anything of value from any person, or for any other purpose—

(A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Commissioner of Social Security by him or by any other person; or

(B) with intent to deceive, falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to him or to another person, when in fact such number is not the social security account number assigned by the Commissioner of Social Security to him or to such other person; or

(C) knowingly alters a social security card issued by the Commissioner of Social Security, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it;

(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; or

(9) conspires to commit any offense described in any of paragraphs (1) through (4),

shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both, except that in the case of a person who receives a fee or other income for services performed in connection with any determination with respect to benefits under this subchapter (including a claimant representative, translator, or current or former employee of the Social Security Administration), or who is a physician or other health care provider who submits, or causes the submission of, medical or other evidence in connection with any such determination, such person shall be guilty of a felony and upon conviction thereof shall be fined under title 18, or imprisoned for not more than ten years, or both.

(b) RESTITUTION

(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

(2) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in—

(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 405(j) of this title.

(5)

(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this subchapter, subchapter VIII, or subchapter XVI by the individual.

(c) VIOLATIONS BY CERTIFIED PAYEES

Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(j) of this title on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under title 18 or imprisoned for not more than five years, or both.

(d) EFFECT UPON CERTIFICATION AS PAYEE; DEFINITIONS

Any individual or entity convicted of a felony under this section or under section 1383a(b)^[1] of this title may not be certified as a payee under section 405(j) of this title. For the purpose of subsection (a)(7), the terms "social security number" and "social security account number" mean such numbers as are assigned by the Commissioner of Social Security under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.

(e) APPLICATION OF SUBSECTION (A)(6) AND (7) TO CERTAIN ALIENS

(1) Except as provided in paragraph (2), an alien—

(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a of title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

(B) whose status is adjusted to that of permanent resident—

(i) under section 202 of the Immigration Reform and Control Act of 1986, or

(ii) pursuant to section 1259 of title 8, or

(C) who is granted special immigrant status under section 1101(a)(27)(I) of title 8,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 60 days after November 5, 1990.

(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C)) consisting of—

(A) selling a card that is, or purports to be, a social security card issued by the Commissioner of Social Security,

(B) possessing a social security card with intent to sell it, or

(C) counterfeiting a social security card with intent to sell it.

(3) Paragraph (1) shall not apply with respect to any criminal conduct involving both the conduct described in subsection (a)(7) to which paragraph (1) applies and any other criminal conduct if such other conduct would be criminal conduct if the conduct described in subsection (a)(7) were not committed.

(Aug. 14, 1935, ch. 531, title II, § 208, [49 Stat. 625](#); Aug. 10, 1939, ch. 666, title II, § 201, [53 Stat. 1362](#), [1372](#); Aug. 28, 1950, ch. 809, title I, § 109(c), [64 Stat. 523](#); Sept. 1, 1954, ch. 1206, title I, § 111(b), [68 Stat. 1085](#); Pub. L. 85-840, title III, § 310, Aug. 28, 1958, [72 Stat. 1034](#); Pub. L. 86-778, title II, § 211(m), Sept. 13, 1960, [74 Stat. 958](#); Pub. L. 92-603, title I, § 130(a), Oct. 30, 1972, [86 Stat. 1359](#); Pub. L. 94-455, title XII, § 1211(a), (d), Oct. 4, 1976, [90 Stat. 1711](#), [1712](#); Pub. L. 97-123, § 4(a), (b), Dec. 29, 1981, [95 Stat. 1663](#), [1664](#); Pub. L. 98-369, div. B, title VI, § 2663(a)(5), July 18, 1984, [98 Stat. 1162](#); Pub. L. 98-460, § 16(c)(2), Oct. 9, 1984, [98 Stat. 1811](#); Pub. L. 100-690, title VII, § 7088, Nov. 18, 1988, [102 Stat. 4409](#); Pub. L. 101-508, title V, §§ 5121, 5130(a)(1), Nov. 5, 1990, [104 Stat. 1388-283](#), [1388-289](#); Pub. L. 103-296, title I, § 107(a)(4), title III, § 321(a)(12), Aug. 15, 1994, [108 Stat. 1478](#), [1536](#); Pub. L. 106-553, § 1(a)(2) [title VI, § 635(c)(2)(1), (2)], Dec. 21, 2000, [114 Stat. 2762](#), [2762A-117](#); Pub. L. 106-554, § 1(a)(4) [div. A, § 213(a)(6)], Dec. 21, 2000, [114 Stat. 2763](#), [2763A-180](#); Pub. L. 108-203, title II, § 209(a), Mar. 2, 2004, [118 Stat. 513](#); Pub. L. 114-74, title VIII, § 813(a)(1), (b)(1), Nov. 2, 2015, [129 Stat. 602](#), [603](#).)



U.S. Code Toolbox

[Law about... Articles from Wex](#)

[Table of Popular Names](#)

[Parallel Table of Authorities](#)

[How current is this?](#)