

115TH CONGRESS
2D SESSION

H. R. 5192

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2018

Received; read twice and referred to the Committee on Finance

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Children
3 from Identity Theft Act”.

4 **SEC. 2. REDUCING IDENTITY FRAUD.**

5 (a) PURPOSE.—The purpose of this section is to re-
6 duce the prevalence of synthetic identity fraud, which
7 disproportionally affects vulnerable populations, such as
8 minors and recent immigrants, by facilitating the valida-
9 tion by permitted entities of fraud protection data, pursu-
10 ant to electronically received consumer consent, through
11 use of a database maintained by the Commissioner.

12 (b) DEFINITIONS.—In this section:

13 (1) COMMISSIONER.—The term “Commis-
14 sioner” means the Commissioner of the Social Secu-
15 rity Administration.

16 (2) FINANCIAL INSTITUTION.—The term “fi-
17 nancial institution” has the meaning given the term
18 in section 509 of the Gramm-Leach-Bliley Act (15
19 U.S.C. 6809).

20 (3) FRAUD PROTECTION DATA.—The term
21 “fraud protection data” means a combination of the
22 following information with respect to an individual:

23 (A) The name of the individual (including
24 the first name and any family forename or sur-
25 name of the individual).

1 (B) The Social Security account number of
2 the individual.

3 (C) The date of birth (including the
4 month, day, and year) of the individual.

5 (4) PERMITTED ENTITY.—The term “permitted
6 entity” means a financial institution or a service
7 provider, subsidiary, affiliate, agent, contractor, or
8 assignee of a financial institution.

9 (c) EFFICIENCY.—

10 (1) RELIANCE ON EXISTING METHODS.—The
11 Commissioner shall evaluate the feasibility of mak-
12 ing modifications to any database that is in exist-
13 ence as of the date of enactment of this Act or a
14 similar resource such that the database or re-
15 source—

16 (A) is reasonably designed to effectuate the
17 purpose of this section; and

18 (B) meets the requirements of subsection
19 (d).

20 (2) EXECUTION.—The Commissioner shall es-
21 tablish a system to carry out subsection (a), in ac-
22 cordance with section 1106 of the Social Security
23 Act. In doing so, the Commissioner shall make the
24 modifications necessary to any database that is in
25 existence as of the date of enactment of this Act or

1 similar resource, or develop a database or similar re-
2 source.

3 (d) PROTECTION OF VULNERABLE CONSUMERS.—

4 The database or similar resource described in subsection
5 (c) 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
21 as those provided in a batch format, for accu-
22 rate electronic responses within a reasonable pe-
23 riod of time from submission, not to exceed 24
24 hours.

1 (e) CERTIFICATION REQUIRED.—Before providing
2 confirmation of fraud protection data to a permitted enti-
3 ty, the Commissioner shall ensure that the Commissioner
4 has a certification from the permitted entity that is dated
5 not more than 2 years before the date on which that con-
6 firmation is provided that includes the following declara-
7 tions:

8 (1) The entity is a permitted entity.

9 (2) The entity is in compliance with this sec-
10 tion.

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

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

21 (f) CONSUMER CONSENT.—

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

(A) pursuant to the written, including electronic, consent received by a permitted entity from the individual who is the subject of the request; 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 (1) AUDITS AND MONITORING.—

2 (A) IN GENERAL.—The Commissioner—

3 (i) shall conduct audits and moni-
4 toring to—

5 (I) ensure proper use by per-
6 mitted entities of the database or
7 similar resource described in sub-
8 section (c); and

9 (II) deter fraud and misuse by
10 permitted entities with respect to the
11 database or similar resource described
12 in subsection (c); and

13 (ii) may terminate services for any
14 permitted entity that prevents or refuses to
15 allow the Commissioner to carry out the
16 activities described in clause (i) and may
17 terminate or suspend services for any per-
18 mitted entity as necessary to enforce any
19 violation of this section or of any certifi-
20 cation made under this section.

21 (2) ENFORCEMENT.—

22 (A) IN GENERAL.—Notwithstanding any
23 other provision of law, including the matter pre-
24 ceding paragraph (1) of section 505(a) of the
25 Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)),

1 any violation of this section and any certifi-
2 cation made under this section shall be enforced
3 in accordance with paragraphs (1) through (7)
4 of such section 505(a) by the agencies described
5 in those paragraphs.

6 (B) RELEVANT INFORMATION.—Upon dis-
7 covery by the Commissioner of any violation of
8 this section or any certification made under this
9 section, the Commissioner shall forward any
10 relevant information pertaining to that violation
11 to the appropriate agency described in subpara-
12 graph (A) for evaluation by the agency for pur-
13 poses of enforcing this section.

14 (h) RECOVERY OF COSTS.—

15 (1) IN GENERAL.—

16 (A) IN GENERAL.—Amounts obligated to
17 carry out this section shall be fully recovered
18 from the users of the database or verification
19 system by way of advances, reimbursements,
20 user fees, or other recoveries as determined by
21 the Commissioner. The funds recovered under
22 this paragraph shall be deposited as an offset-
23 ting collection to the account providing appro-
24 priations for the Social Security Administration,

1 to be used for the administration of this section
2 without fiscal year limitation.

3 (B) PRICES FIXED BY COMMISSIONER.—

4 The Commissioner shall establish the amount to
5 be paid by the users under this paragraph, in-
6 cluding the costs of any services or work per-
7 formed, such as any appropriate upgrades,
8 maintenance, and associated direct and indirect
9 administrative costs, in support of carrying out
10 the purposes described in this section, by reim-
11 bursement or in advance as determined by the
12 Commissioner. The amount of such prices shall
13 be periodically adjusted by the Commissioner to
14 ensure that amounts collected are sufficient to
15 fully offset the cost of the administration of this
16 section.

17 (2) INITIAL DEVELOPMENT.—The Commis-
18 sioner shall not begin development of a verification
19 system to carry out this section until the Commis-
20 sioner determines that amounts equal to at least 50
21 percent of program start-up costs have been col-
22 lected under paragraph (1).

23 (3) EXISTING RESOURCES.—The Commissioner
24 of Social Security may use funds designated for in-
25 formation technology modernization to carry out this

1 section, but in all cases shall be fully reimbursed
2 under paragraph (1)(A).

3 (4) ANNUAL REPORT.—The Commissioner of
4 Social Security shall annually submit to the Com-
5 mittee on Ways and Means of the House of Rep-
6 resentatives and the Committee on Finance of the
7 Senate a report on the amount of indirect costs to
8 the Social Security Administration arising as a re-
9 sult of the implementation of this section.

Passed the House of Representatives April 17, 2018.

Attest:

KAREN L. HAAS,

Clerk.