

116TH CONGRESS
2D SESSION

S. 4104

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay Initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2020

Mr. PAUL (for himself, Mr. KENNEDY, and Ms. COLLINS) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay Initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, 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 “Stopping Improper
5 Payments to Deceased People Act”.

1 **SEC. 2. DISTRIBUTION OF DEATH INFORMATION FUR-**
2 **NISHED TO OR MAINTAINED BY THE SOCIAL**
3 **SECURITY ADMINISTRATION.**

4 (a) IN GENERAL.—

5 (1) IN GENERAL.—Section 205(r) of the Social
6 Security Act (42 U.S.C. 405(r)) is amended—

7 (A) in paragraph (2)—

8 (i) by striking “may” and inserting
9 “shall”; and

10 (ii) by inserting “, and to ensure the
11 completeness, timeliness, and accuracy of,”
12 after “transmitting”;

13 (B) by striking paragraphs (3), (4), and
14 (5) and inserting the following:

15 “(3)(A) In the case of individuals with respect to
16 whom federally funded benefits are provided by (or
17 through) a Federal or State agency, the Commissioner of
18 Social Security shall, to the extent feasible, provide such
19 information through a cooperative arrangement with such
20 agency for ensuring proper payment of those benefits with
21 respect to such individuals if—

22 “(i) under such arrangement the agency agrees
23 to such safeguards as the Commissioner determines
24 are necessary or appropriate to protect the informa-
25 tion from unauthorized use or disclosure;

1 “(ii) under such arrangement the agency pro-
2 vides reimbursement to the Commissioner of Social
3 Security for the reasonable cost of carrying out such
4 arrangement, including the reasonable costs associ-
5 ated with the collection and maintenance of informa-
6 tion regarding deceased individuals furnished to the
7 Commissioner pursuant to paragraph (1); and

8 “(iii) such arrangement does not conflict with
9 the duties of the Commissioner of Social Security
10 under paragraph (1).

11 “(B) The Commissioner of Social Security shall, to
12 the extent feasible, provide for the use of information re-
13 garding all deceased individuals furnished to or main-
14 tained by the Commissioner under this subsection,
15 through a cooperative arrangement in order for a Federal
16 agency to carry out any of the following purposes, if the
17 requirements of clauses (i), (ii), and (iii) of subparagraph
18 (A) are met:

19 “(i) Under such arrangement, the agency oper-
20 ating the Do Not Pay working system established
21 under section 5 of the Improper Payments Elimini-
22 nation and Recovery Improvement Act of 2012 may
23 compare death information disclosed by the Commis-
24 sioner with personally identifiable information re-
25 viewed through the working system, and may redis-

1 close such comparison of information, as appro-
2 priate, to any Federal or State agency authorized to
3 use the working system.

4 “(ii) The tax administration duties of the agen-
5 cy.

6 “(iii) Oversight activities of the Inspector Gen-
7 eral of an agency that is provided information re-
8 garding all deceased individuals pursuant to this
9 subsection.

10 “(iv) Civil or criminal enforcement activities
11 that are authorized by law.

12 “(C) With respect to the reimbursement to the Com-
13 missioner of Social Security for the reasonable cost of car-
14 rying out a cooperative arrangement described in subpara-
15 graph (A) between the Commissioner of Social Security
16 and an agency, the Commissioner shall—

17 “(i) establish a defined calculation method for
18 purposes of calculating the reasonable cost of car-
19 rying out the arrangement that does not take into
20 account any services, information, or unrelated pay-
21 ments provided by the agency to the Commissioner;
22 and

23 “(ii) reimbursement payments shall be ac-
24 counted for and recorded separately from other
25 transactions.

1 “(4) The Commissioner of Social Security may enter
2 into similar arrangements with States to provide informa-
3 tion regarding all deceased individuals furnished to or
4 maintained by the Commissioner under this subsection for
5 use by States in programs wholly funded by the States,
6 or for use in the administration of a benefit pension plan
7 or retirement system for employees of a State or a political
8 subdivision thereof, if the requirements of clauses (i), (ii),
9 and (iii) of paragraph (3)(A) are met. For purposes of
10 this paragraph, the terms retirement system and political
11 subdivision have the meanings given such terms in section
12 218(b).

