

112TH CONGRESS
1ST SESSION

S. 744

To authorize certain Department of State personnel, who are responsible for examining and processing United States passport applications, to access relevant information in Federal, State, and other records and databases, for the purpose of verifying the identity of a passport applicant and detecting passport fraud, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 2011

Mr. CARDIN (for himself, Mrs. FEINSTEIN, Mr. LIEBERMAN, and Mr. KERRY) 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 access relevant information in Federal, State, and other records and databases, for the purpose of verifying the identity of a passport applicant and detecting passport fraud, 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 relevant information contained in
18 Federal, State, and other records and databases for
19 the purposes of lawfully—

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

22 (B) detecting passport fraud; and

23 (C) denying or revoking a passport.

1 (6) In its final report, the National Commission
2 on Terrorist Attacks Upon the United States (com-
3 monly known as the “9/11 Commission”)—

4 (A) noted the ease with which terrorists
5 could obtain United States identity documents,
6 such as fraudulent driver’s licenses, birth cer-
7 tificates, and other sources of identification,
8 which could be used by terrorists to obtain
9 United States passports that would allow them
10 to board airlines, rent cars, open bank ac-
11 counts, and carry on other activities needed to
12 facilitate their mission; and

13 (B) concluded that funding and completing
14 a “biometric entry-exit screening system” for
15 travelers to and from the United States is es-
16 sential to our national security.

17 (7) The use of biometrics and technology for
18 foreign nationals who are visiting the country—

19 (A) helps to make travel simple, easy, and
20 convenient for legitimate visitors; and

21 (B) dramatically improves the ability to de-
22 tect the activities of those who wish to do harm
23 or violate the laws of the United States.

1 **SEC. 3. ACCESS TO RELEVANT INFORMATION IN FEDERAL,**
2 **STATE, AND OTHER RECORDS AND DATA-**
3 **BASES.**

4 Section 104 of the Immigration and Nationality Act
5 (8 U.S.C. 1104) is amended by adding at the end the fol-
6 lowing:

7 “(f) AUTHORIZED DATA SHARING ACTIVITIES.—(1)
8 For data sharing purposes only, and notwithstanding any
9 other provision of law, when Department of State per-
10 sonnel authorized by the Secretary of State to grant,
11 refuse, revoke, deny, or adjudicate United States pass-
12 ports are lawfully engaged in authorized data sharing ac-
13 tivities relating to the granting, refusal, revocation, or ad-
14 judication of such passports, such activities shall be con-
15 sidered law enforcement activities that involve the admin-
16 istration of criminal justice (as defined in section 20.3 of
17 title 28, Code of Federal Regulations).

18 “(2) Designated Department of State personnel with
19 the authority to grant, refuse, revoke, deny or adjudicate
20 United States passports are engaged in ‘authorized data
21 sharing activities’ (as set forth in paragraph (1) and the
22 regulations promulgated pursuant to section 4 of the Pass-
23 port Identity Verification Act) if such personnel act in
24 compliance with such regulations and are seeking to law-
25 fully—

26 “(A) verify the identity of a passport applicant;

1 “(B) detect passport fraud; or

2 “(C) deny or revoke a passport.”.

3 **SEC. 4. DATA SHARING REGULATIONS, PROCEDURES, AND**
4 **POLICIES.**

5 (a) RULEMAKING.—Not later than 6 months after
6 the date of the enactment of this Act, the Secretary of
7 State shall promulgate final regulations to implement sec-
8 tion 104(f) of the Immigration and Nationality Act, as
9 added by section 3. Such regulations shall—

10 (1) specify which Department of State per-
11 sonnel have a need to know and will be given access
12 to the relevant information contained in the records
13 and databases described in such section;

14 (2) require Department of State personnel who
15 will be given access to the relevant information con-
16 tained in the records and databases described in
17 such section to successfully complete all ongoing
18 training and certification requirements for such ac-
19 cess;

20 (3) require Department of State personnel to
21 access the relevant information contained in such
22 records and databases for the lawful purposes set
23 forth in such section and this Act;

24 (4) ensure that the relevant information con-
25 tained in the records and databases described in

