



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Health and Social Services**

Governor's Council on Disabilities
& Special Education

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NICS Comments, Social Security Administration
3100 West High Rise Bldg., 6401 Security Blvd.
Baltimore, MD 21235-6401

RE: Denying Firearms to People Who Receive Social Security on the Basis of a Mental Listing and Representative Payee Usage.

To Whom It May Concern:

The Governor's Council on Disabilities and Special Education (GCDSE or the Council) fills a variety of federal and state roles, including serving as the State Council on Developmental Disabilities (SCDD) under the Developmental Disabilities Assistance and Bill of Rights Act. As the state DD Council, GCDSE works with Senior and Disabilities Services and other state agencies to ensure that people with intellectual and developmental disabilities and their families receive the services and supports that they need, as well as participate in the planning and design of those services.

The Council strongly disagrees with the new proposed regulations that would treat individuals who have been approved for Social Security benefits under a mental listing (12.05) which includes those with an intellectual or developmental disability (IDD) and utilize a representative payee as having been "adjudicated as a mental defective" and ultimately reporting their name to the federal firearms database. This process does not include the necessary procedural protections Congress meant for people to have when a determination such as this is made. Social Security benefits under a mental listing (12.05) are bestowed to many who find themselves unable to work and require an income supplement. Upon approval for benefits, there is no formal adjudication of incompetence regarding firearms attached to this process and thus no formal due process to allow for appeal and a potential decision reversal. Also, no definitive data suggests that Social Security recipients with an IDD are more dangerous than anyone else in the population. It is important to note that while in some instances individuals with an IDD may require a representative payee to assist them with their benefits; they may retain some, if not all, of their other rights. By restricting individuals with an IDD in this proposed way, the new proposal appears to cross a legal boundary by failing to take an important aspect into account; they must acknowledge the formal adjudication process. The Council feels that the adjudication process is inappropriately observed in this new proposal; being adjudicated as "dangerous" requires a formal court hearing where the individual can both appeal and potentially reverse a ruling. This due process right is important for all Americans including those with an IDD on Social Security who achieved that determination via a mental listing (12.05) and use a representative payee.


In Alaska, the right to firearm ownership can be pivotal in day-to-day activities and cultural inclusion. Firearm ownership is a crucial facet of the way of life in much of Alaska ranging from subsistence and recreational hunting to self-defense. Those who live a subsistence lifestyle rely on firearms as tools to provide for their individual needs and possibly even those of their families. With this proposal, individuals

could be left out of key components of rural life, and thus not realize full inclusion in their home community due to being set apart by the Social Security benefits they receive via a 12.05 mental listing and their need for a representative payee's financial management support. Restricting this right to firearm ownership via the aforementioned criteria, has the potential not only to limit full inclusion in society as a whole, but also puts individuals who fall into the aforementioned category at risk for foregoing benefits and risks further dependence on emergency services for food, shelter and medical care despite their need for said benefits. This could precipitate further unintended consequences, such as: failure to gain the needed medical assistance the individual requires, homelessness, or even starvation.

Denying someone the right to own a firearm solely based on the criteria in the proposed regulations without due process would be akin to denying someone the right to vote. There is no reason to remove an individual's freedom because of an unrelated limitation. Approval for a Social Security benefit under mental listing (12.05) and needing a representative payee has nothing at all to do with either firearms or voting. Many people are responsible with firearms and have demonstrated this their entire lives, but still need help in a different aspect of life. With SSDI and SSI being the primary income assistance in the nation for individuals who are working age who are unable to work, it is disingenuous to fundamentally change the process to obtain needs-based benefits by making this process into a disqualification for another right. The Council does not support this recent firearms proposal on these grounds, as well.

Individuals with an IDD should not be limited from owning a firearm based solely on the benefits they receive via mental listing (12.05) from Social Security and whether or not they have a representative payee. These two facets do not embody a "dangerous" individual. Individuals with an IDD are not inherently dangerous and should not be listed and treated as such merely based on the listing determination for Social Security benefits and having the financial management support of a representative payee.

Additionally, we feel it is more appropriate and beneficial to ensure services for those with mental health needs to ensure their progress and inclusion in societal life and to research a more appropriate approach to assuring firearms are not in the hands of those who put others at risk.

A handwritten signature in black ink, reading "Jeanne Gerhardt-Cyrus". To the right of the signature is a small plus sign (+).

Jeanne Gerhardt-Cyrus, Chair
DD Committee FASD
Workgroup