13 “(5) The Commissioner of Social Security may use
14 or provide for the use of information regarding all de-
15 ceased individuals furnished to or maintained by the Com-
16 missioner under this subsection for statistical purposes
17 and research activities by Federal and State agencies (in-
18 cluding research activities conducted under a contract or
19 a cooperative arrangement (as such terms are defined for
20 purposes of sections 6303 and 6305, respectively, of title
21 31, United States Code) with such an agency) if the re-
22 quirements of clauses (i) and (ii) of paragraph (3)(A) are
23 met.”; and

24 (C) in paragraph (8)(A)(i), by striking
25 “subparagraphs (A) and (B) of paragraph (3)”

1 and inserting “clauses (i), (ii), and (iii) of para-
2 graph (3)(A)”.

3 (2) REPEAL.—Effective on the date that is 5
4 years after the date of enactment of this Act, the
5 amendments made by this subsection to paragraphs
6 (3), (4), (5), and (8) of section 205(r) of the Social
7 Security Act (42 U.S.C. 405(r)) are repealed, and
8 the provisions of section 205(r) of the Social Secu-
9 rity Act (42 U.S.C. 405(r)) so amended are restored
10 and revived as if such amendments had not been en-
11 acted.

12 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

13 (1) IN GENERAL.—Section 6103(d)(4) of the
14 Internal Revenue Code of 1986 is amended—

15 (A) in subparagraphs (A) and (B), by
16 striking “Secretary of Health and Human Serv-
17 ices” each place it appears and inserting “Com-
18 missioner of Social Security”; and

19 (B) in subparagraph (B)(ii), by striking
20 “such Secretary” and all that follows through
21 “deceased individuals.” and inserting “such
22 Commissioner pursuant to such contract, except
23 that such contract may provide that such infor-
24 mation is only to be used by the Social Security
25 Administration (or any other Federal agency)

1 for purposes authorized in the Social Security
2 Act or this title.”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection take effect 180 days after the
5 date of enactment of this Act.

6 (c) REPORT TO CONGRESS ON ALTERNATIVE
7 SOURCES OF DEATH DATA.—

8 (1) REQUIREMENTS.—The Commissioner of So-
9 cial Security, in coordination with the Secretary of
10 the Treasury, shall conduct a review of potential al-
11 ternative sources of death data maintained by the
12 non-Federal sources, including sources maintained
13 by State agencies or associations of State agencies,
14 for use by Federal agencies and programs. The re-
15 view shall include analyses of—

16 (A) the accuracy and completeness of such
17 data;

18 (B) interoperability of such data;

19 (C) the extent to which there is efficient
20 accessibility of such data by Federal agencies;

21 (D) the cost to Federal agencies of access-
22 ing and maintaining such data;

23 (E) the security of such data;

24 (F) the reliability of such data; and

1 (G) a comparison of the potential alternate
2 sources of death data to the death data distrib-
3 uted by the Commissioner of Social Security.

4 (2) REPORT.—Not later than 4 years after the
5 date of enactment of this Act, the Director of the
6 Office of Management and Budget shall submit a re-
7 port to Congress on the results of the review and
8 analyses required under paragraph (1). The report
9 shall include a recommendation by the Director of
10 the Office of Management and Budget regarding
11 whether to extend the agency access to death data
12 distributed by the Commissioner of Social Security
13 provided under the amendments made by subsection
14 (a)(1) beyond the date on which such amendments
15 are to be repealed under subsection (a)(2).

