

Calendar No. 241

115TH CONGRESS }
1st Session

SENATE

{ REPORT
115-171

STRENGTHENING THE DEPARTMENT OF
HOMELAND SECURITY SECURE MAIL
INITIATIVE ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1208

TO DIRECT THE SECRETARY OF HOMELAND SECURITY TO
PROVIDE FOR AN OPTION UNDER THE SECURE MAIL INITIATIVE
UNDER WHICH A PERSON TO WHOM A DOCUMENT IS SENT
UNDER THAT INITIATIVE MAY ELECT TO HAVE THE UNITED
STATES POSTAL SERVICE USE THE HOLD FOR PICKUP SERVICE
OR THE SIGNATURE CONFIRMATION SERVICE IN DELIVERING THE
DOCUMENT, AND FOR OTHER PURPOSES



OCTOBER 16, 2017.—Ordered to be printed

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STRENGTHENING THE DEPARTMENT OF HOMELAND SECURITY SECURE MAIL INITIATIVE ACT

OCTOBER 16, 2017.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1208]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1208) to direct the Secretary of Homeland Security to provide for an option under the Secure Mail Initiative under which a person to whom a document is sent under that initiative may elect to have the United States Postal Service use the Hold for Pickup service or the Signature Confirmation service in delivering the document, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	4
IV. Section-by-Section Analysis	4
V. Evaluation of Regulatory Impact	5
VI. Congressional Budget Office Cost Estimate	5
VII. Changes in Existing Law Made by the Bill, as Reported	6

I. PURPOSE AND SUMMARY

S. 1208, the Strengthening the Department of Homeland Security Secure Mail Initiative Act, requires the Department of Homeland Security (DHS) to offer additional mail delivery services to individuals receiving documents from U.S. Citizen and Immigration Services (USCIS) through the Secure Mail Initiative (SMI). The bill further requires that customers requesting U.S. Postal Service

(USPS) Hold for Pickup or Signature Confirmation, or successor services, pay the full cost of the service, including the cost of administering the service.

The bill also allows DHS to contract with private companies to provide these mail delivery services, if the private carrier can provide better service and value than the USPS.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Since 2011, USCIS has used the SMI to mail certain types of immigration documents in a more secure method than First Class Mail through the USPS.¹ Currently under the SMI, USCIS sends permanent resident cards (Green Cards) and documents pertaining to travel and employment authorization through the USPS Priority Mail with Delivery Confirmation (“delivery confirmation”).² This service allows individuals to track the delivery status for their personal documents and allows USCIS to confirm if sensitive immigration documents have been delivered to the correct address.

However, according to the USCIS Ombudsman, the public office responsible for aiding applicants experiencing difficulties applying for immigration benefits, delivery confirmation may not be adequate to protect sensitive immigration documents.³ With delivery confirmation provided to USCIS, the USPS can only show proof of delivery of the documents to a city, state, and zip code, but not to a specific address.⁴ If the address is listed incorrectly in the USCIS system, or if the documents are delivered by USPS to another address within the zip code, USCIS considers the documents to be safely delivered to their lawful owner.⁵

If the documents fail to reach the applicant, the individual must request replacement copies by resubmitting the application and repaying the fees.⁶ While USCIS does waive the fees if the individual can prove the document was delivered to the wrong address or was not delivered at all, the Ombudsman has found that it is difficult for applicants to provide proof.⁷ Proving non-delivery may be even more difficult in cases where the applicant is a victim of mailbox theft.

The financial burden on the applicant is further exaggerated by the fact that USCIS does not separate application fees, requiring applicants to repay expensive biometric fees on replacement documents, even when the biometrics do not need to be updated.⁸ The Ombudsman has told USCIS that making applicants pay replacement fees, which can be thousands of dollars, in cases where mis-delivery was the fault of USCIS or USPS is inherently unfair.⁹ Even in cases where the applicant has the replacement fees

¹ *USCIS Improves Delivery of Immigration Documents through Secure Mail Initiative*, U.S. Citizenship & Immigration Serv’s. (May 2, 2011), <https://www.uscis.gov/archive/news/uscis-improves-delivery-immigration-documents-through-secure-mail-initiative>.

