

§ 1306. Disclosure of information in possession of Social Security Administration or Department of Health and Human Services

(a) Disclosure prohibited; exceptions

(1) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code [of 1939], or under regulations made under authority thereof, which has been transmitted to the head of the applicable agency by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the head of the applicable agency or by any officer or employee of the applicable agency in the course of discharging the duties of the head of the applicable agency under this chapter, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the head of the applicable agency or from any officer or employee of the applicable agency, shall be made except as the head of the applicable agency may by regulations prescribe and except as otherwise provided by Federal law. Any person who shall violate any provision of this section shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine not exceeding \$10,000 for each occurrence of a violation, or by imprisonment not exceeding 5 years, or both.

(2) For purposes of this subsection and subsection (b) of this section, the term "applicable agency" means—

(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.

(b) Requests for information and services

Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the head of the applicable agency to avoid undue interference with his functions under this chapter, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the head of the applicable agency. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the head of the applicable agency, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance

Trust Fund) for the unit or units of the applicable agency which furnished the information or services. Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of subchapter IV of this chapter for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of subchapter IV of this chapter.

(c) Cost reimbursement

Notwithstanding sections 552 and 552a of title 5 or any other provision of law, whenever the Commissioner of Social Security or the Secretary determines that a request for information is made in order to assist a party in interest (as defined in section 1002 of title 29) with respect to the administration of an employee benefit plan (as so defined), or is made for any other purpose not directly related to the administration of the program or programs under this chapter to which such information relates, such Commissioner or Secretary may require the requester to pay the full cost, as determined by such Commissioner or Secretary, of providing such information.

(d) Compliance with requests

Notwithstanding any other provision of this section, in any case in which—

(1) information regarding whether an individual is shown on the records of the Commissioner of Social Security as being alive or deceased is requested from the Commissioner for purposes of epidemiological or similar research which the Commissioner in consultation with the Secretary of Health and Human Services finds may reasonably be expected to contribute to a national health interest, and

(2) the requester agrees to reimburse the Commissioner for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Commissioner,

the Commissioner shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 405(r) of this title.

(e) Public inspection

Notwithstanding any other provision of this section the Secretary shall make available to each State agency operating a program under subchapter XIX of this chapter and shall, subject to the limitations contained in subsection (e)¹ of this section, make available for public inspection in readily accessible form and fashion, the following official reports (not including, however, references to any internal tolerance rules and practices that may be contained therein, internal working papers or other informal memoranda) dealing with the operation of the health programs established by subchapters XVIII and XIX of this chapter—

(1) individual contractor performance reviews and other formal evaluations of the per-

¹ So in original. Probably should be subsection "(f)".

formance of carriers, intermediaries, and State agencies, including the reports of follow-up reviews;

(2) comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspect of contractor operation; and

(3) program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of follow-up reviews, except that such reports shall not identify individual patients, individual health care practitioners, or other individuals.

(f) Opportunity for review

No report described in subsection (e) of this section shall be made public by the Secretary or the State subchapter XIX agency until the contractor or provider of services whose performance is being evaluated has had a reasonable opportunity (not exceeding 60 days) to review such report and to offer comments pertinent parts of which may be incorporated in the public report; nor shall the Secretary be required to include in any such report information with respect to any deficiency (or improper practice or procedures) which is known by the Secretary to have been fully corrected, within 60 days of the date such deficiency was first brought to the attention of such contractor or provider of services, as the case may be.

(Aug. 14, 1935, ch. 531, title XI, §1106, as added Aug. 10, 1939, ch. 666, title VIII, §802, 53 Stat. 1398; amended Aug. 28, 1950, ch. 809, title IV, §403(d), 64 Stat. 559; Pub. L. 85-840, title VII, §701, Aug. 28, 1958, 72 Stat. 1055; Pub. L. 89-97, title I, §108(c), title III, §340, July 30, 1965, 79 Stat. 339, 411; Pub. L. 90-248, title I, §168, title II, §241(c)(1), Jan. 2, 1968, 81 Stat. 875, 917; Pub. L. 92-603, title II, §249C(a), Oct. 30, 1972, 86 Stat. 1428; Pub. L. 93-647, §101(d), Jan. 4, 1975, 88 Stat. 2360; Pub. L. 97-35, title XXII, §2207, Aug. 13, 1981, 95 Stat. 838; Pub. L. 98-369, div. B, title VI, §2663(j)(2)(D)(ii), (l), July 18, 1984, 98 Stat. 1170, 1171; Pub. L. 103-296, title I, §108(b)(2)-(5), title III, §§311(a), 313(a), Aug. 15, 1994, 108 Stat. 1481, 1482, 1525, 1530.)

