

S.3666 -- Passport Identity Verification Act (Introduced in Senate - IS)

111th CONGRESS
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S. 3666

To authorize certain Department of State personnel, who are responsible for examining and processing United States passport applications, to be able to access certain Federal, State, and other databases, for the purpose of verifying the identity of a passport applicant, to reduce the incidence of fraud, to require the authentication of identification documents submitted by passport applicants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

July 29, 2010

Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize certain Department of State personnel, who are responsible for examining and processing United States passport applications, to be able to access certain Federal, State, and other databases, for the purpose of verifying the identity of a passport applicant, to reduce the incidence of fraud, to require the authentication of identification documents submitted by passport applicants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Passport Identity Verification Act'.

SEC. 2. FINDINGS.

Congress makes the following findings:

- (1) A United States passport is an official government document issued by the Department of State, which can be obtained by United States nationals.
- (2) A valid United States passport has many uses, including--
 - (A) certifying an individual's identity and verifying that a person is a United States national;

- (B) allowing the passport holder to travel to foreign countries with an internationally recognized travel document;
 - (C) facilitating international travel;
 - (D) obtaining further identification documents; and
 - (E) setting up bank accounts.
- (3) A United States national may obtain a United States passport for the first time by applying in person to a passport acceptance facility with 2 passport photographs, proof of United States nationality, and a valid form of photo identification, such as a driver's license. Passport acceptance facilities are located throughout the United States.
- (4) Because United States passports issued under a false identity enable individuals to conceal their movements and activities, passport fraud could facilitate--
- (A) acts of terrorism;
 - (B) espionage; and
 - (C) other crimes, such as illegal immigration, money laundering, drug trafficking, tax evasion, and alien smuggling.
- (5) Since malicious individuals may seek to exploit potential vulnerabilities in the passport issuance process, it is important that personnel who are involved in the granting, refusal, revocation, or adjudication of United States passport applications have access to certain information contained in Federal, State, and other databases for the purpose of--
- (A) verifying the identity of a passport applicant; or
 - (B) detecting passport fraud.
- (6) In its final report, the National Commission on Terrorist Attacks Upon the United States (commonly known as the `9/11 Commission') concluded that funding and completing a `biometric entry-exit screening system' for travelers to and from the United States is essential to our national security.
- (7) The use of biometrics and technology for foreign nationals who are visiting the country helps to make travel simple, easy, and convenient for legitimate visitors and dramatically improves the ability to detect the activities of those who wish to do harm or violate United States laws.

SEC. 3. ACCESS TO FEDERAL, STATE, AND OTHER DATABASES.

- (a) Powers and Duties of the Secretary of State- Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended by adding at the end the following:
- (f) Law Enforcement Activities- Notwithstanding any other provision of law, the powers, duties, and functions conferred upon Department of State personnel relating to the granting, refusal, revocation, or adjudication of passports shall be considered law enforcement activities that involve the

administration of criminal justice (as defined in section 20.3 of title 28, Code of Federal Regulations) when such personnel seek to--

- (1) verify the identity of a passport applicant; or
- (2) detect passport fraud.

(b) Data Exchange- Section 105 of such Act (8 U.S.C. 1105) is amended--
(1) in subsection (b), by adding at the end the following:

(5) The Attorney General and the Director of the Federal Bureau of Investigation, after consultation with the Secretary of State, shall promptly implement a system, consistent with applicable security and training protocols and requirements, that will enable Department of State personnel designated by the Secretary of State, or by the designee of the Secretary, who are responsible for the granting, refusal, revocation, or adjudication of United States passports, to have real-time access to the criminal history information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III), including the corresponding automated criminal history records, Wanted Person Files, and other files maintained by the National Crime Information Center, for the purpose of verifying the identity of the United States passport applicant, or detecting passport fraud.

