Union Calendar No. 487

115TH CONGRESS
2D SESSION

H. R. 5192

[Report No. 115–636]

To authorize the Commissioner of Social Security to provide confirmation of fraud protection data to certain permitted entities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2018

Mr. CURBELO of Florida (for himself, Mr. MARCHANT, Ms. SINEMA, and Mr. HULTGREN) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 13, 2018

Additional sponsors: Mr. ROYCE of California, Mr. MESSER, Mr. MCHENRY, Mr. HIMES, Mr. PERLMUTTER, Mr. DUFFY, Mr. HUIZENGA, Mr. DELANEY, Mr. SESSIONS, Mr. TIPTON, and Mr. YOUNG of Iowa

APRIL 13, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 7, 2018]

A BILL

To authorize the Commissioner of Social Security to provide confirmation of fraud protection data to certain permitted entities, 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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the "Protecting Children from*

5 *Identity Theft Act".*

6 **SEC. 2. REDUCING IDENTITY FRAUD.**

7 *(a) PURPOSE.—The purpose of this section is to reduce*

8 *the prevalence of synthetic identity fraud, which*

9 *disproportionally affects vulnerable populations, such as*

10 *minors and recent immigrants, by facilitating the valida-*

11 *tion by permitted entities of fraud protection data, pursu-*

12 *ant to electronically received consumer consent, through use*

13 *of a database maintained by the Commissioner.*

14 *(b) DEFINITIONS.—In this section:*

15 *(1) COMMISSIONER.—The term "Commissioner"*

16 *means the Commissioner of the Social Security Ad-*

17 *ministration.*

18 *(2) FINANCIAL INSTITUTION.—The term "finan-*

19 *cial institution" has the meaning given the term in*

20 *section 509 of the Gramm-Leach-Bliley Act (15*

21 *U.S.C. 6809).*

22 *(3) FRAUD PROTECTION DATA.—The term "fraud*

23 *protection data" means a combination of the fol-*

24 *lowing information with respect to an individual:*

1   *(A) The name of the individual (including*

2   *the first name and any family forename or sur-*

3   *name of the individual).*

4   *(B) The Social Security account number of*

5   *the individual.*

6   *(C) The date of birth (including the month,*

7   *day, and year) of the individual.*

8   *(4) PERMITTED ENTITY.—The term "permitted*

9   *entity" means a financial institution or a service*

10   *provider, subsidiary, affiliate, agent, contractor, or*

11   *assignee of a financial institution.*

12   *(c) EFFICIENCY.—*

13   *(1) RELIANCE ON EXISTING METHODS.—The*

14   *Commissioner shall evaluate the feasibility of making*

15   *modifications to any database that is in existence as*

16   *of the date of enactment of this Act or a similar re-*

17   *source such that the database or resource—*

18   *(A) is reasonably designed to effectuate the*

19   *purpose of this section; and*

20   *(B) meets the requirements of subsection (d).*

21   *(2) EXECUTION.—The Commissioner shall estab-*

22   *lish a system to carry out subsection (a), in accord-*

23   *ance with section 1106 of the Social Security Act. In*

24   *doing so, the Commissioner shall make the modifica-*

25   *tions necessary to any database that is in existence as*

1 *of the date of enactment of this Act or similar re-*

2 *source, or develop a database or similar resource.*

3   *(d) PROTECTION OF VULNERABLE CONSUMERS.—The*

4 *database or similar resource described in subsection (c)*

5 *shall—*

6   *(1) compare fraud protection data provided in*

7 *an inquiry by a permitted entity against such infor-*

8 *mation maintained by the Commissioner in order to*

9 *confirm (or not confirm) the validity of the informa-*

10 *tion provided, and in such a manner as to deter*

11 *fraudulent use of the database or similar resource;*

12   *(2) be scalable and accommodate reasonably an-*

13 *ticipated volumes of verification requests from per-*

14 *mitted entities with commercially reasonable uptime*

15 *and availability; and*

16   *(3) allow permitted entities to submit—*

17   *(A) one or more individual requests elec-*

18 *tronically for real-time machine-to-machine (or*

19 *similar functionality) accurate responses; and*

20   *(B) multiple requests electronically, such as*

21 *those provided in a batch format, for accurate*

22 *electronic responses within a reasonable period of*

23 *time from submission, not to exceed 24 hours.*

24   *(e) CERTIFICATION REQUIRED.—Before providing con-*

25 *firmation of fraud protection data to a permitted entity,*

*the Commissioner shall ensure that the Commissioner has
a certification from the permitted entity that is dated not
more than 2 years before the date on which that confirma-
tion is provided that includes the following declarations:*

(1) The entity is a permitted entity.

(2) The entity is in compliance with this section.

