

111TH CONGRESS
2D SESSION

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Passport Identity
3 Verification Act”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) A United States passport is an official gov-
7 ernment document issued by the Department of
8 State, which can be obtained by United States na-
9 tionals.

10 (2) A valid United States passport has many
11 uses, including—

12 (A) certifying an individual’s identity and
13 verifying that a person is a United States na-
14 tional;

15 (B) allowing the passport holder to travel
16 to foreign countries with an internationally rec-
17 ognized travel document;

18 (C) facilitating international travel;

19 (D) obtaining further identification docu-
20 ments; and

21 (E) setting up bank accounts.

22 (3) A United States national may obtain a
23 United States passport for the first time by applying
24 in person to a passport acceptance facility with 2
25 passport photographs, proof of United States nation-
26 ality, and a valid form of photo identification, such

1 as a driver's license. Passport acceptance facilities
2 are located throughout the United States.

3 (4) Because United States passports issued
4 under a false identity enable individuals to conceal
5 their movements and activities, passport fraud could
6 facilitate—

7 (A) acts of terrorism;

8 (B) espionage; and

9 (C) other crimes, such as illegal immigra-
10 tion, money laundering, drug trafficking, tax
11 evasion, and alien smuggling.

12 (5) Since malicious individuals may seek to ex-
13 ploit potential vulnerabilities in the passport
14 issuance process, it is important that personnel who
15 are involved in the granting, refusal, revocation, or
16 adjudication of United States passport applications
17 have access to certain information contained in Fed-
18 eral, State, and other databases for the purpose of—

19 (A) verifying the identity of a passport ap-
20 plicant; or

21 (B) detecting passport fraud.

22 (6) In its final report, the National Commission
23 on Terrorist Attacks Upon the United States (com-
24 monly known as the “9/11 Commission”) concluded
25 that funding and completing a “biometric entry-exit

1 screening system” for travelers to and from the
 2 United States is essential to our national security.

3 (7) The use of biometrics and technology for
 4 foreign nationals who are visiting the country helps
 5 to make travel simple, easy, and convenient for le-
 6 gitimate visitors and dramatically improves the abil-
 7 ity to detect the activities of those who wish to do
 8 harm or violate United States laws.

9 **SEC. 3. ACCESS TO FEDERAL, STATE, AND OTHER DATA-**
 10 **BASES.**

11 (a) POWERS AND DUTIES OF THE SECRETARY OF
 12 STATE.—Section 104 of the Immigration and Nationality
 13 Act (8 U.S.C. 1104) is amended by adding at the end the
 14 following:

15 “(f) LAW ENFORCEMENT ACTIVITIES.—Notwith-
 16 standing any other provision of law, the powers, duties,
 17 and functions conferred upon Department of State per-
 18 sonnel relating to the granting, refusal, revocation, or ad-
 19 judication of passports shall be considered law enforce-
 20 ment activities that involve the administration of criminal
 21 justice (as defined in section 20.3 of title 28, Code of Fed-
 22 eral Regulations) when such personnel seek to—

23 “(1) verify the identity of a passport applicant;

24 or

25 “(2) detect passport fraud.”.

1 (b) DATA EXCHANGE.—Section 105 of such Act (8
2 U.S.C. 1105) is amended—

3 (1) in subsection (b), by adding at the end the
4 following:

5 “(5) The Attorney General and the Director of the
6 Federal Bureau of Investigation, after consultation with
7 the Secretary of State, shall promptly implement a system,
8 consistent with applicable security and training protocols
9 and requirements, that will enable Department of State
10 personnel designated by the Secretary of State, or by the
11 designee of the Secretary, who are responsible for the
12 granting, refusal, revocation, or adjudication of United
13 States passports, to have real-time access to the criminal
14 history information contained in the National Crime Infor-
15 mation Center’s Interstate Identification Index (NCIC–
16 III), including the corresponding automated criminal his-
17 tory records, Wanted Person Files, and other files main-
18 tained by the National Crime Information Center, for the
19 purpose of verifying the identity of the United States pass-
20 port applicant, or detecting passport fraud.

21 “(6) The Secretary of State, or the designee of the
22 Secretary, shall designate Department of State personnel
23 who, in accordance with this Act shall be authorized to
24 have real-time access to the information contained in the
25 files described in paragraph (5), without any fee or charge,

1 to enable named-based and other searches to be conducted
2 for the purpose of verifying the identity of a passport ap-
3 plicant or detecting passport fraud.”;

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

6 (3) by inserting after subsection (b) the fol-
7 lowing:

8 “(c) DATA SHARING.—Notwithstanding any other
9 provision of law, the powers, duties, and functions con-
10 ferred upon Department of State personnel relating to the
11 granting, refusal, revocation, or adjudication of passports
12 shall be considered law enforcement activities that involve
13 the administration of criminal justice (as defined in sec-
14 tion 20.3 of title 28, Code of Federal Regulations) when
15 such personnel seek to verify the identity of a passport
16 applicant, or seek to detect passport fraud by accessing
17 or using information contained in databases maintained
18 by any Federal, State, tribal, territory, or local govern-
19 ment department or agency, or private entity or organiza-
20 tion, that contains—

