

110TH CONGRESS
1ST SESSION

S. 276

To strengthen the consequences of the fraudulent use of United States or foreign passports and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2007

Mrs. FEINSTEIN (for herself and Mr. SESSIONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To strengthen the consequences of the fraudulent use of United States or foreign passports and for other purposes.

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

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Passport and Visa Security Act of 2007”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORM OF PASSPORT FRAUD OFFENSES

Sec. 101. Trafficking in passports.

Sec. 102. False statement in an application for a passport.

Sec. 103. Forgery and unlawful production of a passport.

- Sec. 104. Misuse of a passport.
- Sec. 105. Schemes to defraud aliens.
- Sec. 106. Immigration and visa fraud.
- Sec. 107. Alternative imprisonment maximum for certain offenses.
- Sec. 108. Attempts, conspiracies, jurisdiction, and definitions.
- Sec. 109. Clerical amendment.

TITLE II—OTHER REFORMS

- Sec. 201. Directive to the United States Sentencing Commission.
- Sec. 202. Release and detention prior to disposition.
- Sec. 203. Protection for legitimate refugees and asylum seekers.
- Sec. 204. Diplomatic security service.
- Sec. 205. Uniform statute of limitations for certain immigration, passport, and naturalization offenses.

1 **TITLE I—REFORM OF PASSPORT FRAUD OFFENSES**

3 **SEC. 101. TRAFFICKING IN PASSPORTS.**

4 Section 1541 of title 18, United States Code, is
 5 amended to read as follows:

6 **“§ 1541. Trafficking in passports**

7 “(a) MULTIPLE PASSPORTS.—Any person who, dur-
 8 ing any period of 3 years or less, knowingly—

9 “(1) and without lawful authority produces,
 10 issues, or transfers 10 or more passports;

11 “(2) forges, counterfeits, alters, or falsely
 12 makes 10 or more passports;

13 “(3) secures, possesses, uses, receives, buys,
 14 sells, or distributes 10 or more passports, knowing
 15 the passports to be forged, counterfeited, altered,
 16 falsely made, stolen, procured by fraud, or produced
 17 or issued without lawful authority; or

1 “(4) completes, mails, prepares, presents, signs,
2 or submits 10 or more applications for a United
3 States passport, knowing the applications to contain
4 any false statement or representation,
5 shall be fined under this title, imprisoned not more than
6 20 years, or both.

7 "(b) PASSPORT MATERIALS.—Any person who know-
8 ingly and without lawful authority produces, buys, sells,
9 possesses, or uses any official material (or counterfeit of
10 any official material) used to make a passport, including
11 any distinctive paper, seal, hologram, image, text, symbol,
12 stamp, engraving, or plate, shall be fined under this title,
13 imprisoned not more than 20 years, or both.”.

14 SEC. 102. FALSE STATEMENT IN AN APPLICATION FOR A
15 PASSPORT.

16 Section 1542 of title 18, United States Code, is
17 amended to read as follows:

20 "(a) IN GENERAL.—Whoever knowingly makes any
21 false statement or representation in an application for a
22 United States passport, or mails, prepares, presents, or
23 signs an application for a United States passport knowing
24 the application to contain any false statement or represen-

1 tation, shall be fined under this title, imprisoned not more
2 than 15 years, or both.

3 “(b) VENUE.—

4 “(1) IN GENERAL.—An offense under subsection (a) may be prosecuted in any district—

5 “(A) in which the false statement or representation was made or the application for a
6 United States passport was prepared or signed;
7 or

8 “(B) in which or to which the application
9 was mailed or presented.

10 “(2) ACTS OCCURRING OUTSIDE THE UNITED
11 STATES.—An offense under subsection (a) involving
12 an application for a United States passport prepared
13 and adjudicated outside the United States may be
14 prosecuted in the district in which the resultant
15 passport was or would have been produced.

16 “(c) SAVINGS CLAUSE.—Nothing in this section may
17 be construed to limit the venue otherwise available under
18 sections 3237 and 3238 of this title.”.

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21 **SEC. 103. FORGERY AND UNLAWFUL PRODUCTION OF A
22 PASSPORT.**

23 Section 1543 of title 18, United States Code, is
24 amended to read as follows:

1 “§ 1543. Forgery and unlawful production of a pass- 2 port

3 "(a) FORGERY.—Any person who knowingly—

4 “(1) forges, counterfeits, alters, or falsely
5 makes any passport; or

6 “(2) transfers any passport knowing it to be
7 forged, counterfeited, altered, falsely made, stolen,
8 or to have been produced or issued without lawful
9 authority,

10 shall be fined under this title, imprisoned not more than
11 15 years, or both.

