

Technology cited as key to detection of immigration fraud

By Neil Munro, [National Journal](#)

U.S. citizenship is such a valuable prize that over the decades and generations, many people have broken laws to gain U.S. residency for themselves or others. Indeed, some degree of fraud is probably inevitable in any immigration system.

But critics say the complex immigration bill passed by the Senate has so many citizenship options, categories, and exceptions that it is an open invitation to cheating. Fraud "is a clear and present danger," said Sen. John Cornyn, R-Texas, "and threatens to undermine all the good work we've been trying to accomplish."

If the bill were to become law, illegal immigrants would, for example, be able to file for a work permit simply by presenting two notarized statements saying they have been working in the country for at least two years.

"It is really hard to suppress a laugh when people suggest having an affidavit," said Cornyn, who opposes the Senate bill. "It is too easy [to] provide a [false] affidavit, and the volume of affidavits would overwhelm law enforcement's ability to investigate" their veracity.

Immigration officials have long acknowledged that fraud "is pervasive and serious," using the words of a January 2002 report by the Government Accountability Office.

"When I was commissioner, on a regular basis people would send in affidavits [falsely] saying, Joe Schmo is my nephew" and therefore should be allowed residency, said James Ziglar, who served as President Bush's commissioner of immigration and naturalization from 2001 to late 2002. "The level of fraud was incredibly high," reaching 80 percent of applications for family reunification, he said.

Critics say that the 1986 immigration reform bill led to considerable fraud. It included, for instance, provisions aimed at making it harder for employers to hire illegal aliens who did not have Social Security cards.

But employees and employers simply "made up Social Security numbers, and that was the end of the enforcement mechanism," Stewart Baker, assistant secretary for policy at the Homeland Security Department, told a June 19 Senate hearing chaired by Cornyn. "There are employers who are using the same Social Security number over and over again for dozens of employees."

The 1986 bill also set up an amnesty program for agricultural workers who could establish that they had regularly worked in the United States. "There was wide consensus within [the Immigration and Naturalization Service] that the use of fraudulent documents had been prevalent" by amnesty seekers, according to a July 2000 report, "An Investigation of the Immigration and Naturalization Service's Citizenship USA Initiative," by the Justice Department's Office of the Inspector General. Officials estimated a fraud rate as high as 70 percent among the applications for residency in the farmworker program.

Federal officials are stepping up their efforts to combat immigration fraud. In April, the U.S. Bureau of Citizenship and Immigration Services established a new directorate to focus on fraud, and several federal agencies have formed joint task forces in 10 cities to help curb document fraud and immigration-related scams. Under the REAL ID Act of 2005, the federal government is also prodding state governments to sharply curb cheating in driver's license applications.

Some experts cite improved identification technologies as one solution to immigration fraud. Ziglar, now the CEO of Cross Match Technologies, says that a database of "biometric" signatures, such as computer-readable fingerprints or retina scans, could detect an immigrant who files more than one claim for residency. Ziglar is promoting his biometric-identification technology without taking sides in the political fight.

Title III of the Senate bill would establish an Electronic Employer Verification System to ensure that job applicants are eligible to work. The EEVS would require employers to submit the names or Social Security numbers of job seekers to a federal agency for online validation.

Sen. John McCain, R-Ariz., a co-sponsor of the bill, said that technology will help to limit fraud in guest-worker programs. Back in 1986, "they did not have the technological capability to develop a biometric tamper-proof document," McCain said. "We have that capability today," and officials will use it, along with impossible-to-counterfeit embassy documents, to stop cheating, he said.

New requirements on employers will also constrain cheating, said Stephen Yale-Loehr, a lawyer who chairs the business immigration committee at the American Immigration Lawyers Association, which worked with Senate staff to draft the bill. The Senate bill demands that job applicants provide better identification, makes employers liable if they show "reckless disregard" when workers present fake documents, and requires employers to store employment documents for five years, he said.

But Yale-Loehr cautioned that the legitimate desire for rapid identification must be balanced against privacy rights. "We need some hard data" on the effectiveness of the employment-verification technology before making its use mandatory, he said.

New technologies are expensive, and if the Senate bill becomes law, implementation will be a "daunting task ... [and] we will need resources," said Michael Defensor, a spokesman for the U.S. Citizenship and Immigration Services. Federal officials say they will need roughly \$9.5 billion to issue fraud-resistant, hard-to-copy Social Security cards to 240 million workers. And the administration has not yet decided whether to add biometric data, such as a fingerprint or photograph, to the card.

Meanwhile, skeptics say that technology cuts both ways and can actually make cheating easier. Criminals are already using desktop-publishing software to produce high-quality forged documents, including residency cards, said Rosemary Jenks, director of government relations for NumbersUSA Action, a nonpartisan group that seeks to slow immigration.

And it's not yet clear, critics say, that U.S. privacy laws will allow the embedding of fingerprint, retina, or other physical data in identification documents or Social Security cards. Privacy laws could also restrict U.S. agency officials' ability to double-check a company's new-hire statements against employer-provided data held by the Internal Revenue Service or the Social Security Administration, said a Senate staffer whose boss opposes the bill.

Under the somewhat contradictory provisions of the Senate bill, the expectations for new technologies may also be too high. For example, the Electronic Employer Verification System is supposed to achieve a 99 percent reliability rate in resolving the legal status of new workers within roughly 50 days after they are hired. If the system fails to achieve that success rate, however, looser rules kick in and questionable employees would stay on the job until federal officials declare them to be ineligible.

The affidavit provisions of the Senate bill present perhaps the easiest opportunities for fraud, opponents say. One of the bill's "paths to citizenship" is a proposal to allow illegal immigrants to get three-year work permits if they've worked inside the United States for at least two years.

Applicants would be allowed to submit documents from government, employers, or unions that show a history of work in the U.S. But they could alternatively submit sworn affidavits showing a work history, or financial statements showing that they sent money from the United States to other countries.

Once the applicant has bolstered his or her claim with a "preponderance of evidence," according to the Senate bill, the claim must be granted unless the agency can amass enough evidence to quickly prove fraud or ineligibility in court.

The needed affidavits can be so easily faked or forged that "anybody can apply, whether they qualify or not -- all the 12 million or so illegals who are here, and anyone who can get here," Jenks said. "There is really no finite number."

Danielle Polen, an advocacy associate at the AILA, said, "The proposed bill as written doesn't flesh out a lot of the [anti-fraud] details," but "presumably that would happen during promulgation of the regulations." She added, "The critics have a valid point" about fraud, but "there has to be some trust on both sides."

Jenks said, "There's no reason to trust them. We trusted them in 1986 and look what happened."

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