(6) The Secretary of State, or the designee of the Secretary, shall designate Department of State personnel who, in accordance with this Act shall be authorized to have real-time access to the information contained in the files described in paragraph (5), without any fee or charge, to enable named-based and other searches to be conducted for the purpose of verifying the identity of a passport applicant or detecting passport fraud.';

- (2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

- (3) by inserting after subsection (b) the following:

(c) Data Sharing- Notwithstanding any other provision of law, the powers, duties, and functions conferred upon Department of State personnel relating to the granting, refusal, revocation, or adjudication of passports shall be considered law enforcement activities that involve the administration of criminal justice (as defined in section 20.3 of title 28, Code of Federal Regulations) when such personnel seek to verify the identity of a passport applicant, or seek to detect passport fraud by accessing or using information contained in databases maintained by any Federal, State, tribal, territory, or local government department or agency, or private entity or organization, that contains--

- (1) criminal history information or records;
- (2) driver's license information or records;
- (3) marriage, birth, or death information or records;
- (4) naturalization and immigration records; or
- (5) other information or records that can verify the identity of the passport applicant or can detect passport fraud.'; and

- (6) by adding at the end the following:

(f) Data Sharing Regulations, Procedures, and Policies- Not later than 120 days after the date of the enactment of this subsection, the Secretary of State shall promulgate final regulations, procedures, and policies to govern

the access by Department of State personnel to the information contained in databases described in subsection (c). Such regulations, procedures, and policies shall--

- (1) specify which Department of State personnel have a need to know and will be given access to the databases or the information contained in the databases described in subsection (c);
- (2) require Department of State personnel who will be given access to the databases or the information contained in the databases described in subsection (c) to successfully complete all ongoing training and certification requirements for such access;
- (3) require Department of State personnel to access such databases or the information contained in such databases--
 - (A) to verify the identity of each passport applicant; and
 - (B) to detect whether the applicant has committed or is committing passport fraud;
- (4) ensure that such databases, or the information contained in such databases, are only accessed for the purpose of verifying the identity of each passport applicant or detecting passport fraud, and prohibit access for any other purpose;
- (5) ensure that the Department of State personnel accessing such databases or the information contained in such databases--
 - (A) do not violate the security, confidentiality, and privacy of such databases or the information contained in such databases; and
 - (B) successfully complete all ongoing training and certification requirements for such access;
- (6) establish audit procedures and policies to verify that such databases or the information contained in such databases are only being accessed for the purposes set forth in the Passport Identity Verification Act;
- (7) require prompt reporting to appropriate Department of State officials after each instance of--
 - (A) unauthorized access to such databases or the information contained in such databases; or
 - (B) access to such databases or the information contained in such databases for unauthorized purposes; and
- (8) require the appropriate Department of State personnel to conduct a regular review of--
 - (A) the audit and reporting procedures and policies to determine whether such procedures and policies are working properly; and
 - (B) the ongoing training and certification requirements to determine whether there has been compliance with such requirements.

SEC. 4. CONSULTATION AND REPORT.

(a) Consultation-

(1) IN GENERAL- The Secretary of State, in consultation with the Secretary of Homeland Security, the Attorney General, and the United States Postmaster General, shall conduct an analysis to determine--

(A) if persons applying for or renewing a United States passport should provide biometric information, including photographs that meet standards that enhance the ability of facial recognition technology to verify the identity of the passport applicant and user, and to detect passport fraud; and
(B) if technology should be employed to verify the authenticity of drivers' license and other identity documents that are presented to passport acceptance facilities.

(2) FACTORS- In conducting the analysis under paragraph (1), the Secretary shall consider all relevant factors, including--

(A) how the biometric information and technology would be used and stored;
(B) the costs and benefits to be gained; and
(C) the effect on the individual's privacy and the economy.

(b) Report-

(1) IN GENERAL- Not later than 6 months after the date of the enactment of this Act, the Secretary of State shall submit a report to the congressional committees set forth in paragraph (2) that contains the results of the analysis carried out under subsection (a), including a recommendation with respect to the use of biometric information and technology to verify the identity of a passport applicant and user, and to detect passport fraud.

(2) CONGRESSIONAL COMMITTEES- The congressional committees set forth in this paragraph are--

(A) the Committee on the Judiciary of the Senate;
(B) the Committee on Foreign Relations of the Senate;
(C) the Committee on Homeland Security and Governmental Affairs of the Senate;
(D) the Committee on the Judiciary of the House of Representatives;
(E) the Committee on Foreign Affairs of the House of Representatives;
(F) the Committee on Homeland Security of the House of Representatives; and
(G) the Committee on Oversight and Government Reform of the House of Representatives.