² *Id.*

³ U.S. Dep’t. of Homeland Sec., Office of the Citizenship and Immigration Services Ombudsman’s 2017 Annual Report to Congress 59–62 (June 29, 2017), *available at* https://www.dhs.gov/sites/default/files/publications/DHS%20Annual%20Report%202017_0.pdf.

⁴ *Id.* at 60.

⁵ U.S. Dep’t. of Homeland Sec., Office of the Citizenship and Immigration Services Ombudsman’s 2016 Annual Report to Congress 40 (June 29, 2016), *available at* <https://www.dhs.gov/sites/default/files/publications/CISOMB%20Annual%20Report%202016.pdf>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

waived, waiting for new documents may have severe consequences, including “job loss, inability to attend a family member’s wedding or funeral in another country, and difficulties proving lawful immigration status.”¹⁰

For these reasons, in its last several annual reports to Congress, the Ombudsman has recommended that USCIS consider alternative mailing options to those currently offered, including requiring signature for delivery.¹¹ As a result, USCIS told the Ombudsman in 2014 it would begin a “hold for pickup” pilot program.¹² However, USCIS does not have a start date for this pilot program.¹³

The DHS Office of Inspector General (DHS OIG) has also recommended that USCIS mail immigration documents using more secure methods.¹⁴ In addition to the burden on the individual waiting for replacement documents in the case of misdelivery or theft, duplicate immigration documents that remain unaccounted for can pose a national security risk.¹⁵ Missing duplicate immigration documents may be used to help illegal immigrants enter or remain in the U.S., or to fraudulently apply for “public benefits such as Social Security, Medicare, Veterans’ assistance, and government grants.”¹⁶ Customs and Border Protection’s Fraudulent Document Analysis Unit told the DHS OIG that these imposter cases represent 80 percent of all Green Card fraud-related cases.¹⁷

Improperly delivered documents come at a great cost to the individuals who have to request replacements, but they also represent a great cost to the agency as well. USCIS uses a “Tiger Team” of up to four dozen personnel to address Green Cards which have gone missing or are returned to the agency, taking several months to fully investigate the most complex cases.¹⁸ Documents returned to USCIS must be re-processed to account for each document, representing dozens of personnel hours per case, including determining how to get documents back into the hands of their rightful owners.¹⁹

To help individuals impacted by misdelivered documents, USCIS must spend resources confirming applicants’ documents have been either improperly delivered or intercepted before they could be retrieved.²⁰ The DHS estimates that the cost of responding to a typical non-delivery case is \$10.85 to \$14.46.²¹ The total costs for USCIS to respond to missing documents nearly doubled between fiscal year (FY) 2013 and FY2015, from \$780,267 to \$1,488,082.²²

The mail delivery problems have been increasing in recent years. In FY2013, USCIS received 44,519 cases of applicants with missing

¹⁰ *Id.* at 39.

¹¹ U.S. Dep’t of Homeland Sec., *supra* note 3, at 62.

¹² *Id.* at 60. (USCIS did not indicate if they would use the USPS product Hold for Pickup or another customized service.)

¹³ *Id.*; information provided to Comm. staff by USCIS (Apr. 2017).

¹⁴ U.S. Dep’t of Homeland Sec. Off. of Inspector Gen., OIG–17–11, Better Safeguards Are Needed in USCIS Green Card Issue 19 (Nov. 16, 2016), *available at* <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-11-Nov16.pdf>.

¹⁵ *Id.* at 20.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 20–21.

¹⁹ *Id.* at 21.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

Green Cards, representing 3 percent of all cards issued that year.²³ By FY2015, this number had more than doubled to 92,645 complaints representing 4.5 percent of total Green Cards.²⁴

With the tracking number provided by the SMI, applicants can also contact USPS directly when they suspect their documents may have been improperly delivered.²⁵ In October 2015, the USPS Office of Inspector General (USPS OIG) estimated that over an eight month period the USPS received 3,000 complaints of Green Cards that were missing or stolen despite being marked as delivered.²⁶ In June 2016, the DHS OIG asked the USPS OIG to study 18,000 Green Cards that had been reported as missing in the first 4 months of 2016 and found that 95 percent of the documents were delivered.²⁷

To address the recommendation of both the USCIS Ombudsman and the DHS OIG that USCIS mail documents through more secure methods, this bill directs USCIS to offer two existing USPS delivery services, Hold for Pickup or Signature Confirmation for those documents which are currently mailed under the SMI. Individuals receiving documents covered by the SMI may elect more the secure delivery, provided that they pay for the increased cost for the service. After the bill is enacted, if the SMI is changed or if USPS no longer offers the Hold for Pickup or Signature Confirmation services, USCIS would still offer the more secure delivery through the successor programs or services, if they exist.

