

111TH CONGRESS
2D SESSION

S. 3901

To promote enforcement of immigration laws and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2010

Mr. HATCH introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To promote enforcement of immigration laws 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening Our
5 Commitment to Legal Immigration and America’s Secu-
6 rity Act”.

7 **SEC. 2. DEFERRED ACTION AND PAROLE.**

8 Section 212(d)(5) of the Immigration and Nationality
9 Act (8 U.S.C. 1182(d)(5)) is amended by adding at the
10 end the following:

1 “(C) Notwithstanding any other provision of law, an
 2 alien may only be paroled into the United States or grant-
 3 ed deferred action of a final order of removal on a case-
 4 by-case basis for urgent humanitarian reasons or signifi-
 5 cant public benefit.”.

6 **SEC. 3. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

7 Section 241(i) of the Immigration and Nationality
 8 Act (8 U.S.C. 1231(i)) is amended—

9 (1) by redesignating paragraphs (5) and (6) as
 10 paragraphs (6) and (7);

11 (2) in paragraph (7), as so redesignated, by
 12 striking “paragraph (5)” and inserting “paragraph
 13 (6)”; and

14 (3) by inserting after paragraph (4) the fol-
 15 lowing:

16 “(5) A State, county, city, or township that is
 17 eligible to participate in Secure Communities or to
 18 cross-designate local law enforcement officers to per-
 19 form immigration law enforcement functions under
 20 section 287(g) and does not participate in such pro-
 21 grams may not receive compensation for incarcer-
 22 ation expenses under this subsection.”.

23 **SEC. 4. VISA REFORM.**

24 (a) VISA INELIGIBILITY FOR ORGANIZED CRIME
 25 MEMBERS.—Section 212(a)(2) of the Immigration and

1 Nationality Act (8 U.S.C. 1182(a)(2)) is amended by add-
2 ing at the end the following:

3 “(J) ALIENS ENGAGED IN ORGANIZED
4 CRIME.—Any alien who the consular officer or
5 the Attorney General knows or has reason to
6 believe is a member of a known criminal organi-
7 zation that regularly engages in transnational
8 criminal activity, is inadmissible.”.

9 (b) EXIT PROCEDURES FOR FOREIGN VISITORS.—
10 Not later than 120 days after the date of the enactment
11 of this Act, the Secretary of Homeland Security, in coordi-
12 nation with the Secretary of State and the aviation indus-
13 try, as appropriate, shall create a mandatory exit proce-
14 dure for foreign visitors, based upon—

15 (1) the results of the programs piloted by
16 United States Customs and Border Protection to
17 track the departure of foreign visitors, including
18 US-VISIT; and

19 (2) the feasibility and benefits of the departure
20 confirmation systems tested under such exit pilot
21 programs.

22 (c) ELIMINATION OF THE DIVERSITY VISA PRO-
23 GRAM.—

1 (1) IN GENERAL.—Section 203 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1153) is amend-
3 ed by striking subsection (c).

4 (2) TECHNICAL AND CONFORMING AMEND-
5 MENTS.—Title II of the Immigration and Nation-
6 ality Act (8 U.S.C. 1151) is amended as follows:

7 (A) In section 201 (8 U.S.C. 1151)—

8 (i) in subsection (a)—

9 (I) in paragraph (1), by adding
10 “and” at the end; and

11 (II) in paragraph (2), by striking
12 “; and” at the end and inserting a pe-
13 riod; and

14 (ii) by striking subsection (e).

15 (B) In section 203 (8 U.S.C. 1153)—

16 (i) in subsection (d), by striking “sub-
17 section (a), (b), or (c)” and inserting “sub-
18 section (a) or (b)”;

19 (ii) in subsection (g), by striking
20 “subsection (a), (b), or (c)” and inserting
21 “subsection (a) or (b)”; and

22 (iii) in subsection (h)(2)(B), by strik-
23 ing “subsection (a), (b), or (c)” and insert-
24 ing “subsection (a) or (b)”.