12 "(b) UNLAWFUL PRODUCTION.—Any person who
13 knowingly and without lawful authority—

14 “(1) produces, issues, authorizes, or verifies a
15 passport in violation of the laws, regulations, or
16 rules governing the issuance of the passport;

17 “(2) produces, issues, authorizes, or verifies a
18 United States passport for or to any person knowing
19 or in reckless disregard of the fact that such person
20 is not entitled to receive a passport; or

21 “(3) transfers or furnishes a passport to any
22 person for use by any person other than the person
23 for whom the passport was issued or designed.

24 shall be fined under this title, imprisoned not more than
25 15 years, or both.”.

1 **SEC. 104. MISUSE OF A PASSPORT.**

2 Section 1544 of title 18, United States Code, is
3 amended to read as follows:

4 **“§ 1544. Misuse of a passport**

5 “Any person who knowingly—

6 “(1) uses any passport issued or designed for
7 the use of another;

8 “(2) uses any passport in violation of the condi-
9 tions or restrictions therein contained, or in violation
10 of the laws, regulations, or rules governing the
11 issuance and use of the passport;

12 “(3) secures, possesses, uses, receives, buys,
13 sells, or distributes any passport knowing it to be
14 forged, counterfeited, altered, falsely made, procured
15 by fraud, or produced or issued without lawful au-
16 thority; or

17 “(4) violates the terms and conditions of any
18 safe conduct duly obtained and issued under the au-
19 thority of the United States,

20 shall be fined under this title, imprisoned not more than
21 15 years, or both.”.

22 **SEC. 105. SCHEMES TO DEFRAUD ALIENS.**

23 Section 1545 of title 18, United States Code, is
24 amended to read as follows:

1 **“§ 1545. Schemes to defraud aliens**

2 “(a) IN GENERAL.—Any person who knowingly exe-
3 cutes a scheme or artifice, in connection with any matter
4 that is authorized by or arises under Federal immigration
5 laws or any matter the offender claims or represents is
6 authorized by or arises under Federal immigration laws,
7 to—

8 “(1) defraud any person; or
9 “(2) obtain or receive money or anything else of
10 value from any person by means of false or fraudu-
11 lent pretenses, representations, promises,
12 shall be fined under this title, imprisoned not more than
13 15 years, or both.

14 “(b) MISREPRESENTATION.—Any person who know-
15 ingly and falsely represents that such person is an attor-
16 ney or an accredited representative (as that term is de-
17 fined in section 1292.1 of title 8, Code of Federal Regula-
18 tions (or any successor regulation to such section)) in any
19 matter arising under Federal immigration laws shall be
20 fined under this title, imprisoned not more than 15 years,
21 or both.”.

22 **SEC. 106. IMMIGRATION AND VISA FRAUD.**

23 Section 1546 of title 18, United States Code, is
24 amended to read as follows:

25 **“§ 1546. Immigration and visa fraud**

26 “(a) IN GENERAL.—Any person who knowingly—

1 “(1) uses any immigration document issued or
2 designed for the use of another;

3 “(2) forges, counterfeits, alters, or falsely
4 makes any immigration document;

5 “(3) completes, mails, prepares, presents, signs,
6 or submits any immigration document knowing it to
7 contain any materially false statement or representa-
8 tion;

9 “(4) secures, possesses, uses, transfers, re-
10 ceives, buys, sells, or distributes any immigration
11 document knowing it to be forged, counterfeited, al-
12 tered, falsely made, stolen, procured by fraud, or
13 produced or issued without lawful authority;

14 “(5) adopts or uses a false or fictitious name to
15 evade or to attempt to evade the immigration laws;
16 or

17 “(6) transfers or furnishes, without lawful au-
18 thority, an immigration document to another person
19 for use by a person other than the person for whom
20 the passport was issued or designed,

21 shall be fined under this title, imprisoned not more than
22 15 years, or both.

23 “(b) TRAFFICKING.—Any person who, during any pe-
24 riod of 3 years or less, knowingly—

1 “(1) and without lawful authority produces,
2 issues, or transfers 10 or more immigration docu-
3 ments;

4 “(2) forges, counterfeits, alters, or falsely
5 makes 10 or more immigration documents;

6 “(3) secures, possesses, uses, buys, sells, or dis-
7 tributes 10 or more immigration documents, know-
8 ing the immigration documents to be forged, coun-
9 terfeited, altered, stolen, falsely made, procured by
10 fraud, or produced or issued without lawful author-
11 ity; or

12 “(4) completes, mails, prepares, presents, signs,
13 or submits 10 or more immigration documents
14 knowing the documents to contain any materially
15 false statement or representation,

16 shall be fined under this title, imprisoned not more than
17 20 years, or both.

