

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5192
OFFERED BY MR. BRADY OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 SEC. 2. REDUCING IDENTITY FRAUD.

5 (a) PURPOSE.—The purpose of this section is to re-
6 duce the prevalence of synthetic identity fraud, which
7 disproportionately affects vulnerable populations, such as
8 minors and recent immigrants, by facilitating the valida-
9 tion by permitted entities of fraud protection data, pursu-
10 ant to electronically received consumer consent, through
11 use of a database maintained by the Commissioner.

12 (b) DEFINITIONS.—In this section:

13 (1) COMMISSIONER.—The term “Commis-
14 sioner” means the Commissioner of the Social Secu-
15 rity Administration.

16 (2) FINANCIAL INSTITUTION.—The term “fi-
17 nancial institution” has the meaning given the term

1 in section 509 of the Gramm-Leach-Bliley Act (15
2 U.S.C. 6809).

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

6 (A) The name of the individual (including
7 the first name and any family forename or sur-
8 name of the individual).

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

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

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

17 (c) EFFICIENCY.—

18 (1) RELIANCE ON EXISTING METHODS.—The
19 Commissioner shall evaluate the feasibility of mak-
20 ing modifications to any database that is in exist-
21 ence as of the date of enactment of this Act or a
22 similar resource such that the database or re-
23 source—

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

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

3 (2) EXECUTION.—The Commissioner shall es-
4 tablish a system to carry out subsection (a), in ac-
5 cordance with section 1106 of the Social Security
6 Act. In doing so, the Commissioner shall make the
7 modifications necessary to any database that is in
8 existence as of the date of enactment of this Act or
9 similar resource, or develop a database or similar re-
10 source.

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

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

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

24 (3) allow permitted entities to submit—

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

4 (B) multiple requests electronically, such
5 as those provided in a batch format, for accu-
6 rate electronic responses within a reasonable pe-
7 riod of time from submission, not to exceed 24
8 hours.

9 (e) CERTIFICATION REQUIRED.—Before providing
10 confirmation of fraud protection data to a permitted enti-
11 ty, the Commissioner shall ensure that the Commissioner
12 has a certification from the permitted entity that is dated
13 not more than 2 years before the date on which that con-
14 firmation is provided that includes the following declara-
15 tions:

16 (1) The entity is a permitted entity.

17 (2) The entity is in compliance with this sec-
18 tion.

19 (3) The entity is, and will remain, in compli-
20 ance with its privacy and data security requirements,
21 as described in title V of the Gramm-Leach-Bliley
22 Act (15 U.S.C. 6801 et seq.) and as required by the
23 Commissioner, with respect to information the entity
24 receives from the Commissioner pursuant to this sec-
25 tion.

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

4 (f) CONSUMER CONSENT.—

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

9 (A) pursuant to the written, including elec-
10 tronic, consent received by a permitted entity
11 from the individual who is the subject of the re-
12 quest; and

13 (B) in connection with any circumstance
14 described in section 604 of the Fair Credit Re-
15 porting Act (15 U.S.C. 1681b).

16 (2) ELECTRONIC CONSENT REQUIREMENTS.—

17 For a permitted entity to use the consent of an indi-
18 vidual received electronically pursuant to paragraph
19 (1)(A), the permitted entity must obtain the individ-
20 ual's electronic signature, as defined in section 106
21 of the Electronic Signatures in Global and National
22 Commerce Act (15 U.S.C. 7006). Permitted entities
23 must develop and use an electronic signature process
24 in accordance with all Federal laws and require-
25 ments as designated by the Commissioner.

1 (3) EFFECTUATING ELECTRONIC CONSENT.—

2 No provision of law or requirement, including section
3 552a of title 5, United States Code, shall prevent
4 the use of electronic consent for purposes of this
5 subsection or for use in any other consent based
6 verification under the discretion of the Commis-
7 sioner.

8 (g) COMPLIANCE AND ENFORCEMENT.—

9 (1) AUDITS AND MONITORING.—

10 (A) IN GENERAL.—The Commissioner—

11 (i) shall conduct audits and moni-
12 toring to—

13 (I) ensure proper use by per-
14 mitted entities of the database or
15 similar resource described in sub-
16 section (c); and

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

21 (ii) may terminate services for any
22 permitted entity that prevents or refuses to
23 allow the Commissioner to carry out the
24 activities described in clause (i) and may
25 terminate or suspend services for any per-

1 mitted entity as necessary to enforce any
2 violation of this section or of any certifi-
3 cation made under this section.

4 (2) ENFORCEMENT.—

5 (A) IN GENERAL.—Notwithstanding any
6 other provision of law, including the matter pre-
7 ceding paragraph (1) of section 505(a) of the
8 Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)),
9 any violation of this section and any certifi-
10 cation made under this section shall be enforced
11 in accordance with paragraphs (1) through (7)
12 of such section 505(a) by the agencies described
13 in those paragraphs.

14 (B) RELEVANT INFORMATION.—Upon dis-
15 covery by the Commissioner of any violation of
16 this section or any certification made under this
17 section, the Commissioner shall forward any
18 relevant information pertaining to that violation
19 to the appropriate agency described in subpara-
20 graph (A) for evaluation by the agency for pur-
21 poses of enforcing this section.

22 (h) RECOVERY OF COSTS.—

23 (1) IN GENERAL.—

24 (A) IN GENERAL.—Amounts obligated to
25 carry out this section shall be fully recovered

1 from the users of the database or verification
2 system by way of advances, reimbursements,
3 user fees, or other recoveries as determined by
4 the Commissioner. The funds recovered under
5 this paragraph shall be deposited as an offset-
6 ting collection to the account providing appro-
7 priations for the Social Security Administration,
8 to be used for the administration of this section
9 without fiscal year limitation.

10 (B) PRICES FIXED BY COMMISSIONER.—

11 The Commissioner shall establish the amount to
12 be paid by the users under this paragraph, in-
13 cluding the costs of any services or work per-
14 formed, such as any appropriate upgrades,
15 maintenance, and associated direct and indirect
16 administrative costs, in support of carrying out
17 the purposes described in this section, by reim-
18 bursement or in advance as determined by the
19 Commissioner. The amount of such prices shall
20 be periodically adjusted by the Commissioner to
21 ensure that amounts collected are sufficient to
22 fully offset the cost of the administration of this
23 section.

24 (2) INITIAL DEVELOPMENT.—The Commis-
25 sioner shall not begin development of a verification

1 system to carry out this section until the Commis-
2 sioner determines that amounts equal to at least 50
3 percent of program start-up costs have been col-
4 lected under paragraph (1).

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

10 (4) ANNUAL REPORT.—The Commissioner of
11 Social Security shall annually submit to the Com-
12 mittee on Ways and Means of the House of Rep-
13 resentatives and the Committee on Finance of the
14 Senate a report on the amount of indirect costs to
15 the Social Security Administration arising as a re-
16 sult of the implementation of this section.

