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S. 1333

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

MAY 6, 2019

Mr. CARPER (for himself, Mr. KENNEDY, Mr. PETERS, Ms. HASSAN, Mr. KING, Ms. SINEMA, Mr. TESTER, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stopping Improper Payments to Deceased People Act''.

SEC. 2. DISTRIBUTION OF DEATH INFORMATION FURNISHED TO OR MAINTAINED BY THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—

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

(A) in paragraph (2)—

(i) by striking ''may'' and inserting ''shall''; and

(ii) by inserting '', and to ensure the completeness, timeliness, and accuracy of,'' after ''transmitting'';

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

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

''(i) under such arrangement the agency agrees to such safeguards as the Commissioner determines are necessary or appropriate to protect the information from unauthorized use or disclosure;

"(ii) under such arrangement the agency provides reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out such arrangement, including the reasonable costs associated with the collection and maintenance of information regarding deceased individuals furnished to the Commissioner pursuant to paragraph (1); and

"(iii) such arrangement does not conflict with the duties of the Commissioner of Social Security under paragraph (1).

"(B) The Commissioner of Social Security shall, to the extent feasible, provide for the use of information regarding all deceased individuals furnished to or maintained by the Commissioner under this subsection, through a cooperative arrangement in order for a Federal agency to carry out any of the following purposes, if the requirements of clauses (i), (ii), and (iii) of subparagraph (A) are met:

"(i) Under such arrangement, the agency operating the Do Not Pay working system established under section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 may compare death information disclosed by the Commissioner with personally identifiable information reviewed through the working system, and may redis-

close such comparison of information, as appropriate, to any Federal or State agency authorized to use the working system.

''(ii) The tax administration duties of the agency.

''(iii) Oversight activities of the Inspector General of an agency that is provided information regarding all deceased individuals pursuant to this subsection.

''(iv) Civil or criminal enforcement activities that are authorized by law.

''(C) With respect to the reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out a cooperative arrangement described in subparagraph (A) between the Commissioner of Social Security and an agency, the Commissioner shall—

''(i) establish a defined calculation method for purposes of calculating the reasonable cost of carrying out the arrangement that does not take into account any services, information, or unrelated payments provided by the agency to the Commissioner; and

''(ii) reimbursement payments shall be accounted for and recorded separately from other transactions.

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

"(5) The Commissioner of Social Security may use or provide for the use of information regarding all deceased individuals furnished to or maintained by the Commissioner under this subsection for statistical purposes and research activities by Federal and State agencies (including research activities conducted under a contract or a cooperative arrangement (as such terms are defined for purposes of sections 6303 and 6305, respectively, of title 31, United States Code) with such an agency) if the requirements of clauses (i) and (ii) of paragraph (3)(A) are met."; and

(C) in paragraph (8)(A)(i), by striking "subparagraphs (A) and (B) of paragraph (3)"

and inserting ''clauses (i), (ii), and (iii) of paragraph (3)(A)''.

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

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

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

(A) in subparagraphs (A) and (B), by striking ''Secretary of Health and Human Services'' each place it appears and inserting ''Commissioner of Social Security''; and

(B) in subparagraph (B)(ii), by striking ''such Secretary'' and all that follows through ''deceased individuals.'' and inserting ''such Commissioner pursuant to such contract, except that such contract may provide that such information is only to be used by the Social Security Administration (or any other Federal agency)

for purposes authorized in the Social Security Act or this title.''.

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

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

(1) REQUIREMENTS.—The Commissioner of Social Security, in coordination with the Secretary of the Treasury, shall conduct a review of potential alternative sources of death data maintained by the non-Federal sources, including sources maintained by State agencies or associations of State agencies, for use by Federal agencies and programs. The review shall include analyses of—

(A) the accuracy and completeness of such data;

(B) interoperability of such data;

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

(D) the cost to Federal agencies of accessing and maintaining such data;

(E) the security of such data;

(F) the reliability of such data; and

(G) a comparison of the potential alternate sources of death data to the death data distributed by the Commissioner of Social Security.

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

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

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

"SEC. 8. IMPROVING THE USE OF DEATH DATA BY GOVERNMENT AGENCIES.

''(a) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—

"(1) GUIDANCE TO AGENCIES.—Not later than 1 year after the date of enactment of this section, and in consultation with the Council of Inspectors General on Integrity and Efficiency and the heads of other relevant Federal, State, and local agencies, and Indian tribes and tribal organizations, the Director of the Office of Management and Budget shall issue guidance for each agency or component of an agency that operates or maintains a database of information relating to beneficiaries, annuity recipients, or any purpose described in section 205(r)(3)(B) of the Social Security Act (42 U.S.C. 405(r)(3)(B)) for which improved data matching with databases relating to the death of an individual (in this section referred to as death databases) would be relevant and necessary regarding implementation of this section to provide such agencies or components access to the death databases no later than 1 year after such date of enactment.

"(2) PLAN TO ASSIST STATES AND LOCAL AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary of Health and Human Services and the Secretary of the Treasury shall jointly develop a plan to assist States and

local agencies, and Indian tribes and tribal organizations, in providing electronically to the Federal Government records relating to the death of individuals, which may include recommendations to Congress for any statutory changes or financial assistance to States and local agencies and Indian tribes and tribal organizations that are necessary to ensure States and local agencies and Indian tribes and tribal organizations can provide such records electronically. The plan may include recommendations for the authorization of appropriations or other funding to carry out the plan.

''(b) REPORTS.—

''(1) REPORT TO CONGRESS ON IMPROVING DATA MATCHING REGARDING PAYMENTS TO DECEASED INDIVIDUALS.—Not later than 1 year after the date of enactment of this section, the Secretary of the Treasury, in consultation with the heads of other relevant Federal agencies, and in consultation with States and local agencies, Indian tribes and tribal organizations, shall submit to Congress a plan to improve how States and local agencies and Indian tribes and tribal organizations that provide benefits under a federally funded program will improve data matching with the Federal Government with respect

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

"(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this section, and for each of the 4 succeeding years, the Secretary of the Treasury shall submit to Congress a report regarding the implementation of this section. The first report submitted under this paragraph shall include the recommendations of the Secretary required under subsection (a)(2).

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

SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COMPLETENESS OF DEATH DATA MAINTAINED AND DISTRIBUTED BY THE SOCIAL SECURITY ADMINISTRATION.

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

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

(b) CONTENT OF PLAN.—In developing the plan required under subsection (a), the Commissioner of Social Security shall consider whether to include the following elements:

(1) Procedures for—

(A) identifying individuals who are extremely elderly, as determined by the Commissioner, but for whom no record of death exists in the records of the Social Security Administration;

(B) verifying the information contained in the records of the Social Security Administration with respect to individuals described in subparagraph (A) and correcting any inaccuracies; and

(C) where appropriate, disclosing corrections made to the records of the Social Security Administration.

(2) Improved policies and procedures for identifying and correcting erroneous death records, including policies and procedures for—

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

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

(C) allowing individuals or survivors of deceased individuals to notify the Social Security Administration of potential errors.

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

(4) A process for employing statistical analysis of the death data maintained and distributed by the Social Security Administration to determine an estimate of the number of erroneous records.

(5) Recommendations for legislation, as necessary.

SEC. 5. REPORT ON INFORMATION SECURITY.

Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall submit a report to the Committees on Ways and Means, Oversight and Reform, and Homeland Security of the House of Representatives, and the Committees on Finance and Homeland Security and Governmental Affairs of the Senate that—

(1) identifies all information systems of the Social Security Administration containing sensitive information; and

(2) describes the measures the Commissioner is taking to secure and protect such information systems.

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