16 **SEC. 3. IMPROVING THE USE OF DATA BY GOVERNMENT**
17 **AGENCIES TO CURB IMPROPER PAYMENTS.**

18 The Improper Payments Elimination and Recovery
19 Improvement Act of 2012 (31 U.S.C. 3321 note) is
20 amended by adding at the end the following:

21 **“SEC. 8. IMPROVING THE USE OF DEATH DATA BY GOVERN-**
22 **MENT AGENCIES.**

23 “(a) GUIDANCE BY THE OFFICE OF MANAGEMENT
24 AND BUDGET.—

1 “(1) GUIDANCE TO AGENCIES.—Not later than
2 1 year after the date of enactment of this section,
3 and in consultation with the Council of Inspectors
4 General on Integrity and Efficiency and the heads of
5 other relevant Federal, State, and local agencies,
6 and Indian tribes and tribal organizations, the Di-
7 rector of the Office of Management and Budget
8 shall issue guidance for each agency or component
9 of an agency that operates or maintains a database
10 of information relating to beneficiaries, annuity re-
11 cipients, or any purpose described in section
12 205(r)(3)(B) of the Social Security Act (42 U.S.C.
13 405(r)(3)(B)) for which improved data matching
14 with databases relating to the death of an individual
15 (in this section referred to as death databases)
16 would be relevant and necessary regarding imple-
17 mentation of this section to provide such agencies or
18 components access to the death databases no later
19 than 1 year after such date of enactment.

20 “(2) PLAN TO ASSIST STATES AND LOCAL
21 AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANI-
22 ZATIONS.—Not later than 1 year after the date of
23 enactment of this section, the Secretary of Health
24 and Human Services and the Secretary of the Treas-
25 ury shall jointly develop a plan to assist States and

1 local agencies, and Indian tribes and tribal organiza-
2 tions, in providing electronically to the Federal Gov-
3 ernment records relating to the death of individuals,
4 which may include recommendations to Congress for
5 any statutory changes or financial assistance to
6 States and local agencies and Indian tribes and trib-
7 al organizations that are necessary to ensure States
8 and local agencies and Indian tribes and tribal orga-
9 nizations can provide such records electronically.
10 The plan may include recommendations for the au-
11 thorization of appropriations or other funding to
12 carry out the plan.

13 “(b) REPORTS.—

14 “(1) REPORT TO CONGRESS ON IMPROVING
15 DATA MATCHING REGARDING PAYMENTS TO DE-
16 CEASED INDIVIDUALS.—Not later than 1 year after
17 the date of enactment of this section, the Secretary
18 of the Treasury, in consultation with the heads of
19 other relevant Federal agencies, and in consultation
20 with States and local agencies, Indian tribes and
21 tribal organizations, shall submit to Congress a plan
22 to improve how States and local agencies and Indian
23 tribes and tribal organizations that provide benefits
24 under a federally funded program will improve data
25 matching with the Federal Government with respect

1 to the death of individuals who are recipients of such
2 benefits.

3 “(2) ANNUAL REPORT.—Not later than 1 year
4 after the date of enactment of this section, and for
5 each of the 4 succeeding years, the Secretary of the
6 Treasury shall submit to Congress a report regard-
7 ing the implementation of this section. The first re-
8 port submitted under this paragraph shall include
9 the recommendations of the Secretary required
10 under subsection (a)(2).

11 “(c) DEFINITIONS.—In this section, the terms Indian
12 tribe and tribal organization have the meanings given
13 those terms in section 4 of the Indian Self-Determination
14 and Education Assistance Act (25 U.S.C. 450b).”.

15 **SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COM-**
16 **PLETENESS OF DEATH DATA MAINTAINED**
17 **AND DISTRIBUTED BY THE SOCIAL SECURITY**
18 **ADMINISTRATION.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, the Commissioner of Social
21 Security shall submit to Congress a plan, which shall in-
22 clude an estimate of the cost of implementing the policies
23 and procedures described in such plan, to improve the ac-
24 curacy and completeness of the death data (including,
25 where feasible and cost-effective, data regarding individ-

1 uals who are not eligible for or receiving benefits under
2 titles II or XVI of the Social Security Act) maintained
3 and distributed by the Social Security Administration.

