New Illegal Immigration Bill Would Significantly Improve Identity Theft Laws

February 15, 2011 - It is common knowledge that illegal aliens routinely use fake or stolen Social Security Numbers when they establish false identities. Yet for some reason, illegal aliens are seldom prosecuted for identity theft. And when they are, there is no assurance that the conviction will stand the test of time. In fact, late last year the Colorado Supreme Court actually reversed two lower court rulings which determined that an illegal alien who used another person's social security number had committed identity theft. The court actually said that because he didn't the name of the person who owned the SSN involved, no ID theft or impersonation had taken place. Never mind the fact that he had fraudulently attempted to get a loan and could have impacted the owner's credit. A new bill being introduced in the US Senate could put a stop to this type of ruling.

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Senator Orin Hatch (R-UT) is about to introduce a bill titled the Strengthening Our Commitment to Legal Immigration and America's Security Act. The bill would crack down on illegal immigration but it would also enhance identity theft laws nationwide. It contains two changes to the law that are long overdue.

First, it would allow anyone who uses a stolen identity in a felony to be charged with an additional crime of "aggravated identity theft". This would add several years to the prison sentences of ID theft perpetrators.

The second item may even be more important. I would require the IRS to notify employers if there is a Social Security Number mismatch. This occurs when someone uses a Social Security Number assigned to a different name. Under the proposal, the IRS would give employers 60 days to respond to the notice. If the IRS doesn't receive a response, it would then have to notify the actual holder of the Social Security Number involved that someone else was using their number. That is a huge change in law.

The IRS notification requirement would be a 180 degree turn from current policy. The IRS is often the only entity that knows when a Social Security Number is used by more than one person. Current law does not permit them to notify the actual holder of the SSN. This change would allow the holder of the SSN to take precautions - such as implementing a credit freeze - that would help them protect themselves from further damage to their credit report. It would also allow the holder of the SSN to file appropriate police reports that could lead to the apprehension and prosecution of anyone using their Social Security Number.

Hatch's bill is sure to face some stiff resistance in the Senate; specifically from those advocating for "comprehensive immigration reform". The bill contains a number of other provisions that are sure to be unpopular or controversial within this group. Even so, it opens up the discussion very publically about what actually constitutes identity theft, and what rights victims of this crime should actually have.

byJim Malmberg
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