

**H.R. 98 - Illegal Immigration Enforcement and
Social Security Protection Act of 2005**

“The Bonner Plan”

Sponsored by Rep. David Dreier (R-CA)

Purpose: To amend the Immigration and Nationality Act to enforce restrictions on employment in the United States of unauthorized aliens through the use of improved Social Security cards and an Employment Eligibility Database, and for other purposes.

Section 1: Short title.

Section 2: Findings.

Section 3:

Improved Social Security Card

Amends the Social Security Act to require the Social Security card to be made of durable plastic or similar material (rather than banknote paper). Requires each Social Security card issued to include an encrypted machine-readable electronic identification strip unique to the individual to whom the card is issued. Requires each Social Security issued to include a recent digitized photograph of the individual to which the card is issued.

Requires the Commissioner of Social Security to develop the electronic identification strip in consultation with the Secretary of Homeland Security for the purposes of carrying out this Act.

Additionally specifies that each Social Security card issued shall contain physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

Requires each Social Security card to contain a disclaimer stating “This card shall not be used for the purpose of identification.”

Requires the Commissioner of Social Security to provide for the issuance or reissuance of the improved Social Security card to (1) each individual who has been assigned a Social Security account number; (2) has attained the minimum age applicable, in an individual’s locality, for legally engaging in employment; and (3) files application for the improved Social Security card in the form and manner prescribed by the Commissioner of Social Security.

Requires the Commissioner of Social Security to maintain an ongoing effort to develop measures in relation to the Social Security card and its issuance to preclude fraudulent use of the Social Security card.

Information Sharing

Requires the Commissioner of Social Security to transmit to the Secretary of Homeland Security any information received by the Commissioner in the individual's application for a Social Security card that the Secretary determines necessary and appropriate for the purpose of verifying an individual's work eligibility status. Provides that such information shall be used solely for inclusion in the Employment Eligibility Database (see Section 4).

Effective Dates

Provides that the changes shall apply to Social Security cards issued after 2 years after the date of enactment of this Act.

Section 4:

Employment Eligibility Database

Requires the Secretary of Homeland Security to establish and maintain an Employment Eligibility Database. The Database shall include the citizenship status of individuals and work and residency eligibility information (including expiration dates) with respect to individuals who are not citizens or nationals of the United States but who are authorized to work in the United States.

Requires the Database to include all data maintained by the Department of Homeland Security as of the date of the establishment of the Database and information obtained from the Commissioner of Social Security (see Section 3). Requires the Secretary of Homeland Security to maintain ongoing consultations with the Commissioner of Social Security to ensure efficient and effective operation of the Database.

Incorporation of Ongoing Pilot Programs

Authorizes the Secretary of Homeland Security, to the extent he determines appropriate in furthering the purposes of this Act, to incorporate the information, processes, and procedures employed in connection with the Citizen Attestation Verification Pilot Program and the Basic Pilot Program into the operation and maintenance of the Employment Eligibility Database.

Confidentiality

Provides that no officer or employee of the Department of Homeland Security shall have access to any information contained in the Employment Eligibility Database for any purpose other than (1) the establishment of a system of records necessary for the effective administration of this Act; or (2) any other purpose the Secretary of Homeland Security deems in the national security interests of the United States.

Requires the Secretary of Homeland Security to restrict access to the Employment Eligibility Database to officers and employees of the United States whose duties or responsibilities require access in order administer this Act.

Requires the Secretary of Homeland Security to provide such other safeguards as the Secretary determines necessary or appropriate to protect the confidentiality of information contained in the Employment Eligibility Database.

Effective Dates

Requires the Secretary of Homeland Security to complete the establishment of the Employee Eligibility Database and provide for its efficient and effective operation not later than 2 years after the date of enactment of this Act.

Section 5:

Employee Requirements

Amends the Immigration and Nationality Act to provide that no individual may commence employment with an employer in the United States unless the individual has (1) obtained the improved Social Security card established in Section 3; and (2) displayed their improved Social Security card to the employer for the purpose of verification via the Employee Eligibility Database.

Employer Requirements

Amends the Immigration and Nationality Act to provide that no employer may hire for employment an individual in the United States in any capacity unless such employer verifies that the individual (1) has in his possession an improved Social Security card (as described in Section 3) which bears a photograph of that individual and (2) that such individual is authorized to work in the United States in such capacity.

Requires that the employer verify the employee's work eligibility status in accordance with procedures prescribed by the Secretary of Homeland Security for the purposes of ensuring against fraudulent use of the card and accurate and prompt verification of the authorization of such individual to work in the United States in such capacity.

Verification Procedures

Requires the prospective employer to verify the individual's work eligibility status through the use of (1) a telephone verification system to be established by the Secretary of Homeland Security or (2) a card-reader verification system employing a device approved by the Secretary of Homeland Security as capable of reading the electronic identification strip borne by the card so as to verify the identity of the cardholder and their work eligibility status, and which is made available at minimal cost to the employer.

Requires the Secretary of Homeland Security to ensure that the telephone verification system is as secure and effective as the card-reader verification system.

