

Calendar No. 126

116TH CONGRESS
1ST SESSION

S. 1333

[Report No. 116–49]

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, Mr. WARNER, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JUNE 25, 2019

Reported by Mr. JOHNSON, without amendment

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stopping Improper
3 Payments to Deceased People Act”.

4 **SEC. 2. DISTRIBUTION OF DEATH INFORMATION FUR-**
5 **NISHED TO OR MAINTAINED BY THE SOCIAL**
6 **SECURITY ADMINISTRATION.**

7 (a) IN GENERAL.—

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

10 (A) in paragraph (2)—

11 (i) by striking “may” and inserting
12 “shall”; and

13 (ii) by inserting “, and to ensure the
14 completeness, timeliness, and accuracy of,”
15 after “transmitting”;

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

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

25 “(i) under such arrangement the agency agrees
26 to such safeguards as the Commissioner determines

1 are necessary or appropriate to protect the informa-
2 tion from unauthorized use or disclosure;

3 “(ii) under such arrangement the agency pro-
4 vides reimbursement to the Commissioner of Social
5 Security for the reasonable cost of carrying out such
6 arrangement, including the reasonable costs associ-
7 ated with the collection and maintenance of informa-
8 tion regarding deceased individuals furnished to the
9 Commissioner pursuant to paragraph (1); and

10 “(iii) such arrangement does not conflict with
11 the duties of the Commissioner of Social Security
12 under paragraph (1).

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

21 “(i) Under such arrangement, the agency oper-
22 ating the Do Not Pay working system established
23 under section 5 of the Improper Payments Elimini-
24 nation and Recovery Improvement Act of 2012 may
25 compare death information disclosed by the Commis-

1 sioner with personally identifiable information re-
2 viewed through the working system, and may redis-
3 close such comparison of information, as appro-
4 priate, to any Federal or State agency authorized to
5 use the working system.

6 “(ii) The tax administration duties of the agen-
7 cy.

8 “(iii) Oversight activities of the Inspector Gen-
9 eral of an agency that is provided information re-
10 garding all deceased individuals pursuant to this
11 subsection.

12 “(iv) Civil or criminal enforcement activities
13 that are authorized by law.

14 “(C) With respect to the reimbursement to the Com-
15 missioner of Social Security for the reasonable cost of car-
16 rying out a cooperative arrangement described in subpara-
17 graph (A) between the Commissioner of Social Security
18 and an agency, the Commissioner shall—

19 “(i) establish a defined calculation method for
20 purposes of calculating the reasonable cost of car-
21 rying out the arrangement that does not take into
22 account any services, information, or unrelated pay-
23 ments provided by the agency to the Commissioner;
24 and

1 “(ii) reimbursement payments shall be ac-
2 counted for and recorded separately from other
3 transactions.

4 “(4) The Commissioner of Social Security may enter
5 into similar arrangements with States to provide informa-
6 tion regarding all deceased individuals furnished to or
7 maintained by the Commissioner under this subsection for
8 use by States in programs wholly funded by the States,
9 or for use in the administration of a benefit pension plan
10 or retirement system for employees of a State or a political
11 subdivision thereof, if the requirements of clauses (i), (ii),
12 and (iii) of paragraph (3)(A) are met. For purposes of
13 this paragraph, the terms retirement system and political
14 subdivision have the meanings given such terms in section
15 218(b).

16 “(5) The Commissioner of Social Security may use
17 or provide for the use of information regarding all de-
18 ceased individuals furnished to or maintained by the Com-
19 missioner under this subsection for statistical purposes
20 and research activities by Federal and State agencies (in-
21 cluding research activities conducted under a contract or
22 a cooperative arrangement (as such terms are defined for
23 purposes of sections 6303 and 6305, respectively, of title
24 31, United States Code) with such an agency) if the re-

1 requirements of clauses (i) and (ii) of paragraph (3)(A) are
 2 met.”; and

3 (C) in paragraph (8)(A)(i), by striking
 4 “subparagraphs (A) and (B) of paragraph (3)”
 5 and inserting “clauses (i), (ii), and (iii) of para-
 6 graph (3)(A)”.

7 (2) REPEAL.—Effective on the date that is 5
 8 years after the date of enactment of this Act, the
 9 amendments made by this subsection to paragraphs
 10 (3), (4), (5), and (8) of section 205(r) of the Social
 11 Security Act (42 U.S.C. 405(r)) are repealed, and
 12 the provisions of section 205(r) of the Social Secu-
 13 rity Act (42 U.S.C. 405(r)) so amended are restored
 14 and revived as if such amendments had not been en-
 15 acted.

16 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

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

19 (A) in subparagraphs (A) and (B), by
 20 striking “Secretary of Health and Human Serv-
 21 ices” each place it appears and inserting “Com-
 22 missioner of Social Security”; and

23 (B) in subparagraph (B)(ii), by striking
 24 “such Secretary” and all that follows through
 25 “deceased individuals.” and inserting “such

1 Commissioner pursuant to such contract, except
 2 that such contract may provide that such infor-
 3 mation is only to be used by the Social Security
 4 Administration (or any other Federal agency)
 5 for purposes authorized in the Social Security
 6 Act or this title.”.

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

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

12 (1) REQUIREMENTS.—The Commissioner of So-
 13 cial Security, in coordination with the Secretary of
 14 the Treasury, shall conduct a review of potential al-
 15 ternative sources of death data maintained by the
 16 non-Federal sources, including sources maintained
 17 by State agencies or associations of State agencies,
 18 for use by Federal agencies and programs. The re-
 19 view shall include analyses of—

20 (A) the accuracy and completeness of such
 21 data;

22 (B) interoperability of such data;

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

1 (D) the cost to Federal agencies of access-
2 ing and maintaining such data;
3 (E) the security of such data;
4 (F) the reliability of such data; and
5 (G) a comparison of the potential alternate
6 sources of death data to the death data distrib-
7 uted by the Commissioner of Social Security.