1 (C) Section 204(a)(1) (8 U.S.C.
 2 1154(a)(1)) is amended by striking subpara-
 3 graph (I).

4 (3) EFFECTIVE DATE.—The amendments made
 5 by this subsection shall become effective on the first
 6 day of the fiscal year beginning after the date of the
 7 enactment of this Act, unless Congress reviews the
 8 recommendations from the Secretary of State on
 9 how to combat fraud and eliminate abuse in the Di-
 10 versity Visa Program and legislation is enacted to
 11 maintain the Diversity Visa Program that addresses
 12 such recommendations, with appropriate changes in
 13 the eligibility requirements.

14 **SEC. 5. ANNUAL ACCOUNTABILITY OF FEDERAL WELFARE**
 15 **BENEFITS RECEIVED BY ALIENS UNLAW-**
 16 **FULLY PRESENT IN THE UNITED STATES.**

17 The Secretary of Health and Human Services, in con-
 18 sultation with the Secretary of Homeland Security and the
 19 head of any other appropriate Federal agency, shall sub-
 20 mit to Congress an annual report that includes, for each
 21 State (and including the District of Columbia)—

22 (1) the total amount of Federal welfare benefits
 23 provided to such State during the most recent fiscal
 24 year, disaggregated by State; and

1 (2) the total amount of Federal welfare benefits
 2 provided to households with any persons who resided
 3 in the United States illegally during the most recent
 4 fiscal year.

5 **SEC. 6. LIMITATION ON STATE OPTION TO EXPAND CHIP**
 6 **COVERAGE TO NONCITIZEN CHILDREN OR**
 7 **NONCITIZEN PREGNANT WOMEN.**

8 Section 2107 of the Social Security Act (42 U.S.C.
 9 1397gg) is amended—

10 (1) in subsection (e)(1)(J), by inserting “and
 11 only if the State satisfies the requirements described
 12 in subsection (g)” before the period at the end; and

13 (2) by adding at the end the following:

14 “(g) DEMONSTRATION OF COVERAGE AND MAINTENANCE OF EFFORT.—For purposes of subsection
 15 NANCE OF EFFORT.—For purposes of subsection
 16 (e)(1)(J), the requirements described in this subsection
 17 are the following:

18 “(1) The State demonstrates to the Secretary
 19 (on the basis of the best data reasonably available
 20 to the Secretary and in accordance with such tech-
 21 niques for sampling and estimating as the Secretary
 22 determines appropriate) that the State has enrolled
 23 in the State plan under title XIX, the State child
 24 health plan under this title, or under a waiver of ei-
 25 ther such plan, at least 90 percent of the children

1 residing in the State who are citizens or nationals of
 2 the United States, whose family income does not ex-
 3 ceed 200 percent of the poverty line (as determined
 4 before January 1, 2014, without regard to the appli-
 5 cation of any general exclusion or disregard of a
 6 block of income that is not determined by type of ex-
 7 pense or type of income, and as determined on or
 8 after January 1, 2014, in accordance with section
 9 1902(e)(14)), and who are eligible for medical as-
 10 sistance under the State plan under title XIX or
 11 child health assistance under the State child health
 12 plan under this title.

13 “(2) The State provides assurances that the
 14 amount of State or other non-Federal funds ex-
 15 pended annually by the State to provide medical as-
 16 sistance, child health assistance, or other health ben-
 17 efits coverage to lawfully residing immigrant chil-
 18 dren or lawfully residing immigrant pregnant women
 19 will not be less than the amount of such funds ex-
 20 pended for such purposes for fiscal year 2009.”.

