

116TH CONGRESS
1ST SESSION

S. 2407

To amend title 38, United States Code, to provide criminal penalties for individuals acting as agents or attorneys for the preparation, presentation, or prosecution of a claim under a law administered by the Secretary of Veterans Affairs without being recognized by the Secretary for such purposes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2019

Mr. DAINES 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 provide criminal penalties for individuals acting as agents or attorneys for the preparation, presentation, or prosecution of a claim under a law administered by the Secretary of Veterans Affairs without being recognized by the Secretary for such purposes, 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. IMPROVEMENTS RELATING TO RECOGNITION**
 2 **BY SECRETARY OF VETERANS AFFAIRS OF**
 3 **AGENTS AND ATTORNEYS TO REPRESENT**
 4 **VETERANS.**

5 (a) PENALTIES FOR REPRESENTING WITHOUT REC-
 6 OGNITION BY SECRETARY OF VETERANS AFFAIRS.—

7 (1) IN GENERAL.—Section 5905 of title 38,
 8 United States Code, is amended to read as follows:

9 **“§ 5905. Penalty for certain acts**

10 “Whoever commits any of the following acts shall be
 11 fined as provided in title 18, or imprisoned for not more
 12 than one year, or both:

13 “(1) Acts or tries to act as an agent or attorney
 14 for the preparation, presentation, or prosecution of
 15 a claim under a law administered by the Secretary—

16 “(A) without recognition by the Secretary
 17 as an agent or attorney under section 5904 of
 18 this title; or

19 “(B) while suspended or excluded under
 20 subsection (b) of such section.

21 “(2) The act of unlawfully withholding from
 22 any claimant or beneficiary any part of a benefit or
 23 claim under the laws administered by the Secretary
 24 that is allowed and due to the claimant or bene-
 25 ficiary.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply with respect to acts
3 committed after the date that is 180 days after the
4 date of the enactment of this Act.

5 (b) RENEWAL OF RECOGNITION.—Subsection (a) of
6 section 5904 of such title is amended by adding at the
7 end the following new paragraph:

8 “(7)(A) Recognition under this section shall be for
9 such period as the Secretary considers appropriate, but
10 not for any period greater than five years.

11 “(B) The Secretary may, as the Secretary considers
12 appropriate, renew a recognition of an individual under
13 this section for a term specified pursuant to subparagraph
14 (A) upon submittal to the Secretary by the individual of
15 an application therefor.

16 “(C) Upon after receiving an application of an indi-
17 vidual for renewal under subparagraph (B) and before re-
18 newing such recognition under such subparagraph, the
19 Secretary shall review—

20 “(i) the preparation, presentation, and prosecu-
21 tion of claims by the individual covered by this sec-
22 tion; and

23 “(ii) any fee agreements of the individual for
24 such preparation, presentation, and prosecution that
25 have been disputed.”.

1 (c) NOTICE RELATING TO FEES.—Subsection (c) of
 2 such section is amended by adding at the end the following
 3 new paragraph:

4 “(5)(A) An individual recognized under this section
 5 who enters into a fee agreement with a person to act as
 6 an agent or attorney for the person in a manner covered
 7 by this section shall notify the person of the person’s
 8 rights under this subsection, especially with respect to the
 9 right to make a request under paragraph (3)(A).

10 “(B) Notification under this paragraph shall be both
 11 verbal and in writing, with the writing initialed or signed
 12 by the person to acknowledge that the person understands
 13 his or her rights under this subsection.”.

14 (d) BIENNIAL REVIEWS BY GENERAL COUNSEL OF
 15 THE DEPARTMENT OF VETERANS AFFAIRS.—Such sec-
 16 tion is amended by adding at the end the following new
 17 subsection:

18 “(e) BIENNIAL REVIEWS BY GENERAL COUNSEL.—
 19 (1) Not less frequently than once every two years, the
 20 General Counsel of the Department shall submit to Con-
 21 gress a report on activities under this section.

22 “(2) Each report submitted under subparagraph (A)
 23 shall include, for the period covered by the report, the fol-
 24 lowing:

1 “(A) A discussion of the rates generally charged
2 for services covered by this section.

3 “(B) A discussion of the requests made by
4 claimants under subsection (c)(3)(A).

5 “(C) A discussion of the fees reduced under
6 such subsection.

7 “(D) The number of claims for benefits under
8 laws administered by the Secretary that were pre-
9 pared, presented, or prosecuted by an individual act-
10 ing as an agent or attorney who did so while not rec-
11 ognized under this section.”.

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