18 “(c) IMMIGRATION DOCUMENT MATERIALS.—Any
19 person who knowingly and without lawful authority pro-
20 duces, buys, sells, possesses, or uses any official material
21 (or counterfeit of any official material) used to make im-
22 migration documents, including any distinctive paper, seal,
23 hologram, image, text, symbol, stamp, engraving, or plate,
24 shall be fined under this title, imprisoned not more than
25 20 years, or both.

1 “(d) EMPLOYMENT DOCUMENTS.—Whoever uses—
2 “(1) an identification document, knowing (or
3 having reason to know) that the document was not
4 issued lawfully for the use of the possessor;
5 “(2) an identification document knowing (or
6 having reason to know) that the document is false;
7 or
8 “(3) a false attestation,
9 for the purpose of satisfying a requirement of section
10 274A(b) of the Immigration and Nationality Act (8 U.S.C.
11 1324a(b)), shall be fined under this title, imprisoned not
12 more than 5 years, or both.”.

13 **SEC. 107. ALTERNATIVE IMPRISONMENT MAXIMUM FOR**
14 **CERTAIN OFFENSES.**

15 Section 1547 of title 18, United States Code, is
16 amended—

17 (1) in the matter preceding paragraph (1), by
18 striking “(other than an offense under section
19 1545)”;
20 (2) in paragraph (1), by striking “15” and in-
21 serting “20”; and
22 (3) in paragraph (2), by striking “20” and in-
23 serting “25”.

1 SEC. 108. ATTEMPTS, CONSPIRACIES, JURISDICTION, AND

2 **DEFINITIONS.**3 Chapter 75 of title 18, United States Code, is amend-
4 ed by adding after section 1547 the following new sections:5 **“§ 1548. Attempts and conspiracies**6 “Any person who attempts or conspires to violate any
7 section of this chapter shall be punished in the same man-
8 ner as a person who completed a violation of that section.9 **“§ 1549. Additional jurisdiction**10 “(a) IN GENERAL.—Any person who commits an of-
11 fense under this chapter within the special maritime and
12 territorial jurisdiction of the United States shall be pun-
13 ished as provided under this chapter.14 “(b) EXTRATERRITORIAL JURISDICTION.—Any per-
15 son who commits an offense under this chapter outside
16 the United States shall be punished as provided under this
17 chapter if—18 “(1) the offense involves a United States pass-
19 port or immigration document (or any document
20 purporting to be such a document) or any matter,
21 right, or benefit arising under or authorized by Fed-
22 eral immigration laws;23 “(2) the offense is in or affects foreign com-
24 merce;25 “(3) the offense affects, jeopardizes, or poses a
26 significant risk to the lawful administration of Fed-

1 eral immigration laws, or the national security of the
2 United States;

3 “(4) the offense is committed to facilitate an
4 act of international terrorism (as defined in section
5 2331) or a drug trafficking crime (as defined in sec-
6 tion 929(a)(2)) that affects or would affect the na-
7 tional security of the United States;

8 “(5) the offender is a national of the United
9 States or an alien lawfully admitted for permanent
10 residence (as those terms are defined in section
11 101(a) of the Immigration and Nationality Act (8
12 U.S.C. 1101(a))); or

13 “(6) the offender is a stateless person whose
14 habitual residence is in the United States.

15 **“§ 1550. Authorized law enforcement activities**

16 “Nothing in this chapter shall prohibit any lawfully
17 authorized investigative, protective, or intelligence activity
18 of a law enforcement agency of the United States, a State,
19 or a political subdivision of a State, or an intelligence
20 agency of the United States, or any activity authorized
21 under title V of the Organized Crime Control Act of 1970
22 (Public Law 91-452; 84 Stat. 933).

23 **“§ 1551. Definitions**

24 “As used in this chapter:

1 “(1) The term ‘application for a United States
2 passport’ includes any document, photograph, or
3 other piece of evidence submitted in support of an
4 application for a United States passport.

5 “(2) The term ‘false statement or representa-
6 tion’ includes a personation or an omission.