21 **SEC. 7. IDENTITY THEFT.**

22 (a) AMENDMENTS TO THE CRIMINAL CODE.—Chap-
 23 ter 47 of title 18, United States Code, is amended—

24 (1) in section 1028—

(A) in subsection (a)(7), by striking “of another person” and inserting “other than his or her own”; and

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking “or” at the end;

(ii) in subparagraph (C), by adding “or” at the end; and

(iii) by adding at the end the following:

“(C) to facilitate or assist in harboring or hiring unauthorized workers in violation of section 274, 274A or 274C of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a, and 1324c)”.

(b) IRS NOTIFICATION REQUIREMENT.—

(1) REQUIREMENT TO NOTIFY SOCIAL SECURITY ACCOUNT NUMBER HOLDERS.—If the Commissioner of Internal Revenue sends a notice to an employer that an inaccurate social security account number has been discovered for an employee and the employer does not respond to the notice within 60 days to correct such account number, the Commissioner shall send such a notice—

1 (A) to the individual who was originally
2 issued such social security account number; or

3 (B) if such individual is a minor, to the in-
4 dividual's legal guardian.

5 (2) CONTENT OF NOTICE.—A notice sent to an
6 individual under paragraph (1) shall include the fol-
7 lowing:

8 (A) A request that the individual respond
9 to such notice within 60 days to correct the in-
10 formation associated with the social security ac-
11 count number.

12 (B) Information on how to respond to the
13 notice.

14 (C) Notification that if a response is not
15 received by the Commissioner within 60 days,
16 the Commissioner shall provide notice of the in-
17 accurate social security account number to the
18 appropriate agencies for possible investigation,
19 including the Department of Homeland Secu-
20 rity, the Department of Justice, and the Fed-
21 eral Trade Commission.

22 (D) Notification—

23 (i) that if the individual suspects that
24 the individual's social security account
25 number may have been used fraudulently,

1 the individual should notify the Federal
2 Trade Commission and the various credit
3 bureaus; and

4 (ii) information on how to provide the
5 notifications described in clause (i).

6 (c) STUDY AND REPORT.—

7 (1) IN GENERAL.—The Secretary of the Treas-
8 ury, the Chairman of the Federal Trade Commis-
9 sion, and the Commissioner of Social Security, in
10 consultation with the Secretary of Commerce and
11 other appropriate Federal officials, shall conduct a
12 study to determine the most feasible and cost effec-
13 tive ways to protect the credit worthiness of individ-
14 uals, especially children.

15 (2) ISSUES TO BE STUDIED.—The study con-
16 ducted under paragraph (1) shall—

17 (A) assess the types of data held by the
18 Federal Government and the private sector that
19 could prove beneficial in protecting and
20 verifying identity;

21 (B) assess current government and indus-
22 try practices designed to protect personal pri-
23 vacy and determine how such practices could be
24 improved to protect and verify individuals' cred-
25 it worthiness;

1 (C) analyze the estimated impact of alter-
2 native systems of achieving effective protection
3 of credit on the financial industry (including
4 small banks, rural financial institutions, and
5 credit unions), consumers, and the government
6 with respect to—

7 (i) costs;

8 (ii) credit availability;

9 (iii) convenience;

10 (iv) privacy; and

11 (v) other nonfinancial burdens, includ-
12 ing any effects on personal privacy; and

13 (D) determine the most effective ways to
14 protect and verify credit information.

15 (3) PARTICIPATION.—Representatives of the fi-
16 nancial industry, members of the public, government
17 agencies, and other interested groups shall be given
18 opportunities to provide information for the study
19 conducted under paragraph (1).

20 (4) REPORT.—Not later than 1 year after the
21 date of the enactment of this Act, the Secretary of
22 the Treasury shall submit a report containing the
23 results of the study conducted under paragraph (1),
24 including any recommendations for legislative or ad-
25 ministrative actions, to the Committee on Finance of

1 the Senate and the Committee on Ways and Means
2 of the House of Representatives.

