

2015 National Defense Authorization Act: <http://www.gpo.gov/fdsys/pkg/CPRT-113HPRT92738/pdf/CPRT-113HPRT92738.pdf>

SEC. 624. SURVIVOR BENEFIT PLAN ANNUITIES FOR SPECIAL NEEDS TRUSTS ESTABLISHED FOR THE BENEFIT OF DEPENDENT CHILDREN INCAPABLE OF SELF-SUPPORT.

(a) SPECIAL NEEDS TRUST AS ELIGIBLE BENEFICIARY.—

(1) IN GENERAL.—Subsection (a) of section 1450 of title 10, United States Code, is amended

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

“(4) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.— Notwithstanding subsection (i), a supplemental or special needs trust established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity.”.

(2) CONFORMING AMENDMENTS.—

(A) ANNUITIES EXEMPTION.—Subsection (i) of such section is amended by inserting “(a)(4) or” after “subsection”.

(B) PLAN REQUIREMENTS.—Section 1448 of such title is amended—

(i) in subsection (b), by adding at the end the following new paragraph:

“(6) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.—A person who has established a supplemental or special needs trust under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity may elect to provide an annuity to that supplemental or special needs trust.”;

(ii) in subsection (d)(2)—

“(I) in subparagraph (A), by striking “section 1450(a)(2)” and inserting “subsection (a)(2) or (a)(4) of section 1450”; and

(II) in subparagraph (B), by striking “section 1450(a)(3)” and inserting “subsection (a)(3) or (a)(4) of section 1450”; and

(iii) in subsection (f)(2), by inserting “, or to a special needs trust pursuant to section 1450(a)(4) of this title,” after “dependent child”.

(b) REGULATIONS.—Section 1455(d) of such title is amended—

(1) in the subsection heading, by striking “AND FIDUCIARIES” and inserting “, FIDUCIARIES, AND SPECIAL NEEDS TRUSTS”;

(2) in paragraph (1)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) a dependent child incapable of self-support because of mental or physical incapacity for whom a supplemental or special needs trust has been established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)).”;

(3) in paragraph (2)—

(A) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(B) by inserting after subparagraph (B) the following new subparagraph (C):

“(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant.”;

(C) in subparagraph (D), as redesignated by subparagraph (A) of this paragraph, by striking “subparagraphs (D) and (E)” and inserting “subparagraphs (E) and (F)”; and

(D) in subparagraph (H), as so redesignated—

(i) by inserting “or (1)(C)” after “paragraph (1)(B)” in the matter preceding clause (i);

(ii) in clause (i), by striking “and” at the end;

(iii) in clause (ii), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following new clause:

“(iii) procedures for determining when annuity payments to a supplemental or special needs trust shall end based on the death or marriage of the dependent child for which the trust was established.”; and

(4) in paragraph (3), by striking “OR FIDUCIARY” in the paragraph heading and inserting “, FIDUCIARY, OR TRUST”.

NDAAs Report Language:

Survivor Benefit Plan annuities for special needs trusts established for the benefit of dependent children incapable of self-support (sec. 624)

The Senate committee-reported bill contained a provision (sec. 625) that would amend sections 1448, 1450, and 1455 of title 10, United States Code, to authorize the payment of the Survivor Benefit

Plan annuity to a special needs trust created under subparagraph (A) or (C) of section 1396p(d)(4) of title 42, United States Code, for the sole benefit of a disabled dependent child incapable of self-support because of mental or physical incapacity.

The House bill contained no similar provision.

The agreement includes this provision with a technical amendment. The report required on page 584 of the Joint Explanatory Statement accompanying the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66) is no longer required.