

117TH CONGRESS 1ST SESSION

H. R. 142

To amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

IN THE HOUSE OF REPRESENTATIVES

January 4, 2021

Ms. Jackson Lee introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

1 SECTION 1. SHORT TITLE.

2	This Act may be cited as the "Infant Protection and
3	Baby Switching Prevention Act of 2021".
4	SEC. 2. MEDICARE PAYMENTS TO HOSPITALS CONTINGENT
5	ON IMPLEMENTATION OF SECURITY PROCE-
6	DURES REGARDING INFANT PATIENT PRO-
7	TECTION AND BABY SWITCHING.
8	(a) Agreements With Hospitals.—Section
9	1866(a)(1) of the Social Security Act (42 U.S.C.
10	1395cc(a)(1)) is amended—
11	(1) in subparagraphs (W) and (X), by moving
12	the margin of each subparagraph 2 ems to the left;
13	(2) in subparagraph (X), by striking "and" at
14	the end;
15	(3) in subparagraph (Y), by striking the period
16	at the end and inserting ", and"; and
17	(4) by inserting after subparagraph (Y) the fol-
18	lowing new subparagraph:
19	"(Z) in the case of hospitals and critical access
20	hospitals that provide neonatal or infant care, to
21	have in effect security procedures that meet stand-
22	ards established by the Secretary (in consultation
23	with appropriate organizations) to reduce the likeli-
24	hood of infant patient abduction and baby switching,
25	including standards for identifying all infant pa-
26	tients in the hospital in a manner that ensures that

1 it will be evident if infants are missing from the hos-2 pital.". 3 (b) Regulations.— 4 (1) In General.—In promulgating regulations 5 under subparagraph (Z) of section 1866(a)(1) of the 6 Social Security Act (42 U.S.C. 1395cc(a)(1)), as 7 added by subsection (a), the Secretary of Health and 8 Human Services shall— 9 (A) consult with various organizations rep-10 resenting consumers, appropriate State and 11 local regulatory agencies, hospitals, and critical access hospitals; 12 13 (B) take into account variations in size 14 and location of hospitals and critical access hos-15 pitals, and the percentage of overall services 16 furnished by such hospitals and critical access 17 hospitals that neonatal care and infant care 18 represent; and 19 (C) promulgate specific regulations that 20 address each size and type of hospital covered. 21 (2) DEADLINE FOR PUBLICATION.—Not later 22 than 12 months after the date of the enactment of 23 this Act, the Secretary shall publish the regulations 24 required under paragraph (1). In order to carry out

this requirement in a timely manner, the Secretary

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1 may promulgate regulations that take effect on an 2 interim basis, after notice and pending opportunity 3 for public comment.

(c) Penalties.—

- (1) Amount of Penalty.—A hospital that participates in the Medicare program under title XVIII of the Social Security Act under an agreement pursuant to section 1866 of such Act (42 U.S.C. 1395cc) that commits a violation described in paragraph (2) is subject to a civil money penalty of not more than \$50,000 (or not more than \$25,000 in the case of a hospital with fewer than 100 beds) for each such violation.
- (2) VIOLATION DESCRIBED.—A hospital described in paragraph (1) commits a violation for purposes of this subsection if the hospital fails to have in effect security procedures that meet standards established by the Secretary of Health and Human Services under section 1866(a)(1)(Z) of such Act, as added by subsection (a), to reduce the likelihood of infant patient abduction and baby switching, including standards for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

- 1 (3) Administrative provisions.—The provi-
- 2 sions of section 1128A of such Act (42 U.S.C.
- 3 1320a-7a), other than subsections (a) and (b), shall
- 4 apply to a civil money penalty under this subsection
- 5 in the same manner as such provisions apply with
- 6 respect to a penalty or proceeding under section
- 7 1128A(a) of such Act.
- 8 (d) Effective Date.—This section, and the amend-
- 9 ments made by this section, shall take effect on the date
- 10 that is 18 months after the date of the enactment of this
- 11 Act, and shall apply to contracts entered into or renewed
- 12 under section 1866 of the Social Security Act (42 U.S.C.
- 13 1395cc) on or after such date.
- 14 SEC. 3. BABY SWITCHING PROHIBITED.
- 15 (a) IN GENERAL.—Chapter 55 of title 18, United
- 16 States Code, is amended by adding at the end the fol-
- 17 lowing:
- 18 "SEC. 1205. BABY SWITCHING.
- 19 "(a) Whoever being in interstate commerce knowingly
- 20 alters or destroys an identification record of a newborn
- 21 patient with the intention that the newborn patient be
- 22 misidentified by any person shall be fined not more than
- 23 \$250,000 in the case of an individual and not more than
- 24 \$500,000 in the case of an organization, or imprisoned
- 25 not more than ten years, or both.

- 1 "(b) As used in this section, the term 'identification
- 2 record' means a record maintained by a hospital to aid
- 3 in the identification of newborn patients of the hospital,
- 4 including any of the following:
- 5 "(1) The footprint, fingerprint, or photograph
- 6 of the newborn patient.
- 7 "(2) A written description of the infant.
- 8 "(3) An identification bracelet or anklet put on
- 9 the newborn patient, or the mother of the newborn
- patient, by a staff member of the hospital.".
- 11 (b) CLERICAL AMENDMENT.—The table of sections
- 12 at the beginning of chapter 55 of title 18, United States
- 13 Code, is amended by adding at the end the following new
- 14 item:

"1205. Baby switching.".

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