3 **SEC. 8. ENHANCED PENALTIES FOR CERTAIN DRUG OF-**
4 **FENSES ON FEDERAL LANDS.**

5 (a) CULTIVATING OR MANUFACTURING CONTROLLED
6 SUBSTANCES ON FEDERAL PROPERTY.—Section
7 401(b)(5) of the Controlled Substances Act (21 U.S.C.
8 841(b)(5)) is amended by striking “as provided in this
9 subsection” and inserting “for not more than 10 years,
10 in addition to any other term of imprisonment imposed
11 under this subsection,”.

12 (b) USE OF HAZARDOUS SUBSTANCES.—Pursuant to
13 its authority under section 994 of title 28, United States
14 Code, the United States Sentencing Commission shall
15 amend the Federal Sentencing Guidelines and policy state-
16 ments to ensure that the guidelines provide an additional
17 penalty increase of 2 offense levels above the sentence oth-
18 erwise applicable for a violation of section 401(a) of the
19 Controlled Substances Act (21 U.S.C. 841(a)) if the of-
20 fense—

21 (1) includes the use of a poison, chemical, or
22 other hazardous substance to cultivate or manufac-
23 ture controlled substances on Federal property;

24 (2) creates a hazard to humans, wildlife, or do-
25 mestic animals;

1 (3) degrades or harms the environment or nat-
2 ural resources; or

3 (4) pollutes an aquifer, spring, stream, river, or
4 body of water.

5 (c) STREAM DIVERSION OR CLEAR CUTTING ON
6 FEDERAL PROPERTY.—

7 (1) PROHIBITION ON STREAM DIVERSION OR
8 CLEAR CUTTING ON FEDERAL PROPERTY.—Section
9 401(b) of the Controlled Substances Act is amended
10 by adding at the end the following:

11 “(8) DESTRUCTION OF BODIES OF WATER.—
12 Any person who violates subsection (a) in a manner
13 that diverts, redirects, obstructs, or drains an aqui-
14 fer, spring, stream, river, or body of water or clear
15 cuts timber while cultivating or manufacturing a
16 controlled substance on Federal property shall be
17 fined in accordance with title 18, United States
18 Code.”.

19 (2) FEDERAL SENTENCING GUIDELINES EN-
20 HANCEMENT.—Pursuant to its authority under sec-
21 tion 994 of title 28, United States Code, the United
22 States Sentencing Commission shall amend the Fed-
23 eral Sentencing Guidelines and policy statements to
24 ensure that the guidelines provide an additional pen-
25 alty increase of 2 offense levels for above the sen-

1 tence otherwise applicable for a violation of section
2 401(a) of the Controlled Substances Act (21 U.S.C.
3 841(a)) if the offense involves the diversion, redirec-
4 tion, obstruction, or draining of an aquifer, spring,
5 stream, river, or body of water or the clear cut of
6 timber while cultivating or manufacturing a con-
7 trolled substance on Federal property.

8 (d) BOOBY TRAPS ON FEDERAL LAND.—Section
9 401(d)(1) of the Controlled Substances Act (21 U.S.C.
10 841(d)(1)) is amended by inserting “cultivated,” after “is
11 being”.

12 (e) USE OR POSSESSION OF FIREARMS IN CONNEC-
13 TION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pur-
14 suant to its authority under section 994 of title 28, United
15 States Code, the United States Sentencing Commission
16 shall amend the Federal Sentencing Guidelines and policy
17 statements to ensure that the guidelines provide an addi-
18 tional penalty increase of 2 offense levels above the sen-
19 tence otherwise applicable for a violation of section 401(a)
20 of the Controlled Substances Act (21 U.S.C. 841(a)) if
21 the offense involves the possession of a firearm while culti-
22 vating or manufacturing controlled substances on Federal
23 lands.

24 **SEC. 9. FEDERAL LANDS COUNTERDRUG ACTION PLAN.**

25 (a) DEFINITIONS.—In this section:

1 (1) CONTROLLED SUBSTANCE.—The term
2 “controlled substance” has the meaning given the
3 term in section 102 of the Controlled Substances
4 Act (21 U.S.C. 802).