REFERENCES IN TEXT

Title VIII of the Social Security Act, referred to in subsec. (a)(1), probably refers to former title VIII of the Act, which was classified to subchapter VIII (§1001 et seq.) of this chapter prior to its omission from the Code as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1986.

Subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a), were comprised of sections 480 to 482 and 1400 to 1432, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of Title 26, Internal Revenue Code of 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). The I.R.C. 1954 was redesignated I.R.C. 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1986 Code, see section 7852(b) of the 1986 Code. For table of comparisons of the 1939 Code to the 1986 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1986 is classified generally to Title 26.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-296, §313(a), in par. (1), substituted “felony” for “misdemeanor”, “\$10,000 for

each occurrence of a violation” for “\$1,000”, and “5 years” for “one year”.

Pub. L. 103-296, §108(b)(2), designated existing provisions as par. (1), substituted “head of the applicable agency” for “Secretary” wherever appearing and “employee of the applicable agency” for “employee of the Department of Health and Human Services” in two places, and added par. (2).

Subsec. (b). Pub. L. 103-296, §108(b)(3), substituted “head of the applicable agency” for “Secretary” wherever appearing and “applicable agency which” for “Department of Health and Human Services which”.

Subsec. (c). Pub. L. 103-296, §108(b)(4), substituted “the Commissioner of Social Security or the Secretary” for “the Secretary” where first appearing and “such Commissioner or Secretary” for “the Secretary” where appearing subsequently in two places.

Subsec. (d). Pub. L. 103-296, §311(a)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 103-296, §108(b)(5) in subsec. (d) as added by Pub. L. 103-296, §311(a)(3), in par. (1) substituted “Commissioner of Social Security” for “Secretary” after “records of the”, “Commissioner” for “Secretary” after “from the”, “Commissioner in consultation with the Secretary of Health and Human Services” for “Secretary” after “which the”, and in par. (2) and closing provisions substituted “Commissioner” for “Secretary” wherever appearing.

Subsec. (e). Pub. L. 103-296, §311(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 103-296, §311(a)(1), (2), redesignated subsec. (e) as (f) and substituted “subsection (e)” for “subsection (d)”.

1984—Subsec. (a). Pub. L. 98-369, §2663(l), substituted “Secretary” and “Department of Health and Human Services” for “Administrator” and “Federal Security Agency”, respectively, wherever appearing.

Subsec. (b). Pub. L. 98-369, §2663(j)(2)(D)(ii), substituted “Health and Human Services” for “Health, Education, and Welfare”.

1981—Subsec. (a). Pub. L. 97-35, §2207(1), substituted “as otherwise provided by Federal law” for “as provided in part D of subchapter IV of this chapter”.

Subsec. (c). Pub. L. 97-35, §2207(2), added subsec. (c). 1975—Subsec. (a). Pub. L. 93-647, §101(d)(1), inserted “and except as provided in part D of subchapter IV of this chapter” after “may by regulations prescribe”.

Subsec. (b). Pub. L. 93-647, §101(d)(2), inserted provision relating to compliance with requests for information made pursuant to part D of subchapter IV of this chapter for purpose of using Federal records to locate parents.

Subsec. (c). Pub. L. 93-647, §101(d)(3), repealed subsec. (c) relating to requests by State or local agencies for most recent address of any individual maintained pursuant to section 405 of this title and requirements for release of such information.

1972—Subsecs. (d), (e). Pub. L. 92-603 added subsecs. (d) and (e).

1968—Subsec. (c)(1). Pub. L. 90-248, §241(c)(1), struck out “IV,” after “I,” and inserted “or part A of subchapter IV of this chapter,” after “XIX of this chapter,”.

Subsec. (c)(1)(A), (B). Pub. L. 90-248, §168(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (D) as cls. (i) to (iv) thereof, and added subpar. (B).

Subsec. (c)(2). Pub. L. 90-248, §168(b)(1), substituted “(and, in the case of a request under paragraph (1)(A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof)” for “,” and shall be accompanied by a certified copy of the order referred to in paragraph (1)(A) of this subsection”.

Subsec. (c)(3). Pub. L. 90-248, §168(b)(2), substituted “authorized by subparagraph (A)(iv) or (B)” for “authorized by subparagraph (D)”.