21 “(1) criminal history information or records;

22 “(2) driver’s license information or records;

23 “(3) marriage, birth, or death information or
24 records;

25 “(4) naturalization and immigration records; or

1 “(5) other information or records that can
2 verify the identity of the passport applicant or can
3 detect passport fraud.”; and

4 (4) by adding at the end the following:

5 “(f) DATA SHARING REGULATIONS, PROCEDURES,
6 AND POLICIES.—Not later than 120 days after the date
7 of the enactment of this subsection, the Secretary of State
8 shall promulgate final regulations, procedures, and policies
9 to govern the access by Department of State personnel
10 to the information contained in databases described in
11 subsection (c). Such regulations, procedures, and policies
12 shall—

13 “(1) specify which Department of State per-
14 sonnel have a need to know and will be given access
15 to the databases or the information contained in the
16 databases described in subsection (c);

17 “(2) require Department of State personnel
18 who will be given access to the databases or the in-
19 formation contained in the databases described in
20 subsection (c) to successfully complete all ongoing
21 training and certification requirements for such ac-
22 cess;

23 “(3) require Department of State personnel to
24 access such databases or the information contained
25 in such databases—

1 “(A) to verify the identity of each passport
2 applicant; and

3 “(B) to detect whether the applicant has
4 committed or is committing passport fraud;

5 “(4) ensure that such databases, or the infor-
6 mation contained in such databases, are only
7 accessed for the purpose of verifying the identity of
8 each passport applicant or detecting passport fraud,
9 and prohibit access for any other purpose;

10 “(5) ensure that the Department of State per-
11 sonnel accessing such databases or the information
12 contained in such databases—

13 “(A) do not violate the security, confiden-
14 tiality, and privacy of such databases or the in-
15 formation contained in such databases; and

16 “(B) successfully complete all ongoing
17 training and certification requirements for such
18 access;

19 “(6) establish audit procedures and policies to
20 verify that such databases or the information con-
21 tained in such databases are only being accessed for
22 the purposes set forth in the Passport Identity
23 Verification Act;

1 “(7) require prompt reporting to appropriate
 2 Department of State officials after each instance
 3 of—

4 “(A) unauthorized access to such data-
 5 bases or the information contained in such
 6 databases; or

7 “(B) access to such databases or the infor-
 8 mation contained in such databases for unau-
 9 thorized purposes; and

10 “(8) require the appropriate Department of
 11 State personnel to conduct a regular review of—

12 “(A) the audit and reporting procedures
 13 and policies to determine whether such proce-
 14 dures and policies are working properly; and

15 “(B) the ongoing training and certification
 16 requirements to determine whether there has
 17 been compliance with such requirements.”.

18 **SEC. 4. CONSULTATION AND REPORT.**

19 (a) CONSULTATION.—

20 (1) IN GENERAL.—The Secretary of State, in
 21 consultation with the Secretary of Homeland Secu-
 22 rity, the Attorney General, and the United States
 23 Postmaster General, shall conduct an analysis to de-
 24 termine—

1 (A) if persons applying for or renewing a
2 United States passport should provide biometric
3 information, including photographs that meet
4 standards that enhance the ability of facial rec-
5 ognition technology to verify the identity of the
6 passport applicant and user, and to detect pass-
7 port fraud; and

8 (B) if technology should be employed to
9 verify the authenticity of drivers' license and
10 other identity documents that are presented to
11 passport acceptance facilities.

12 (2) FACTORS.—In conducting the analysis
13 under paragraph (1), the Secretary shall consider all
14 relevant factors, including—

15 (A) how the biometric information and
16 technology would be used and stored;

17 (B) the costs and benefits to be gained;
18 and

19 (C) the effect on the individual's privacy
20 and the economy.

21 (b) REPORT.—

22 (1) IN GENERAL.—Not later than 6 months
23 after the date of the enactment of this Act, the Sec-
24 retary of State shall submit a report to the congres-
25 sional committees set forth in paragraph (2) that

1 contains the results of the analysis carried out under
2 subsection (a), including a recommendation with re-
3 spect to the use of biometric information and tech-
4 nology to verify the identity of a passport applicant
5 and user, and to detect passport fraud.

6 (2) CONGRESSIONAL COMMITTEES.—The con-
7 gressional committees set forth in this paragraph
8 are—

9 (A) the Committee on the Judiciary of the
10 Senate;

11 (B) the Committee on Foreign Relations of
12 the Senate;

13 (C) the Committee on Homeland Security
14 and Governmental Affairs of the Senate;

15 (D) the Committee on the Judiciary of the
16 House of Representatives;

17 (E) the Committee on Foreign Affairs of
18 the House of Representatives;

19 (F) the Committee on Homeland Security
20 of the House of Representatives; and

21 (G) the Committee on Oversight and Gov-
22 ernment Reform of the House of Representa-
23 tives.

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