

114TH CONGRESS
1ST SESSION

S. 1073

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

APRIL 23, 2015

Mr. CARPER (for himself, Mr. JOHNSON, Mr. WARNER, Mr. COATS, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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) The Commissioner of Social Security shall,
16 to the extent feasible, provide for the use of information
17 regarding all deceased individuals furnished to or main-
18 tained by the Commissioner under this subsection in ac-
19 cordance with subparagraph (B), subject to such safe-
20 guards as the Commissioner of Social Security determines
21 are necessary or appropriate to protect the information
22 from unauthorized use or disclosure, by any Federal or
23 State agency providing federally funded benefits or admin-
24 istering a Federal program for such benefits, including the
25 agency operating the Do Not Pay working system for en-
26 suring proper payment of those benefits, through a cooper-

1 ative arrangement with the agency (that includes the
2 agency's Inspector General) or with an agency's Inspector
3 General, if—

4 “(i) under such arrangement the agency (in-
5 cluding, if applicable, the agency's Inspector Gen-
6 eral) provides reimbursement to the Commissioner of
7 Social Security for the reasonable cost of carrying
8 out such arrangement, including the reasonable
9 costs associated with the collection and maintenance
10 of information regarding deceased individuals fur-
11 nished to the Commissioner pursuant to paragraph
12 (1), and

13 “(ii) such arrangement does not conflict with
14 the duties of the Commissioner of Social Security
15 under paragraph (1).

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

24 “(i) Operating the Do Not Pay working system
25 established by section 5 of the Improper Payments

1 Elimination and Recovery Improvement Act of 2012.
2 Under such arrangement, the agency operating the
3 working system may compare death information dis-
4 closed by the Commissioner with personally identifi-
5 able information reviewed through the working sys-
6 tem, and may redisclose such comparison of infor-
7 mation, as appropriate, to any Federal or State
8 agency authorized to use the working system.

9 “(ii) To ensure proper payments under a Fed-
10 eral program or the proper payment of federally
11 funded benefits, including for purposes of payment
12 certification, payment disbursement, and the preven-
13 tion, identification, or recoupment of improper pay-
14 ments.

15 “(iii) To carry out tax administration or debt
16 collection duties of the agency.

17 “(iv) For use by any policing agency of the
18 Federal Government with the principle function of
19 prevention, detection, or investigation of crime or
20 the apprehension of alleged offenders.

21 “(4) The Commissioner of Social Security may enter
22 into similar arrangements with States to provide informa-
23 tion regarding all deceased individuals furnished to or
24 maintained by the Commissioner under this subsection,
25 for any of the purposes specified in paragraph (3)(B), for

1 use by States in programs wholly funded by the States,
2 or for use in the administration of a benefit pension plan
3 or retirement system for employees of a State or a political
4 subdivision thereof, if the requirements of clauses (i) and
5 (ii) of paragraph (3)(A) are met. For purposes of this
6 paragraph, the terms ‘retirement system’ and ‘political
7 subdivision’ have the meanings given such terms in section
8 218(b).

9 “(5) The Commissioner of Social Security may use
10 or provide for the use of information regarding all de-
11 ceased individuals furnished to or maintained by the Com-
12 missioner under this subsection, subject to such safe-
13 guards as the Commissioner of Social Security determines
14 are necessary or appropriate to protect the information
15 from unauthorized use or disclosure, for statistical pur-
16 poses and research activities by Federal and State agen-
17 cies if the requirements of clauses (i) and (ii) of paragraph
18 (3)(A) are met. For purposes of this paragraph, the term
19 ‘statistical purposes’ has the meaning given that term in
20 section 502 of the Confidential Information Protection
21 and Statistical Efficiency Act of 2002.”; and

22 (C) in paragraph (8)(A)(i), by striking
23 “subparagraphs (A) and (B) of paragraph (3)”
24 and inserting “clauses (i) and (ii) of paragraph
25 (3)(A)”.

1 (2) REPEAL.—Effective on the date that is 5
2 years after the date of enactment of this Act, the
3 amendments made by this subsection to paragraphs
4 (3), (4), (5), and (8) of section 205(r) of the Social
5 Security Act (42 U.S.C. 405(r)) are repealed, and
6 the provisions of section 205(r) of the Social Secu-
7 rity Act (42 U.S.C. 605(r)) so amended are restored
8 and revived as if such amendments had not been en-
9 acted.

10 (b) AMENDMENT TO INTERNAL REVENUE CODE.—
11 Section 6103(d)(4) of the Internal Revenue Code of 1986
12 is amended—

13 (1) in subparagraphs (A) and (B), by striking
14 “Secretary of Health and Human Services” each
15 place it appears and inserting “Commissioner of So-
16 cial Security”; and

17 (2) in subparagraph (B)(ii), by striking “such
18 Secretary” and all that follows through “deceased
19 individuals.” and inserting “such Commissioner pur-
20 suant to such contract, except that such contract
21 may provide that such information is only to be used
22 by the Social Security Administration (or any other
23 Federal agency) for purposes authorized in the So-
24 cial Security Act or this title.”.

1 (c) REPORT TO CONGRESS ON ALTERNATIVE
2 SOURCES OF DEATH DATA.—

3 (1) REQUIREMENTS.—The Director of the Of-
4 fice of Management and Budget shall conduct a re-
5 view of potential alternative sources of death data
6 maintained by the non-Federal sources, including
7 sources maintained by State agencies or associations
8 of State agencies, for use by Federal agencies and
9 programs. The review shall include analyses of—

10 (A) the accuracy and completeness of such
11 data;

12 (B) interoperability of such data;

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

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

17 (E) the security of such data;

18 (F) the reliability of such data; and

19 (G) a comparison of the potential alternate
20 sources of death data to the death data distrib-
21 uted by the Commissioner of Social Security.

