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. SINE, 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. MEESER, Mr. MCHENRY, Mr. HINES, Mr. PERLMUTTER, Mr. DUFFY, Mr. HUIZENGA, Mr. DELANEY, Mr. SESSIONS, Mr. TIP, 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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. REDUCING IDENTITY FRAUD.

(a) PURPOSE.—The purpose of this section is to reduce
the prevalence of synthetic identity fraud, which
disproportionately affects vulnerable populations, such as
minors and recent immigrants, by facilitating the valida-
tion by permitted entities of fraud protection data, pursuant
to electronically received consumer consent, through use
of a database maintained by the Commissioner.

(b) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term “Commissioner”
means the Commissioner of the Social Security Ad-
ministration.

(2) FINANCIAL INSTITUTION.—The term “finan-
cial institution” has the meaning given the term in
section 509 of the Gramm-Leach-Bliley Act (15

(3) FRAUD PROTECTION DATA.—The term “fraud
protection data” means a combination of the fol-
lowing information with respect to an individual:
(A) The name of the individual (including the first name and any family forename or surname of the individual).

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

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

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

(c) EFFICIENCY.—

(1) RELIANCE ON EXISTING METHODS.—The Commissioner shall evaluate the feasibility of making modifications to any database that is in existence as of the date of enactment of this Act or a similar resource such that the database or resource—

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

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

(2) EXECUTION.—The Commissioner shall establish a system to carry out subsection (a), in accordance with section 1106 of the Social Security Act. In doing so, the Commissioner shall make the modifications necessary to any database that is in existence as
of the date of enactment of this Act or similar re-
source, or develop a database or similar resource.

(d) PROTECTION OF VULNERABLE CONSUMERS.—The
database or similar resource described in subsection (c)
shall—

(1) compare fraud protection data provided in
an inquiry by a permitted entity against such infor-
mation maintained by the Commissioner in order to
confirm (or not confirm) the validity of the informa-
tion provided, and in such a manner as to deter
fraudulent use of the database or similar resource;

(2) be scalable and accommodate reasonably an-
ticipated volumes of verification requests from per-
mitted entities with commercially reasonable uptime
and availability; and

(3) allow permitted entities to submit—

(A) one or more individual requests elec-
tronically for real-time machine-to-machine (or
similar functionality) accurate responses; and

(B) multiple requests electronically, such as
those provided in a batch format, for accurate
electronic responses within a reasonable period of
time from submission, not to exceed 24 hours.

(e) CERTIFICATION REQUIRED.—Before providing con-
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 confirmation 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 compliance 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 Commissioner, with respect to information the entity receives from the Commissioner pursuant to this section.

(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 resource 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) AUDITS AND MONITORING.—

(A) IN GENERAL.—The Commissioner—

(i) shall conduct audits and monitoring to—
(I) ensure proper use by permitted entities of the database or similar resource described in subsection (c); and

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

(ii) may terminate services for any permitted entity that prevents or refuses to allow the Commissioner to carry out the activities described in clause (i) and may terminate or suspend services for any permitted entity as necessary to enforce any violation of this section or of any certification made under this section.

(2) ENFORCEMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, including the matter preceding paragraph (1) of section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)), any violation of this section and any certification made under this section shall be enforced in accordance with paragraphs (1) through (7) of such section 505(a) by the agencies described in those paragraphs.
(B) RELEVANT INFORMATION.—Upon discovery by the Commissioner of any violation of this section or any certification made under this section, the Commissioner shall forward any relevant information pertaining to that violation to the appropriate agency described in subparagraph (A) for evaluation by the agency for purposes of enforcing this section.

(h) RECOVERY OF COSTS.—

(1) IN GENERAL.—

(A) IN GENERAL.—Amounts obligated to carry out this section shall be fully recovered from the users of the database or verification system by way of advances, reimbursements, user fees, or other recoveries as determined by the Commissioner. The funds recovered under this paragraph shall be deposited as an offsetting collection to the account providing appropriations for the Social Security Administration, to be used for the administration of this section without fiscal year limitation.

(B) PRICES FIXED BY COMMISSIONER.—The Commissioner shall establish the amount to be paid by the users under this paragraph, including the costs of any services or work performed,
such as any appropriate upgrades, maintenance, and associated direct and indirect administrative costs, in support of carrying out the purposes described in this section, by reimbursement or in advance as determined by the Commissioner. The amount of such prices shall be periodically adjusted by the Commissioner to ensure that amounts collected are sufficient to fully offset the cost of the administration of this section.

(2) INITIAL DEVELOPMENT.—The Commissioner shall not begin development of a verification system to carry out this section until the Commissioner determines that amounts equal to at least 50 percent of program start-up costs have been collected under paragraph (1).

(3) EXISTING RESOURCES.—The Commissioner of Social Security may use funds designated for information technology modernization to carry out this section, but in all cases shall be fully reimbursed under paragraph (1)(A).

(4) ANNUAL REPORT.—The Commissioner of Social Security shall annually submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the amount of indirect costs to the Social Security
Administration arising as a result of the implementation of this section.
A BILL

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April 13, 2018