7 “(3) The term ‘immigration document’—

8 “(A) means any application, petition, affi-
9 davit, declaration, attestation, form, visa, iden-
10 tification card, alien registration document, em-
11 ployment authorization document, border cross-
12 ing card, certificate, permit, order, license,
13 stamp, authorization, grant of authority, or
14 other official document, arising under or au-
15 thorized by the immigration laws of the United
16 States; and

17 “(B) includes any document, photograph,
18 or other piece of evidence attached to or sub-
19 mitted in support of an immigration document
20 described in subparagraph (A).

21 “(4) The term ‘immigration laws’ includes—

22 “(A) the laws described in section
23 101(a)(17) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(17));

1 “(B) the laws relating to the issuance and
2 use of passports; and

3 “(C) the regulations prescribed under the
4 authority of any law described in subparagraph
5 (A) or (B).

6 “(5) A person does not exercise ‘lawful authority’ if the person abuses or improperly exercises lawful authority the person otherwise holds.

9 “(6) The term ‘passport’ means—

10 “(A) a travel document attesting to the
11 identity and nationality of the bearer that is
12 issued under the authority of the Secretary of
13 State, a foreign government, or an international
14 organization; or

15 “(B) any instrument purporting to be a
16 document described in subparagraph (A).

17 “(7) The term ‘produce’ means to make, prepare, assemble, issue, print, authenticate, or alter.

19 “(8) The term ‘to present’ means to offer or
20 submit for official processing, examination, or adjudication. Any such presentation continues until the
21 official processing, examination, or adjudication is
22 complete.

24 “(9) The ‘use’ of a passport or an immigration
25 document referred to in section 1541(a), 1543(b),

1 1544, 1546(a), and 1546(b) of this chapter in-
2 cludes—

4 “(B) use to travel;

5 “(C) use to demonstrate identity, resi-
6 dence, nationality, citizenship, or immigration
7 status;

9 or

10 “(E) use in any matter within the jurisdiction
11 of the Federal government or of a State
12 government.”.

13 SEC. 109. CLERICAL AMENDMENT.

14 The table of sections for chapter 75 of title 18,

15 United States Code, is amended to read as follows:

“See.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

"1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Alternative imprisonment maximum for certain offenses.

“1547. Attempts and conspiracies.

“1549 Additional jurisdiction

1515. Additional jurisdiction.

1550. Authorized law enforcement activities.
“1550 Definitions”

1880. Definitions. .

16 TITLE II—OTHER REFORMS

17 SEC. 201. DIRECTIVE TO THE UNITED STATES SENTENCING
18 COMMISSION.

19 (a) IN GENERAL.—Pursuant to the authority under
20 section 994 of title 28, United States Code, the United

1 States Sentencing Commission shall promulgate or amend
2 the sentencing guidelines, policy statements, and official
3 commentaries related to passport fraud offenses, including
4 the offenses described in chapter 75 of title 18, United
5 States Code, as amended by section 2, to reflect the seri-
6 ous nature of such offenses.

7 (b) REPORT.—Not later than one year after the date
8 of the enactment of this Act, the United States Sentencing
9 Commission shall submit to the Committee on the Judici-
10 ary of the Senate and the Committee on the Judiciary of
11 the House of Representatives a report on the implemen-
12 tation of this section.

13 **SEC. 202. RELEASE AND DETENTION PRIOR TO DISPOSI-
14 TION.**

15 (a) DETENTION.—Section 3142(e) of title 18, United
16 States Code, is amended to read as follows:

17 “(e) DETENTION.—(1) If, after a hearing pursuant
18 to the provisions of subsection (f) of this section, the judi-
19 cial officer finds that no condition or combination of condi-
20 tions will reasonably assure the appearance of the person
21 as required and the safety of any other person and the
22 community, such judicial officer shall order the detention
23 of the person before trial.

24 “(2) In a case described in subsection (f)(1) of this
25 section, a rebuttable presumption arises that no condition

1 or combination of conditions will reasonably assure the
2 safety of any other person and the community if such judi-
3 cial officer finds that—

4 “(A) the person has been convicted of a Federal
5 offense that is described in subsection (f)(1) of this
6 section, or of a State or local offense that would
7 have been an offense described in subsection (f)(1)
8 of this section if a circumstance giving rise to Fed-
9 eral jurisdiction had existed;

10 “(B) the offense described in subparagraph (A)
11 of this paragraph was committed while the person
12 was on release pending trial for a Federal, State, or
13 local offense; and

14 “(C) a period of not more than five years has
15 elapsed since the date of conviction, or the release
16 of the person from imprisonment, for the offense de-
17 scribed in subparagraph (A) of this paragraph,
18 whichever is later.

