

115TH CONGRESS
2D SESSION

S. 2498

To reduce identity fraud.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2018

Mr. SCOTT (for himself, Mrs. McCASKILL, Mr. CASSIDY, and Mr. PETERS)
introduced the following bill; which was read twice and referred to the
Committee on Finance

A BILL

To reduce identity fraud.

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 “Protecting Children
5 From Identity Theft Act”.

6 **SEC. 2. REDUCING IDENTITY FRAUD.**

7 (a) PURPOSE.—The purpose of this section is to re-
8 duce the prevalence of synthetic identity fraud, which
9 disproportionally affects vulnerable populations, such as
10 minors and recent immigrants, by facilitating the valida-
11 tion by permitted entities of fraud protection data, pursu-

1 ant to electronically received consumer consent, through
 2 use of a database maintained by the Commissioner.

3 (b) DEFINITIONS.—In this section:

4 (1) COMMISSIONER.—The term “Commis-
 5 sioner” means the Commissioner of the Social Secu-
 6 rity Administration.

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

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

14 (A) The name of the individual (including
 15 the first name and any family forename or sur-
 16 name of the individual).

17 (B) The Social Security number of the in-
 18 dividual.

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

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

25 (c) EFFICIENCY.—

1 (1) RELIANCE ON EXISTING METHODS.—The
2 Commissioner shall evaluate the feasibility of mak-
3 ing modifications to any database that is in exist-
4 ence as of the date of enactment of this Act or a
5 similar resource such that the database or re-
6 source—

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

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

11 (2) EXECUTION.—The Commissioner shall
12 make the modifications necessary to any database
13 that is in existence as of the date of enactment of
14 this Act or similar resource, or develop a database
15 or similar resource, to effectuate the requirements
16 described in paragraph (1).

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

20 (1) compare fraud protection data provided in
21 an inquiry by a permitted entity against such infor-
22 mation maintained by the Commissioner in order to
23 confirm (or not confirm) the validity of the informa-
24 tion provided;

(2) be scalable and accommodate reasonably anticipated volumes of verification requests from permitted entities with commercially reasonable uptime and availability;

(3) allow permitted entities to submit—

(A) one or more individual requests electronically 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;

(4) be funded, including any appropriate upgrades, maintenance, and associated direct and indirect administrative costs, by users of the database or similar resource, in a manner consistent with that described in section 1106(b) of the Social Security Act (42 U.S.C. 1306(b)); and

(5) not later than 180 days after the date of enactment of this Act, be fully operational.

(e) CERTIFICATION REQUIRED.—Before providing confirmation 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

1 not more than 2 years before the date on which that con-
2 firmation is provided that includes the following declara-
3 tions:

4 (1) The entity is a permitted entity.

5 (2) The entity is in compliance with this sec-
6 tion.

7 (3) The entity is, and will remain, in compli-
8 ance with its privacy and data security requirements,
9 as described in title V of the Gramm-Leach-Bliley
10 Act (15 U.S.C. 6801 et seq.), with respect to infor-
11 mation the entity receives from the Commissioner
12 pursuant to this section.

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

16 (f) CONSUMER CONSENT.—

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

21 (A) pursuant to the written, including elec-
22 tronic, consent received by a permitted entity
23 from the individual who is the subject of the re-
24 quest; and

1 (B) in connection with a credit transaction
 2 or any circumstance described in section 604 of
 3 the Fair Credit Reporting Act (15 U.S.C.
 4 1681b).

5 (2) ELECTRONIC CONSENT REQUIREMENTS.—

6 For a permitted entity to use the consent of an indi-
 7 vidual received electronically pursuant to paragraph
 8 (1)(A), the permitted entity must obtain the individ-
 9 ual's electronic signature, as defined in section 106
 10 of the Electronic Signatures in Global and National
 11 Commerce Act (15 U.S.C. 7006).

12 (3) EFFECTUATING ELECTRONIC CONSENT.—

13 No provision of law or requirement, including section
 14 552a of title 5, United States Code, shall prevent
 15 the use of electronic consent for purposes of this
 16 subsection or for use in any other consent based
 17 verification under the discretion of the Commis-
 18 sioner.

19 (g) COMPLIANCE AND ENFORCEMENT.—

20 (1) AUDITS AND MONITORING.—

21 (A) IN GENERAL.—The Commissioner
 22 may—

23 (i) conduct audits and monitoring
 24 to—

1 (I) ensure proper use by per-
 2 mitted entities of the database or
 3 similar resource described in sub-
 4 section (c); and

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

9 (ii) terminate services for any per-
 10 mitted entity that prevents or refuses to
 11 allow the Commissioner to carry out the
 12 activities described in clause (i).

13 (2) ENFORCEMENT.—

14 (A) IN GENERAL.—Notwithstanding any
 15 other provision of law, including the matter pre-
 16 ceding paragraph (1) of section 505(a) of the
 17 Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)),
 18 any violation of this section and any certifi-
 19 cation made under this section shall be enforced
 20 in accordance with paragraphs (1) through (7)
 21 of such section 505(a) by the agencies described
 22 in those paragraphs.

23 (B) RELEVANT INFORMATION.—Upon dis-
 24 covery by the Commissioner, pursuant to an
 25 audit described in paragraph (1)(A), of any vio-

1 lation of this section or any certification made
2 under this section, the Commissioner shall for-
3 ward any relevant information pertaining to
4 that violation to the appropriate agency de-
5 scribed in subparagraph (A) for evaluation by
6 the agency for purposes of enforcing this sec-
7 tion.

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