5 (2) COVERED LANDS.—The term “covered
6 lands” means—

7 (A) units of the National Park System;

8 (B) National Forest System land;

9 (C) public lands (as defined by section
10 103(e) of the Federal Land Policy and Manage-
11 ment Act of 1976 (43 U.S.C. 1702(e)); and

12 (D) all land administered by the Bureau of
13 Land Management.

14 (b) IMPLEMENTATION OF FEDERAL LANDS
15 COUNTERDRUG ACTION PLAN.—

16 (1) IN GENERAL.—

17 (A) REQUIREMENT FOR ACTION PLAN.—

18 Not later than 90 days after the date of the en-
19 actment of this Act, the Director of National
20 Drug Control Policy shall implement an action
21 plan for keeping controlled substances off of
22 Federal lands (referred to in this section as the
23 “Federal Lands Counterdrug Action Plan”).

24 (B) REPORT TO CONGRESS.—Not later
25 than 2 years after the implementation of the

1 Federal Lands Counterdrug Action Plan, the
2 Director shall submit to Congress a report that
3 describes the progress made in carrying out
4 such Action Plan.

5 (2) CONSULTATION REQUIREMENT.—In imple-
6 menting the Federal Lands Counterdrug Action
7 Plan, the Director of National Drug Control Policy
8 shall consult with the heads of relevant Federal
9 agencies, including the Drug Enforcement Adminis-
10 tration, the Forest Service, the National Park Serv-
11 ice, the Bureau of Land Management, and any rel-
12 evant State, local, and tribal law enforcement agen-
13 cies.

14 (c) CONTENTS.—The Federal Lands Counterdrug
15 Action Plan shall include—

16 (1) the Federal Government’s action plan for
17 preventing the illegal production, cultivation, manu-
18 facture, and trafficking of controlled substances on
19 covered lands;

20 (2) the specific roles of relevant Federal agen-
21 cies, including the Drug Enforcement Administra-
22 tion and relevant agencies within the Department of
23 the Interior for implementing such an action plan;

1 (3) the specific resources required to enable the
2 agencies referred to in paragraph (2) to implement
3 that strategy;

4 (4) a strategy to reduce the cultivation and
5 trafficking of marijuana on covered lands by Mexi-
6 can drug trafficking organizations;

7 (5) the use of available technology to reduce the
8 cultivation and trafficking of marijuana on covered
9 lands;

10 (6) the impact of Federal land management
11 statutes on law enforcement efforts; and

12 (7) the costs associated with marijuana eradi-
13 cation programs through high intensity drug traf-
14 ficking areas.

15 (d) EFFECT ON EXISTING LAW.—The Federal Lands
16 Counterdrug Action Plan—

17 (1) may not change existing agency authorities
18 or laws governing interagency relationships; and

19 (2) may provide recommendations for changes
20 to such authorities or laws.

21 (e) DISTRIBUTION.—

22 (1) IN GENERAL.—The Director of the Office of
23 National Drug Control Policy shall provide a copy of
24 the Federal Lands Counterdrug Action Plan to—

1 (A) the Committee on the Judiciary of the
2 Senate;

3 (B) the Committee on Appropriations of
4 the Senate;

5 (C) the Committee on Homeland Security
6 and Governmental Affairs of the Senate;

7 (D) the United States Senate Caucus on
8 International Narcotics Control;

9 (E) the Committee on the Judiciary of the
10 House of Representatives;

11 (F) the Committee on Appropriations of
12 the House of Representatives; and

13 (G) the Committee on Homeland Security
14 of the House of Representatives.

15 (2) CLASSIFIED INFORMATION.—Any classified
16 or law enforcement sensitive information contained
17 in the Federal Lands Counterdrug Action Plan may
18 be submitted in a classified annex to accompany the
19 Action Plan.

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