4 (b) CONTENT OF PLAN.—In developing the plan re-
5 quired under subsection (a), the Commissioner of Social
6 Security shall consider whether to include the following
7 elements:

8 (1) Procedures for—

9 (A) identifying individuals who are ex-
10 tremely elderly, as determined by the Commis-
11 sioner, but for whom no record of death exists
12 in the records of the Social Security Adminis-
13 tration;

14 (B) verifying the information contained in
15 the records of the Social Security Administra-
16 tion with respect to individuals described in
17 subparagraph (A) and correcting any inaccura-
18 cies; and

19 (C) where appropriate, disclosing correc-
20 tions made to the records of the Social Security
21 Administration.

22 (2) Improved policies and procedures for identi-
23 fying and correcting erroneous death records, includ-
24 ing policies and procedures for—

1 (A) identifying individuals listed as dead
2 who are actually alive;

3 (B) identifying individuals listed as alive
4 who are actually dead; and

5 (C) allowing individuals or survivors of de-
6 ceased individuals to notify the Social Security
7 Administration of potential errors.

8 (3) Improved policies and procedures to identify
9 and correct discrepancies in the records of the Social
10 Security Administration, including social security
11 number records.

12 (4) A process for employing statistical analysis
13 of the death data maintained and distributed by the
14 Social Security Administration to determine an esti-
15 mate of the number of erroneous records.

16 (5) Recommendations for legislation, as nec-
17 essary.

18 **SEC. 5. REPORT ON INFORMATION SECURITY.**

19 Not later than 90 days after the date of the enact-
20 ment of this Act, the Commissioner of Social Security
21 shall submit a report to the Committees on Ways and
22 Means, Oversight and Reform, and Homeland Security of
23 the House of Representatives, and the Committees on Fi-
24 nance and Homeland Security and Governmental Affairs
25 of the Senate that—

1 (1) identifies all information systems of the So-
2 cial Security Administration containing sensitive in-
3 formation; and

4 (2) describes the measures the Commissioner is
5 taking to secure and protect such information sys-
6 tems.

7 **SEC. 6. LIMITED ACCESS TO DEATH INFORMATION MAIN-**
8 **TAINED BY THE SOCIAL SECURITY ADMINIS-**
9 **TRATION FOR RECOVERY OF ERRONEOUS RE-**
10 **BATE PAYMENTS.**

11 (a) IN GENERAL.—Section 205(r) of the Social Secu-
12 rity Act (42 U.S.C. 405(r)), as amended by section 2, is
13 further amended by adding at the end the following new
14 paragraph:

15 “(10)(A) Notwithstanding any provision or require-
16 ment under paragraph (3), not later than 30 days after
17 the date of enactment of this paragraph, the Commis-
18 sioner of Social Security shall provide the Secretary with
19 access to any records or information maintained by the
20 Commissioner of Social Security pursuant to paragraph
21 (1), provided that—

22 “(i) such records and information are used by
23 the Secretary solely for purposes of carrying out
24 subsection (h) of section 6428 of the Internal Rev-
25 enue Code of 1986; and

1 “(ii) the Secretary agrees to establish safe-
2 guards to assure the maintenance of the confiden-
3 tiality of any records or information disclosed.

4 “(B) In this paragraph, the term ‘Secretary’ means
5 the Secretary of the Treasury or the Secretary’s dele-
6 gate.”.

7 (b) RECOVERY OF REBATE PAYMENTS TO DECEASED
8 INDIVIDUALS.—Section 6428 of the Internal Revenue
9 Code of 1986 is amended—

10 (1) by redesignating subsection (h) as sub-
11 section (i), and

12 (2) by inserting after subsection (g) the fol-
13 lowing new subsection:

14 “(h) RECOVERY OF REBATE PAYMENTS TO DE-
15 CEASED INDIVIDUALS.—In the case of any individual who
16 is shown on the records or information disclosed to the
17 Secretary under section 205(r)(10) of the Social Security
18 Act as being deceased before January 1, 2020, if the Sec-
19 retary has distributed a payment to such individual pursu-
20 ant to subsection (f), the Secretary shall, to the extent
21 practicable, carry out any measures as are deemed appro-
22 priate to suspend, cancel, and recover such payment.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of enactment of
3 this Act.

○