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

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

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

1 **“SEC. 8. IMPROVING THE USE OF DEATH DATA BY GOVERN-**
2 **MENT AGENCIES.**

3 “(a) GUIDANCE BY THE OFFICE OF MANAGEMENT
4 AND BUDGET.—

5 “(1) GUIDANCE TO AGENCIES.—Not later than
6 1 year after the date of enactment of this section,
7 and in consultation with the Council of Inspectors
8 General on Integrity and Efficiency and the heads of
9 other relevant Federal, State, and local agencies,
10 and Indian tribes and tribal organizations, the Di-
11 rector of the Office of Management and Budget
12 shall issue guidance for each agency or component
13 of an agency that operates or maintains a database
14 of information relating to beneficiaries, annuity re-
15 cipients, or any purpose described in section
16 205(r)(3)(B) of the Social Security Act (42 U.S.C.
17 405(r)(3)(B)) for which improved data matching
18 with databases relating to the death of an individual
19 (in this section referred to as death databases)
20 would be relevant and necessary regarding imple-
21 mentation of this section to provide such agencies or
22 components access to the death databases no later
23 than 1 year after such date of enactment.

24 “(2) PLAN TO ASSIST STATES AND LOCAL
25 AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANI-
26 ZATIONS.—Not later than 1 year after the date of

1 enactment of this section, the Secretary of Health
2 and Human Services and the Secretary of the Treas-
3 ury shall jointly develop a plan to assist States and
4 local agencies, and Indian tribes and tribal organiza-
5 tions, in providing electronically to the Federal Gov-
6 ernment records relating to the death of individuals,
7 which may include recommendations to Congress for
8 any statutory changes or financial assistance to
9 States and local agencies and Indian tribes and trib-
10 al organizations that are necessary to ensure States
11 and local agencies and Indian tribes and tribal orga-
12 nizations can provide such records electronically.
13 The plan may include recommendations for the au-
14 thorization of appropriations or other funding to
15 carry out the plan.

16 “(b) REPORTS.—

17 “(1) REPORT TO CONGRESS ON IMPROVING
18 DATA MATCHING REGARDING PAYMENTS TO DE-
19 CEASED INDIVIDUALS.—Not later than 1 year after
20 the date of enactment of this section, the Secretary
21 of the Treasury, in consultation with the heads of
22 other relevant Federal agencies, and in consultation
23 with States and local agencies, Indian tribes and
24 tribal organizations, shall submit to Congress a plan
25 to improve how States and local agencies and Indian

1 tribes and tribal organizations that provide benefits
 2 under a federally funded program will improve data
 3 matching with the Federal Government with respect
 4 to the death of individuals who are recipients of such
 5 benefits.

6 “(2) ANNUAL REPORT.—Not later than 1 year
 7 after the date of enactment of this section, and for
 8 each of the 4 succeeding years, the Secretary of the
 9 Treasury shall submit to Congress a report regard-
 10 ing the implementation of this section. The first re-
 11 port submitted under this paragraph shall include
 12 the recommendations of the Secretary required
 13 under subsection (a)(2).

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

18 **SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COM-**
 19 **PLETENESS OF DEATH DATA MAINTAINED**
 20 **AND DISTRIBUTED BY THE SOCIAL SECURITY**
 21 **ADMINISTRATION.**

22 (a) IN GENERAL.—Not later than 1 year after the
 23 date of enactment of this Act, the Commissioner of Social
 24 Security shall submit to Congress a plan, which shall in-
 25 clude an estimate of the cost of implementing the policies

1 and procedures described in such plan, to improve the ac-
2 curacy and completeness of the death data (including,
3 where feasible and cost-effective, data regarding individ-
4 uals who are not eligible for or receiving benefits under
5 titles II or XVI of the Social Security Act) maintained
6 and distributed by the Social Security Administration.

7 (b) CONTENT OF PLAN.—In developing the plan re-
8 quired under subsection (a), the Commissioner of Social
9 Security shall consider whether to include the following
10 elements:

11 (1) Procedures for—

12 (A) identifying individuals who are ex-
13 tremely elderly, as determined by the Commis-
14 sioner, but for whom no record of death exists
15 in the records of the Social Security Adminis-
16 tration;

17 (B) verifying the information contained in
18 the records of the Social Security Administra-
19 tion with respect to individuals described in
20 subparagraph (A) and correcting any inaccura-
21 cies; and

22 (C) where appropriate, disclosing correc-
23 tions made to the records of the Social Security
24 Administration.

1 (2) Improved policies and procedures for identi-
2 fying and correcting erroneous death records, includ-
3 ing policies and procedures for—

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

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

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

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

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

19 (5) Recommendations for legislation, as nec-
20 essary.

21 **SEC. 5. REPORT ON INFORMATION SECURITY.**

22 Not later than 90 days after the date of the enact-
23 ment of this Act, the Commissioner of Social Security
24 shall submit a report to the Committees on Ways and
25 Means, Oversight and Reform, and Homeland Security of

1 the House of Representatives, and the Committees on Fi-
2 nance and Homeland Security and Governmental Affairs
3 of the Senate that—

4 (1) identifies all information systems of the So-
5 cial Security Administration containing sensitive in-
6 formation; and

7 (2) describes the measures the Commissioner is
8 taking to secure and protect such information sys-
9 tems.

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