19 “(3) Subject to rebuttal by the person, it shall be pre-
20 sumed that no condition or combination of conditions will
21 reasonably assure the appearance of the person as re-
22 quired and the safety of the community if the judicial offi-
23 cer finds that there is probable cause to believe that the
24 person committed an offense for which a maximum term
25 of imprisonment of ten years or more is prescribed in the

1 Controlled Substances Act (21 U.S.C. 801 et seq.), the
2 Controlled Substances Import and Export Act (21 U.S.C.
3 951 et seq.), or chapter 705 of title 46, an offense under
4 section 924(c), 956(a), or 2332b of this title, or an offense
5 listed in section 2332b(g)(5)(B) of this title for which a
6 maximum term of imprisonment of 10 years or more is
7 prescribed, or an offense involving a minor victim under
8 section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251,
9 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
10 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421,
11 2422, 2423, or 2425 of this title.

12 “(4) Subject to rebuttal by the person, it shall be pre-
13 sumed that no condition or combination of conditions will
14 reasonably assure the appearance of the person as re-
15 quired if the judicial officer finds that there is probable
16 cause to believe that the person—

17 “(A) is an alien; and

18 “(B)(i) has no lawful immigration status in the
19 United States;

20 “(ii) is the subject of a final order of removal;
21 or

22 “(iii) has committed a felony offense under
23 chapter 75 of this title.”.

24 (b) FACTORS TO BE CONSIDERED.—Section
25 3142(g)(3) of title 18, United States Code, is amended—

1 (1) in subparagraph (A), by striking “and” at
2 the end; and

3 (2) by adding at the end the following new sub-
4 paragraph:

5 “(C) the person’s immigration status;
6 and”.

7 SEC. 203. PROTECTION FOR LEGITIMATE REFUGEES AND
8 ASYLUM SEEKERS.

9 (a) PROTECTION FOR LEGITIMATE REFUGEES AND
10 ASYLUM SEEKERS.—The Attorney General, in consulta-
11 tion with the Secretary of Homeland Security, shall de-
12 velop binding prosecution guidelines for Federal prosecu-
13 tors to ensure that any prosecution of an alien seeking
14 entry into the United States by fraud is consistent with
15 the United States treaty obligations under Article 31(1)
16 of the Convention Relating to the Status of Refugees, done
17 at Geneva July 28, 1951 (as made applicable by the Pro-
18 tocol Relating to the Status of Refugees, done at New
19 York January 31, 1967 (19 UST 6223)).

20 (b) NO PRIVATE RIGHT OF ACTION.—The guidelines
21 required by subsection (a), and any internal office proce-
22 dures adopted pursuant thereto, are intended solely for the
23 guidance of attorneys for the United States. This section,
24 such guidelines, and the process for determining such
25 guidelines are not intended to, do not, and may not be

1 relied upon to create any right or benefit, substantive or
2 procedural, enforceable at law by any party in any admin-
3 istrative, civil, or criminal matter

4 **SEC. 204. DIPLOMATIC SECURITY SERVICE.**

5 Section 37(a)(1) of the State Department Basic Au-
6 thorities Act of 1956 (22 U.S.C. 2709(a)(1)) is amended
7 to read as follows:

8 “(1) conduct investigations concerning—

9 “(A) illegal passport or visa issuance or
10 use;

11 “(B) identity theft or document fraud af-
12 fecting or relating to the programs, functions,
13 and authorities of the Department of State;

14 “(C) violations of chapter 77 of title 18,
15 United States Code; and

16 “(D) Federal offenses committed within
17 the special maritime and territorial jurisdiction
18 defined in paragraph (9) of section 7 of title
19 18, United States Code;”.

20 **SEC. 205. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
21 **TAIN IMMIGRATION, PASSPORT, AND NATU-**
22 **RALIZATION OFFENSES.**

23 (a) IN GENERAL.—Section 3291 of title 18, United
24 States Code, is amended to read as follows:

1 **“§ 3291. Immigration, passport, and naturalization of-**2 **fenses**

3 “No person shall be prosecuted, tried, or punished
4 for a violation of any section of chapters 69 (relating to
5 nationality and citizenship offenses) or 75 (relating to
6 passport and visa offenses) of this title, or for an attempt
7 or conspiracy to violate any such section, unless the indict-
8 ment is returned or the information is filed within ten
9 years after the commission of the offense.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for chapter 213 of title 18, United States Code, is amend-
12 ed by striking the item relating to section 3291 and insert-
13 ing the following:

“3291. Immigration, passport, and naturalization offenses”.

