



Henry McMaster
Governor

Kevin A. Shwedo
Executive Director

State of South Carolina
Department of Motor Vehicles

Friday, November 5, 2021

Chairman Wm. Weston J. Newton
House Legislative Oversight Committee
228 Blatt Building
Columbia, South Carolina 29201

Via Email

Dear Chairman Newton:

On Friday, October 29, 2021, the Social Security Administration (SSA) informed the South Carolina Department of Motor Vehicles (DMV) that it would not permit the DMV to redisclose death data the agency receives from the SSA under the Social Security Online Verification (commonly referred to as SSOLV) agreement to the State Election Commission. I have enclosed the response for your records.

Because of this ruling and the limitations provided for in section 205(r) of the Social Security Act, as cited by the SSA in its response, the DMV cannot comply with South Carolina Code §7-3-70(b) which states:

The Department of Motor Vehicles must furnish the executive director [of the SEC] a monthly report of all persons eighteen years of age or older who were reported as deceased by Social Security Administration. All reports must contain the name, social security number, date of birth, and date of death. The department must provide this information at no charge.

While I recognize that repealing this law is at the will of the General Assembly, because the DMV cannot comply with it under federal law, I would recommend said repeal to ensure future leaders of our State do not have to assume its applicability.

If this agency can be of further help in Oversight's review of the State's election laws and our role in it, please do not hesitate to reach out to me or the agency's Deputy Director for Legislative Affairs, Lauren Phillips.

Respectfully,


Kevin A. Shwedo
Executive Director

Enclosure

It should be noted that the Elections Commission can establish their own account directly & we would be happy to assist where we can.

Post Office Box 1498, Blythewood, South Carolina 29016

Phillips, Lauren H

From: Hansen, Brooks <Brooks.Hansen@ssa.gov>
Sent: Friday, October 29, 2021 3:03 PM
To: Phillips, Lauren H
Cc: Bradley, Connie R.; Schaefer, Tiffany
Subject: RE: [EXTERNAL] Fwd: Request from the SCDMV for SSA Approval to Redisclose, Duplicate, or Disseminate SSOLV Death Information

Good afternoon, Lauren! I followed up with the Office of Privacy and Disclosure yesterday and they informed me that the guidance was pending with SSA's Office of General Counsel. Well, the nudge must have helped because I just got the reply. Please see the guidance below from SSA's OPD and OGC. Let me know if you have any questions.

Brooks,

OGI and OPD reviewed the South Carolina Department of Motor Vehicles (SC DMV) request below and the additional information you provided. SC DMV requested to redisclose death data the agency receives from SSA under a SSOLV agreement to the South Carolina State Election Commission (SEC). We determined that the requested redisclosure is not permissible.

Under the Social Security Number Online Verification (SSOLV) agreement, SSA provides SC DMV SSN verifications for SC DMV's administration of driver's license and state identification cards. Under the Intelligence Reform and Terrorism Prevention Act (IRTPA), SSA includes a death indicator for the state's use in issuing driver's license and identity cards. IRTPA authorizes SSA to base the death indicator on state death information. Specifically, IRTPA provides "notwithstanding section 205(r) of the Social Security Act." Accordingly, the death indicator that SSA provides to SC DMV under the SSOLV agreement includes state death information (i.e., fact of death).

While we recognize that decedents do not have privacy rights, section 205(r) of the Social Security Act limits how state death information may be used. SSA does not have authority under the Social Security Act or IRTPA to authorize the redislosure of state death information to SEC. IRTPA only recognizes that SSA may provide the death indicator to the state for issuing driver's license and identity cards. Section 205(r) of the Social Security Act does not recognize ongoing disclosures of state death information to a state election commission to remove decedents from the state voter registration records. As SSA does not have authority to provide state death information (including fact of death) to the SEC for its intended purpose under the Social Security Act or IRTPA, SSA may not authorize the redislosure of the death indicator.

Please let us know if you have any questions or concerns.

Thank you,

Brooks Hansen
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Center for Automation, Security and Integrity
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