22 (2) REPORT.—Not later than 4 years after the
23 date of enactment of this Act, the Director of the
24 Office of Management and Budget shall submit a re-
25 port to Congress on the results of the review and

1 analyses required under paragraph (1). The report
2 shall include a recommendation by the Director of
3 the Office of Management and Budget regarding
4 whether to extend the agency access to death data
5 distributed by the Commissioner of Social Security
6 provided under the amendments made by subsection
7 (a)(1) beyond the date on which such amendments
8 are to be repealed under subsection (a)(2).

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

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

14 **“SEC. 7. IMPROVING THE USE OF DEATH DATA BY GOVERN-**
15 **MENT AGENCIES.**

16 **“(a) GUIDANCE BY THE OFFICE OF MANAGEMENT**
17 **AND BUDGET.—**

18 **“(1) GUIDANCE TO AGENCIES.—**Not later than
19 6 months after the date of enactment of this section,
20 and in consultation with the Council of Inspectors
21 General on Integrity and Efficiency and the heads of
22 other relevant Federal, State, and local agencies,
23 and Indian tribes and tribal organizations, the Di-
24 rector of the Office of Management and Budget
25 shall issue guidance for each agency or component

1 of an agency that operates or maintains a database
2 of information relating to beneficiaries, annuity re-
3 cipients, or any purpose described in section
4 205(r)(3)(B) of the Social Security Act (42 U.S.C.
5 405(r)(3)(B)) for which improved data matching
6 with databases relating to the death of an individual
7 (in this section referred to as ‘death databases’)
8 would be relevant and necessary regarding imple-
9 mentation of this section to provide such agencies or
10 components access to the death databases no later
11 than 6 months after such date of enactment.

12 “(2) PLAN TO ASSIST STATES AND LOCAL
13 AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANI-
14 ZATIONS.—Not later than 1 year after the date of
15 enactment of this section, the Director of the Office
16 of Management and Budget shall develop a plan to
17 assist States and local agencies, and Indian tribes
18 and tribal organizations, in providing electronically
19 to the Federal Government records relating to the
20 death of individuals, which may include rec-
21 ommendations to Congress for any statutory
22 changes or financial assistance to States and local
23 agencies and Indian tribes and tribal organizations
24 that are necessary to ensure States and local agen-
25 cies and Indian tribes and tribal organizations can

1 provide such records electronically. The plan may in-
2 clude recommendations for the authorization of ap-
3 propriations or other funding to carry out the plan.

4 “(b) REPORTS.—

5 “(1) REPORT TO CONGRESS ON IMPROVING
6 DATA MATCHING REGARDING PAYMENTS TO DE-
7 CEASED INDIVIDUALS.—Not later than 270 days
8 after the date of enactment of this section, the Di-
9 rector of the Office of Management and Budget, in
10 consultation with the heads of other relevant Federal
11 agencies, and in consultation with States and local
12 agencies, Indian tribes and tribal organizations, shall
13 submit to Congress a plan to improve how States
14 and local agencies and Indian tribes and tribal orga-
15 nizations that provide benefits under a federally
16 funded program will improve data matching with the
17 Federal Government with respect to the death of in-
18 dividuals who are recipients of such benefits.

19 “(2) ANNUAL REPORT.—Not later than 1 year
20 after the date of enactment of this section, and for
21 each of the 4 succeeding years, the Director of the
22 Office of Management and Budget shall submit to
23 Congress a report regarding the implementation of
24 this section. The first report submitted under this

1 paragraph shall include the recommendations of the
2 Director required under subsection (a)(2).

3 “(c) DEFINITIONS.—In this section, the terms ‘In-
4 dian tribe’ and ‘tribal organization’ have the meanings
5 given those terms in section 4 of the Indian Self-Deter-
6 mination and Education Assistance Act (25 U.S.C.
7 450b).”.

8 **SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COM-**
9 **PLETENESS OF DEATH DATA MAINTAINED**
10 **AND DISTRIBUTED BY THE SOCIAL SECURITY**
11 **ADMINISTRATION.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this Act, the Commissioner of Social
14 Security shall submit to Congress a plan, which shall in-
15 clude the elements described in subsection (b), to ensure
16 the accuracy and completeness of the death data (includ-
17 ing data regarding individuals who are not eligible for or
18 receiving benefits under titles II or XVI of the Social Se-
19 curity Act) maintained and distributed by the Social Secu-
20 rity Administration.

21 (b) CONTENT OF PLAN.—The plan required under
22 subsection (a) shall include the following elements:

23 (1) A procedure for identifying extremely elder-
24 ly individuals who are still alive according to the

1 records of the Social Security Administration and
2 verifying the accuracy of this information.

3 (2) Improved policies and procedures for identi-
4 fying and correcting erroneous records, including
5 policies and procedures for—

6 (A) identifying individuals listed as dead
7 who are actually alive;

8 (B) indentifying individuals listed as alive
9 who are actually dead; and

10 (C) allowing individuals or survivors of de-
11 ceased individuals to notify the Social Security
12 Administration of potential errors.

13 (3) Improved policies and procedures to identify
14 and correct errors in the records of the Numerical
15 Identification System, and death data.

16 (4) A process for employing statistical analysis
17 of the death data maintained and distributed by the
18 Social Security Administration to determine an esti-
19 mate of the number of erroneous records.

20 (5) Recommendations for legislation.

21 (c) IMPLEMENTATION OF PLAN.—Not later than 2
22 years after the date of enactment of this Act, the Commis-
23 sioner of Social Security shall implement the plan required
24 under subsection (a).

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