*(3) The entity is, and will remain, in compli-
ance with its privacy and data security requirements,
as described in title V of the Gramm-Leach-Bliley Act
(15 U.S.C. 6801 et seq.) and as required by the Com-
missioner, with respect to information the entity re-
ceives from the Commissioner pursuant to this sec-
tion.*

*(4) The entity will retain sufficient records to
demonstrate its compliance with its certification and
this section for a period of not less than 2 years.*

(f) CONSUMER CONSENT.—

*(1) IN GENERAL.—Notwithstanding any other
provision of law or regulation, a permitted entity
may submit a request to the database or similar re-
source described in subsection (c) only—*

*(A) pursuant to the written, including elec-
tronic, consent received by a permitted entity
from the individual who is the subject of the re-
quest; and*

(B) in connection with any circumstance described in section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(2) ELECTRONIC CONSENT REQUIREMENTS.—For a permitted entity to use the consent of an individual received electronically pursuant to paragraph (1)(A), the permitted entity must obtain the individual's electronic signature, as defined in section 106 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006). Permitted entities must develop and use an electronic signature process in accordance with all Federal laws and requirements as designated by the Commissioner.

(3) EFFECTUATING ELECTRONIC CONSENT.—No provision of law or requirement, including section 552a of title 5, United States Code, shall prevent the use of electronic consent for purposes of this subsection or for use in any other consent based verification under the discretion of the Commissioner.

(g) COMPLIANCE AND ENFORCEMENT.—

(1) AUDITS AND MONITORING.—

(A) IN GENERAL.—The Commissioner—

(i) shall conduct audits and monitoring to—

1   *(I) ensure proper use by permitted*

2   *entities of the database or similar re-*

3   *source described in subsection (c); and*

4   *(II) deter fraud and misuse by*

5   *permitted entities with respect to the*

6   *database or similar resource described*

7   *in subsection (c); and*

8   *(ii) may terminate services for any*

9   *permitted entity that prevents or refuses to*

10   *allow the Commissioner to carry out the ac-*

11   *tivities described in clause (i) and may ter-*

12   *minate or suspend services for any per-*

13   *mitted entity as necessary to enforce any*

14   *violation of this section or of any certifi-*

15   *cation made under this section.*

16 *(2) ENFORCEMENT.—*

17   *(A) IN GENERAL.—Notwithstanding any*

18 *other provision of law, including the matter pre-*

19 *ceding paragraph (1) of section 505(a) of the*

20 *Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)),*

21 *any violation of this section and any certifi-*

22 *cation made under this section shall be enforced*

23 *in accordance with paragraphs (1) through (7)*

24 *of such section 505(a) by the agencies described*

25 *in those paragraphs.*

1   *(B) RELEVANT INFORMATION.—Upon dis-*

2   *covery by the Commissioner of any violation of*

3   *this section or any certification made under this*

4   *section, the Commissioner shall forward any rel-*

5   *evant information pertaining to that violation to*

6   *the appropriate agency described in subpara-*

7   *graph (A) for evaluation by the agency for pur-*

8   *poses of enforcing this section.*

9   *(h) RECOVERY OF COSTS.—*

10   *(1) IN GENERAL.—*

11   *(A) IN GENERAL.—Amounts obligated to*

12   *carry out this section shall be fully recovered*

13   *from the users of the database or verification sys-*

14   *tem by way of advances, reimbursements, user*

15   *fees, or other recoveries as determined by the*

16   *Commissioner. The funds recovered under this*

17   *paragraph shall be deposited as an offsetting col-*

18   *lection to the account providing appropriations*

19   *for the Social Security Administration, to be*

20   *used for the administration of this section with-*

21   *out fiscal year limitation.*

22   *(B) PRICES FIXED BY COMMISSIONER.—The*

23   *Commissioner shall establish the amount to be*

24   *paid by the users under this paragraph, includ-*

25   *ing the costs of any services or work performed,*

1   *such as any appropriate upgrades, maintenance,*

2   *and associated direct and indirect administra-*

3   *tive costs, in support of carrying out the pur-*

4   *poses described in this section, by reimbursement*

5   *or in advance as determined by the Commis-*

6   *sioner. The amount of such prices shall be peri-*

7   *odically adjusted by the Commissioner to ensure*

8   *that amounts collected are sufficient to fully off-*

9   *set the cost of the administration of this section.*

10   *(2) INITIAL DEVELOPMENT.—The Commissioner*

11   *shall not begin development of a verification system*

12   *to carry out this section until the Commissioner de-*

13   *termines that amounts equal to at least 50 percent of*

14   *program start-up costs have been collected under*

15   *paragraph (1).*

16   *(3) EXISTING RESOURCES.—The Commissioner*

17   *of Social Security may use funds designated for infor-*

18   *mation technology modernization to carry out this*

19   *section, but in all cases shall be fully reimbursed*

20   *under paragraph (1)(A).*

21   *(4) ANNUAL REPORT.—The Commissioner of So-*

22   *cial Security shall annually submit to the Committee*

23   *on Ways and Means of the House of Representatives*

24   *and the Committee on Finance of the Senate a report*

25   *on the amount of indirect costs to the Social Security*

1   *Administration arising as a result of the implementa-*

2   *tion of this section.*

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