Requires the Secretary of Homeland Security to ensure that the employer will have such access to the Employee Eligibility Database as to enable the employer to obtain information relating to the citizenship, residency, and work eligibility of the individual which is necessary to inform the employer as to whether the individual is authorized to work for the employer in the United States in such capacity.

Good Faith Defense

Provides that an employer shall not be liable for hiring an unauthorized alien if (1) such hiring occurred due to an error in the telephone verification system, the card-reader verification system, or the Employment Eligibility Database which was unknown to the employer at the time of such hiring; and (2) the employer terminates that employment of the alien upon being informed of the error.

Employer Attestation

Requires the employer to complete an attestation, made under penalty of perjury and on a form designated or established by the Secretary of Homeland Security by regulation, that the employer has complied with such verification procedures as required by this Act.

Definitions

“Authorized to work in the United States” when applied to an individual, means that the individual is not an unauthorized alien.

“Employer” means (1) any person or entity who hires an individual; or (2) any individual earning self-employment income (as defined in section 211(b) of the Social Security Act.)

“Employee” shall have the meaning given such term in section 210(j) of the Social Security Act.

“Hire” means to hire an individual, or to recruit or refer for a fee an individual, for employment in the United States.

“Unauthorized alien” means, with respect to the employment of an alien at a particular time, that the alien is not at that time (1) an alien lawfully admitted for permanent residence; or (2) authorized to be so employed by this Act or by the Secretary of Homeland Security.

Effective Dates

Provides that the amendments made by this section shall take effect 2 years after the date of enactment of this Act and shall apply to employment of any individual in any capacity commencing on or after such effective date.

Section 6:

Civil Penalties

Authorizes the Secretary of Homeland Security to assess a penalty, payable to the Secretary, against any employer who (1) hires an individual for employment in the United States in any capacity who is known by the employer not to be authorized to work in the United States; or (2) fails to comply with the procedures prescribed by the Secretary pursuant to this Act in connection with the employment of any individual.

Provides that such penalty shall not exceed \$50,000 for each occurrence of a violation with respect to the individual.

Provides that, in the event of the removal of such unauthorized alien from the United States, the costs incurred by the Federal Government, cooperating State and local governments, and State and local law enforcement agencies in connection with such removal shall be the responsibility of the violating employer.

Provides that if any person is assessed a civil penalty for violation of this Act and fails to pay the assessment when due, the Secretary of Homeland Security is authorized to bring a civil action in any district court of the United States within the jurisdiction of which such person's assets are located or in which such person resides or is found, for the recovery of the amount of the assessment or for appropriate equitable relief to redress the violation or enforce the provisions of this Act. Provides that the district courts of the United States shall have jurisdiction over actions brought under this section by the Secretary without regard to the amount in controversy.

Criminal Penalties

Provides that any person who (1) hires for employment any individual in the United States in any capacity who such person knows not to be authorized to work in the United States in such capacity; or (2) hires for employment any individual in the United States and fails to comply with the procedures prescribed by the Secretary pursuant to this Act in connection with the hiring of such individual shall upon conviction be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

Effective Dates

The civil and criminal penalties required under this Act shall take effect 2 years after the date of enactment of this Act and shall apply to employment of any individual in any capacity commencing on or after such effective date.

Section 7:

Technology Grants

Authorizes the Secretary of Homeland Security to make grants for the purpose of improving and developing new technologies to combat illegal border crossing into the United States. Authorizes appropriations of \$10 million in each fiscal year from 2006 to 2010 for that purpose.

Section 8:

Increase in Department of Homeland Security Personnel

Provides that beginning in fiscal year 2005, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 10,000 the number of positions within the Department of Homeland Security for full-time personnel charged with enforcing the requirements of this Act, above the number of such positions for which funds were made available for fiscal year 2004.

Section 9:

Fingerprint Database Integration

Requires the Secretary of Homeland Security and the Attorney General of the United States to jointly integrate the fingerprint database maintained by the Department of Homeland Security with the fingerprint database maintained by the Federal Bureau of Investigation. Requires the integration of databases to be complete not later than 2 years after the date of enactment of this Act.

Section 10:

Authorization of Appropriations

Provides that, except as otherwise provide in this Act, there are authorized to be appropriated to the Department of Homeland Security for each fiscal year beginning on or after October 1, 2005, such sums as may be necessary to carry out this Act and the amendments made by this Act, of which not less than \$100 million shall be for the purpose of enforcing this Act.

Authorizes to be appropriated to the Social Security Administration such sums as are necessary to carry out the amendments made by this Act for each fiscal year beginning on or after October 1, 2005.

Section 11:

Rules of Construction

Provides that nothing in this Act shall be construed to require the presentation of a Social Security card for any purpose other than (1) for the administration and enforcement of the Social Security laws of the United States and (2) for the purpose of implementing and enforcing this Act and the amendments made by this Act.

Provides that nothing in this Act shall be construed to require the Social Security card to be carried by an individual.

Establishes that it is the policy of the United States that the Social Security card shall not be used as a national identification card.