1 such section, are only accessed for the lawful pur-
2 poses set forth in such section and this Act;

3 (5) ensure that the Department of State per-
4 sonnel accessing the information contained in such
5 records and databases—

6 (A) do not violate the security, confiden-
7 tiality, or privacy of such information;

8 (B) successfully complete all ongoing train-
9 ing and certification requirements for access to
10 such information; and

11 (C) do not have access to any medical, reli-
12 gious, or other personal information that is ir-
13 relevant to the lawful purposes set forth in such
14 section and this Act;

15 (6) establish audit and reporting procedures
16 and policies to verify that the information contained
17 in such records and databases is only being accessed
18 for the lawful purposes set forth in such section and
19 this Act;

20 (7) require prompt reporting to Under Sec-
21 retary of State for Management, of—

22 (A) any unauthorized access to the infor-
23 mation contained in such records and data-
24 bases; or

1 (B) any access to the information con-
2 tained in such records and databases for unau-
3 thorized purposes; and

4 (8) require the Under Secretary of State for
5 Management to conduct a regular review of—

6 (A) the audit and reporting procedures and
7 policies to determine whether such procedures
8 and policies are working properly; and

9 (B) the ongoing training and certification
10 requirements to determine whether there has
11 been compliance with such requirements.

12 (b) DEFINED TERM.—As used in this Act, the term
13 “relevant information” means information relating to a
14 person that is contained in records and databases main-
15 tained by any Federal, State, tribal, territory, or local gov-
16 ernment department or agency, or private entity or organi-
17 zation, which contains—

18 (1) criminal history information;

19 (2) driver’s license or motor vehicle information
20 (including photographs);

21 (3) marriage, birth, or death information;

22 (4) naturalization or immigration information;

23 or

24 (5) other information that can be used to law-
25 fully verify the identity of the passport applicant, de-

1 tect passport fraud, or deny or revoke a passport,
2 except for medical, religious, and other personal in-
3 formation and records which are irrelevant to such
4 purposes.

5 **SEC. 5. STUDY AND REPORT.**

6 (a) STUDY.—

7 (1) IN GENERAL.—The Secretary of State, in
8 consultation with the Secretary of Homeland Secu-
9 rity, the Attorney General, and the United States
10 Postmaster General, shall carry out a study to deter-
11 mine—

12 (A) if persons applying for or renewing a
13 United States passport should provide biometric
14 information, including photographs that meet
15 standards that enhance the ability of facial rec-
16 ognition technology—

17 (i) to verify the identity of the pass-
18 port applicant and user; and

19 (ii) to detect passport fraud; and

20 (B) if technology should be employed to
21 verify the authenticity of driver's licenses and
22 other identity documents that are presented at
23 passport acceptance facilities.

1 (2) FACTORS.—In carrying out the study under
2 paragraph (1), the Secretary of State shall consider
3 all relevant factors, including—

4 (A) how the biometric information and
5 technology would be used and stored;

6 (B) the costs and benefits to be gained;
7 and

8 (C) the effect on the individual's privacy
9 and the economy.

10 (b) REPORT.—

11 (1) IN GENERAL.—Not later than 6 months
12 after the date of the enactment of this Act, the Sec-
13 retary of State shall submit a report to the congres-
14 sional committees set forth in paragraph (2) that
15 contains the results of the study carried out under
16 subsection (a), including a recommendation with re-
17 spect to the use of biometric information and tech-
18 nology to verify the identity of a passport applicant
19 and user and to detect passport fraud.

20 (2) CONGRESSIONAL COMMITTEES.—The con-
21 gressional committees set forth in this paragraph
22 are—

23 (A) the Committee on the Judiciary of the
24 Senate;

1 (B) the Committee on Foreign Relations of
2 the Senate;

3 (C) the Committee on Homeland Security
4 and Governmental Affairs of the Senate;

5 (D) the Committee on the Judiciary of the
6 House of Representatives;

7 (E) the Committee on Foreign Affairs of
8 the House of Representatives;

9 (F) the Committee on Homeland Security
10 of the House of Representatives; and

11 (G) the Committee on Oversight and Gov-
12 ernment Reform of the House of Representa-
13 tives.

○