III. LEGISLATIVE HISTORY

Senator Robert Menendez (D-NJ) introduced S. 1208, the Strengthening the Department of Homeland Security Secure Mail Initiative Act, on May 23, 2017, with Senators David Perdue (R-GA) and Kirsten Gillibrand (D-NY). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1208 at a business meeting on July 26, 2017. The Committee ordered the bill reported favorably by voice vote, *en bloc*, and without amendment. Senators present for the vote on the bill were Johnson, Portman, Lankford, Daines, McCaskill, Heitkamp, Peters, Hassan and Harris. Consistent with Committee Rule 11, the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section designates the short title of the bill as the “Strengthening the Department of Homeland Security Secure Mail Initiative Act.”

Sec. 2. Definitions

This section includes definitions of the term “Hold for Pickup service”, “Signature Confirmation service”, “Immigration Examinations Fee Account”, “Postal Service”, and “Secretary.”

²³ *Id.* at 15.

²⁴ *Id.*

²⁵ U.S. Citizenship and Immigration Services, *supra* note 1.

²⁶ U.S. Dep’t of Homeland Sec. Office of Inspector General, *supra* note 14, at 16.

²⁷ *Id.*

Sec. 3. Offering hold for pickup and signature confirmation services under the Secure Mail Initiative

This section requires DHS to offer individuals receiving documents under the SMI, or any successor program, the option of a USPS Hold for Pickup or Signature Confirmation services. This section also stipulates how DHS must calculate the fee for these services and how to allocate the fee once it is collected. This section also states that DHS may contract with a private carrier for these services if the carrier can provide better service and value than the USPS, and outlines the process for severing the contract with the USPS under this circumstance.

Sec. 4. Report

This section requires that DHS submit to Congress a report on the implementation of this bill, the fees collected pursuant to it, and the number of times these services have been used.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

SEPTEMBER 22, 2017.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1208, the Strengthening the Department of Homeland Security Secure Mail Initiative Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

S. 1208—Strengthening the Department of Homeland Security Secure Mail Initiative Act

U.S. Citizenship and Immigration Services (CIS) in the Department of Homeland Security (DHS) mails about 4 million documents each year to applicants for immigration services, including employment authorization, permanent residence, and travel authorization. S. 1208 would require CIS, within one year of enactment, to allow applicants to use certain mail security services offered by the Postal Service (USPS) when they receive mail from CIS. Persons who choose such services would pay an additional fee that would be set by CIS and intended to recover the full costs associated with pro-

viding the service, including CIS administrative costs and USPS charges for those services.

Based on an analysis of information from CIS and USPS, CBO expects that people who choose to use enhanced mail security would have to pay around \$3 to \$4 per document. That fee would cover the difference between the cost for current mail delivery and the cost for the enhanced security, plus a small amount for CIS administrative costs. Based on information from CIS, CBO estimates that at least half of the affected applicants would choose to pay the additional fee.

The Postal Service would earn about \$2 more per delivery for the enhanced mail security. Thus, CBO estimates that enacting the bill would increase net income for the USPS by roughly \$5 million annually, beginning in fiscal year 2019; CIS indicates that it does not expect to implement the bill until late in 2018. CBO further estimates that enacting S. 1208 would have no significant net effect on direct spending by DHS because the department would collect and spend roughly the same amounts in future years to process requests for enhanced mail security for CIS documents.

Enacting the bill would affect on-budget direct spending by DHS; therefore, pay-as-you-go procedures apply. However, CBO estimates that any such effects would be insignificant in each year. Enacting the bill would not affect revenues. (USPS cash flows are classified as off-budget and thus are not subject to pay-as-you-go procedures.)

CBO estimates that enacting S. 1208 would not significantly affect net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1208 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because S. 1208 would not repeal or amend any provision of current law, it would make no changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.