1965—Subsec. (b). Pub. L. 89-97, §108(c), provided for use of special deposit in the Treasury (made up of payments for information and services furnished) to reimburse authorizations to make expenditures from the

Federal Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund.

Subsec. (c). Pub. L. 89-97, §340, added subsec. (c).

1958—Subsec. (b). Pub. L. 85-840 amended subsec. (b) generally, authorizing compliance with requests for services if the agency, person, or organization making the request agrees to pay for the services.

1950—Act Aug. 28, 1950, amended section generally, designating existing provisions as subsec. (a), substituting “under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939” for “the Federal Insurance Contributions Act,” reflecting the transfer of functions from the Social Security Board to the Federal Security Administrator and the Federal Security Agency, and adding subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 108(b)(2)–(5) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Amendment by section 311(a) of Pub. L. 103-296, applicable with respect to requests for information made after Aug. 15, 1994, see section 311(c) of Pub. L. 103-296, set out as a note under section 6103 of Title 26, Internal Revenue Code.

Pub. L. 103-296, title III, §313(c), Aug. 15, 1994, 108 Stat. 1530, provided that: “The amendments made by this section [amending this section and section 1307 of this title] shall apply to violations occurring on or after the date of the enactment of this Act [Aug. 15, 1994].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-647 effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as an Effective Date note under section 651 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-603, title II, §249C(b), Oct. 30, 1972, 86 Stat. 1428, provided that: “The provisions of subsection (a) [amending this section] shall apply with respect to reports which are completed by the Secretary after the third calendar month following the enactment of this Act [Oct. 30, 1972].”

§ 1306a. Public access to State disbursement records

No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to subchapter I (other than section 303(a)(3) thereof), IV, X, XIV, or XVI (other than section 1383(a)(3) thereof) of this chapter, by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

(Oct. 20, 1951, ch. 521, title VI, §618, 65 Stat. 569; Pub. L. 86-778, title VI, §603(a), Sept. 13, 1960, 74 Stat. 992; Pub. L. 87-543, title I, §141(e), July 25, 1962, 76 Stat. 205.)

REFERENCES IN TEXT

Section 303(a)(3), referred to in text, was repealed by Pub. L. 97-35, title XXI, §2184(a)(4)(A), Aug. 13, 1981, 95 Stat. 816.

Section 1383(a)(3), referred to in text, was in the original a reference to section 1603(a)(3) of the Social Security Act as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 200, and amended. That section was amended generally by Pub. L. 92-603, §301, Oct. 30, 1972, 86 Stat. 1478. However, the amendment by Pub. L. 92-603 was inapplicable to Puerto Rico, Guam, and the Virgin Islands, so that the prior section (which is set out as a note under section 1383 of this title) continues in effect for Puerto Rico, Guam, and the Virgin Islands.

CODIFICATION

Section was enacted as part of act Oct. 20, 1951, popularly known as the Revenue Act of 1951, and not as part of the Social Security Act which comprises this chapter.

AMENDMENTS

1962—Pub. L. 87-543 substituted “XIV, or XVI (other than section 1383(a)(3) thereof)” for “or XIV”.

1960—Pub. L. 86-778 inserted “(other than section 303(a)(3) thereof)” after “pursuant to subchapter I”.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-778, title VI, §603(b), Sept. 13, 1960, 74 Stat. 992, provided that: “The amendment made by subsection (a) [amending this section] shall take effect October 1, 1960.”

§ 1306b. State data exchanges

Whenever the Commissioner of Social Security requests information from a State for the purpose of ascertaining an individual's eligibility for benefits (or the correct amount of such benefits) under subchapter II or XVI of this chapter, the standards of the Commissioner promulgated pursuant to section 1306 of this title or any other Federal law for the use, safeguarding, and disclosure of information are deemed to meet any standards of the State that would otherwise apply to the disclosure of information by the State to the Commissioner.

(Pub. L. 106-169, title II, §209, Dec. 14, 1999, 113 Stat. 1842.)

CODIFICATION

Section was enacted as part of the Foster Care Independence Act of 1999, and not as part of the Social Security Act which comprises this chapter.

§ 1307. Penalty for fraud

(a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this chapter, of chapter 2, 21, or 23 of the Internal Revenue Code of 1986, or of any provision of subtitle F of such Code which corresponds (within the meaning of section 7852(b) of such Code) to a provision contained in subchapter E of chapter 9 of the Internal Revenue Code of 1939, or of any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the social security account number, date of birth, employment, wages, or benefits of